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Proclamation 10787 of July 25, 2024

The President

Anniversary of the Americans With Disabilities Act, 2024

By the President of the United States of America

A Proclamation

Today, we celebrate the anniversary of the Americans with Disabilities Act (ADA), one of our Nation's most significant civil rights laws to protect people with disabilities from discrimination. For the more than 70 million Americans living with a disability, the ADA enshrines into law the idea that we all deserve opportunity, inclusion, respect, and dignity. I am proud to have co-sponsored this landmark legislation years ago, and I am honored to celebrate its lasting legacy today.

The ADA was a historic triumph against discrimination that opened the doors to opportunity and independence for people with disabilities. But more work still needs to be done. Disabled Americans often earn less for the same work as nondisabled people. Additionally, too often, disabled Americans face obstacles that keep them from voting, prohibit them from getting to and from work and school, or limit their ability to enjoy public spaces.

I believe in building an America for all Americans. That is why, in my first few months in office, I signed an Executive Order establishing a Government-wide commitment to advancing equality and equity in Federal employment, including for people with disabilities. It brought together the Department of Labor and the Office of Personnel Management to ensure that Federal workplaces are fully accessible to people with disabilities and that the dignity and rights of disabled Americans are built into our policies.

At the same time, the Department of Labor is also ensuring our workers are protected by ending unjust employment practices across our economy. For example, my Administration is helping State and local governments, businesses, and nonprofits access Federal funds to hire more disabled Americans. And we are making the Federal Government a model employer when it comes to wages, accommodations, and opportunities to advance for people with disabilities.

Further, we are ensuring that every child with a disability, including early learners, receives a rigorous education in a learning environment that supports their development and well-being and leads to promising pathways after high school. To that end, the Department of Education announced funding to involve parents of children with disabilities as partners in creating equitable and inclusive schools.

Concurrently, my Administration is also taking action to improve access to health care for disabled Americans. Through my Inflation Reduction Act, we have lowered health care costs for people with disabilities. The Department of Health and Human Services issued a rule to bar denials of medical care related to organ donations or lifesaving care for disabled Americans based on their disability alone. They also launched long COVID clinical trials to study its debilitating health effects and created the Office of Long COVID Research and Practice with a first-of-its-kind initiative in our history. The United States Access Board has proposed updated medical diagnostic equipment guidelines to ensure people with disabilities can access health care providers and improve accessibility for manual and powered wheelchair users. Further, the National Institutes of Health made it easier

for scientists to get funding for research on health disparities in the disability community by designating people with disabilities a “health disparity population.” We also launched the Advanced Research Projects Agency for Health, which is advancing new biomedical science breakthroughs and is opening up new funding for unmet health needs specific to disabled Americans, like biomedicine to prevent, detect, and treat diseases like cancer, diabetes, and multiple sclerosis.

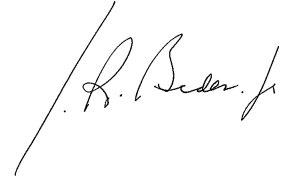
Meanwhile, we are making public spaces and care more accessible to people with disabilities. The American Rescue Plan provided \$37 billion to enhance, expand, and strengthen home-based services. That empowers more people with disabilities—including intellectual and developmental disabilities—to live independently at home. In April, the Department of Health and Human Services finalized a rule that will help ensure access to these critical services. Further, our Bipartisan Infrastructure Law makes the biggest investment in our history—\$1.75 billion—to make transit and rail stations more accessible. At the same time, we are investing \$5 billion to add wheelchair ramps and accessible restrooms at airports and other locations. In addition to issuing a rule that now requires all new single-aisle aircraft over a certain size to have wheelchair-accessible restrooms, the Department of Transportation proposed a new rule to ensure that travelers using wheelchairs can fly safely and with dignity.

Everyone in America should be able to share in the benefits of technology. That is why my Administration has taken action to ensure that we are improving our digital infrastructure for people with disabilities. The Department of Justice issued standards for State and local governments to make their web content and mobile apps more accessible to Americans with disabilities so they can more easily access local government services, emergency services, voting information, and publicly funded education. And my Administration is working to make online health services and applications for jobs in the Federal Government more accessible.

As we celebrate the anniversary of the ADA, we honor the courageous activists who worked so hard to get this historic legislation passed. We recognize the strength of people with disabilities, who remind us every day that America is stronger when we tap into the talents of all our people. And we renew our commitment to moving America closer to the promise of equal opportunity for all Americans.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim July 26, 2024, as the Anniversary of the Americans with Disabilities Act. I encourage Americans to celebrate the 34th year of this defining moment in civil rights law and the essential contributions of individuals with disabilities to our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of July, in the year of our Lord two thousand twenty-four, and of the Independence of the United States of America the two hundred and forty-ninth.

A handwritten signature in black ink, appearing to read "J. R. Biden, Jr.", written in a cursive style.

Presidential Documents

Proclamation 10788 of July 25, 2024

National Korean War Veterans Armistice Day, 2024

By the President of the United States of America

A Proclamation

On National Korean War Veterans Armistice Day, we honor the service and sacrifice of the American and Korean service members who fought valiantly in the Korean War from 1950 to 1953. We hold in our hearts the memories of the 36,000 Americans and more than 7,000 Korean Augmentation to the United States Army soldiers who laid down their lives for the sacred cause of freedom. We recommit to upholding their legacy through our alliance with the Republic of Korea and by securing the future they gave everything for—one of peace, stability, and prosperity.

Today, I am thinking of Korean War veterans like Colonel Ralph Puckett, Jr., USA (Ret.), whom I awarded the Medal of Honor to in 2021. Prior to his passing in April, Colonel Puckett was the last living Korean War veteran to have received the Medal of Honor. His story, though one of uncommon valor, was reflected in the experiences and trials of so many of our Nation's Korean War veterans—trudging through frozen rice paddies, fighting on the rocky terrain of the Korean Peninsula, and persisting in spite of the fact that the enemy often far outnumbered our troops. Like I said to Colonel Puckett and his family years ago: Though the Korean War is sometimes called the “Forgotten War,” the heroes who were there under his command will never forget his bravery, and neither will we. Our entire Nation owes a debt of gratitude to every Korean War veteran for their service and sacrifice. As we recognize the service and sacrifice of our Nation's Korean War veterans, we also remember the thousands of service members who went missing in action during the Korean War—we will never stop working to bring each of them home.

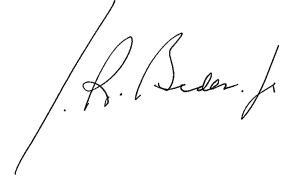
Last year, I joined President Yoon of the Republic of Korea to mark the 70th anniversary of our countries' alliance. It is an unbreakable bond because it was forged in bravery and the sacrifice of both of our peoples—sanctified by the American and Korean troops who fought and died to defend liberty. Our Korean War veterans are the reason the alliance stands and remains strong today as two vibrant and innovative democracies. This alliance is why I was proud to sign the Korean American VALOR Act into law, helping Korean veterans who fought alongside American troops and are now American citizens receive access to Department of Veterans Affairs health care services.

Our Nation's Korean War veterans answered the call to duty. Like every generation before them, these veterans knew that freedom is never guaranteed—one has to fight for it and defend it in the battle between autocracy and democracy, between the greed of a few and the rights of many. As Colonel Puckett said: “Our country depends on you, me, what you do every day, and how you live . . . It depends on us.” May we all show our gratitude for our service members, who show us every day what it means to put our democracy and our Nation first.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim July 27, 2024, as National Korean War Veterans Armistice Day. On this day, I encourage

all Americans to reflect on the strength, sacrifices, and sense of duty of our Korean War veterans and bestow upon them the high honor they deserve. I call upon all Americans to observe this day with appropriate ceremonies and activities that honor and give thanks to our distinguished Korean War veterans.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of July, in the year of our Lord two thousand twenty-four, and of the Independence of the United States of America the two hundred and forty-ninth.

A handwritten signature in black ink, appearing to read "Joe Biden", is written in a cursive style. The signature is positioned to the right of the main text block.

Rules and Regulations

Federal Register

Vol. 89, No. 146

Tuesday, July 30, 2024

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.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–1120; Airspace Docket No. 24–ACE–3]

RIN 2120–AA66

Amendment of Class E Airspace; Chanute, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: Effective 0901 UTC, October 31, 2024. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

FAA Order JO 7400.11H, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Office of

Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington DC 20591; telephone: (202) 267–8783.

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E surface area and Class E airspace extending upward from 700 feet above the surface at Chanute Martin Johnson Airport, Chanute, KS, to support IFR operations at this airport.

History

The FAA published an NPRM for Docket No. FAA–2024–1120 in the **Federal Register** (89 FR 35025; May 1, 2024) proposing to amend the Class E airspace at Chanute, KS. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

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

published in the next update to FAA Order JO 7400.11.

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

The Rule

This amendment to 14 CFR part 71: Modifies the Class E surface area to within a 3.9-mile (decreased from a 4-mile) radius of the Chanute Martin Johnson Airport, Chanute, KS; updates the geographic coordinates of the airport to coincide with the FAA’s aeronautical database; and replaces the outdated terms “Notice to Airmen” and “Airport/Facility Directory” with “Notice to Air Missions” and “Chart Supplement;” And modifies the Class E airspace extending upward from 700 feet above the surface to within a 6.4-mile (decreased from a 6.5-mile) radius of Chanute Martin Johnson Airport; and updates the geographic coordinates of the airport to coincide with the FAA’s aeronautical database.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ACE KS E2 Chanute, KS [Amended]

Chanute Martin Johnson Airport, KS (Lat. 37°40'04" N, long. 95°29'12" W)

Within a 3.9-mile radius of Chanute Martin Johnson Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

* * * * *

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

* * * * *

ACE KS E5 Chanute, KS [Amended]

Chanute Martin Johnson Airport, KS (Lat. 37°40'04" N, long. 95°29'12" W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Chanute Martin Johnson Airport.

* * * * *

Issued in Fort Worth, Texas, on July 24, 2024.

Martin A. Skinner,

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

[FR Doc. 2024–16645 Filed 7–29–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–2362; Airspace Docket No. 23–ASW–18]

RIN 2120–AA66

Amendment of Class D Airspace; Dallas, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class D airspace at the Dallas Executive Airport, previously known as Dallas Redbird Airport, Dallas, TX. This action is the result of an airspace review. The geographic coordinates of Dallas Executive Airport, Dallas, TX, will also be updated to coincide with the FAA’s aeronautical database. This action brings the airspace into compliance with FAA orders to support instrument flight rule (IFR) operations.

DATES: Effective 0901 UTC, October 31, 2024. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator.

Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class D airspace at the Dallas Executive Airport, formerly known as Dallas Redbird Airport, Dallas, TX, (contained within the airspace legal description) to support IFR operations at this airport.

History

The FAA published an NPRM for Docket No. FAA–2023–2362 in the **Federal Register** (89 FR 14601; February 28, 2024) proposing to amend the Class D airspace at Dallas, TX. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received, however it did not pertain to the action, so no response is provided.

Incorporation by Reference

Class E airspace designations are published in paragraphs 5000 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. FAA Order JO 7400.11H is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

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

Differences From the NPRM

Subsequent to publication of the NPRM, the FAA discovered a typographical error in the Class D airport name in the header, “Redbird Executive Airport, TX” “should have been “Dallas Executive Airport, TX”, and the part-time language was inadvertently omitted.

The Rule

This amendment to 14 CFR part 71: Modifies the Class D airspace at Dallas Executive Airport, Dallas, TX, by modifying the Class D airspace extending upward from the surface up to but not including 3,000 feet MSL within a 4.5-mile (increased from 4.2-

mile) radius of the Dallas Executive Airport, Dallas, TX, (previously Dallas Redbird Airport); and the Redbird RBN and associated extensions were removed from the airspace description as they are no longer needed; and removes the city associated with the airport in the airspace legal description to comply with changes to FAA Order JO 7400.2P, Procedures for Handling Airspace Matters; also, the geographic coordinates are updated to coincide with the FAA's aeronautical database; replacing the part-time language inadvertently omitted in the NPRM; and the outdated terms "Notice to Airmen" and Airport/Facility Directory" with "Notice to Air Missions" and "Chart Supplement".

This action is the result of a biennial airspace review brings the airspace into compliance with current FAA orders, and to support IFR operations at this airport.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ASW TX D Dallas, TX [Amended]

Dallas Executive Airport, TX
(Lat. 32°40'53" N, long. 96°52'08" W)

That airspace extending upward from the surface up to but not including 3,000 feet within a 4.5-mile radius of Dallas Executive Airport. This Class D airspace area is effective during specific dates and times established in advance by a Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

* * * * *

Issued in Fort Worth, Texas, on July 23, 2024.

Martin A. Skinner,

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

[FR Doc. 2024-16644 Filed 7-29-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2024-1146; Airspace
Docket No. 24-ACE-5]

RIN 2120-AA66

Revocation of Class E Airspace; Festus, MO

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Class E airspace at Festus, MO. This action is the result of the instrument procedures being cancelled and the airport closing.

DATES: Effective 0901 UTC, October 31, 2024. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT:

Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it revokes the Class E airspace extending upward from 700 feet above the surface at Festus Memorial Airport, Festus, MO, due to instrument procedures being cancelled and the airport closing.

History

The FAA published an NPRM for Docket No. FAA-2024-1146 in the **Federal Register** (89 FR 35018; May 1, 2024) proposing to revoke the Class E airspace at Festus, MO. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

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

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

The Rule

This amendment to 14 CFR part 71 removes the Class E surface area at Festus Memorial Airport, Festus, MO.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ACE MO E5 Festus, MO [Removed]

* * * * *

Issued in Fort Worth, Texas, on July 24, 2024.

Martin A. Skinner,
Acting Manager, Operations Support Group,
ATO Central Service Center.

[FR Doc. 2024-16648 Filed 7-29-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2024-0665]

RIN 1625-AA00

Safety Zone; North Atlantic Ocean, Ocean City, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the North Atlantic Ocean adjacent to Ocean City, MD. This action is necessary to provide for the safety of life on the navigable waters during an air show which will take place from August 22, 2024 to August 25, 2024. This action will prohibit persons and vessels from entering the safety zone unless authorized by the Captain of the Port Maryland-National Capital Region or a designated representative.

DATES: This rule is effective from 10:00 a.m. to 5 p.m. on August 22-25, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2024-0665 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 on this rule, call or email LCDR Kate M. Newkirk, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410-576-2674, email kate.m.newkirk@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

The Town of Ocean City, MD has notified the Coast Guard that, between 10 a.m. and 5 p.m. on each day, from August 22-25, 2024, it will be hosting an air show above the North Atlantic Ocean, adjacent to Ocean City, MD. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that there is good cause to waive the requirement to publish this final rule without providing notice and taking comments because there is insufficient time to do so between now and the time that the rule must be in effect to serve its intended purpose.

Under 5 U.S.C. 553(d)(3), the Coast Guard also 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 public interest because immediate action is needed to respond to the potential safety hazards associated with an air show.

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 Maryland-National Capital Region (COTP) has determined that potential hazards associated with this August 22-25, 2024, air show will be a safety concern for anyone operating within certain waters of the North Atlantic Ocean adjacent to Ocean City, MD. The purpose of this rule is to ensure the safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a safety zone from 10 a.m. to 5 p.m., each day, from August 22–25, 2024. The safety zone will cover all waters of the North Atlantic Ocean, within an area bounded by the following coordinates: Commencing at a point near the shoreline in vicinity of 33rd Street, Ocean City, MD, latitude 38°21'48.8" N, longitude 075°04'10" W, thence eastward to latitude 38°21'32" N, longitude 075°03'12" W, thence south to latitude 38°19'22.7" N, longitude 075°04'09.5" W, thence west to latitude 38°19'38.5" N, longitude 075°05'05.4" W, thence north along the shoreline to point of origin, located adjacent to Ocean City, MD

The duration of the zone is intended to ensure the safety of life on these navigable waters before, during, and after the scheduled air show. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone, which would impact a small, designated area during the event. The Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine band radio channel 16 to provide information about the safety zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, 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.

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 Commandant Instruction M16475.1D, 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. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket were indicated under **ADDRESSES**.

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. 0170.1, Revision No. 01.3.

- 2. Add § 165.T05–0665 to read as follows:

§ 165.T05–0665 Safety Zone; North Atlantic Ocean, Ocean City, MD.

(a) *Location.* The following area is a safety zone: All navigable waters of the North Atlantic Ocean within an area bounded by the following coordinates: Commencing at a point near the shoreline in vicinity of 33rd Street, Ocean City, MD, latitude 38°21'48.8" N, longitude 075°04'10" W, thence eastward to latitude 38°21'32" N, longitude 075°03'12" W, thence south to latitude 38°19'22.7" N, longitude 075°04'09.5" W, thence west to latitude 38°19'38.5" N, longitude 075°05'05.4" W, thence north along the shoreline to point of origin, located adjacent to Ocean City, MD. All coordinates refer to datum NAD 1983.

(b) *Definitions.* As used in this section:

(1) *Captain of the Port, Maryland-National Capital Region* means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

(2) *Designated representative* means any Coast Guard commissioned,

warrant, or petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcement of the safety zone described in paragraph (a) of this section.

(c) *Regulations.* The general safety zone regulations found in this part 165, subpart C apply to the safety zone created by this section.

(1) All persons are required to comply with the general regulations governing safety zones found in § 165.23.

(2) Entry into or remaining in this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Maryland-National Capital Region. All vessels underway within this safety zone at the time it is implemented are to depart the zone.

(3) Persons desiring to transit the area of the safety zone are to obtain authorization from the Captain of the Port, Maryland-National Capital Region or designated representative. To request permission to transit the area, the Captain of the Port Maryland-National Capital Region and or designated representatives can be contacted at telephone number 410-576-2693 or on marine band radio VHF-FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. If permission is granted to enter the safety zone, all persons and vessels must comply with the instructions of the Captain of the Port Maryland-National Capital Region or designated representative and proceed as directed while within the zone.

(4) The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(d) *Enforcement period.* This section will be enforced from 10 a.m. to 5 p.m., each day, from August 22-25, 2024.

Patrick C Burkett,

Captain, U.S. Coast Guard, Captain of the Port, Maryland-National Capital Region.

[FR Doc. 2024-16660 Filed 7-29-24; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2024-0551]

RIN 1625-AA00

Safety Zone; Drone Display, Hudson River, New York City, NY

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

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of the Hudson River in the vicinity of Pier 90 located in New York City, NY. The temporary safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by an aerial drone display scheduled for July 30, 2024. During the enforcement period, entry of vessels or persons into the safety zone is prohibited unless specifically authorized by the Captain of the Port, Sector New York.

DATES: This rule is effective from 9 p.m. through 11 p.m. on July 30, 2024. This rule will be subject to enforcement while the aerial drones are in-flight from approximately 9:30 p.m. to 10 p.m. on July 30, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2024-0551 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 MST1 Kathryn Veal, Waterways Management Division, U.S. Coast Guard; telephone 718-354-4151, email Kathryn.M.Veal@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule under authority in 5 U.S.C. 553(b)(B). This statutory provision authorizes an agency to issue

a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." The event sponsor did not make the Coast Guard aware of the aerial drone show until there was insufficient time to publish a notice of proposed rulemaking (NPRM), take public comments, consider those comments, and issue a final rule by July 30, 2024. The Coast Guard finds that good cause exists for not publishing a NPRM with respect to this rule because doing so would be impracticable since prompt action is necessary to ensure public safety and respond to the potential safety hazards associated with drone activity in this regulated area.

Also, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because prompt action is needed to respond to the potential safety hazards associated with the 500 drones flying overhead on a heavily trafficked channel.

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 New York (COTP) has determined that the potential hazards associated with the aerial drone display, consisting of 500 drones, on July 30, 2024, are a safety concern for anyone transiting the Hudson River at that time. Therefore, this rule is necessary to protect personnel, vessels, and the marine environment in the navigable waters near the event location.

IV. Discussion of the Rule

This rule establishes a safety zone from 9 p.m. to 11 p.m. on July 30, 2024, and subject to enforcement while the aerial drones are in-flight from approximately 9:30 p.m. to 10 p.m. on July 30, 2024. The aerial display will consist of one flight, lasting approximately 13 minutes, commencing at approximately 9:30 p.m. The Coast Guard only intends to enforce the rule while the drones are in flight. The safety zone will cover all navigable waters of the Hudson River encompassing a 400-foot radius at approximate position 40°46'07.7" N, 74°00'03.3" W in the vicinity of Pier 90 located in New York City, NY. When enforced, entry of vessels or persons into this zone is prohibited unless specifically authorized by 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 duration and time-of-day of the safety zone. This safety zone will be of limited duration to minimize any adverse impacts to vessels who seek to transit the Hudson River on July 30, 2024. Vessel traffic will only be restricted in the limited access area while drones are in the air for an approximately 13-minute segment from 9 p.m. until 11 p.m. on July 30, 2024. Further, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM Marine Channel 16 about the zone and persons or vessels desiring to enter the safety zone may do so with permission from the COTP or a Designated Representative. Advance public notifications will also be made to local mariners through appropriate means, which may include Local Notice to Mariners, Alert Warning System messaging capabilities, and Broadcast Notice to Mariners.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, this rule will

not have a significant economic impact on any vessel owner or operator because they are able to transit during the periods of time the drones are not in-flight.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will only be enforced during a limited time: a 13-minute segment starting at approximately 9:30 p.m. on July 30, 2024. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–0551 to read as follows:

§ 165.T01–0551 Safety Zone; Drone Display, Hudson River, New York City, NY.

(a) *Location.* The following area is a safety zone: All navigable waters of the Hudson River in the vicinity of Pier 90 located in New York City, NY within a 400-foot radius from the approximate coordinate position 40°46′07.7″ N, 74°00′03.3″ W. These coordinates are based on North American Datum 83.

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

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

(2) To seek permission to enter, contact the COTP or the COTP's designated representative via VHF–FM Marine Channel 16 or by contacting the Coast Guard Sector New York Command Center at (718) 354–4353. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced while the aerial drones are in flight between 9 p.m. and 11 p.m. on July 30, 2024.

Jonathan Andrechik,

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

[FR Doc. 2024–16752 Filed 7–26–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2024–0647]

Safety Zone; Seafair Air Show Performance, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone on Lake Washington, Seattle, Washington for the annual Seafair Air Show Performance from 8 a.m. until 4 p.m., each day from August 1 through 4, 2024, to provide for the safety of life on navigable waterways during this 4-day event. The regulation for this safety zone identifies the regulated area for this event on Lake Washington, Seattle, Washington. During enforcement periods no person or vessel may enter or remain within the safety zone, except those authorized by the Captain of the Port Sector Puget Sound (COTP) or their designated representative(s). Vessels and persons granted authorization to enter the safety zone shall obey all lawful orders or directions of the COTP or their designated representative(s).

DATES: The regulations in 33 CFR 165.1319 will be enforced from 8 a.m. until 4 p.m., each day from August 1, 2024, through August 4, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant Commander John Robertson, U.S. Coast Guard, Sector Puget Sound, Waterways Management Division; by telephone 206–217–6051, or email *SectorPugetSoundWWM@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in 33 CFR 165.1319 for the annual Seafair Air Show Performance from 8 a.m. until 4 p.m. each day from August 1 through August 4, 2024. This action is being taken to provide for the safety of life on navigable waterways during this 4-day event. The regulation for this safety zone, § 165.1319(b), specifies the location of this safety zone for the annual Seafair Air Show Performance which encompasses a portion of Lake Washington, Seattle, Washington. During the enforcement periods as reflected in § 165.1319(c), no person may enter or remain in the zone except support vessels and support personnel, vessels registered with the event organizer, or other vessels authorized by the COTP or their designated representative(s). Vessels and persons granted authorization to enter the safety zone must obey all lawful orders or directions of the COTP or their designated representative(s).

The COTP may be assisted by other federal, state, and local law enforcement agencies in enforcing this regulation.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of the enforcement period

via marine information broadcast and Local Notice to Mariners.

Dated: July 24, 2024.

Mark A. McDonnell,

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

[FR Doc. 2024–16696 Filed 7–29–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2024–0662]

Security Zones, Seattle's Seafair Fleet Week Moving Vessels, Puget Sound, WA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce Seattle's Seafair Fleet Week moving vessels security zones from July 30, 2024 through August 5, 2024 to safeguard these vessels from destruction, loss, or injury from sabotage or other subversive acts, accidents, or events of a similar nature. The regulation for these security zones identifies all navigable waters within 500 yards of the designated participating vessels for the Parade of Ships in Elliott Bay, Seattle, Washington as the regulated areas for this event. During the enforcement periods no person or vessel may enter or remain in the established security zones without authorization from the Captain of the Port Sector Puget Sound (COTP) or their designated representative(s). The COTP has granted general permission for vessels to enter the outer 400 yards of the security zones provided they operate at the minimum speed necessary to maintain course unless required to maintain speed by the navigation rules.

DATES: The regulations in 33 CFR 165.1333 will be enforced for the security zones identified in the **SUPPLEMENTARY INFORMATION SECTION** from 8 a.m. on July 30, 2024 through 8 p.m. on August 5, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant Commander John Robertson, U.S. Coast Guard, Sector Puget Sound, Waterways Management Division; by telephone 206–217–6051, or email *SectorPugetSoundWWM@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the security zone in 33 CFR 165.1333 for Seattle's Seafair Fleet Week from 8 a.m. on July 30, 2024 through 8 p.m. on August 5, 2024. This action is being taken to safeguard the vessels from destruction, loss, or injury from sabotage or other subversive acts, accidents, or events of a similar nature. The regulation for these security zones, § 165.1333(a) specifies the location of the security zone which encompasses all navigable waters within 500 yards of each designated participating vessel in the Parade of Ships while each vessel is in the COTP's zone as defined in 33 CFR 3.65–10.

The following is a list of the designated participating vessels for the Parade of Ships as defined by § 165.1333(b): USS AUGUSTA (LCS–34), USS SAMPSON (DDG–102), USCGC HENRY BLAKE (WLM–563), USCGC DAVID DUREN (WPC–1156), USCGC OSPREY (WPB–87307), USCGC SEA LION (WPB–87352), and USCGC TERRAPIN (WPB–87366).

During the enforcement period, as reflected in § 165.1333(c), no person or vessel may enter or remain in the security zones without permission of the COTP or their designated representative(s). The COTP has granted general permission for vessels to enter the outer 400 yards of the established security zones as long as those vessels within the outer 400 yards of the security zones operate at the minimum speed necessary to maintain course unless required to maintain speed by the navigation rules. The COTP may be assisted by other federal, state, or local agencies with the enforcement of security zones.

All vessel operators who desire to enter the inner 100 yards of the security zones or transit the outer 400 yards at greater than minimum speed to maintain course must obtain permission from the COTP or their designated representative(s) by contacting the on-scene Coast Guard patrol craft on VHF Ch 13 or 16. Requests must include the reason why movement within the area is necessary. Vessel operators granted permission to enter the security zones will be escorted by the on-scene Coast Guard patrol craft until they are outside of the security zones and must obey any lawful direction or order of the COTP or designated representative.

In addition to this notice in the **Federal Register**, the Coast Guard will provide notification of this enforcement period via marine information broadcasts and the Local Notice to Mariners in advance of the event.

Dated: July 24, 2024.

Mark A. McDonnell,

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

[FR Doc. 2024–16695 Filed 7–29–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2024–0648]

Safety Zone; Fleet Week Maritime Festival, Pier 66, Elliott Bay, Seattle, Washington

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the Fleet Week Maritime Festival Parade of Ships on all waters extending 100 yards from Pier 66, Elliott Bay, Seattle, Washington on July 30, 2024, to provide for the safety of life on navigable waterways during the event. The regulation identifies the safety zone for this event in Seattle, Washington. During the enforcement period no vessel operator may enter, transit, moor, or anchor within the safety zone, except for vessels authorized by the Captain of the Port (COTP) or their designated representative(s).

DATES: The regulations in 33 CFR 165.1330 will be enforced from noon through 3:30 p.m. on July 30, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant Commander John Robertson, U.S. Coast Guard Sector Puget Sound, Waterways Management Division; by telephone 206–217–6051, or email SectorPugetSoundWWM@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a safety zone identified in 33 CFR 165.1330 for the Fleet Week Maritime Festival Parade of Ships, thirty (30) minutes prior to the beginning, during, and thirty (30) minutes following the conclusion of the event from 8 a.m. to 8 p.m. on July 30, 2024. The safety zone will encompass all waters extending 100 yards from Pier 66, Elliott Bay, Seattle, Washington within a box encompassed by the points, 47°36.719' N, 122°21.099' W; 47°36.682' N, 122°21.149' W; 47°36.514' N, 122°20.865' W; and 47°36.552' N, 122°20.814' W. This action is being

taken to provide for the safety of life on navigable waterways during this event. During the enforcement period, no vessel operator may enter, transit, moor, or anchor within the safety zone, except for vessels authorized by the COTP or their designated representative(s).

For the purpose of this rule, the Parade of Ships includes both the pass and review of the ships near Pier 66 and the aerial demonstrations immediately following the pass and review.

The COTP may be assisted by other federal, state, or local agencies as needed. In order to transit through this safety zone, authorization must be granted by the COTP or their designated representative(s). All vessel operators desiring entry must gain authorization by contacting either the on-scene U.S. Coast Guard patrol craft on VHF Ch. 13 or 16, or Coast Guard Sector Puget Sound Joint Harbor Operations Center (JHOC) via telephone at (206) 217–6002. Requests must indicate the reason why movement within the safety zone is necessary and provide applicable information of the vessel's arrival, departure facility name, pier, and berth. Vessel operators granted to permission to enter this safety zone will be escorted by the on-scene patrol until no longer in the safety zone and must obey the lawful orders or directions of the COTP or designated representative(s).

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.

Dated: July 24, 2024.

Mark A. McDonnell,

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

[FR Doc. 2024–16694 Filed 7–29–24; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Parts 951, 952, 953, 954, 955, 957, 958, 959, 960, 961, 962, 963, 964, 965, and 966

Rules of Procedure Before the Judicial Officer

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: This document amends the rules of practice prescribed by the Judicial Officer to implement a new electronic filing system and update the rule titles.

DATES: Effective July 30, 2024.

FOR FURTHER INFORMATION CONTACT: Staff Counsel Zahava Colicelli at (708) 812-1927.

SUPPLEMENTARY INFORMATION:

A. Background

The Judicial Officer Department recently implemented a new electronic filing system with an updated internet address. Changes to the rules of practice are necessary to accommodate the new internet address. The Judicial Officer Department has also updated the headings of the Rules of Practice.

B. Explanation of Changes

Amendments to 39 CFR Part 951

The rule is amended to update the heading.

Amendments to 39 CFR Part 952

The rule is amended to update the heading.

Section 952.4(b) is amended to update the internet address for the electronic filing system.

Amendments to 39 CFR Part 953

The rule is amended to update the heading.

Section 953.2 is amended to update the internet address for the electronic filing system.

Amendments to 39 CFR Part 954

The rule is amended to update the heading.

Section 954.4(b) is amended to update the internet address for the electronic filing system.

Amendments to 39 CFR Part 955

The rule is amended to update the heading.

Section 955.1(b)(1) is amended to update the internet addresses for the Board's website and electronic filing system.

Amendments to 39 CFR Part 957

The rule is amended to update the heading.

Section 957.3 is amended to update the internet address for the Judicial Officer website.

Section 957.6 is amended to update the internet address for the electronic filing system.

Amendments to 39 CFR Part 958

The rule is amended to update the heading.

Section 958.19(b) is amended to update the internet address for the electronic filing system.

Amendments to 39 CFR Part 959

The rule is amended to update the heading.

Section 959.3(b) is amended to update the internet address for the electronic filing system.

Amendments to 39 CFR Part 960

The rule is amended to update the heading.

Amendments to 39 CFR Part 961

The rule is amended to update the heading.

In § 961.4, paragraphs (a) and (b) are amended to update the internet address for the electronic filing system.

Amendments to 39 CFR Part 962

The rule is amended to update the heading.

Section 962.22(a) is amended to update the internet address for the electronic filing system.

Amendments to 39 CFR Part 963

The rule is amended to update the heading.

In § 963.3, paragraph (a) and (d) are amended to update the internet address for the electronic filing system.

Amendments to 39 CFR Part 964

The rule is amended to update the heading.

Section 964.3(a) is amended to update the internet address for the electronic filing system.

Amendments to 39 CFR Part 965

The rule is amended to update the heading.

Section 965.5 is amended to update the internet address for the electronic filing system.

Amendments to 39 CFR Part 966

The rule is amended to update the heading.

Section 966.3(j) is amended to update the internet address for the Judicial Officer website.

In § 966.4, paragraphs (c) and (d) are amended to update the internet address for the electronic filing system.

List of Subjects

39 CFR Parts 951 and 958

Administrative practice and procedure, Postal Service.

39 CFR Part 952

Administrative practice and procedure, Fraud, Lotteries, Postal Service.

39 CFR Part 953

Administrative practice and procedure, Mailability, Postal Service.

39 CFR Part 954

Administrative practice and procedure, Periodicals, Postal Service.

39 CFR Part 955

Administrative practice and procedure, Government contracts, Postal Service.

39 CFR Part 957

Administrative practice and procedure, Government contracts.

39 CFR Part 959

Administrative practice and procedure, Private express statute, Privacy, Postal Service.

39 CFR Part 960

Claims, Equal access to justice, Lawyers.

39 CFR Parts 961 and 966

Administrative practice and procedure, Claims, Government employees, Wages.

39 CFR Part 962

Administrative practice and procedure, Fraud, Postal Service.

39 CFR Part 963

Administrative practice and procedure, Advertising, Postal Service.

39 CFR Part 964

Administrative practice and procedure, Fictitious names or addresses, Fraud, Postal Service.

39 CFR Part 965

Administrative practice and procedure, Mail disputes, Postal Service.

Accordingly, for the reasons stated, the Postal Service amends 39 CFR parts 951, 952, 953, 954, 955, 957, 958, 959, 960, 961, 962, 963, 964, 965, and 966 as follows:

PART 951—ELIGIBILITY TO PRACTICE BEFORE THE POSTAL SERVICE

■ 1. The authority citation for 39 CFR part 951 continues to read as follows:

Authority: 39 U.S.C. 204, 401.

■ 2. The heading for part 951 is revised to read as set forth above.

PART 952—FALSE REPRESENTATION AND LOTTERY ORDERS

■ 3. The authority citation for 39 CFR part 952 continues to read as follows:

Authority: 39 U.S.C. 204, 401, 3001, 3005, 3012, 3016; 5 U.S.C. 554.

■ 4. The heading for part 952 is revised to read as set forth above.

■ 5. In § 952.4, paragraph (b) is revised to read as follows:

§ 952.4 Office business hours; electronic filing.

* * * * *

(b) The Judicial Officer electronic filing system website is accessible 24 hours a day at <https://usps-judicial.office.journaltech.com>.

PART 953—MAILABILITY

■ 6. The authority citation for 39 CFR part 953 continues to read as follows:

Authority: 39 U.S.C. 204, 401, 3001; 5 U.S.C. 554.

■ 7. The heading for part 953 is revised to read as set forth above.

■ 8. Revise § 953.2 to read as follows:

§ 953.2 Initiation.

Mailability proceedings are initiated upon the filing of an appeal in the Judicial Officer electronic filing system at <https://usps-judicialoffice.journaltech.com> or with the Recorder, Judicial Officer Department, U.S. Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078.

PART 954—DENIAL, SUSPENSION, OR REVOCATION OF PERIODICALS MAIL PRIVILEGES

■ 9. The authority citation for 39 CFR part 954 continues to read as follows:

Authority: 39 U.S.C. 204, 401, 3685; 5 U.S.C. 554.

■ 10. The heading for part 954 is revised to read as set forth above.

■ 11. In § 954.4, paragraph (b) is revised to read as follows:

§ 954.4 Office business hours; electronic filing.

* * * * *

(b) The Judicial Officer electronic filing system website is accessible 24 hours a day at <https://usps-judicial.office.journaltech.com>.

PART 955—POSTAL SERVICE BOARD OF CONTRACT APPEALS

■ 12. The authority citation for 39 CFR part 955 continues to read as follows:

Authority: 39 U.S.C. 204, 401; 41 U.S.C. 7101–7109.

■ 13. The heading for part 955 is revised to read as set forth above.

■ 14. In § 955.1, paragraph (b)(1) is revised to read as follows:

§ 955.1 Jurisdiction, procedure, service of documents.

* * * * *

(b) * * *

(1) The Board is located at 2101 Wilson Boulevard, Suite 600, Arlington, Virginia 22201–3078. The Board's telephone number is (703) 812–1900, and its website is <https://about.usps.com/who/judicial>. The Board's fax number is (703) 812–1901. The website

for electronic filing is <https://usps-judicialoffice.journaltech.com>.

* * * * *

PART 957—DEBARMENT AND SUSPENSION FROM CONTRACTING

■ 15. The authority citation for 39 CFR part 957 continues to read as follows:

Authority: 39 U.S.C. 204, 401.

■ 16. The heading for part 957 is revised to read as set forth above.

■ 17. In § 957.3, the last sentence of paragraph (g) is revised to read as follows:

§ 957.3 Definitions.

* * * * *

(g) * * * The Recorder's telephone number is (703) 812–1900, fax number is (703) 812–1901, and the Judicial Officer's website is <https://about.usps.com/who/judicial/>.

■ 18. In § 957.6, the second sentence is revised to read as follows:

§ 957.6 Filing documents for the record.

* * * The website for electronic filing is <https://usps-judicialoffice.journaltech.com>. * * *

PART 958—HAZARDOUS MATERIALS

■ 19. The authority citation for 39 CFR part 958 continues to read as follows:

Authority: 39 U.S.C. 204, 401, 3001, 3018; 5 U.S.C. 554.

■ 20. The heading for part 958 is revised to read as set forth above.

■ 21. In § 958.19, the second sentence of paragraph (b) is revised to read as follows:

§ 958.19 Form and filing of documents.

* * * * *

(b) * * * The Judicial Officer electronic filing system website is accessible 24 hours a day at <https://usps-judicialoffice.journaltech.com>. * * *

PART 959—PRIVATE EXPRESS STATUTES

■ 22. The authority citation for 39 CFR part 959 continues to read as follows:

Authority: 39 U.S.C. 204, 401; 601–606; 18 U.S.C. 1693–1699; 5 U.S.C. 554; 39 CFR 310, 320.

■ 23. The heading for part 959 is revised to read as set forth above.

■ 24. In § 959.3, paragraph (b) is revised to read as follows:

§ 959.3 Office address and business hours; electronic filing.

* * * * *

(b) The Judicial Officer electronic filing system website is accessible 24 hours a day at <https://usps-judicial.office.journaltech.com>.

PART 960—EQUAL ACCESS TO JUSTICE ACT IN POSTAL SERVICE PROCEEDINGS

■ 25. The authority citation for 39 CFR part 960 continues to read as follows:

Authority: 5 U.S.C. 504 (c)(1); 39 U.S.C. 204, 401 (2).

■ 26. The heading for part 960 is revised to read as set forth above.

PART 961—DEBT COLLECTION ACT PETITIONS AGAINST CURRENT EMPLOYEES

■ 27. The authority citation for 39 CFR part 961 continues to read as follows:

Authority: 39 U.S.C. 204, 401; 5 U.S.C. 5514.

■ 28. The heading for part 961 is revised to read as set forth above.

■ 29. In § 961.4, the first sentence of paragraph (a) and first sentence of paragraph (b) introductory text are revised to read as follows:

§ 961.4 Employee petition for a hearing.

(a) If an employee desires a hearing, prescribed by section 5 of the Debt Collection Act, to challenge the Postal Service's determination of the existence or amount of a debt, or to challenge the involuntary repayment terms proposed by the Postal Service, the employee must file a written petition electronically at <https://usps-judicial.office.journaltech.com>. * * *

(b) A sample petition is available through the Judicial Officer Electronic Filing website (<https://usps-judicial.office.journaltech.com>). * * *

* * * * *

PART 962—PROGRAM FRAUD CIVIL REMEDIES ACT

■ 30. The authority citation for 39 CFR part 962 continues to read as follows:

Authority: 31 U.S.C. 3801–12; 39 U.S.C. 401; 5 U.S.C. 554.

■ 31. The heading for part 962 is revised to read as set forth above.

■ 32. In § 962.22, the second sentence of paragraph (a) introductory text is revised to read as follows:

§ 962.22 Form and filing of documents.

(a) * * * The Judicial Officer electronic filing system website is accessible 24 hours a day at <https://usps-judicialoffice.journaltech.com>.

* * * * *

PART 963—PANDERING

■ 33. The authority citation for 39 CFR part 963 continues to read as follows:

Authority: 39 U.S.C. 204, 401, 3008.

■ 34. The heading for part 963 is revised to read as set forth above.

■ 35. In § 963.3, the last sentence in paragraph (a) and the first sentence in paragraph (d) are revised to read as follows:

§ 963.3 Petition; notice of hearing; answer; filing and copies of documents; summary judgment.

(a) * * * The Manager will forward each timely petition to the Recorder through the Judicial Officer Department electronic filing system at <https://usps-judicialoffice.journaltech.com>.

* * * * *

(d) * * * All documents required under this part must be filed using the electronic filing system (<https://usps-judicialoffice.journaltech.com>) unless the presiding officer permits otherwise.

* * * * *

* * * * *

PART 964—WITHHELD MAIL

■ 36. The authority citation for 39 CFR part 964 continues to read as follows:

Authority: 39 U.S.C. 204, 401, 3003, 3004; 5 U.S.C. 554.

■ 37. The heading for part 964 is revised to read as set forth above.

■ 38. In § 964.3, the second sentence of paragraph (a) is revised to read as follows:

§ 964.3 Customer petitions; notice of hearing; answer; summary judgment.

(a) * * * The Petition, signed by the Petitioner or his or her attorney, shall be filed via the Judicial Officer Electronic filing system at <https://usps-judicialoffice.journaltech.com> or via certified mail to the Recorder, Judicial Officer Department, United States Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078.

* * * * *

PART 965—MAIL DISPUTES

■ 39. The authority citation for 39 CFR part 965 continues to read as follows:

Authority: 39 U.S.C. 204, 401.

■ 40. The heading for part 965 is revised to read as set forth above.

■ 41. In § 965.5, the first sentence is revised to read as follows:

§ 965.5 Initial submissions by parties.

Within 15 days after receipt of the Recorder’s notice, each party shall file via the Judicial Officer electronic filing system (<https://usps-judicialoffice.journaltech.com>) a sworn statement of the facts supporting its claim to receipt of the mail together with a copy of each document on which it relies in making such claim, and any arguments supporting its claim.

PART 966—ADMINISTRATIVE OFFSETS INITIATED AGAINST FORMER POSTAL SERVICE EMPLOYEES

■ 42. The authority citation for 39 CFR part 966 continues to read as follows:

Authority: 31 U.S.C. 3716; 39 U.S.C. 204, 401, 2601.

■ 43. The heading for part 966 is revised to read as set forth above.

■ 44. In § 966.3, the last sentence of paragraph (j) is revised to read as follows:

§ 966.3 Definitions.

* * * * *

(j) * * * The recorder’s telephone number is (703) 812–1900, and the Judicial Officer’s website is <https://about.usps.com/who/judicial/>.

■ 45. In § 966.4, paragraph (c) and the first sentence of paragraph (d) introductory text are revised to read as follows:

§ 966.4 Petition for a hearing and supplement to petition.

* * * * *

(c) Within thirty (30) calendar days after the date of receipt of the Accounting Service Center’s decision upon reconsideration, after the expiration of sixty (60) calendar days after a request for reconsideration where a reconsideration determination is not made, or following an administrative offset taken without prior notice and opportunity for reconsideration pursuant to paragraph (b)(1) of this section, the former employee must file a written petition electronically at <https://usps-judicialoffice.journaltech.com>, or by mail at Recorder, Judicial Officer Department, United States Postal Service, 2101 Wilson Blvd., Suite 600, Arlington, VA 22201–3078.

(d) A sample petition is available through the Judicial Officer Electronic

Filing website (<https://usps-judicialoffice.journaltech.com>).

* * * * *

Colleen Hibbert-Kapler,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2024–16428 Filed 7–29–24; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA–R03–OAR–2024–0070; FRL–11788–02–R3]

Clean Air Act Title V Operating Permit Program Revision; West Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to West Virginia’s Title V Operating Permits Program, submitted on behalf of the state by the West Virginia Department of Environmental Protection (WVDEP). There are three components to the revision: it restructures the title V operating permit fees collected by WVDEP in order to ensure that the title V operating program is adequately funded; it amends West Virginia’s title V regulations to comport with Federal permit review, public petition, and affirmative defense requirements; and it removes obsolete transitional language. The EPA is approving these revisions to the West Virginia title V program in accordance with the requirements under section 502 of the Clean Air Act (CAA).

DATES: This final rule is effective on August 29, 2024.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2024–0070. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through www.regulations.gov, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Yongtian He, Permits Branch (3AD10),

Air & Radiation Division, U.S. Environmental Protection Agency, Region III, Four Penn Center, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2339. Mr. He can also be reached via electronic mail at he.yongtian@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 21, 2024 (89 FR 20157), the EPA published a notice of proposed rulemaking (NPRM) for the State of West Virginia. In the NPRM, the EPA proposed approval of West Virginia's revision to the implementing regulation of the state's Title V Operating Permits Program, "Requirements for Operating Permits" rule, codified at Title 45, Series 30 of the West Virginia Code of State Regulations (45CSR30). The EPA granted full approval of the West Virginia Title V Operating Permit Program effective November 19, 2001. See 66 FR 50325, October 3, 2001.

WVDEP's submission was received by the EPA on May 3, 2023 and, pursuant to the EPA's request, WVDEP submitted a clarifying statement on December 19, 2023. WVDEP revised 45CSR30 to: (1) restructure the title V program fee as recommended by the EPA in a September 2021 Title V Program Evaluation Report, an August 2019 Title V Permit Fee Evaluation Report, and a May 2015 Title V Program Evaluation Report;¹ (2) comport with the EPA's "Revisions to the Petition Provisions of the Title V Permitting Program" final Federal rule (85 FR 6431, February 5, 2020) and the EPA's "Removal of Title V Emergency Affirmative Defense Provisions from State Operating Permit Programs and Federal Operating Permit Program" final Federal rule (88 FR 47029, July 21, 2023); and (3) remove obsolete transitional language and provide additional clarifications.

A. Fee Structure Revision

Under 40 CFR 70.9(a) and (b), an approved state title V operating permits program must require that the owners or operators of 40 CFR part 70 sources pay annual fees, or the equivalent over some other period, that are sufficient to cover the permit program costs and ensure that any fee required under 40 CFR 70.9 is used solely for permit program costs. The fee schedule must result in the collection and retention of revenues sufficient to cover the permit program implementation and oversight costs. 40 CFR 70.9(b). The state submission indicates that under the previous fee

structure, approximately 60 percent of title V fees generated in West Virginia were paid by the top ten emitting sources of West Virginia's approximately 500 title V facilities. Nine of the top ten sources were coal-fired electric generating units (EGUs), some of which, according to the state, have indicated the possibility of retiring in the near future. Accordingly, the previous fee structure was not flexible in the event of changes to the mix of regulated sources, which would result in projected revenue loss and potential vulnerability with respect to WVDEP's ability to fully fund its title V program. This vulnerability was noted by the EPA in its aforementioned 2021, 2019, and 2015 reports.

West Virginia's new fee structure, as delineated in 45CSR30.8, expands the number of sources contributing 60 percent of the revenue from the top 10 (2 percent of state-wide sources) to the top 96 sources (20 percent of state-wide sources), thus providing a more diversified and sustainable revenue stream. West Virginia's amendments to its fee provisions at 45CSR30.8 achieve a more sustainable and equitable title V fee structure that can adjust to the projected changes to title V sources and emissions.

B. Federal Permit Review, Public Petition, and Affirmative Defense Requirement Revisions

In February 2020, the EPA issued a Final Rule revising its regulations with respect to the submission and review of title V petitions. See 85 FR 6431, February 5, 2020. The action sought to "streamline and clarify" the processes by "implement[ing] changes in three key areas: method of petition submittal to the agency, required content and format of petitions, and administrative record requirements for permits." *Id.* Any air agencies that needed to revise its rules to implement these changes were to initiate the process with the EPA in accordance with 40 CFR 70.4(i).

The EPA issued a final rule in July 2023 that removed the "emergency" affirmative defense provisions from the agency's 40 CFR parts 70 and 71 title V operating permit program regulations. See 88 FR 47029 (July 21, 2023). The preamble explained that the EPA "expects that program revisions to remove the title V emergency defense provisions from state operating permit programs will include, at minimum: (1) a redline document identifying the state's proposed revision to its 40 CFR part 70 program rules; (2) a brief statement of the legal authority authorizing the revision; and (3) a

schedule and description of the state's plans to remove affirmative defense provisions from individual operating permits.

II. Summary of Title V Permit Program Revision and the EPA Analysis

In the May 3, 2023 submittal, West Virginia sought the EPA's approval of its revisions to 45CSR30 into its title V program. As noted above, West Virginia's revisions to 45CSR30 restructured fees for its Title V Operating Permit Program, amended its regulations to comport with revisions to Federal permit review and public petition regulations, removed affirmative defense provisions pursuant to revisions to Federal regulations, and removed obsolete language. The December 19, 2023 supplemental letter provided clarifying information.

A. Fee Structure Revision

To cover all reasonable costs required to implement and administer the West Virginia Title V Operating Permit Program as required by 40 CFR 70.9(a) and (b), the state's revised fee structure is designed to diversify revenue stream with consideration of the future and to be more equitable and sustainable.

West Virginia's revisions to its title V fee structure in 45CSR30.8 included five main changes: (1) replacing the annual emissions only fee to an annual fee that includes an emissions fee, base fee, and complexity fee components; (2) setting the emissions fee factor based on a calculation of the 3-year average of Division of Air Quality (DAQ) Title V Fund expenses, which is then multiplied by the actual emissions released by the specific source to determine the emission fee component; (3) removing the emissions fee cap; (4) eliminating the Certified Emissions Statement (emission reporting requirements remain); and (5) the title V fee program does not reference the Rule 22 minor source fee program. The details of West Virginia's revised title V fee structure are described in the NPRM.

With this fee structure change, West Virginia indicates that it can ensure that fees will remain sufficient to cover the costs of administering the plan approval application and operating permit process as required by section 502(b) and the implementing regulations of 40 CFR part 70. After reviewing West Virginia's May 2023 submission and the December 2023 supplemental letter, the EPA has determined that the revision to the fee structure meets the requirements in section 502 of the CAA and 40 CFR 70.9 for the collection of sufficient title V fees to cover permit program implementation and oversight costs. As

¹ The reports are available at www.epa.gov/caa-permitting/title-v-evaluation-report-west-virginia.

a result, the EPA is approving West Virginia's restructuring of its title V fee program.

B. Affirmative Defense, Permit Review and Public Petition Requirement Revisions

In the revision to 45CSR30, WVDEP removed section 5.7: Emergency provisions pursuant to the EPA's removal of the Federal affirmative defense provisions 40 CFR 70.6 (g) and 71.6 (g) in its July 21, 2023 final rule (88 FR 47029). The provisions, which have never been required elements of state operating permit programs, were removed because they were inconsistent with the EPA's interpretation of the enforcement structure of the CAA in light of prior court decisions from the U.S. Court of Appeals for the D.C. Circuit. The removal is also consistent with other recent EPA actions involving affirmative defenses and would harmonize the EPA's treatment of affirmative defenses across different CAA programs. WVDEP's removal of section 5.7 is consistent with the Federal final rule and 40 CFR part 70 regulations.

WVDEP also revised sections 7.1, 7.3 and 7.4 of 45CSR30 on public petitions and permit review requirements to comport with revisions to the aforementioned Federal counterpart regulations. (85 FR 6431, February 5, 2020). WVDEP's revision of sections 7.1, 7.3 and 7.4 of 45CSR30 reflects the Federal Rule's changes to the method of petition submittal to the agency, the required content and format of petitions, and the administrative record requirements for permits. The revisions are consistent with the Federal final rule.

Additionally, WVDEP revised section 1 regarding the scope of the rule, filing date, and effective date, some definitions in section 2 to provide additional clarifications, and removed other obsolete transitional language in sections 4, 6 and 9 of 45CSR30. These revisions are approvable as well.

Other specific requirements of this title V program revision and the rationale for the EPA's proposed action are explained in the NPRM, and will not be restated here.

III. The EPA's Response to Comments Received

The EPA received one comment during the public comment period. However, the comment is vague and not specific to this action, therefore, the EPA will not offer a response.

IV. Final Action

Pursuant to 40 CFR 70.4(i)(2), the EPA is approving a revision to the West Virginia Title V Operating Permit Program submitted on May 3, 2023, to restructure the state's title V fee schedule in order to achieve a diversified, equitable and sustainable fee revenue system. The EPA is also approving revisions to the EPA approved West Virginia Title V program that remove emergency affirmative defense provisions, ensure that petition review and public participation provisions are consistent with Federal counterpart regulations, and add clarifying language. The revisions meet the relevant requirements of section 502 of the CAA and the implementing regulations.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator approves title V operating permit program revisions that comply with the Act and applicable Federal Regulations. See 42 U.S.C. 7661a(d). Thus, in reviewing title V operating permit program submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); 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;

This rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the title V action is not approved to apply in Indian country located in the State, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

Executive Order 12898 directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color and/or Indigenous peoples) and low-income populations.

The EPA believes that this title V action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on people of color, low-income populations and/or Indigenous peoples. This title V action merely approves into West Virginia's 40 CFR part 70 operating permit program the relevant West Virginia regulations for fees that are required to administer the title V program in West Virginia, revises state regulations to comport with amended EPA regulations addressing Federal permit review, public petition, and affirmative defense requirements, and removes obsolete language. The title V fees are already being collected by the State, the EPA regulations which the state is mirroring via these revisions are in effect, and the removal of obsolete language ensures clarity in the regulatory process. This title V action therefore does not directly address emission limits or otherwise directly affect any human health or environmental conditions in the state of West Virginia. In addition, the EPA provided meaningful involvement on this rulemaking through the notice and comment process, and that is in addition to the State-level notice and comment process held by West Virginia.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 30, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving West Virginia title V permit Program revisions may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Adam Ortiz,

Regional Administrator, Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 70 as follows:

PART 70—STATE OPERATING PERMIT PROGRAMS

■ 1. The authority citation for part 70 continues to read as follows:

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

■ 2. Appendix A to Part 70 is amended by adding paragraph (h) under “West Virginia” to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permit Programs

* * * * *

West Virginia

* * * * *

(h) The West Virginia Department of Environmental Protection submitted a program revision on May 3, 2023 to restructure the title V operating permit fees collected by WVDEP, amend West Virginia’s title V regulations to comport with Federal permit review, public petition, and affirmative defense requirements, and remove obsolete transitional language; approval effective on July 30, 2024.

* * * * *

[FR Doc. 2024–16568 Filed 7–29–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R03–OAR–2024–0351; FRL–12132–01–R3]

Designations of Areas for Air Quality Planning Purposes; Pennsylvania, New Jersey, Maryland, Delaware; Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE 2015 8-Hour Ozone Nonattainment Area; Reclassification to Serious

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Under the Clean Air Act (CAA or the “Act”), the Environmental Protection Agency (EPA) is granting a request from the Commonwealth of Pennsylvania and the States of New Jersey, Maryland, and Delaware to reclassify the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE ozone nonattainment area from “Moderate” to “Serious” for the 2015 8-hour ozone national ambient air quality standards (2015 ozone NAAQS).

DATES: This final rule is effective on July 30, 2024.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2024–0351. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through www.regulations.gov, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: For questions relating to New Jersey, contact Fausto Taveras, Environmental Protection Agency, Region II, 290 Broadway, New York, New York 10007–1866, at (212) 637–3378, or by email at Taveras.Fausto@epa.gov, and for questions relating to Pennsylvania, Maryland, and/or Delaware, contact Ian Neiswinter, Planning and Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103, at (215) 814–2011, or by email at Neiswinter.Ian@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Table of Contents

- I. Reclassification of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE area to Serious Ozone Nonattainment
- II. Statutory and Executive Order Reviews

I. Reclassification of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE Area to Serious Ozone Nonattainment

Effective August 3, 2018 (83 FR 25776), the EPA classified the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE area (the Philadelphia Area¹) under the CAA as “Marginal” for the 2015 8-hour ozone NAAQS. Classification of this area as a Marginal ozone nonattainment area established a requirement that the area attain the 2015 ozone NAAQS as expeditiously as practicable, but no later than three years from designation, *i.e.*, August 3, 2021. Effective November 7, 2022 (87 FR 60897), the EPA determined that the Philadelphia Area failed to attain by the applicable Marginal attainment date. In that action, the EPA reclassified the Philadelphia Area as Moderate nonattainment for the 2015 ozone NAAQS and established the Moderate attainment date as August 3, 2024. On July 17, 2024, the Commonwealth of Pennsylvania requested that the EPA reclassify the Philadelphia Area from Moderate to Serious. On July 18, 2024, the States of Delaware, Maryland, and New Jersey requested that the EPA reclassify the Philadelphia Area from

¹ The Philadelphia Area consists of the following counties/cities: Bucks County, Chester County, Delaware County, Montgomery County, and Philadelphia County in Pennsylvania; Atlantic County, Burlington County, Camden County, Cape May County, Cumberland County, Gloucester County, Mercer County, Ocean County, and Salem County in New Jersey; Cecil County in Maryland; and New Castle County in Delaware. See 40 Code of Federal Regulation (CFR) 81.339, 40 CFR 81.331, 40 CFR 81.321, and 40 CFR 81.308.

Moderate to Serious. The request letters from the States are also provided in the docket of this rulemaking.

We are approving these States' reclassification request under section 181(b)(3) of the Act, which provides for "voluntary reclassification." Because the plain language of section 181(b)(3) mandates that we approve such a request, the EPA is granting the States' request for voluntary reclassification under section 181(b)(3) for the Philadelphia Area for the 2015 ozone NAAQS, and the EPA is reclassifying the area from Moderate to Serious. Because of this action, the Philadelphia Area must now attain the 2015 ozone NAAQS as expeditiously as practicable, but no later than nine years from the date of the initial designation as nonattainment, *i.e.*, August 3, 2027. Applicable SIP requirements and deadlines associated with the reclassification will be addressed in a separate notice.

The EPA has determined that this action falls under the "good cause" exemption in section 553(b)(B) of the Administrative Procedure Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation where public notice and comment procedures are "impracticable, unnecessary or contrary to the public interest." The EPA has determined that public notice and comment for this action is unnecessary because our action to approve voluntary reclassification requests under CAA section 181(b)(3) is nondiscretionary both in its issuance and in its content. As such, notice and comment rulemaking procedures would serve no useful purpose.

The EPA also finds that there is good cause under APA section 553(d)(3) for this reclassification to become effective on the date of publication. Section 553(d)(3) of the APA allows an effective date of less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." See 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. The schedule for required plan submittals for the Philadelphia Area under the new classification will be proposed in a separate action. For this reason, the EPA finds good cause under APA section 553(d)(3) for this reclassification to

become effective on the date of publication.

II. Statutory and Executive Order Reviews

A. General Requirements

Under the Clean Air Act this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); 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, this action 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 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. This reclassification action relates to ozone, a pollutant that is regional in nature, and is not the type of action that could result in the types of local impacts addressed in Executive Order 12898.

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 30, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action reclassifying the Philadelphia Area from Moderate to Serious for the 2015 ozone NAAQS may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Adam Ortiz,

Regional Administrator, EPA Region III.

Lisa Garcia,

Regional Administrator, EPA Region II.

Part 81 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. In § 81.308, the table titled "Delaware—2015 8-Hour Ozone NAAQS" is amended by revising the entry for "Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE" to read as follows:

§ 81.308 Delaware.

* * * * *

DELAWARE—2015 8-HOUR OZONE NAAQS
[Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE. New Castle County.	Nonattainment	7/30/2024	Serious.
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

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■ 3. In § 81.321, the table entitled “Maryland—2015 8-Hour Ozone

NAAQS” is amended by revising the entry for “Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE” to read as follows:

§ 81.321 Maryland.
* * * * *

MARYLAND—2015 8-HOUR OZONE NAAQS
[Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE. Cecil County.	Nonattainment	7/30/2024	Serious.
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the State has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation

area is not a determination that the State has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

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■ 4. In § 81.331, the table entitled “New Jersey—2015 8-Hour Ozone NAAQS” is

amended by revising the entry for “Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE” to read as follows:

§ 81.331 New Jersey.
* * * * *

NEW JERSEY—2015 8-HOUR OZONE NAAQS
[Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE. Atlantic County. Burlington County. Camden County. Cape May County. Cumberland County. Gloucester County. Mercer County. Ocean County. Salem County.	Nonattainment	7/30/2024	Serious.
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

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■ 5. In § 81.339, the table entitled “Pennsylvania—2015 8-Hour Ozone

NAAQS” is amended by revising the entry for “Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE” to read as follows:

§ 81.339 Pennsylvania
* * * * *

PENNSYLVANIA—2015 8-HOUR OZONE NAAQS
[Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE. Bucks County. Chester County. Delaware County. Montgomery County. Philadelphia County.	Nonattainment	7/30/2024	Serious.
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the State has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation

area is not a determination that the State has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

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[FR Doc. 2024-16570 Filed 7-29-24; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**42 CFR Part 71**

[Docket No. CDC-CDC-2023-0051]

RIN 0920-AA82

Control of Communicable Diseases; Foreign Quarantine: Importation of Dogs and Cats; Correction

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Final rule; correction.

SUMMARY: The Centers for Disease Control and Prevention (CDC) in the Department of Health and Human Services (HHS) announces a technical correction to the final rule published on May 13, 2024, regarding the importation of dogs and cats into the United States. The final rule contained a technical error. HHS/CDC is therefore publishing this amendment to the final rule correcting an error in amending instructions to the Office of the Federal Register.

DATES: Effective on August 1, 2024.

FOR FURTHER INFORMATION CONTACT: Ashley C. Altenburger, J.D., Division of Global Migration Health, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS-H16-4, Atlanta, Georgia 30329. Telephone: 1-800-232-4636.

SUPPLEMENTARY INFORMATION: On May 13, 2024, HHS/CDC published a final rule (89 FR 41726) that included a technical error. Therefore, HHS/CDC is publishing this notice to correct the technical error that was made in the final rule.

Section 553(b)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that it is unnecessary to provide prior notice and the opportunity for public comment because the technical correction being made, as discussed below, address only a minor publication error that does not substantially change agency actions taken in the final rule. For the same reasons we find good cause to make the correction effective on publication.

Summary of the Technical Correction to 42 CFR Part 71—Foreign Quarantine; Importation of Dogs and Cats

The final rule contains instructions to the Office of the Federal Register explaining how § 71.51, Dogs and cats, should appear once published in the Code of Federal Regulations. In amending instruction 3.j. to § 71.51, appearing at 89 FR 41837, HHS/CDC included instructions “adding paragraphs (h) through (ff).” However, the final rule contained updated provisions through paragraph (gg) and should have indicated that HHS/CDC is “adding paragraphs (h) through (gg).” We are therefore making this technical correction to ensure that paragraph (gg) is published in the Code of Federal Regulations as HHS/CDC intended and as discussed in the final rule.

Correction

For the reasons noted above, in FR Doc. 2024-09676, beginning on page 41726 in the **Federal Register** of Monday, May 13, 2024, the following correction is made:

§ 71.51 [Corrected]

■ 1. On page 41837, in the third column, in amendment 3.j. for § 71.51, the instruction “Adding paragraphs (h) through (ff)” is corrected to read “Adding paragraphs (h) through (gg)”.

Elizabeth Gramling,

Executive Secretary, Department of Health and Human Services.

[FR Doc. 2024-16681 Filed 7-29-24; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Part 236**

[Docket DARS-2024-0019]

RIN 0750-AM16

Defense Federal Acquisition Regulation Supplement: Architect and Engineering Service Fees (DFARS Case 2024-D019); Delay of Effective Date

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule; delay of effective date.

SUMMARY: DoD is postponing the effective date of the final rule published in the **Federal Register** on June 27, 2024. As published, the rule was to be effective August 26, 2024.

DATES: The effective date for the final rule published June 27, 2024, at 89 FR 53502, is delayed from August 26, 2024, to September 16, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer D. Johnson, telephone 703-717-8226.

SUPPLEMENTARY INFORMATION: On June 27, 2024, DoD published a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 2881 of the National Defense Authorization Act for Fiscal Year 2024 (Pub. L. 118-31). Section 2881 increased the statutory limitation on the amount that may be earned by contractors providing certain architect and engineering services under contracts with the Departments of the Army, Navy, and Air Force. The effective date of the final rule has been postponed from August 26, 2024, to September 16, 2024, to comply with the Congressional Review Act; the final rule is a major rule as defined by 5 U.S.C. 804.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2024-16715 Filed 7-29-24; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**

[Docket No. FWS-R8-ES-2022-0082; FXES1111090FEDR-245-FF09E21000]

RIN 1018-BG07

Endangered and Threatened Wildlife and Plants; Endangered Species Status for the San Francisco Bay-Delta Distinct Population Segment of the Longfin Smelt

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered species status under the Endangered Species Act of 1973, as amended (Act), for the San Francisco Bay-Delta distinct population segment (DPS) of longfin smelt (*Spirinchus thaleichthys*), a fish species of the Pacific Coast. This rule extends the protections of the Act to this DPS and adds it to the List of Endangered and Threatened Wildlife.

DATES: This rule is effective August 29, 2024.

ADDRESSES: This final rule is available on the internet at <https://www.regulations.gov>. Comments and materials we received on the proposed rule are available for public inspection at <https://www.regulations.gov> at Docket No. FWS-R8-ES-2022-0082.

Availability of supporting materials: Supporting materials we used in preparing this rule, such as the species status assessment report, are available at <https://www.regulations.gov> at Docket No. FWS-R8-ES-2022-0082.

FOR FURTHER INFORMATION CONTACT: Donald Ratcliff, Field Supervisor, U.S. Fish and Wildlife Service, San Francisco Bay-Delta Fish and Wildlife Office, 650 Capitol Mall, Suite 8-300, Sacramento, CA 95814; telephone 916-930-5603. 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, a species (including a distinct population segment of 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 endangered 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 entity promptly and designate the species' critical habitat to the maximum extent prudent and determinable. We have determined that the San Francisco Bay-Delta distinct population segment (DPS) of longfin smelt (hereafter Bay-Delta longfin smelt) meets the definition of an endangered species; therefore, we are listing it as such. Listing a species as an endangered 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 Bay-Delta longfin smelt as an endangered species under the Endangered Species Act and adds the Bay-Delta longfin smelt to the List of Endangered and Threatened Wildlife in title 50 of the Code of Federal Regulations at 50 CFR 17.11(h).

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 Bay-Delta longfin smelt is endangered due to the following threats: altered hydrology (Factor A; largely attributable to water management, including water diversions and channel modifications), nonnative species (Factors C and E), and the effects of climate change (Factor E; by exacerbating drought, decreasing river and stream flows, and increasing air and water temperatures).

Section 4(a)(3) of the Act requires the Secretary of the Interior (Secretary), to the maximum extent prudent and determinable, to designate critical habitat concurrent with listing. We will publish a proposed critical habitat rule in a future edition of the **Federal Register**.

Previous Federal Actions

On October 7, 2022, the proposed rule to list the Bay-Delta longfin smelt published in the **Federal Register** (87 FR 60957). On February 27, 2023, we published a document in the **Federal Register** (88 FR 12304) that announced a public hearing and reopened the comment period for the proposed rule. Please see the proposed listing rule for a detailed description of previous Federal actions concerning this species.

On December 22, 2023, San Francisco Baykeeper (Baykeeper), a nonprofit corporation, filed a complaint in the U.S. District Court for the Northern District of California (*San Francisco Baykeeper v. United States Fish and Wildlife Service, et al.* (Case 4:23-cv-06601-LB)) challenging the Service's failure to complete its statutory obligations to make a final listing determination for the Bay-Delta longfin smelt. On April 5, 2024, the court issued an order requiring us to submit the final listing determination to the Office of the Federal Register by July 22, 2024. This document satisfies our requirement for completion of our final listing rule.

Peer Review

A species status assessment (SSA) team prepared an SSA report for the Bay-Delta longfin smelt. The SSA team was composed of Service biologists, in consultation with other species experts including those from the California Department of Fish and Wildlife. The

SSA report represents a compilation of the best scientific and commercial data available concerning the status of the Bay-Delta longfin smelt, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species.

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we solicited independent scientific review of the information contained in the draft Bay-Delta longfin smelt SSA report (Service 2021, entire). As discussed in the proposed rule, we sent the 2021 SSA report to five independent peer reviewers and received three responses. The peer reviews can be found at <https://www.regulations.gov> at Docket No. FWS-R8-ES-2022-0082 under supporting documents. In preparing the proposed rule, we incorporated the results of these reviews, as appropriate, into a revised draft SSA report (Service 2022, entire) and made this 2022 version available to the public on <https://www.regulations.gov> at Docket No. FWS-R8-ES-2022-0082 during the open comment periods. We have since incorporated any additional edits as appropriate based on public comments received during the public comment periods into the current SSA report, which is the foundation for this final rule (Service 2024, entire). 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

Since the October 7, 2022, proposed rule and February 27, 2023, document reopening the comment period and announcing a public hearing were published, we received comments from the public on the proposed listing rule and 2022 SSA report. After the second comment period closed on March 29, 2023, we also received additional comments on August 16, October 23, and December 12, 2023, from representatives of the Coalition for a Sustainable Delta. The Coalition also provided comments during the open comment periods for the proposed rule to <https://www.regulations.gov> at Docket No. FWS-R8-ES-2022-0082 (see documents FWS-R8-ES-2022-0082-0009 and -0024).

After reviewing all the information we received, we updated and revised the 2022 SSA report to incorporate any grammatical edits, clarifications, and

formatting changes. We also revised the count-based population viability analysis (see Service 2024, appendix B) based on information received from comments on the proposed rule and peer review of the information associated with publication of the analysis (Tobias et al. 2023, entire) in a scientific journal. The revisions to the analysis were associated with our methodology of estimating population growth rates and assisted in accounting for observation error in our estimates. Additionally, we also compared density-dependent model formulations to confirm sufficiency of our density-independent model. The changes made to the SSA report and appendix B did not significantly change our determination of status of the Bay-Delta longfin smelt in this final rule.

Additionally, in the October 7, 2022, proposed listing rule, we determined the designation of critical habitat for the DPS to be not determinable due to a lack of necessary information to complete our analysis. We are currently in the review process of determining critical habitat for the DPS, and a proposed rule will be forthcoming (see Critical Habitat, below).

Summary of Comments and Recommendations

In the proposed rule published on October 7, 2022 (87 FR 60957), and reopening document published on February 27, 2023 (88 FR 12304), we requested that all interested parties submit written comments on the proposal by December 6, 2022, and March 29, 2023, respectively. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. A newspaper notice inviting general public comment was published in the Sacramento Bee on October 10, 2022 (McClatchy 2022, entire). On November 21, 2022, we received a written request from the public for a public hearing (Barajas et al. 2022, entire). We held a virtual public hearing on the proposed listing rule on March 14, 2023, as described in our February 27, 2023, **Federal Register** document (88 FR 12304 at 12305) reopening the comment period and announcing the virtual public hearing. All substantive information received during both comment periods or subsequently has either been incorporated directly into this final determination as appropriate or is addressed below.

Peer Reviewer Comments

As discussed in Peer Review above, we received comments from three peer reviewers on the draft SSA report (Service 2021, entire). We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the information contained in the 2021 SSA report. The peer review comments primarily fell into two main categories: (1) comments that provided grammatical or editorial corrections or minor clarifications of fact or that had no suggestions for changes to the SSA report but were either just expressing agreement or opposition and (2) comments that would affect the interpretation of available data and information presented in the SSA report. Peer review greatly assisted us to clarify our presentation of the substantial body of scientific information on Bay-Delta longfin smelt in the revised draft SSA report (Service 2022, entire) and the current SSA report (Service 2024, entire). Peer reviewer comments are addressed in the following summary. As discussed above, because we conducted this peer review prior to the publication of our proposed rule, we had already incorporated all applicable peer review comments into 2022 version of the SSA report, which was the foundation for the proposed rule. Additional comments received from the public have also been incorporated into the current version of the SSA report as necessary (Service 2024, entire) and together they are the foundation of this final rule.

(1) Comment: One peer reviewer stated that use of survey indices is not a good metric for data analysis and suggested using catch data instead.

Our response: We acknowledge that survey indices are not absolute census measures. However, we did compare existing Bay-Delta longfin smelt catch data (catch-per-unit-effort (CPUE) values from Stompe et al. 2020, entire) to the survey indices used in our analysis and got very similar results to what is presented in appendix B of the 2022 and 2024 SSA reports (Service 2022, pp. 110–123, Service 2024, pp. 115–128). As noted in the introduction of the technical note, CPUE and the Interagency Ecological Program (IEP) estimates both constitute indices of Bay-Delta longfin smelt abundance. Our use of abundance indices was not to determine the exact number of Bay-Delta smelt individuals but to use the multiple survey indices to determine trend information for the Bay-Delta longfin smelt. We consider the multiple survey efforts, which use varying

sampling methods, as an appropriate measure to determine such trend information.

(2) Comment: One peer reviewer mentioned that our analysis included a “temporal bias” in the 20-mm and fall midwater trawl (FMWT) survey data (referring to the “wet” period starting the data series compared to the recent dry period). The reviewer suggested that we consider comparing wet periods to wet periods and dry periods to dry periods to more appropriately demonstrate the decline.

Our response: The section of the draft SSA report referred to by the reviewer (Service 2021, pp. 124–158) was intended to be a descriptive discussion on the statistical analysis of the abundance indices by the various survey efforts through time. In the revised draft SSA report (Service 2022, pp. 107–192), we revised the section to focus more on the descriptive statistics without calculating percent declines to avoid any possible perception of false precision within a decades-long data series. In the population viability analysis presented in our revised draft SSA report (Service 2022, appendix B) and now the updated modeling effort (the analysis has since published as Tobias et al., 2023, entire) described in appendix B of the current SSA report (Service 2024, appendix B), we interpret the full-time course of the suite of available data that includes any variance between wet or dry years.

(3) Comment: One peer reviewer suggested that the geographic and depth bias to FMWT make it ineffective as a survey for longfin smelt due to the fact that the FMWT does not sample the entire estuary or the entire water column.

Our response: The comment correctly points out that there are differences in spatial coverage both geographically and within the water column amongst the various survey efforts. However, we did not rely entirely on the FMWT as the only information in our analysis. To avoid any bias from any one survey effort, we used the information from all survey efforts in our modeling and overall analysis. Because none of the currently existing long-term monitoring surveys’ sampling designs provides estuary-wide and full water column coverage, we consider that our methodology as identified in appendix B of the current SSA report (Service 2024) to determine trend information and extinction risk is a robust technical analysis as it helps reduce the effects of inflated variance through inverse weighting and is based on the best available scientific information available.

(4) *Comment:* One peer reviewer disagreed with our description of the importance of freshwater flow into the San Francisco Bay estuary and cited an analysis that indicated that freshwater flow was not the primary factor contributing to the decline of Bay-Delta longfin smelt (Phillis 2019, entire). The peer reviewer points to information indicating that freshwater flow into the estuary did not cause as substantial population rebound during recent wet periods as has been observed in prior decades and that the relationship between freshwater flow and population abundance is weakening (Tamburello et al. 2019, entire). The peer reviewer further points out that juvenile-to-adult survival was not significantly affected by freshwater flow into the estuary (Nobriga and Rosenfield 2016, entire).

Our response: We acknowledge that the relationship between increased freshwater flow and population abundance has recently been found to be decreasing. As a result, we have amended the SSA report to state that freshwater flow, while a primary driver of abundances, is not necessarily the primary driver influencing abundance of the current population (Service 2024, pp. 28–43). However, the peer reviewer's statement overlooks the influence of a massively declining adult population on the abundance of offspring that can be produced when favorable freshwater flow conditions exist. Other factors such as the size of the current adult breeding population and food resource limitations also play a role in the current status of the DPS, and we made clarifications in the current SSA report to also point to these other factors (Service 2024, pp. 35–36).

Public Comments

Influences on Water Temperature and Salinity

(5) *Comment:* We received several comments contending that the 2022 SSA report and proposed rule mischaracterize the relationship between water temperatures and San Francisco Bay Delta outflow. The commenters stated that estuary water temperatures are governed by a multitude of complex factors related to prevailing atmospheric conditions and are not influenced by San Francisco Bay Delta outflow.

Our response: In the 2022 SSA report and proposed rule, we acknowledge the complexity of factors influencing water temperature in the San Francisco Bay Delta. We agree with commenters that estuary water temperatures are governed by a multitude of complex factors and that atmospheric forcing is the

dominant factor in determining water temperature in the estuary. However, existing literature suggests increased inflow can influence San Francisco Bay Delta temperatures. Some studies have found evidence that increased San Francisco Bay Delta inflow can lead to cooler than predicted temperatures in the San Francisco Bay Delta over short timespans (Wagner et al. 2011, p. 551; Wagner 2012, p. 78). The current SSA report better clarifies the relationship between San Francisco Bay Delta inflow/outflow and water temperatures (Service 2024, pp. 27–28).

(6) *Comment:* One commenter suggested that our conclusions regarding water temperature conditions are not accurate. Specifically, the commenter stated that temperature conditions in the San Francisco Bay-Delta never exceed 20 degrees Celsius (°C) (68 degrees Fahrenheit (°F)) in the winter-spring in the low-salinity zone, suggesting that high water temperatures are not a threat to larval and post-larval Bay-Delta longfin smelt.

Our response: The commenter's statement that water temperatures never exceed 20 °C (68 °F) in the winter and spring within the low-salinity zone is incorrect. Water temperatures in May within the low-salinity zone have been found to exceed this temperature (California Department of Water Resources 2020, entire). Lab studies sampling Bay-Delta longfin smelt collected within the San Francisco Bay have shown that water temperatures above 20 °C (68 °F) cause molecular stress responses (Jeffries et al. 2016, entire) and that temperatures greater than 15 °C (59 °F) may impair the viability of larval Bay-Delta longfin smelt (Yanagitsuru et al. 2021, entire). Water temperatures are predicted to increase in the estuary as a result of climate change and are likely to be an important factor in the future condition of the DPS (Service 2024, pp. 63–71).

Food Limitation

(7) *Comment:* A commenter stated that the 2022 SSA report fails to support the conclusion that food limitation may act as a stressor on the Bay-Delta longfin smelt.

Our response: In our discussion of prey availability and the decline of the DPS in the 2022 SSA, we presented the current scientific understanding and our conclusions are based on the best scientific information available (Service 2022, pp. 35–36). We acknowledge in the current SSA report that the prey species *Eurytemora affinis* has not been statistically linked to the survival of larval longfin smelt (Service 2024, pp. 35–36). We also acknowledge in the

2024 SSA report that although DPS abundance was observed to decline following the overbite clam (*P. amurensis*) invasion, no direct statistical support for a bottom-up longfin-mysid link has been established (Service 2024, pp. 35–36). The two primary prey taxa of the DPS have substantially declined compared to historical levels when overbite clam was not present (Kimmerer and Orsi 1996, p. 412). Research into the invasion of the nonnative overbite clam into the estuary, although not definitive, does suggest there is a possible link between the invasion and the subsequent decline of longfin smelt (Kimmerer 2002, p. 47; Feyrer et al. 2003, pp. 284–286; Thomson et al. 2010, p. 1443) with more recent research finding a significant positive correlation between available prey biomass and feeding success of Bay-Delta longfin smelt in the estuary, suggesting prey availability could influence growth and survival (Barros et al. 2022, p. 1773). The inability to statistically link declines in prey directly with declines in the DPS does not eliminate the likelihood that prey abundances are somehow linked to survival, but it suggests that factors affecting survival are complex and they may be partly attributable to prey abundances.

Entrainment

(8) *Comment:* We received two comments regarding entrainment rates of the DPS as a result of water diversion from the estuary. One commenter suggested the entrainment rates cited in the 2022 SSA report were overestimates because estimates were based on data that did not cover the full geographic extent of DPS larvae within the San Francisco Bay-Delta. The other commenter stated that the 2022 SSA report underestimates entrainment in the studies cited in the 2022 SSA report because the models excluded juvenile/adult entrainment, underestimated the length of time larvae are vulnerable to entrainment, and failed to account for indirect mortality.

Our response: The research discussed in the 2022 SSA report regarding entrainment has since been published and is publicly available (Gross et al. 2022, entire; Kimmerer and Gross 2022, entire). The authors of these papers acknowledged longfin smelt extend beyond the geographic extent of the sampling scheme used in these studies and took measures to correct for this bias. The results of these studies suggest that under current Old and Middle Rivers (OMR) flow management strategies, entrainment of Bay-Delta longfin smelt has not been substantial

enough to affect DPS population dynamics. Estimates from these two studies currently represent the best commercial and scientific data available and are discussed in the current SSA report (Service 2024, pp. 41–43). A pilot study examining entrainment of larval smelts is ongoing and aims to answer some of the current uncertainties. Over the next few years, life cycle modeling work by the Service will better quantify the cumulative impact of entrainment of multiple life stages on the DPS.

Contribution of Bay Tributaries

(9) Comment: We received multiple comments expressing concerns regarding how the 2022 SSA report and proposed rule addressed portions of the population that inhabit areas outside of the sampling footprint of most long-term surveys, particularly areas in and around Bay tributaries. Some of these commenters claim the Service disregarded this portion of the population in our determination and ignored the contribution of San Francisco Bay-Delta tributaries and recent restoration efforts of these areas to the DPS's current abundance, pointing to recent research (*i.e.*, Lewis et al. 2019a and 2019b) as evidence of population redundancy. The commenters concluded that because the Service did not consider the DPS's use of these areas in evaluating abundance of the Bay-Delta longfin smelt, the DPS is not experiencing population declines as evidenced by continued inhabitation of all geographic units in its range, and, therefore, the DPS is not at substantial risk of extinction or extirpation in any portion of its documented range.

Our response: Both the 2022 and 2024 SSA reports frequently acknowledge the inhabitation of Bay tributaries and recognize the important role they may have in reproduction, particularly in wet years (Service 2022, pp. 12, 19, 24; Service 2024, pp. 12, 21, 25). However, substantial contributions of recruits from these tributaries appear to be limited to wet years, and typically the majority of suitable spawning and rearing habitat is still the estuary's major low-salinity zone, which is usually located between Suisun Bay and the Delta (Kimmerer et al. 2013, figure 2, p. 7; Lewis et al. 2019a, p. 3; Lewis et al. 2019b, p. 6). Targeted sampling of some of these habitats in Bay tributaries has begun only recently; therefore, no time series exist on the time scale required to analyze population trends in these habitats. As such, there was no practical method to include data from these limited studies to inform our statistical analyses. However, recruits that hatched in Bay tributaries are

available to the San Francisco Bay Study (SFBS) once they enter the larger Bays, so population contributions from Bay tributaries should be captured by SFBS indices.

We agree with commenters that restoration of the Bay tributaries would provide valuable benefits to the DPS. However, these benefits would likely occur during the spawning and rearing season of wet years rather than during the extended summer/fall occupancy of these habitats as the commenters suggested. During the summer and fall when Bay-Delta longfin smelt are occupying these areas, they appear to be mostly inhabiting deeper habitat as evidenced by the higher catch in the otter trawl surveys compared to the mid-water trawl surveys (Rosenfield and Baxter 2007, p. 1586). As such, restoration of shallower tidal wetlands in the lower Bay tributaries may not provide suitable habitat during the summer and early fall, as temperatures in these shallow habitats can approach and exceed the thermal tolerance of Bay-Delta longfin smelt during these times.

We disagree with the statement that the Bay-Delta longfin smelt is not experiencing population declines as evidenced by continued inhabitation of all geographic units in its range. The complex hydrodynamics of the estuary results in planktonic larvae and post-larvae with limited mobility to be widely distributed throughout the estuary, regardless of whether the habitat is suitable for any length of time. Likewise, spawning adults appear to be primarily oriented to cool water temperatures, which results in inhabitation of the ephemerally cool temperatures of Bay tributaries (Lewis et al. 2019b, p. 19). Inhabitation and spawning in these waters beyond the wettest years likely acts as a population sink as opposed to a source, as was observed by lack of recruitment from these habitats in most years. Lack of successful recruitment in most years from these tributaries suggests these habitats do not provide meaningful population redundancy.

Outflow-Abundance Relationship

(10) Comment: Some commenters took issue with our discussion on the relationship between freshwater flow and Bay-Delta longfin smelt abundance and questioned the validity and predictive power of the outflow-abundance relationship pointing to recent years when observed abundance indices were below indices predicted by the relationship.

Our response: The relationship of freshwater flow and longfin smelt

production has consistently been reaffirmed for decades based on the published literature (Stevens and Miller 1983, pp. 431–432; Jassby et al. 1995, p. 285; Kimmerer 2002, p. 47; Rosenfield and Baxter 2007, p. 1585; Sommer et al. 2007, p. 274; Kimmerer et al. 2009, p. 381; MacNally et al. 2010, p. 1422; Thomson et al. 2010, pp. 1439–1440; Maunder et al. 2015, p. 108; Nobriga and Rosenfield 2016, p. 53; Kimmerer and Gross 2022, fig. 2, p. 2735). Nonetheless, we acknowledge that freshwater outflow is not a perfect predictor of Bay-Delta longfin smelt abundance due to the complexity and variable nature of habitat within the estuary and Bay-Delta longfin smelt population dynamics. The 2022 and 2024 SSA reports acknowledge what may be step-declines (where populations decline to a lower abundance level and do not rebound to previous levels) or changes in the intercept of the relationship (Service 2022, pp. 35–37; Service 2024, pp. 35–37) and acknowledge the decreasing explanatory power of the flow-abundance model (Service 2022, p. 37; Service 2024, p. 37). The decline of adult stock and its resulting egg supply is the most parsimonious reason why observed indices have been below what were predicted from data in the increasingly distant past. The SSA reports illustrate the point that when declining spawning stock is considered in the outflow-abundance model, the explanatory power of the flow-abundance model did not degrade over time (Service 2022, fig. 3.3, p. 38; Service 2024, p. 38). Understanding the biological mechanisms behind the flow-abundance relationship is an ongoing topic of research for the Service and the broader scientific community in the estuary.

Low-Salinity Zone Mechanism

(11) Comment: We received a comment suggesting the expansion of the low-salinity zone due to increased freshwater flow should not be considered a mechanism by which freshwater flow might influence Bay-Delta longfin smelt productivity. The commenter cited Kimmerer et al. (2013) as evidence that the volume of low-salinity habitat in the estuary is unrelated to the DPS's abundance.

Our response: We agree that current literature suggests higher outflow expanding the volume of the low-salinity zone is inadequate in explaining the population growth observed during wet years. In the 2022 SSA report, we acknowledged that expansion of the low-salinity zone may be beneficial to larvae but did not suggest this

mechanism was a primary driver of the outflow-abundance relationship (Service 2022, p. 21). Dr. Kimmerer provided an additional comment on the proposed rule suggesting a predominant mechanism behind the outflow-abundance relationship may be a result of favorable larval transport and retention in the low-salinity zone and elevated prey concentrations occurring during periods of greater freshwater flow, resulting in higher survival and abundance. In the 2022 SSA report, we identified and discussed this mechanism as well as other postulated mechanisms that may contribute to the outflow-abundance relationship (Service 2022, p. 32). In the proposed rule summarizing the information from the 2022 SSA report, we may have underrepresented the transport and retention mechanism. We have further described this mechanism in the 2024 SSA report (Service 2024, pp. 21–22) and this final rule (see *Summary of Biological Status and Threats* below).

(12) *Comment:* We received a comment regarding the habitat use of larval/post-larval Bay-Delta longfin smelt. The commenter cited Yanagitsuru et al. (2022), Rahman et al. (2023), and a presentation to the Estuarine Ecological Team by Levi Lewis (2023) as new evidence that the Bay-Delta longfin smelt larvae are distributed further downstream and at higher salinities than previously thought.

Our response: The 2024 SSA report acknowledges the range of salinities that larval smelt are known to utilize in the estuary (Service 2024, p. 34). The lab studies that the commenter cites are informative of the physiological salinity tolerances of larvae but are not necessarily indicative of habitat use within the estuary, as such studies ignore predation, hydrodynamics, and other relevant physical and ecological processes. In the wild, larval abundance has been shown to rapidly decline above 10 practical salinity unit (PSU) (Lewis et al. 2019b, p. 30), and peak recruitment and abundance occur in the range of 2 to 4 PSU (Hobbs et al. 2010, p. 564; Grimaldo et al. 2017, p. 8; Grimaldo et al. 2020, pp. 12–14).

DPS Status

(13) *Comment:* We received comments stating that the San Francisco Bay-Delta longfin smelt does not meet the criteria of a DPS according to the Service's policy because it is not "markedly separated" from the rest of the longfin smelt population and that the Bay-Delta population is regularly mixing with other populations. The commenter points to research conducted since our 2012 DPS

determination regarding dispersal and connectivity between the Bay-Delta population and nearby populations farther north along the California coast.

Our response: Our DPS policy does not require absolute separation of a DPS from other members of its species, because this can rarely be demonstrated in nature for any population of organisms (61 FR 4724; February 7, 1996). Our determination that the Bay-Delta longfin smelt meets the criteria of a DPS was published in the April 2, 2012, **Federal Register** (77 FR 19756). In the 2022 and 2024 SSA reports as well as our proposed listing rule, we identified and considered more recent research and reaffirmed that the Bay-Delta longfin smelt is a valid DPS (87 FR 60958–60959; October 7, 2022); Service 2022, p. 10; Service 2024, p. 10). Studies that have examined longfin smelt genetics have all found evidence that the Bay-Delta population is distinct from other northern populations (Israel and May 2010, p. 230; Sağlam et al. 2021, p. 1793).

We acknowledge that Sağlam et al. (2021) found evidence of northern dispersal of some individuals from the Bay-Delta population, as evidenced by some shared genetic structure with smaller populations in Northern California estuaries and the Columbia River. However, the study detected no significant gene flow from any northern estuaries southward into the Bay-Delta population, suggesting gene flow is unidirectional in a northerly fashion. These findings suggest the Bay-Delta population is genetically isolated, as it does not appear to be receiving immigrants from any northern populations. Sağlam et al. (2021, pp. 1793, 1802) concluded that the Bay-Delta population was distinct and is likely an important source for maintaining nearby populations.

A recent study published after the 2022 SSA report examined other, much smaller, longfin smelt populations along the California coast (Brennan et al. 2022, entire). The authors determined that estuaries in proximity of the San Francisco Bay estuary may not be permanently inhabited by longfin smelt, and that the Bay-Delta population may therefore lack the resilience typically provided by metapopulations. The authors also noted that abundance and distribution of longfin smelt appears to have declined in other estuaries along the California coast (Brennan et al. 2022, p. 12). This information may further support the hypothesis that reduction of the Bay-Delta longfin smelt abundance decreases the DPS's contribution to outside populations.

Population Viability Analysis

(14) *Comment:* We received comments expressing numerous concerns regarding our population viability analysis (PVA) and its use of population survey indices rather than actual abundance estimates for our determination of the status for the Bay-Delta longfin smelt. Specifically, the commenters took issue that the PVA relies on population indices data, which they contend do not fully sample the entire water column or habitat strata and introduce too much uncertainty on the size of the population. The commenters state that, because of these issues, the Service may have underestimated the size of the population and therefore overestimated the impact of threats facing the DPS; and the Service cannot use the PVA to determine time of extinction or base a listing decision on such uncertain data.

Our response: As we described in the 2022 and 2024 SSA reports (Service 2022, appendix B, pp. 111–123; Service 2024, appendix B, pp. 115–128), exact population abundance information is not necessary. A count-based PVA can be applied to index values, where a population index represents some portion of the total population as long as the proportion of the population that is observed remains relatively constant over time (Morris and Doak 2002, p. 51). General interpretation of the abundance indices for longfin smelt or any other species also requires this assumption or a correction for major deviations or inconsistencies. In the SSA reports, we acknowledge the different limitations of the long-term surveys and utilize them collectively to reduce potential biases that may be present in any single survey. As we state in our description of the methods used to conduct the PVA (Service 2022, appendix B, pp. 111–123; Service 2024, appendix B, pp. 115–128), we incorporated and applied our analysis in the PVA using several datasets that index the abundance of Bay-Delta longfin smelt, and these data capture the landscape of the available information regarding the estimation of abundance for the DPS.

In our review of the status of the Bay-Delta longfin smelt, we used all the best commercial and scientific information available to make our determination. The PVA was just one of the many tools we used in our analysis. We consider the PVA to be one of many appropriate tools that provide useful information for our decision on the listing status of the DPS. PVAs are best suited to test a range of possible conditions or demographic assumptions to provide a range of likely fates for a population (Morris et al.

1999, p. 2). We conducted sensitivity analyses to examine the effects of different potential starting population sizes and different minimum viable population sizes (quasi-extinction thresholds). The sensitivity analyses showed that in most demographic scenarios tested, the population is at a high risk of quasi-extinction in the near future (Service 2024, figures 3 & 4, pp. 121 and 122). It is noteworthy that the count-based PVA presented in appendix B predicts the time to quasi-extinction under current environmental conditions and does not account for the worsening environmental conditions associated with increases in drought intensity or frequency, warming water temperatures, and sea-level rise that are occurring and are predicted to continue.

(15) *Comment:* Some public commenters noted that the meta-analysis was conducted on multiple surveys and as a result obscured data from the San Francisco Bay study otter-trawl (SFBS OT) age-1 survey. The commenters stated that the mean population growth rate for the SFBS OT age-1 survey estimated in the PVA indicated a trend of increasing abundance and therefore is inconsistent with the Service's finding that the DPS is currently in danger of extinction.

Our response: In an effort to include all available data and produce the best estimates of population growth rates, a meta-analysis was performed using all surveys. The meta-analysis presented in appendix B of the 2022 and 2024 SSA reports (a method proposed by a reviewer of the 2021 SSA report) illustrates how pooling information from the full suite of available survey data can help reduce uncertainty in our overall estimate of the mean population growth rate. Two important features of a meta-analysis are that the meta-mean will be closer to the population mean on average than any of the individual surveys (sample means) and the confidence interval will be narrower, making it a more precise estimator of the population mean than the estimates from the samples.

Based on review and comment of the meta-analysis (Service 2022, appendix B, pp. 111–123), we revised our methods slightly for estimating mean population growth rates for the DPS. As a result of this modification, we obtained different estimates for each survey than were reported in the 2022 SSA report (Service 2022, appendix B, p. 120). Results indicate that all of the abundance indices show long-term population declines, and all except for the SFBS age-0 otter trawl are statistically significant downward trends (Service 2024, appendix B, table

2). In both the original and revised analyses, seven of the eight surveys examined indicate a negative mean growth rate. To exclude evidence from all seven other surveys and base our decision off the single potentially positive survey time series would sacrifice a substantial volume of available data and bias the results of the analysis.

(16) *Comment:* Several commenters stated that the 2022 SSA report and proposed rule indicate confirmation bias by relying on data from the FMWT survey without acknowledging the limitations of those data or evaluating competing data from the SFBS OT age-1 survey, which indicates that Bay-Delta longfin smelt DPS abundance is not declining. They further state that the FMWT survey should not be used as the primary determinant due to its limited extent in areas surveyed and that it may underrepresent the abundance of the DPS due to its sampling methods.

Our response: In the 2022 and 2024 SSA reports, we do not rely on the FMWT data any more than any other survey and acknowledge limitations of all available surveys within the estuary (Service 2022, pp. 107–109; Service 2024, pp. 108–110). As stated above, we utilized information from the entire suite of surveys including the SFBS OT. As previously discussed, the commenter's statement that the SFBS OT data imply that the DPS is not declining is not supported by analyses of those data (Tobias et al. 2023, entire).

In the SSA reports, we acknowledge that the FMWT does not sample the entire range of Bay-Delta longfin smelt during the fall; however, the survey does sample all of the low-salinity zone and some of the mesohaline water west of the low-salinity zone when Bay-Delta longfin smelt return to the upper estuary in the fall and early winter (Service 2022, pp. 43–46; Service 2024, pp. 43–47). Research on the Bay-Delta longfin smelt has found that a significant proportion of age-0 (fish younger than 1 year of age) and older individuals inhabit the low-salinity zone prior to and during spawning, making FMWT sampling in this region a reasonable index for population abundance (Rosenfield and Baxter 2007, p. 1590). We also acknowledge that the FMWT does not specifically target benthic habitat; however, except for a few particularly deep sampling stations, fish within a geographic location can still be sampled by the FMWT whether they are in the middle or the bottom of the water column (Service 2022, p. 44; Service 2024, p. 44). The ability of the FMWT to track changes in the DPS population is evidenced by its high correlation with

SFBS data (Rosenfield and Baxter 2007, p. 1590). Ultimately, both the FMWT and SFBS OT surveys use their own standardized methods that are capable of indexing changes in relative abundance.

(17) *Comment:* One commenter pointed to the increase of FMWT abundance indices in the years of 2021–2022 as evidence of population resilience and stated that the Service needs to evaluate this information.

Our response: In our 2022 SSA report, we included analyses of the 2021 FMWT abundance indices (Service 2022, appendix B, p. 119) and considered this information in our proposed rule to list the Bay-Delta longfin smelt. Because the 2022 index was calculated after we had concluded our analyses and published our proposed rule, we reviewed the 2022 indices in making our final determination. The Bay-Delta longfin smelt population has historically had highly variable population growth and declines, and such short-term population changes are not unexpected based on the trend information over the full FMWT survey effort (Service 2024, p. 47). Similar increases in abundance have occurred in 2000, 2006, 2011, 2013, and 2017; however, all of these increases resulted in abundance estimates that are well below those prior to the declines experienced in the 1980s when population numbers were several orders of magnitude greater than those currently experienced by the DPS.

(18) *Comment:* Several comments point to the wide confidence intervals of estimated growth rates in the count-based PVA and interpret these intervals as evidence that the Bay-Delta longfin smelt population may be stable or increasing.

Our response: The commenters are correct in their interpretation of the confidence intervals around the mean growth rates for individual surveys. Bay-Delta longfin smelt population growth rates are highly variable from year to year depending on prevailing environmental conditions and spawning stock size. The wide confidence intervals are a result of this variation where in some years the population grows even though in most years it declines. To account for this variability and differences in confidence intervals of the studies, we developed the meta-analysis to pool estimates of the population growth rates from the individual surveys to get a more precise estimate. Based on the overall population trend over the length of all the studies, we determined that the Bay-Delta longfin smelt population is in decline.

(19) *Comment:* One commenter provided a technical review of the analyses presented in the appendices of the 2022 SSA report and stated the information presented in appendix B required additional documentation of the evaluation of the assumptions, reconsideration of how the analysis accounts for sample error, and comparisons of density-independent and density-dependent formulations of the models. In response, the commenter provided their own meta-analysis utilizing alternative methods to capture uncertainty.

Our response: The analysis and text of appendix B has gone through revisions since the publication of the 2022 SSA report and some of the points and corrections identified by the commenter have been addressed in our current SSA report (Service 2024, appendix B). Regarding the commenter's alternative analysis, we could not fully incorporate it because the methods used are not sufficiently described for us to fully evaluate them. However, taking their reported results at face value, an increase in confidence limits would suggest a less stable population growth rate than was reported in the SSA report. This scenario would tend to produce a shorter time to quasi-extinction, likely offsetting the small increase in mean that they also report. Therefore, we conclude that this alternative analysis would also support a conclusion that the DPS is at risk of quasi-extinction.

Contemporary Versus Pre-Development Outflow

(20) *Comment:* We received a comment that there has been no statistically significant reduction in outflow throughout the winter-spring period, nor on an annual basis when comparing contemporary to pre-development conditions. The commenter also critiqued our use of Reis et al. (2019) in the SSA report, stating that the study failed to account for evapotranspiration that occurred prior to development in the estuary.

Our response: One study comparing the pre-development conditions and contemporary conditions of the Central Valley and potential changes in the annual average San Francisco Bay Delta outflow found that the outflow has not changed substantially (Fox et al. 2015, pp. 4267–4271). However, annual average San Francisco Bay Delta outflow is not biologically relevant to Bay-Delta longfin smelt. Contemporary water operations have resulted in less San Francisco Bay Delta outflow during the winter and spring months and increased outflow during the summer months

(Hutton et al. 2017a, fig. 5, p. 2507; Gross et al. 2018, fig. 4, p. 10). Winter and spring months are when Bay-Delta longfin smelt in the estuary spawn and larvae rear in the low-salinity zone, and reduced outflow in the winter and spring months has been repeatedly linked to reduced juvenile Bay-Delta longfin smelt production (Stevens and Miller 1983, pp. 431–432; Jassby et al. 1995, p. 285; Kimmerer 2002, p. 47; Rosenfield and Baxter 2007, p. 1585; Sommer et al. 2007, p. 274; Kimmerer et al. 2009, p. 381; MacNally et al. 2010, p. 1422; Thomson et al. 2010, pp. 1439–1440; Maunder et al. 2015, p. 108; Nobriga and Rosenfield 2016, p. 53; Kimmerer and Gross 2022, fig. 2, p. 2735). The reductions in February, April, and May outflows have been primarily attributed to reductions in San Francisco Bay Delta outflow as a result of water diversions (Hutton et al. 2017b, table 3, p. 2523).

We do not agree with the commenter's critique of Reis et al. (2019). Differences in evapotranspiration rates are primarily a concern when comparing pre-development and post-development outflows in the estuary because extensive wetlands and floodplains pre-development theoretically increased evapotranspiration (reducing San Francisco Bay Delta outflow), but levees constructed during development largely disconnected floodplains and resulted in decreased evapotranspiration. By 1930, almost the entire San Francisco Bay Delta had been leveed and reclaimed (Whipple et al. 2012, p. 25). Reis et al. (2019) examined the years 1930–2018 when no substantial changes in estuary evapotranspiration occurred. As a result, the authors were able to reasonably assess the relative impact of water operations on San Francisco Bay Delta outflows.

Underestimate of Threats

(21) *Comment:* One commenter stated that the Service understated the risk to the DPS by not considering specific current proposals to increase diversions of freshwater from the San Francisco Bay estuary and its watershed and that if realized these projects could result in changes to outflow in the estuary and further impact the Bay-Delta longfin smelt. The commenter points to several proposed projects including the Delta Conveyance Project, Sites Reservoir, and the State Water Resources Control Board's voluntary agreement process.

Our response: In the 2022 SSA report and proposed rule, we identified reduced freshwater flow and diversion as one of the primary threats driving the current and future status of the Bay-Delta longfin smelt (Service 2022, pp.

28–30; 71–73). In our analysis of future conditions, we also acknowledged that changes in water demand may be more severe as the information used in our analysis identified impacts only out to the year 2030 due to the uncertainty and difficulty in accurately identifying changes with the necessary specificity (Knowles et al. 2018, p. 7638). However, due to the ongoing refinement of these proposed projects a specific assessment of each project was not possible within the timeframe for completion of our final rule. These projects, and any attendant risk or benefits to Bay-Delta longfin smelt, will be evaluated as they are implemented through appropriate regulatory processes, including section 7 consultations and/or section 10 permits, and future recovery planning and implementation for the Bay-Delta longfin smelt.

(22) *Comment:* One commenter stated that neither the 2022 SSA report nor the proposed rule evaluated the threat posed by harmful algal blooms (HABs) such as the one observed in the summer of 2022.

Our response: We agree that in our 2022 SSA report and proposed rule, we did not include HABs as a threat to the Bay-Delta longfin smelt or a growing stressor to fish populations in the estuary. We agree that marine and brackish water HABs, such as the bloom that occurred in parts of San Francisco Bay in 2022, could plausibly affect Bay-Delta longfin smelt individuals in localized areas, but the impact of such blooms on the DPS overall is not well studied, and the best available information to date does not support a conclusion that HABs are a substantial threat to the status of the DPS. However, we agree that recent events are concerning. As emerging threats are defined and better understood, they will inform future consultations, permits, and recovery planning.

I. Final Listing Determination

Background

The longfin smelt is a small fish species 9–11 centimeters (cm) (3.5–4.3 inches (in)) in length with a relatively short lifespan of approximately 2 to 3 years. The Bay-Delta longfin smelt DPS occupies the San Francisco Bay estuary and areas of the Pacific Ocean out to the Farallon Islands (see figure 1). A thorough review of the taxonomy, life history, and ecology of the Bay-Delta longfin smelt is presented in the current SSA report (Service 2024, pp. 6–23).

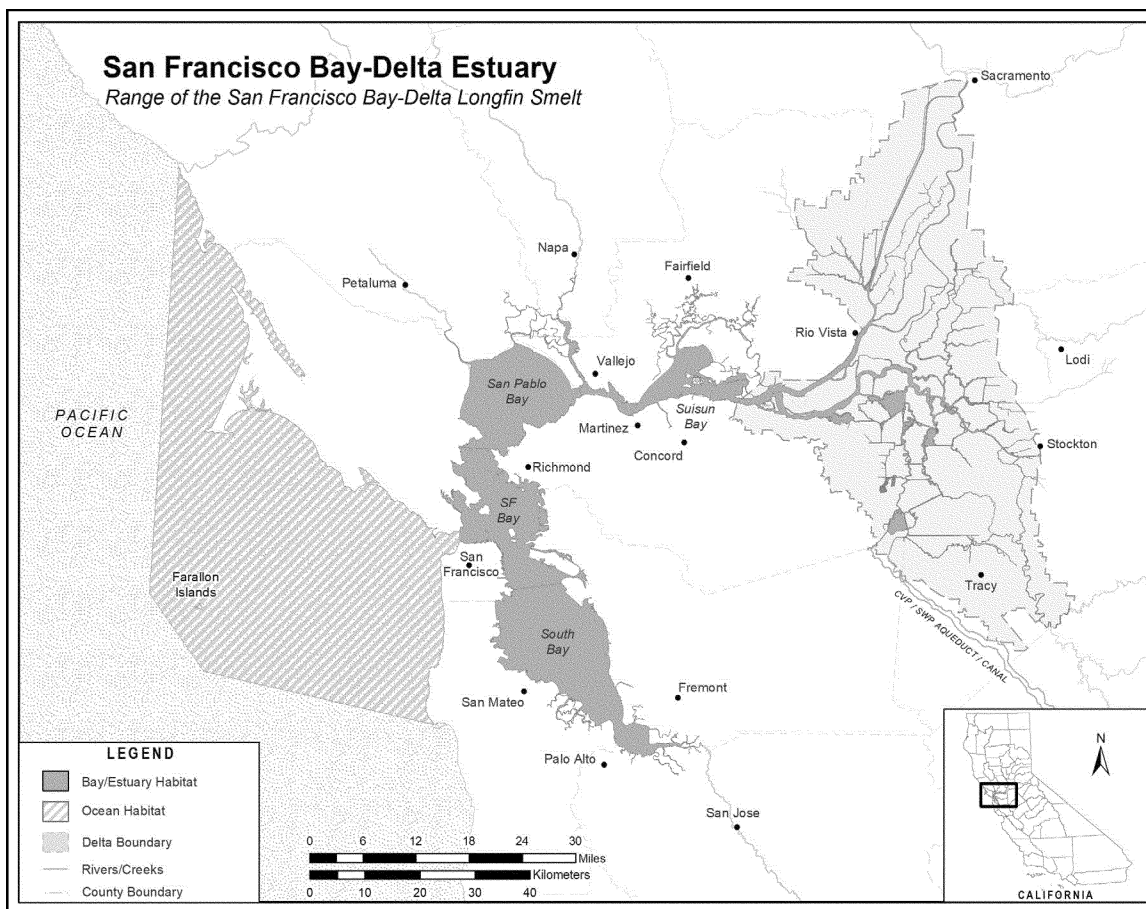


Figure 1. Range of the San Francisco Bay-Delta longfin smelt.

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 part 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 part 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 this species 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.

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.fws.gov/library/collections/national-listing-and-classification-guidance>). 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 current SSA report documents the results of our comprehensive biological review of the best scientific and commercial data available regarding the status of the Bay-Delta longfin smelt, including an assessment of the potential threats to the DPS. The SSA report does not represent our decision on whether the DPS 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 the Bay-Delta longfin smelt’s 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 DPS’s ecological requirements for survival and reproduction at the individual, population, and DPS levels, and described the beneficial and risk factors influencing the DPS’s viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated the individual DPS’s life-history needs. The next stage involved an assessment of the historical and current condition of the DPS’s demographics and habitat characteristics, including an explanation of how the DPS arrived at its current condition. The final stage of the SSA involved making predictions about the DPS’s responses to positive and negative environmental and anthropogenic influences. Throughout all of these stages, we used the best available information to characterize viability as the ability of the DPS 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 current Bay-Delta longfin smelt SSA report

(Service 2024, entire); the full SSA report can be found at Docket No. FWS–R8–ES–2022–0082 on <https://www.regulations.gov>.

Summary of Biological Status and Threats

In this discussion, we review the biological condition of the DPS and its resources, and the threats that influence the DPS’s current and future condition, in order to assess the DPS’s overall viability and the risks to that viability.

The needs of the Bay-Delta longfin smelt can be categorized into three main resource and biological condition categories, and include: (1) appropriate habitat salinity, by life stage; (2) appropriate habitat temperature conditions, by life stage; and (3) adequate food resources and availability, by life stage. As the Bay-Delta longfin smelt utilizes both freshwater and saline water conditions across its life cycle, its habitat is extremely variable. These variable conditions, along with other factors including the interaction among these dynamic variables, exert a strong influence on habitat suitability across space and time.

Bay-Delta longfin smelt have temperature tolerances that impact the volume and seasonality of suitable habitat. It is logical to presume that the Bay-Delta DPS, inhabiting as it does the most southern portion of the species’ range, has historically been (and is) at the uppermost temperature tolerance range of the species. Larvae appear to be adapted to cool water conditions. Larvae inhabit water temperatures between 8 and 12 °C (46 and 54 °F) (Grimaldo et al. 2017, p. 8). Available research indicates that temperatures approaching and exceeding 15 °C (59 °F) impair larval viability, and hence this benchmark may be ecologically significant. At later larval stages, longfin smelt are still likely restricted to water temperatures below 20 °C (68 °F) (Jeffries et al. 2016, p. 1709). In general, age-1 and age-0 fish inhabit 16–18 °C (61–64 °F) water in summer and fall. Adults are thought to be limited by water temperature >22 °C (>72 °F) during the summer and likely spend the majority of this time in cooler Bay habitats and the open ocean (see Service 2024, p. 25). Fish return to spawn where water quality conditions are favorable for egg survival. These conditions vary in location depending on Delta outflow, as well as flows from Bay Area tributaries. Spawning occurs at or below water temperatures of 13 °C (55 °F), but has been documented at up to 16 °C (61 °F) (see Service 2024, p. 25).

Bay-Delta longfin smelt have a defined salinity tolerance range that

increases as fish mature. This is consistent with their anadromous life history requiring spawning and early rearing in fresher San Francisco Bay Delta and Bay tributary waters. Yolk-sac larvae survive the longest and grow the largest at 5 and 10 parts per thousand (ppt) and are able to maintain water balance equally between 0.4 and 10 ppt, but the same life stage is unable to survive at 32 ppt (ocean salinity). Yolk-sac larvae cannot complete yolk resorption in freshwater. In field surveys, peak yolk-sac larval densities have been found at 2–4 ppt (Grimaldo et al. 2017, p. 8), which is also concordant with the early life salinities that produce highest survival to later life stages (Hobbs et al. 2010, p. 564). The California Department of Fish and Wildlife's (CDFW) 20-mm surveys have also shown peak larval distribution near this same salinity zone (i.e., 2–4 ppt), although larvae have been detected in salinities as high as 12 ppt (see Service 2024, pp. 25–26). The 20-mm survey gets its name from the size at which Bay-Delta longfin smelt are retained and readily identifiable at the fish facilities associated with the State and Federal pumping facilities.

Available data clearly indicate a very strong association of Bay-Delta longfin smelt to turbid water conditions. Aquatic turbidity provides simultaneous feeding and predator avoidance advantages for larval fishes (Utne-Palm 2002, p. 115; Pangle et al. 2012, pp. 10–11). Turbidity enhances prey avoidance at detection distances typical of predatory fish species. Further, the sediment and algal particles often backlight relatively translucent zooplankton, helping larval fishes see these prey more easily (Utne-Palm 2002, p. 119). In contrast, larger fishes that may prey on fish larvae have longer search and reactive distances so more sediment and algal particles are in between these larger fish and their potential prey (Utne-Palm 2002, pp. 122–123). We assume that these turbidity mechanisms that apply broadly to larval fishes also apply to later life stages of Bay-Delta longfin smelt. Taken together, recent laboratory experiments, combined with field results, provide an assessment of early-life habitat needs favoring more turbid conditions (Utne-Palm 2002, entire; Pangle et al. 2012, entire).

Bay-Delta longfin smelt exhibit high prey-specificity. During the time that longfin smelt larvae and small juveniles are feeding in low-salinity habitats, they appear to focus on only two prey taxa. Smaller larvae appear to primarily use the copepod *Eurytemora affinis* as prey, while larger larvae and small juveniles

appear to require mysids as prey. Longfin smelt pre-spawning adults in Suisun Marsh have shown a strong dietary preference for mysids, while relying on copepods and amphipods when mysids are scarce (see Service 2024, pp. 26–27). As longfin smelt exhibit very little variation in prey use, they are considered more susceptible to food web changes than some other fishes (Feyrer et al. 2003, p. 281). The current SSA report (Service 2024, p. 27) discusses some observations from various studies regarding effects to the low-salinity zone from invasion by the overbite clam (*Potamocorbula amurensis*) in the 1980s and potential impacts to the Bay-Delta longfin smelt as a food limitation stressor (see below, and also Service 2024, pp. 35–37).

Threats Influencing the Bay-Delta Longfin Smelt

The threats facing the Bay-Delta DPS of the longfin smelt include habitat alteration (Factor A) and changes to hydrology associated with reduced and altered freshwater flows (Factor A); increased water temperatures (Factor A); reduced food resource availability (Factor E); predation (Factor C); entrainment from freshwater diversion facilities (Factor E); and contaminants (Factor E). We consider reduced and altered freshwater flows resulting from human activities and impacts associated with current climate change conditions (increased magnitude and duration of drought and associated increased temperatures) as the main threat facing the Bay-Delta longfin smelt due to the importance of freshwater flows to maintaining the life-history functions and species needs of the DPS. However, because the Bay-Delta longfin smelt is an aquatic species and the needs of the species are closely tied to freshwater input into the estuary, the impact of many of the other threats identified above are influenced by the amount of freshwater inflow into the system (i.e., reduced freshwater inflows reduce food availability, increase water temperatures, and increase entrainment potential).

Reduced and Altered Freshwater Flows

The development of dams and water delivery infrastructure built throughout the Sacramento and San Joaquin River basins for flood protection and water supply for agriculture and human consumption has greatly impacted freshwater flows into the San Francisco Bay estuary (Service 2024, section 3.1.1). The creation of this water storage and delivery system, where water is stored during the wet season and conveyed to farms and cities during the

dry season, has resulted in one of the largest human-altered water systems in the world (Nichols et al. 1986, p. 569). Operation of this system has resulted in a broader, flatter hydrograph with less seasonal variability, thus changing the timing, magnitude, and duration of freshwater flows into the San Francisco Bay-Delta (Kimmerer 2004, p. 15; Andrews et al. 2017, p. 72; Gross et al. 2018, p. 8). It is estimated that the Federal and State water projects annually reduce an average of about 5 million acre-feet (MAF) of freshwater into the San Francisco Bay Delta, while other municipal or private reservoirs or diverters annually divert an additional 8 MAF of potential freshwater into the San Francisco Bay Delta (Hutton et al. 2017b, fig. 4, p. 2523). The cumulative effect of this annual average of about 13 MAF of freshwater supplies has resulted in a long-term decline in freshwater inflow into the estuary during the period of February through June relative to estimates of what flows would have been available absent water development (Gross et al. 2018, fig. 6, p. 12; Reis et al. 2019, fig. 3, p. 12). This situation has further increased the frequency of very low outflow years that, prior to water development, would have been very rare and associated only with extreme drought (Reis et al. 2019, fig. 3, p. 12).

From 1956 to the 1990s, water exports (water removed from the San Francisco Bay Delta as a result of State (State Water Project) and Federal (CVP) water projects) increased, rising from approximately 5 percent of the Delta freshwater inflow to approximately 30 percent of the Delta inflow (Cloern and Jassby 2012, p. 7). By 2012, an estimated 39 percent of the estuary's unimpaired freshwater flow in total was either consumed upstream or diverted from the estuary (Cloern and Jassby 2012, p. 8). Water exports continue to the present day and are expected to continue in the future.

A reduction in freshwater flows into the estuary influences and impacts the location and function of the low-salinity zone (spawning and rearing habitat for longfin smelt). Freshwater inflow into the estuary and other co-linear indicators of wet versus dry conditions during the winter and spring have been statistically associated with recruitment of larvae to the juvenile life stage of Bay-Delta longfin smelt (Service 2024, section 3.1.1). Prior to large-scale water exports and reduced freshwater flows, the location of the low-salinity zone (as represented by the 2 percent bottom salinity position, known as X2) reached the ≤55-km (≤34-mi) point in the estuary (monthly averages from February

through May) in about half of all years. More recently the position of X2 reaching at least the 55-km (34-mi) point occurred only very rarely as a result of wet year conditions (Gross et al. 2018, fig. 6, p. 12 and fig. 7, p. 13) (Service 2024, section 3.1.1). In the case of Bay-Delta longfin smelt, optimal growth and rearing conditions (food and water conditions (salinity, turbidity, circulation patterns)), especially for early life stage fish, is directly linked to freshwater inflow to the estuary.

Drought Conditions

California's precipitation patterns can be extremely variable, and several years of dry conditions have occurred over numerous extended periods resulting in varying levels of drought (California Department of Water Resources (DWR) 2020, entire). Drought periods can be characterized as having less freshwater flow, as well as shorter duration and lower magnitude of peak flows. The current trend in drought conditions has recently increased in frequency, duration, and magnitude (Swain et al. 2018, pp. 427–433). Prior to the 21st century, dry and critically dry years occurred approximately 33 percent of the time. However, since the year 2000, the dry and critically dry year frequency has increased to 43 percent. Based on soil moisture reconstruction, the period between 2000 and 2021 was probably the driest 22-year period on record (Williams et al. 2022, p. 1). As the existing impacts from climate change (*i.e.*, warmer temperatures) increase evapotranspiration in the watershed, the aforementioned water supply needs can exacerbate the magnitude of realized dry conditions over and above these natural patterns in precipitation and reduced San Francisco Bay Delta freshwater inflow.

Bay-Delta longfin smelt exhibit poor survival and reproduction during droughts (Thomson et al. 2010, pp. 1438–1446; Mahardja et al. 2021, pp. 9–10). The survival of Bay-Delta longfin smelt through their early life stages is lower during dry conditions and higher during wet conditions, as evidenced by Bay-Delta longfin smelt abundance indices nearly always declining sharply during dry periods then rebounding when wet weather returns (Mahardja et al. 2021, pp. 9–10). However, such recovery does not always occur after each drought cycle, leading to lower baseline numbers for the DPS (Moyle 2002, p. 237; Sommer et al. 2007, pp. 270–276). In addition, extended dry years compound the negative impacts to Bay-Delta longfin smelt as the DPS has not shown an ability to quickly recover and reoccupy upstream spawning

habitats following drought. These drought conditions have exacerbated the impact of reduced freshwater flows from human activities and have been attributed to accelerating the establishment of the overbite clam (*Potamocorbula amurensis*) (see *Reduced Food Resources* and *Pelagic Organism Decline (POD)*, below) by making saline water conditions more available throughout areas typically associated with more freshwater (Carlton et al. 1990, pp. 90–91).

Habitat Alteration

Large-scale habitat alteration such as channelization and dredging of streams and bays, building of levees and canals, and draining of wetlands has occurred since the 1850s. The impacts of such in-water and adjacent upland habitat alterations greatly affected and continues to impact the bathymetry of the estuary by collectively making the estuary deeper and less hydrodynamically connected to the surrounding landscape (Andrews et al. 2017, fig. 5, p. 64). The altered waterways create more space and avenues for the incoming tides to bring more saline water landward. Specifically, landscape changes since 1850 are estimated to have resulted in an average landward shift of X2 of over 3 km (2 mi) (Andrews et al. 2017, p. 68). This change along with reductions in freshwater input into the estuary (see *Reduced and Altered Freshwater Flows*, above) has caused a winter-spring upstream (landward) shift of X2 on the order of 10–20 km (6–12 mi). Taken together, the landscape changes discussed above and changes to the estuary's flow regime have changed how mixing processes function, and thus altered the habitat and food resource opportunities available for the estuary's biota, including the Bay-Delta longfin smelt.

Water Temperature Alterations

As described in the *Life History and Biology* section of the current SSA report (Service 2024, section 2.4), Bay-Delta longfin smelt spawning occurs within cool-water conditions below 16 °C (61 °F), while larvae and young juveniles show a preference for temperatures below 15 °C (59 °F) and 20 °C (68 °F), respectively. The embryonic through early juvenile life stages are when Bay-Delta longfin smelt are believed to be most vulnerable to warming temperatures because these early life stages do not possess the ability to migrate to the cooler waters of central San Francisco Bay and the coastal ocean due to limited motility and increases in potential predation.

Subadults and adults are thought to be limited to water temperature below 22 °C (72 °F). Studies and datasets indicate water temperatures in the San Francisco Bay Delta commonly exceed 22 °C (72 °F) during the summer (Vroom et al. 2017, p. 9904; data from California Data Exchange Center, Central & Northern California Ocean Observing System, and U.S. Geological Survey (Blodgett et al. 2011, entire). Age-1 to age-3 individuals should possess the capacity to move to cooler waters during such times, making them less vulnerable than larvae and age-0 juveniles. However, climate change is predicted to substantially increase the number of days that water temperatures are inhospitable to all life stages, likely decreasing the duration of suitable spawning and larval rearing windows (Service 2024, section 4.2.2).

Reduced Food Resources

As discussed above and in the current SSA report (Service 2024, section 3.1.2), the Bay-Delta longfin smelt historically limited their diet to a relatively small number of crustacean meso- and macrozooplankton taxa. Bay-Delta longfin smelt larvae have diets dominated by a copepod, *Eurytemora affinis*, that is common in the low-salinity zone during the spring (CDFW, unpublished data). The two most common prey taxa for larger longfin smelt are epibenthic mysids and amphipods (Burdick 2022, pers. comm.; CDFW unpub. Diet Study Data). The copepod *E. affinis* was also at one time an important prey item for a now much-depleted mysid species, *Neomysis mercedis* (Knutson and Orsi 1983, p. 478), a prey species of juvenile and adult Bay-Delta longfin smelt.

Since the 1970s, the *Eurytemora affinis* population in the estuary has been in decline, but beginning in the late 1980s, the zooplankton community for the San Francisco Bay estuary started undergoing about a decade of rapid change in species composition, trophic structure, and utility for fish production (Winder and Jassby 2011, pp. 683–685; Kratina et al. 2014, p. 1070; Brown et al. 2016, p. 8). This decline coincided with the rapid invasion of the estuary by the nonnative overbite clam (Carlton et al. 1990, pp. 81 and 85, fig. 3) and with an extended drought in the Central Valley in the period 1987–1994 (Rosenfield and Baxter 2007, p. 1589).

The overbite clam is a filter feeder that is thought to have diverted food resources from the primary food sources of, or fed directly on, the nauplii (first larval stage) of common calanoid copepods and resulted in their decline. These native copepods are one of the

main sources of prey of larval Bay-Delta longfin smelt (Carlton et al. 1990, pp. 90–91; Kimmerer et al. 1994, p. 87; Feyrer et al. 2003, pp. 284–286; Rosenfield and Baxter 2007, p. 1589). Mysids have experienced an over tenfold decrease in abundance and accounted for less than 4 percent of total zooplankton biomass within the estuary after 1994 (Winder and Jassby 2011, p. 684). In addition to lower abundance, the average individual sizes of mysids in the estuary have decreased over time, with a species composition shift towards *Hyperacanthomysis longirostris*, an invasive species that reaches maturity at a smaller mass than *Neomysis* species (Hennessy 2011, entire). Although Bay-Delta longfin smelt consume these nonnative species, they are not preferred and the change in food resources most likely results in an increased effort for the DPS to meet its food resource needs.

To further exacerbate the impacts of the change in food resources, the decline of the Bay-Delta longfin smelt's historical prey base has not been accompanied by a large change in prey use by the DPS (Barros et al. 2019, p. 15; Feyrer et al. 2003, p. 285). This finding suggests that Bay-Delta longfin smelt had formed strong predator-prey interactions with their primary prey, a hypothesis supported by empirical data (MacNally et al. 2010, p. 1426). Because the DPS exhibits very little variation in prey use despite the reduction in natural prey availability, they are considered more susceptible to food web changes than some other fishes (Feyrer et al. 2003, p. 281). The decline in food resources is likely affecting juvenile and adult longfin smelt growth and fitness as well as increasing the effort needed to meet food resource demands (Kimmerer and Orsi 1996, pp. 418–419; Feyrer et al. 2003, p. 281).

Predation

In the proposed rule and 2024 SSA report, we discussed the role predation may play on individuals and various life stages of the Bay-Delta longfin smelt (see the 2024 SSA report and proposed rule for additional information). Because little information is available on the exact predators of the Bay-Delta longfin smelt or the impact predation has on the status of the DPS, we do not consider the impacts from predation to be a primary driver, but we still include this consideration as part of the cumulative impact from all threats for the DPS, especially during poor habitat conditions when food is lacking.

Entrainment

Freshwater diversion occurs throughout the estuary through intake structures for agricultural, municipal, and environmental purposes and in some cases may lead to entrainment of Bay-Delta longfin smelt. Entrainment occurs when the suction caused by pumping water creates an opportunity for fish to follow or be captured by the flow of water and become trapped and transported by the hydrodynamic footprint of those diversions. This entrainment may result in fish, especially early-life-stage fish, being killed or removed from the estuary. Bay-Delta longfin smelt can be entrained in water exported by the major pumping facilities in the South Delta (see *Water Project Exports*, below) when adults and commingling age-1 individuals move upstream into the freshwater portions of the San Francisco Bay Delta (CDFW 2020a, fig. 13, p. 53). Bay-Delta longfin smelt larvae and small juveniles that are either rearing or being tidally dispersed landward of X2 can also be entrained (CDFW 2020a, fig. 13, p. 53). During periods of high freshwater flow into the estuary, Bay-Delta longfin smelt (adults, juveniles, and larvae) are much less likely to be entrained by the major pumping facilities in the South Delta because the low-salinity zone is further downstream (or seaward) of the San Francisco Bay Delta. However, changes to the estuary's landscape (see *Habitat Alteration*, above) have caused the tidal flows to reach further into the Old and Middle Rivers (Andrews et al. 2017, p. 66), which, as discussed below, may further impact Bay-Delta longfin smelt (see *Water Project Exports*, below). Below we describe the types of freshwater diversions and exports and their impacts on Bay-Delta longfin smelt.

Water Project Exports: The State of California through the DWR and the U.S. Bureau of Reclamation (Reclamation) operate freshwater diversion facilities and infrastructure associated with the SWP and CVP, respectively, which export fresh water from the Delta. The operation of these facilities can exert a strong influence on regional hydrodynamics (Kimmerer and Nobriga 2008, fig. 7, p. 12; Hutton et al. 2019, fig. 7, p. 11). That hydrodynamic influence can result in the entrainment of fish, sometimes from considerable distances (Kimmerer 2008, p. 2, fig. 1, p. 3). Several methods have been implemented to limit and offset the entrainment impacts at the SWP and CVP facilities, including construction of forebays (areas used to collect fish before they enter the pumps), fish

screens, gate systems (used to divert fish away from pumps), and salvage operations (active collection and transport of fish back into the estuary). In most years, Bay-Delta longfin smelt have been collected (“salvaged”) in the fish facilities that are in front of each pumping plant. The salvage of fish is an indicator that individuals are being entrained by pumping of water at these facilities and either being killed or removed from the estuary. The peak of salvage of age-1 and older Bay-Delta longfin smelt typically occurred in January (Grimaldo et al. 2009, fig. 5, p. 1262). These adult and age-1 fish likely represented individuals searching for spawning habitats and immature individuals commingling with the adults. The peak of salvage of age-0 fish typically occurred in April or May as larval fish reach sizes at which they could be retained on the fish screens of the CVP and SWP fish collection facilities. However, it is likely some larvae began to be entrained once they started hatching in December or January, but remained undetected until about March, with salvage efficiency increasing in April–May as the fish grow larger.

It is possible that past entrainment and loss of Bay-Delta longfin smelt may have reached levels of concern (CDFW 2020a, fig. 10, p. 47). However, since 2009, the entrainment of longfin smelt has not been substantial (Service 2024, fig. 3.4), perhaps partly due to monitoring and management of flows in the Old and Middle Rivers (OMR) between the Sacramento/San Joaquin River confluence and the export facilities. When net OMR flow is positive, San Joaquin River water is generally moving seaward through the San Francisco Bay Delta and away from the pumping facilities. The more net negative OMR is flowing, the more the water in the San Francisco Bay Delta is moving back upstream toward the pumping plants and the faster that water is moving south, thereby increasing entrainment potential. The additional negative flow causes Sacramento River water entering the northwest portion of the San Francisco Bay Delta to be diverted southward toward the pumping facilities rather than seaward, which allows saltier tidal flows to move further toward the San Francisco Bay Delta.

In order to address and minimize effects to federally listed fish species (delta smelt (*Hypomesus transpacificus*), chinook salmon (Sacramento River winter-run and Central Valley spring-run salmon (*Oncorhynchus tshawytscha*), Central Valley steelhead (*Oncorhynchus mykiss*), and green sturgeon (*Acipenser*

medirostris), restrictions to pumping and other water operations management strategies have been implemented by the DWR and Reclamation to limit negative OMR flows and associated entrainment through the section 7 process of the Act (Service 2008, entire; National Oceanic and Atmospheric Administration, National Marine Fisheries Service [NMFS] 2009, entire; Service 2019, entire; NMFS 2019, entire). In addition, the DWR has implemented similar measures for State-listed species (including longfin smelt) (CDFW 2009b Incidental Take Permit (ITP), entire; CDFW 2020b, ITP, entire).

The results of two different analytical approaches using smelt larval survey (SLS) data suggest that entrainment of fish has not exceeded 3 percent since 2009 (Kimmerer and Gross 2022). Gross et al. (2022) coupled particle tracking modeling with the SLS data set and found an upper 95 percent credible interval of proportional entrainment was 2.9 percent in the critically dry winter of 2013 and nearly zero in the wet winter of 2017. Kimmerer and Gross (2022) analyzed all of the SLS data in the period 2009–2020. Similarly, this approach also found proportional entrainment was unlikely to have exceeded 3 percent (range = 0.5 to 2.9 percent) (Kimmerer and Gross 2022, table 1). We interpret these findings, as well as previously published information (CDFW 2020a, entire), to indicate that the OMR management strategies in place since 2009 have been an effective conservation strategy for limiting the impact of entrainment and its consequences for the Bay-Delta longfin smelt. As a result, the best information currently available indicates that management actions for operating water diversion facilities are assisting in limiting entrainment impacts for the Bay-Delta longfin smelt.

Contaminants

The San Francisco Bay estuary has been identified as an impaired water body due to it containing numerous and persistent contaminant compounds (California State Water Resources Control Board 2018, appendix A). The list of contaminant compounds identified within the estuary includes elemental contaminants or ‘metals’ (e.g., mercury and selenium), toxic organic compounds (dioxins, furans, polychlorinated biphenyls), and pesticides (chlordane, dieldrin, DDT). Additional emerging contaminants of concern include newer pesticides, flame retardants, nutrients, naturally occurring toxins, microplastics, and pharmaceuticals and personal care products (i.e., plastic microbeads, insect

repellent, sunscreen, cosmetics, etc.) (Klosterhaus et al. 2013, pp. 97–98, table 1; Sutton et al. 2017, entire). Ongoing analysis of water in the San Francisco Bay Delta suggests that on average 10 new synthetic organic pesticide chemicals are detected every year (California Department of Pesticide Regulation 2020, dataset). Water sampling in one study of the San Francisco Bay Delta indicated the presence of more than 50 chemical compounds from a single 1-liter (L) (34-ounce (oz)) water sample (Moschet et al. 2017, pp. 1557–1560).

The sources of contaminants include discharge from municipal wastewater treatment plants, agricultural outfalls, stormwater runoff, anti-fouling paints on boat and ship hulls, and direct human application of pest and aquatic plant control compounds (Service 2024, section 3.1.6). Legacy contaminants in the Bay-Delta (those from historical loading, such as organochlorine chemicals (e.g., DDT) from past agricultural use and mercury from past mining activity) have been shown to persist in the environment and continue to impact ecosystems and can bioconcentrate through the food web, posing additional health risks (Connor et al. 2006, pp. 87–88; Marvin-DiPasquale and Cox 2007, p. 2). Regulation has reduced the use of some contaminants, only to be replaced by other more potent alternative water-soluble chemicals such as neonicotinoids, which have additional impacts on nontarget species such as aquatic invertebrates and fish (Buzby et al. 2020, pp. 15–21).

Field-based toxicity is difficult to determine, as impacted fish are not recovered in order to be examined (i.e., fish either die from direct exposure and resulting disease, or are eaten). Risk of exposure and effect, as determined by comparison to other species (e.g., delta smelt and the introduced inland silverside (*Menidia beryllina*)), potentially include direct effects on development, growth, and reproduction; impacts resulting from impairments to bioenergetic demands; and impaired locomotion, reducing feeding success, which can lead to increased susceptibility to predation, disease, and entrainment (Brander et al. 2012, p. 2854; Cannon et al. 2009, p. 12; Hasenbein et al. 2014, p. 696; Jeffries et al. 2015a, p. 17407; Jeffries et al. 2015b, p. 55; Cole et al. 2016, p. 219; DeCourten and Brander 2017, p. 2).

Pelagic Organism Decline (POD)

Between the years 2002 through 2004, abundance indices for multiple fish species within the San Francisco Bay

estuary declined abruptly in what is known as the pelagic organism decline, or POD. Specifically, the POD referred to a drop in survey catches of four fish species (Bay-Delta longfin smelt, delta smelt, striped bass (*Morone saxatilis*), and threadfin shad (*Dorosoma petenense*)) (Sommer et al. 2007, p. 273). The POD event is generally recognized as a population step-decline for numerous fish species in the estuary. The coincident declines of multiple species suggested a possible common cause, but a single mechanism for decline that applied to all four fish has not been identified (MacNally et al. 2010, p. 1426; Thomson et al. 2010, pp. 1442–1443). As a result, researchers have focused on multiple causes, from habitat changes, reductions in freshwater inflow, water diversions, food resource changes, competition, predation, and contaminants, as contributing to the POD (Sommer et al. 2007, pp. 271–276; MacNally et al. 2010, p. 1418; Fong et al. 2016, pp. 20–21). As outlined above, all of these factors have been identified as threats impacting the Bay-Delta longfin smelt to varying degrees. Although the POD event is not a threat in itself, but is instead most likely a result of multiple threats, the subsequently smaller DPS population is more susceptible to poor habitat conditions and has a reduced capability of rebounding from lower abundance years.

Bay-Delta Longfin Smelt Current Condition

Current Abundance

Several long-term survey efforts have been established for monitoring San Francisco Bay estuary fish populations including the Bay-Delta longfin smelt. These established survey efforts include the 20-mm survey, the SFBS, and the FMWT. The 20-mm survey has been conducted since 1995, and although it does not produce an abundance index for Bay-Delta longfin smelt, we adapted the methods for the delta smelt abundance index for the Bay-Delta longfin smelt. Our methods and information on how we adapted the study information are outlined in the current SSA report (Service 2024, appendix B). The SFBS has sampled low-salinity to fully marine waters of the estuary using standardized sampling methods since 1980. However, sampling was more sporadic in the 1990s and again in several recent years. The SFBS samples near bottom as well as midwater to surface-oriented fishes (Feyrer et al. 2015, Fig. 5, p. 3614) and provides separate abundance indices for ages 0, 1, and 2+ Bay-Delta longfin

smelt. The longest of these survey efforts is the FMWT, which was initiated in 1967 and has surveyed pelagic waters from the Delta into San Pablo Bay monthly from September through December each year. The FMWT captures mostly juvenile and adult fish 50–150 mm (2–6 in) in length and has been used to monitor the abundance of sampled fish species since the late 1970s (Stevens and Miller 1983, pp. 431–432). In the case of Bay-Delta longfin smelt, the FMWT samples adults and juveniles, most likely those

returning from more marine environments to low-salinity and freshwater areas associated with spawning. Similar abundance estimates are reflected in the 20-mm survey, SFBS, and other modeling efforts (Service 2024, section 3.2.1). Collectively, these survey efforts encompass abundance estimates of all life stages of the Bay-Delta longfin smelt in the estuary.

Figure 2 identifies FMWT abundance information for Bay-Delta longfin smelt since its inception in 1967 with

emphasis on the years 2000 to 2020. The FMWT time series is an index of fish numbers returning to spawn in the San Francisco Bay Delta, which is an indicator of abundance patterns as observed over this relatively longer time interval presented to give a simplified visual presentation of overall population trend during the last several decades. A more detailed analysis of overall trends and attendant risk is discussed, below.

Bay-Delta Longfin Smelt Abundance Indices Through Time

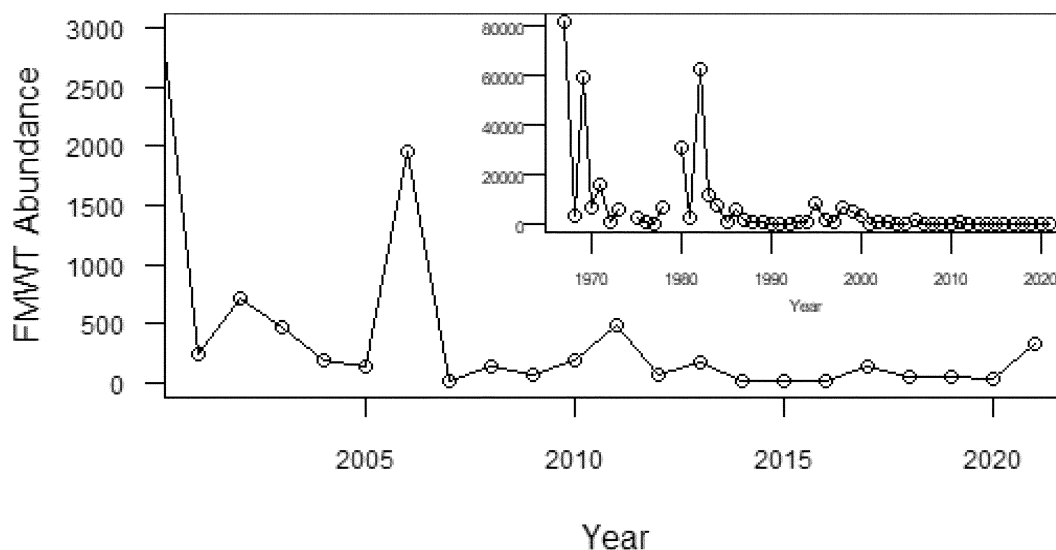


Figure 2. San Francisco Bay-Delta longfin smelt abundance indices for the period 2000–2020 from the fall midwater trawl survey. (Inset displays time series since 1967; source: adapted from California Department of Fish and Wildlife 2021.)

Population Trends and Risk of Quasi-Extinction

All the best available field surveys for documenting long-term abundance trends indicate Bay-Delta longfin smelt numbers have substantially declined over time, with current relative abundance reflecting small fractions of the species' historical relative abundance and representing a decline of three to four orders of magnitude over the course of available historical

abundance records. Even considering the small periodic increases in numbers in occasional years in the most recent survey results (past 20 years), the general trend over time has been lower highs and lower lows in abundance for the DPS. This finding supports the conclusion that abundance of all life stages has declined substantially over the course of several decades and that the overall decline has continued in recent years (Service 2024, section 3.2).

A meta-analysis of annual population growth rates derived from the monitoring data showed that the DPS has a negative population growth rate (Service 2024, section 3.2.2). Figure 3 displays quasi-extinction risk projections (including confidence intervals) over time for the Bay-Delta longfin smelt from our risk assessment (Tobias et al. 2023, fig. 4, p. 7; Service 2024, appendix B).

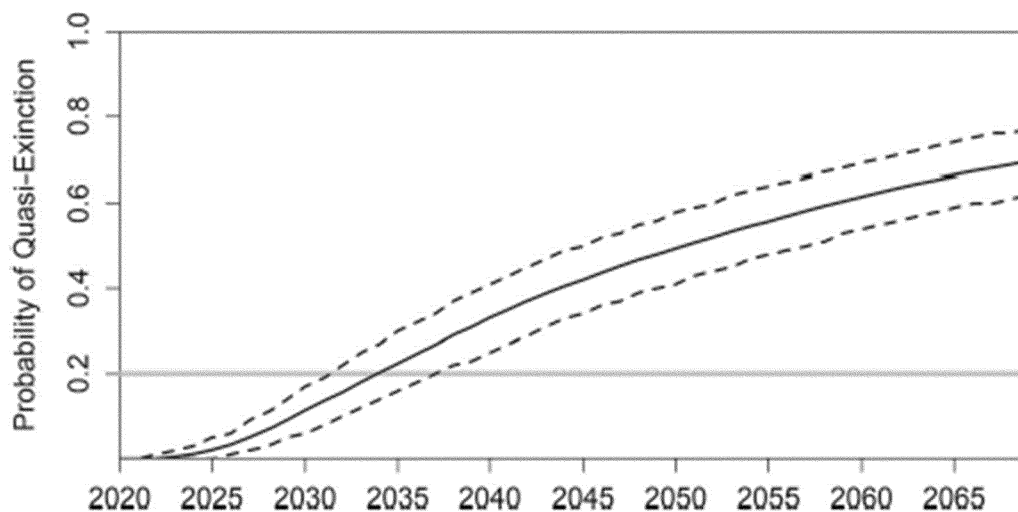


Figure 3. Quasi-extinction risk projections (including confidence intervals) over time for the San Francisco Bay-Delta longfin smelt. (Mean probability of quasi-extinction (solid line), with bootstrapped 95 percent confidence bands (dashed lines). The wide, horizontal line (gray line) highlights a 20 percent probability of quasi-extinction.)

Effects of Threats Impacting the Bay-Delta Longfin Smelt

Reduced and altered freshwater flows into the estuary greatly impact the physical and ecological processes important to Bay-Delta longfin smelt spawning and larval rearing habitat. Reductions in freshwater flow reduce the number of young that survive to later reproduce. Reduced freshwater flows also require the DPS to move farther inland to find appropriate low-salinity conditions for spawning and rearing. Although management actions to limit the impact of water diversions at export facilities have been implemented, this movement farther inland makes the DPS's larvae and young more vulnerable to entrainment as a result of water diversion from water export facilities.

The amount of freshwater input into the estuary is dependent on natural wet/dry precipitation patterns. These patterns have been influenced by the effects of current climate change conditions, which have resulted in more frequent, prolonged, and intense drought conditions (reduced flows) and increased water temperatures (poor habitat conditions). Freshwater flows into the estuary have also been greatly influenced by human-caused alteration of rivers and streams leading into the estuary as well as diversion and export of freshwater from the estuary. These human-caused impacts of water management have exacerbated the impacts of environmental variability of natural wet/dry precipitation patterns.

In addition to altered habitat conditions for the Bay-Delta longfin smelt, the available food resources for the DPS have also been severely impacted. A rapid change to the zooplankton community in the estuary beginning in the late 1980s along with the introduction of the nonnative species such as the overbite clam and others has greatly reduced the natural prey base for the DPS and replaced it with a smaller nonnative mysid. Because the fish in the DPS continue to exhibit very little variation in prey use despite the reduction in natural prey availability, they are considered more susceptible to food web changes than some other fishes. The decline in food resources is likely affecting juvenile and adult longfin smelt growth and fitness as well as increasing the effort needed to meet food resource demands.

After the review of the threats of predation, entrainment, and contaminants, we have determined that they are not primary driving factors currently influencing the Bay-Delta longfin smelt. However, these threats are likely still contributing cumulatively to the overall impacts acting on the DPS.

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.

Resiliency, Redundancy, and Representation for the Bay-Delta Longfin Smelt

In the current SSA report for the Bay-Delta longfin smelt (Service 2024, chapter 3), we evaluated the Bay-Delta longfin smelt's resiliency, redundancy, and representation under our SSA framework (Service 2016, entire).

Resiliency describes the ability of a species to withstand stochastic disturbance. Because the Bay-Delta longfin smelt is a single, intermixed population, we did not identify multiple resiliency units but looked at the population as a whole. As discussed above, the Bay-Delta longfin smelt is subject to multiple interacting threats, including saltwater intrusion and reduced freshwater flows, that are altering and degrading habitat conditions. The resulting impact of these threats limits the extent, duration, and availability of appropriate habitat conditions needed for spawning, rearing, and ultimate recruitment of individuals into the population. These threats include anthropogenic actions (such as freshwater management, freshwater diversion, and physical alterations to the bathymetry of the estuary) or poor or altered

environmental conditions (such as increased frequency and magnitude of drought resulting from current climate change conditions). Disruptions to the estuary's food web associated with reductions in freshwater flow or introductions of nonnative species are also limiting resiliency for the DPS.

Redundancy is the ability of a species to withstand catastrophic events. The Bay-Delta longfin smelt is a single intermixed population and occurs in areas within the San Francisco Bay estuary as dictated by the extremely modified and altered habitat and resource conditions. The San Francisco Bay estuary is also subject to extreme environmental variability as a result of climate change conditions resulting in increased temperatures and frequency, magnitude, and duration of drought. As a result of these changes, the ability of the system and organisms within the estuary to withstand catastrophic events and rebound during periods of more favorable conditions is greatly reduced. Large-scale estuary-wide ecosystem population collapses of fish and native zooplankton have occurred in the estuary. Although no single cause for the collapses has been identified, both native and nonnative fish populations have not recovered. The result has been step-declines of the Bay-Delta longfin smelt population size since the mid-1980s, thereby reducing the redundancy of the DPS.

Representation describes the ability of a species to adapt to changing environmental conditions over time. This definition includes the ability of a species to adapt to both near-term and long-term changes in its physical and biological environments. The Bay-Delta longfin smelt population occurs in the San Francisco Bay estuary and is a single, genetically indistinguishable population. The Bay-Delta longfin smelt represents the southern extent of the species as a whole and most likely is a source for populations along the coast north of San Francisco Bay, but the number of individuals contributing to populations further north has substantially declined. Due to ocean currents and the species' poor swimming capability, populations north of the San Francisco Bay are unlikely to have the ability to move south and assist in reestablishing a population in the San Francisco Bay-Delta once they have been extirpated from the San Francisco Bay-Delta. The DPS's ability to adapt behaviorally to environmental changes (to have adaptive capacity) is also limited. This limitation is exemplified by the DPS's behavioral tendency of not adapting to food resource changes. As discussed, food resources for the DPS

have changed significantly yet the DPS's behavior has not shifted to adapt to those changes.

In our evaluation of the current condition of the Bay-Delta longfin smelt, we evaluated several population viability analyses (PVAs) that quantitatively derive probabilities of extinction over time based on the DPS's historical and current abundance estimates (Service 2024; appendix B). The PVAs used information from the existing suite of surveys, including the FMWT, the 20-mm survey, and the SFBS (Service 2024, figure 3.11). The PVAs modeled extinction probability based on a continuation of existing threats currently facing the DPS under varying levels of population recruitment. Population growth rates were further synthesized by conducting a meta-analysis on the growth rates of the different surveys. The results of the count-based PVA meta-analysis identified that the probability of quasi-extinction for the Bay-Delta longfin smelt is estimated at 33 percent over 20 years and reaches 50 percent in 30 years (Service 2024, appendix B).

As a result of our review of the best scientific and commercial data available on the Bay-Delta longfin smelt, we have determined that the DPS's resiliency is low. Numerous decades of declining abundance indices for the Bay-Delta longfin smelt document the inability of the DPS to rebound during more favorable environmental conditions and respond to the threats it is facing in the contemporary San Francisco Bay estuary. The Bay-Delta longfin smelt also has extremely limited redundancy because it effectively represents a single, small population inhabiting the San Francisco Bay-Delta and nearshore ocean environment, and because it continues to be impacted by large-scale stochastic events and is subject to catastrophic events. We have determined that the representation of the Bay-Delta longfin smelt is limited as well, reflecting that same declining abundance trend and no discernible and quantifiable compensatory adaptation to current ecological conditions. Based on our evaluation of the current resiliency, redundancy, and representation for the Bay-Delta longfin smelt, we conclude the current ability of the DPS to maintain populations in the wild is low.

Future Conditions

As part of the SSA, we also developed future-condition scenarios to capture the range of uncertainties regarding future threats and the projected responses by the Bay-Delta longfin smelt. To assess the future condition of the Bay-Delta longfin smelt, we used

published information related to the varying environmental conditions of the San Francisco Estuary, including future climate change information and projected increases in water demand, and how these changes may impact how well the estuary can support the Bay-Delta longfin smelt into the future. In our analyses, we considered two plausible future scenarios based on representative concentration pathways (RCP) 4.5 and 8.5 as the bookends for our analysis. The scenarios assessed climate change information (temperature increases, changes in precipitation patterns, sea-level rise) through 2100, as published information was available. The information identified that declines in Bay-Delta longfin smelt population abundance will continue into the future under both the RCP 4.5 and 8.5 scenarios. Because we determined that the current condition of the Bay-Delta longfin smelt was consistent with an endangered species (see Determination of the Bay-Delta Longfin Smelt's Status, below), we are not presenting the results of the future scenarios in this final rule. Please refer to the current SSA report (Service 2024, chapter 4) for the full analysis of future scenarios.

Conservation Efforts and Regulatory Mechanisms

Numerous efforts have been initiated regarding conservation and regulation of the San Francisco Bay estuary and its resources, including managing water flows into and export from the estuary, improving water quality, conducting habitat restoration, and implementing measures or regulations to protect native fish. This effort includes establishment of multiagency collaborations such as the Interagency Ecological Program (IEP), which focuses on coordinating and prioritizing science needs and research to meet responsibilities under State and Federal regulatory requirements (IEP 2014, entire).

The State of California listed the longfin smelt in the San Francisco Bay estuary and along the California Coast as a threatened species under the California Endangered Species Act in 2009 (CDFW 2009a, entire; California Natural Diversity Database 2022, entire) and has issued restrictions and requirements for the export of water for the State Water Project (see *Entrainment, Water Project Exports*, above). Several other fish species (delta smelt, several salmonid species) are listed under both the Act and the California Endangered Species Act, and the Service and NMFS have also issued biological opinions regarding the effects to these species and their habitats for

delivery and export of water from the estuary (see *Entrainment*, Water Project Exports, above). The State Water Board is responsible for issuing water quality standards and monitors contaminants within the estuary (see *Contaminants*, above). However, despite efforts such as those identified above, the current condition of the estuary and continued threats facing the estuary and Bay-Delta longfin smelt, such as reduced freshwater inflow, severe declines in population size, and disruptions to the DPS's food resources, have not been ameliorated.

Determination of the Bay-Delta Longfin Smelt'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

The Bay-Delta longfin smelt's current abundance and density throughout the San Francisco Bay estuary have substantially declined. Currently, the DPS exists in very low abundance despite periods when appropriate habitat conditions, which typically would allow for population rebounds, are available. The best scientific and commercial information available and our analysis of that information revealed that several threats are causing or contributing to this decline and currently pose a meaningful risk to the viability of the DPS. These threats have put the Bay-Delta longfin smelt largely into a state of chronic population decline due to habitat loss (reduction in freshwater flows into the estuary), which is exacerbated by limited food resources and the impacts associated with climate change, thereby limiting its

resiliency and ability to withstand catastrophic events (reduced redundancy). This decline in numbers of the Bay-Delta longfin smelt is also a reflection of the DPS's ability to adapt to the ecosystem changes.

As a result of the DPS's poor performance in adapting to the suite of stressors acting upon it, we consider the Bay-Delta longfin smelt's adaptive capacity and, therefore, its current representation to be low. The Bay-Delta longfin smelt's continued reduced population size makes the DPS vulnerable to varying habitat conditions from year to year due to both anthropogenic and environmental conditions that are being influenced by the effects of climate change. Historically, with a larger population size, the DPS was more resilient to such stochastic and catastrophic events due to its ability to rebound in abundance when habitat conditions and resources would allow. The habitat changes, limitations to food resources, and resulting small population size now limit the DPS's ability to maintain its current population.

After evaluating threats to the DPS and assessing the cumulative effect of the threats under the section 4(a)(1) factors, we find that the threats facing the San Francisco Bay-Delta DPS of the longfin smelt are current and ongoing and include habitat degradation and loss from reduced freshwater flow into the estuary (Factor A), increased intrusion of saltwater into spawning habitat areas (Factor A), alteration of food resources and availability (Factor E), nonnative species competition and food resource effects (Factor E), and the effects associated with climate change such as increased temperatures and frequency, magnitude, and duration of drought (Factor E). Because these threats are ongoing and currently impacting the DPS, and have already been shown to have caused a significant decline in the DPS's current resiliency, redundancy, and representation, the DPS meets the Act's definition of endangered status.

Thus, after assessing the best scientific and commercial information available, we determine that the San Francisco Bay-Delta DPS of the longfin smelt is in danger of extinction 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 in the foreseeable future throughout all or a significant portion of its range. We have determined that the San Francisco Bay-

Delta DPS of the longfin smelt is in danger of extinction throughout all of its range and accordingly did not undertake an analysis of any significant portions of its range. Because the San Francisco Bay-Delta DPS of the longfin smelt warrants listing as endangered throughout all of its range, our determination does not conflict with the decision in *Center for Biological Diversity v. Everson*, 435 F. Supp. 3d 69 (D.D.C. 2020), because that decision related to significant portion of the range analyses for species that warrant listing as threatened, not endangered, throughout all of their range.

Determination of Status

Our review of the best scientific and commercial information available indicates that the San Francisco Bay-Delta DPS of the longfin smelt meets the definition of an endangered species. Therefore, we are listing the San Francisco Bay-Delta DPS of the longfin smelt as an endangered species in accordance with sections 3(6) and 4(a)(1) of the Act and our February 7, 1996, policy regarding distinct population segments (61 FR 4722).

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, foreign governments, 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 San Francisco Bay-Delta Fish and Wildlife 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 this species is listed, 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 State of California will be eligible for Federal funds to implement management actions that promote the

protection or recovery of the San Francisco Bay-Delta DPS of the longfin smelt. 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 San Francisco Bay-Delta DPS of the longfin smelt. 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 action 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 San Francisco Bay-Delta DPS of the longfin smelt 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, National Park Service, Department of Defense, Reclamation, U.S. Army Corps of Engineers, or U.S. Department of Agriculture, 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 local Service Field Office (see **FOR FURTHER INFORMATION CONTACT**) with any specific questions on section 7 consultation and conference requirements.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to endangered wildlife. The prohibitions of section 9(a)(1) of the Act, and the Service's 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. Certain exceptions to these prohibitions apply to employees or agents of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits for endangered wildlife are codified at 50 CFR 17.22, and general Service permitting regulations are codified at 50 CFR part 13. With regard to endangered wildlife, a permit may be issued: for scientific purposes, for enhancing the propagation or survival of the species. The statute also contains certain exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

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.

As discussed above, certain activities that are prohibited under section 9 may be permitted under section 10 of the Act. In addition, to the extent currently known, the following activities will not be considered likely to result in violation of section 9 of the Act: (1) take of the longfin smelt outside the range of the DPS as identified in figure 1 above; (2) take as a result of recreational fishing as permitted by the State of California; or (3) recreational boating on open-water areas of the San Francisco Bay-Delta Estuary.

This list is intended to be illustrative and not exhaustive; additional activities that will not be considered likely to result in violation of section 9 of the Act may be identified during coordination with the local field office, and in some instances (*e.g.*, with new information), the Service may conclude that one or more activities identified here will be considered likely to result in violation of section 9.

To the extent currently known, the following is a list of examples of activities that will be considered likely to result in violation of section 9 of the Act in addition to what is already clear from the descriptions of the prohibitions found at 50 CFR 17.21: (1) handling or collecting individuals of the DPS; (2) destruction/alteration of the Bay-Delta longfin smelt's habitat by discharge of fill material, dredging, draining, ditching, or stream channelization or diversion; (3) unauthorized diversion or alteration of surface flow into the San Francisco Bay-Delta estuary by removal of freshwater from rivers, streams, wetlands, and other aquatic features; (4) introduction of contaminants that may degrade water quality of the San Francisco Bay-Delta estuary; or (5) introduction of nonnative species that compete with or prey upon the Bay-Delta longfin smelt or alter food resources for the DPS.

This list is intended to be illustrative and not exhaustive; additional activities that will be considered likely to result in violation of section 9 of the Act may be identified during coordination with the local field office, and in some instances (*e.g.*, with new or site-specific information), the Service may conclude

that one or more activities identified here will not be considered likely to result in violation of section 9.

Questions regarding whether specific activities would constitute violation of section 9 of the Act should be directed to the San Francisco Bay-Delta Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

II. Critical Habitat

Section 4(a)(3) of the Act and implementing regulations (50 CFR 424.12) require that we designate critical habitat at the time a species is determined to be an endangered or threatened species, to the maximum extent prudent and determinable. In the October 7, 2022, proposed listing rule (87 FR 60957 at 60970), we determined that designation of critical habitat was prudent but not determinable because specific information needed to analyze the impacts of designation was lacking. Since the publication of the proposed listing rule, we have obtained the necessary information and are in the process of developing a proposed critical habitat designation for the Bay-Delta longfin smelt. We plan to publish a proposed critical habitat rule in the near future and complete a final designation as required by sections 4(a)(3) and 4(b)(6)(C)(ii) of the Act.

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County v. Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

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 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. No Tribal lands were identified within the range of the Bay-Delta longfin smelt, and we did not receive any information during our development of the SSA report for the DPS or the two open public comment periods. We will continue to reach out and coordinate with Tribal entities during the development of our recovery planning and critical habitat designation processes for the Bay-Delta longfin smelt.

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 San Francisco Bay-Delta Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this rule are the staff members of the Fish and Wildlife Service's Species Assessment Team and the San Francisco Bay-Delta Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Signing Authority

Martha Williams, Director of the U.S. Fish and Wildlife Service, approved this action on June 14, 2024, for publication. On July 22, 2024, Martha Williams authorized the undersigned to sign the document electronically and submit it to the Office of the Federal Register for publication as an official document of the U.S. Fish and Wildlife Service.

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

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

in alphabetical order under FISHERIES to read as follows:

■ 1. The authority citation for part 17 continues to read as follows:

■ 2. Amend § 17.11 in paragraph (h), in the List of Endangered and Threatened Wildlife, by adding an entry for “Smelt, longfin [San Francisco Bay-Delta DPS]”

§ 17.11 Endangered and threatened wildlife.

* * * * *
(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
FISHES				
Smelt, longfin [San Francisco Bay-Delta DPS].	<i>Spirinchus thaleichthys</i> ..	U.S.A. (CA)	E	89 FR [INSERT FIRST PAGE OF FEDERAL REGISTER PUBLICATION], 7/30/2024.
*	*	*	*	*

Madonna Baucum,
Regulations and Policy Chief, Division of Policy, Economics, Risk Management, and Analytics of the Joint Administrative Operations, U.S. Fish and Wildlife Service.
 [FR Doc. 2024–16380 Filed 7–29–24; 8:45 am]
BILLING CODE 4333–15–P

Proposed Rules

Federal Register

Vol. 89, No. 146

Tuesday, July 30, 2024

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

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[SATS No. MT-042-FOR; Docket ID: OSM-2023-0007; S1D1S SS08011000 SX064A000 245S180110; S2D2S SS08011000 SX064A000 24XS501520]

Montana Regulatory Program; Reopening Comment Period

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.
ACTION: Proposed rule; public comment period reopening.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are reopening the public comment period in response to feedback received in response to a concern letter for a proposed amendment to the Montana regulatory program (hereinafter, the Montana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Montana proposed this amendment to OSMRE, on its own initiative, following its passing of Montana House Bill 576 (2023), which amends the Montana Code Annotated (Mont. Code Ann.). Montana proposes changes to the definition of material damage and changes to permit requirements related to hydrologic information. HB 576 also adds four contingencies to the proposed amendments of the Mont. Code Ann.: a severability clause, a contingent voidness clause, an effective date clause, and a retroactive applicability clause. This document gives the times and locations that the Montana program and this revised proposed amendment to that program are available for your inspection and the comment period during which you may submit written comments on the revised amendment.

DATES: The comment period for the proposed rule published at 88 FR 52084 (August 7, 2023), which was reopened at 88 FR 64853 (September 20, 2023), is

reopened again. We will accept written comments on this amendment until 4 p.m., Mountain Daylight Time (MDT), August 14, 2024.

ADDRESSES: You may submit comments, identified by SATS No. MT-042-FOR, by any of the following methods:

- *Mail/Hand Delivery:* 100 East B Street, Room 4100, Casper, WY 82601.
- *Fax:* (307) 421-6552.
- *Federal eRulemaking Portal:* The amendment has been assigned Docket ID: OSM-2023-0007. If you would like to submit comments, go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than the ones listed above will be included in the docket for this rulemaking and considered.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Montana program, this amendment, a listing of any scheduled public hearings or meetings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSMRE’s Denver Field Division or the full text of the program amendment is available for you to read at www.regulations.gov. Jeffrey Fleischman, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, Dick Cheney Federal Building, POB 11018, 100 East B Street, Casper, Wyoming 82601, Telephone: (307) 261-6550, Email: jfleischman@osmre.gov.

In addition, you may review a copy of the amendment during regular business hours at the following location: Dan Walsh, Chief, Coal and Openpit Mining Bureau, Montana Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901, Telephone: (406) 444-6791, email: dwalsh@mt.gov.

FOR FURTHER INFORMATION CONTACT:

Attn: Jeffrey Fleischman, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Casper, Wyoming 82602, telephone: (307) 261-6550, email: jfleischman@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Montana Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Statutory and Executive Order Reviews

I. Background on the Montana Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its approved, State program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Montana program on April 1, 1980. You can find background information on the Montana program, including the Secretary’s findings, the disposition of comments, and conditions of approval of the Montana program in the April 1, 1980, **Federal Register** (45 FR 21560). You can also find later actions concerning the Montana program and program amendments at 30 CFR 926.15, 926.16, and 926.30.

II. Description of the Proposed Amendment

By letter dated June 1, 2023 (Administrative Record No. MT-042-01), Montana sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). We found Montana’s proposed amendment to be administratively complete on June 5, 2023. Montana submitted this proposed amendment to us, of its own volition, following the passage of Montana House Bill 576 (HB 756) during the 2023 legislative session. HB 576 amends the Montana Strip and Underground Mine Reclamation Act codified at Mont. Code Ann. sec. 82-4-203 and sec. 82-4-222. HB 576 also adds four contingencies that apply to the proposed amendments. First, Montana proposes several changes to Mont. Code Ann. sec. 82-4-203(32),

which defines and describes “Material Damage.” Next, Montana proposes to amend its coal mine operation permit requirements related to hydrologic information Mont. Code Ann. sec. 82–4–222(1)(m). Lastly, HB 576 adds four contingencies to the proposed amendments of Mont. Code Ann. sec. 82–4–203(32) and sec. 82–4–222(1)(m) that are not codified into Mont. Code Ann. but apply to the amended sections: a severability clause, a contingent voidness clause, an effective date clause, and a retroactive applicability clause.

By letter dated August 18, 2023 (Administrative Record No. MT–042–09), we received a letter from interested parties requesting a 60-day extension of the public comment period for proposed amendment MT–042–FOR primarily due to technical difficulties accessing the *Federal eRulemaking Portal* and the inability to comment on topics of high interest. OSMRE agreed to extend the public comment period for MT–042–FOR to November 6, 2023.

Following our initial review, OSMRE sent a letter to the Montana Department of Environmental Quality (DEQ) on March 28, 2024 (Administrative Record No. MT–042–34). The letter outlined our concerns with Montana’s proposed amendment and offered Montana a decision to either (1) delay the amendment process, revise, and resubmit the amendment or (2) proceed to the final rulemaking. The concern letter was not an announcement of OSMRE’s final decision on the Montana amendment. On April 26, 2024, we received a response to our concern letter from DEQ. (Administrative Record No. MT–042–35). DEQ stated in its response that it could not revise the proposed amendment to address OSMRE’s concerns due to the amendment being prompted by legislative action. DEQ’s response also provided further comments disagreeing with parts of OSMRE’s concern letter. Following DEQ’s response, we received feedback on the concern letter from three additional entities (Administrative Record No. MT–042–36, MT–042–37, and MT–042–38). Due to the increased interest in the concern letter, and in the interest of fairness for public participation, OSMRE has decided to re-open the public comment period for 15-days. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES** or at www.regulations.gov.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment

satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Electronic or Written Comments

If you submit written or electronic comments on the proposed rule during the 15-day comment period, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

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.

IV. Statutory and Executive Order Reviews

Executive Order 12866—Regulatory Planning and Review, Executive Order 13563—Improving Regulation and Regulatory Review, and Executive Order 14094—Modernizing Regulatory Review

Executive Order 12866, as amended by Executive Order 14094, provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of State program amendments is exempted from OMB review under Executive Order 12866, as amended by Executive Order 14094. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSMRE for review, our

regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and Executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 926

Required program amendments, State-Federal cooperative agreement, State regulatory program approval, Surface mining.

David A. Berry,

Regional Director, Unified Regions 5, 7–11.

[FR Doc. 2024–16540 Filed 7–29–24; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

[SATS No. WY–047–FOR; Docket ID: OSM–2024–0002; S1D1S SS08011000 SX064A000 245S180110; S2D2S SS08011000 SX064A000 24XS501520]

Wyoming Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are announcing receipt of a proposed regulatory amendment to the Wyoming coal program (Wyoming program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). On February 19, 2019, the Wyoming Environmental Quality Council (EQC) approved several revisions to the rules governing Financial Assurances and Self-Bonding under the Wyoming program. This document gives the times and locations that the Wyoming program and this proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we

will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., Mountain Daylight Time (M.D.T.), August 29, 2024. If requested, we may hold a public hearing or meeting on the amendment on August 26, 2024. We will accept requests to speak at a hearing until 4 p.m., M.D.T., on August 14, 2024.

ADDRESSES: You may submit comments, identified by SATS No. WY-047-FOR, by any of the following methods:

- *Mail/Hand Delivery:* OSMRE, Attn: Jeffrey Fleischman, P.O. Box 11018, 100 East B Street, Room 4100, Casper, Wyoming 82602.

- *Fax:* (307) 261-6552.

- *Federal eRulemaking Portal:*

<https://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Wyoming program, this amendment, a listing of any scheduled public hearings or meetings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSMRE’s Casper Field Office or the full text of the program amendment is available for you to read at www.regulations.gov. Attn: Jeffrey Fleischman, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Casper, Wyoming 82602, Telephone: (307) 261-6550, Email: jfleischman@osmre.gov.

In addition, you may review a copy of the amendment during regular business hours at the following location: Attn: Kyle Wendtland, Administrator, Wyoming Department of Environmental Quality, Land Quality Division, 200 West 17th Street, Suite 10, Cheyenne, Wyoming 82002, Telephone: (307) 777-7046, email: kyle.wendtland@wyo.gov.

FOR FURTHER INFORMATION CONTACT:

Jeffrey Fleischman, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Casper, Wyoming 82602, telephone: (307) 261-6550, email: jfleischman@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

II. Description of the Proposed Amendment

III. Public Comment Procedures

IV. Procedural Determinations

I. Background on the Wyoming Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its approved State program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. See 30 U.S.C. 1253(a)(1) and (7).

On the basis of these criteria, the Secretary of the Interior conditionally approved the Wyoming program on November 26, 1980. You can find background information on the Wyoming program, including the Secretary’s findings, the disposition of comments, and conditions of approval of the Wyoming program in the November 26, 1980 **Federal Register** at 45 FR 78637. You can also find later actions concerning the Wyoming program and program amendments at 30 CFR 950.10.

II. Description of the Proposed Amendment

By letter dated May 20, 2024 (Admin Record No. WY-047-01), Wyoming sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). We found Wyoming’s proposed amendment administratively complete on May 21, 2024.

On February 19, 2019, the Wyoming Environmental Quality Council (EQC) approved several revisions to the Wyoming Program’s financial assurances regulations. The EQC approved another revision to these rules following a 2022 legislative change (House Bill 0045) to Wyoming Statute (W.S.) 35-11-417(h) which enabled Wyoming to promulgate rules for a new type of financial assurance instrument called a “Voluntary Irrevocable Assigned Trust”. Accordingly, the State submitted this proposal to OSMRE at its own initiative. The Wyoming amendment proposes the following revisions:

First, Wyoming proposes to delete “Chapter 20—Letters of Credit,” and instead inserts it into “Chapter 11—Self-bonding Program.” Chapter 11 is also renamed from “Chapter 11—Self-Bonding Program” to “Chapter 11—Financial Assurance.” As proposed, all Financial Assurance regulations will now be housed in Chapter 11.

Second, Wyoming proposes several updates to its self-bonding program. These revisions include changes to some definitions, limiting self-bonding to a maximum of 75% of an operation’s bond obligation, changing the requirements for an operation to qualify for self-bonding, and removing the ability for an operation to use “collateralized self-bonds,” like real property, personal property, and securities. Wyoming proposes that “Collateralized self-bonds” will now be considered separate financial instruments called “Collateral bonds.”

Lastly, Wyoming proposes several changes to its Collateral bond section. Within the Collateral bond section Wyoming proposes to revise some of the Letters of Credit rules, removes Personal Property collateral bond instruments, adds Real Property collateral bond instruments, adds Irrevocable Trust Account options for collateral bonds, and revises some requirements for Securities bond options.

The full text of the program and/or plan amendment is available for you to read at the locations listed above under **ADDRESSES** or at www.regulations.gov.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Electronic or Written Comments

If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

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.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., M.D.T., on August 14, 2024. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review, Executive Order 13563—Improving Regulation and Regulatory Review, and Executive Order 14094—Modernizing Regulatory Review

Executive Order 12866, as amended by Executive Order 14094, provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated

October 12, 1993, the approval of State program amendments is exempted from OMB review under Executive Order 12866, as amended by Executive Order 14094. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSMRE for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment.

We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and Executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 950

Required program amendments, State-Federal cooperative agreement, State program provisions and amendments not approved, State regulatory program approval, Surface mining.

David A. Berry,

Regional Director, Unified Regions 5, 7–11.

[FR Doc. 2024–16536 Filed 7–29–24; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

[SATS No. WY–053–FOR; Docket ID: OSM–2024–0003; S1D1S SS08011000 SX064A000 234S180110; S2D2S SS08011000 SX064A000 23XS501520]

Wyoming Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are announcing receipt of a proposed amendment to the Wyoming coal regulatory program (Wyoming program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). On September 13,

2022, the Wyoming Environmental Quality Council approved a number of revisions to the Wyoming Land Quality Division Coal Rules and Regulations which comprise the Wyoming program. This document gives the times and locations that the Wyoming program and this proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., Mountain Daylight Time (M.D.T.), August 29, 2024. If requested, we may hold a public hearing or meeting on the amendment on August 26, 2024. We will accept requests to speak at a hearing until 4 p.m., M.D.T., on August 14, 2024.

ADDRESSES: You may submit comments, identified by SATS No. WY–053–FOR, by any of the following methods:

- *Mail/Hand Delivery:* OSMRE, Attn: Jeffrey Fleischman, P.O. Box 11018, 100 East B Street, Room 4100, Casper, Wyoming 82602.

- *Fax:* (307) 261–6552.

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Wyoming program, this amendment, a listing of any scheduled public hearings or meetings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSMRE’s Casper Field Office or the full text of the program amendment is available for you to read at www.regulations.gov. Attn: Jeffrey Fleischman, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Casper, Wyoming 82602, Telephone: (307) 261–6550, Email: jfleischman@osmre.gov.

In addition, you may review a copy of the amendment during regular business hours at the following location: Attn: Kyle Wendtland, Administrator, Wyoming Department of Environmental Quality, Land Quality Division, 200

West 17th Street, Suite 10, Cheyenne, Wyoming 82002, Telephone: (307) 777-7046, email: kyle.wendtland@wyo.gov.

FOR FURTHER INFORMATION CONTACT:

Jeffrey Fleischman, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Casper, Wyoming 82602, telephone: (307) 261-6550, email: jfleischman@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Wyoming Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

I. Background on the Wyoming Program

Section 503(a) of the Act permits a state to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its approved State program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. See 30 U.S.C. 1253(a)(1) and (7).

On the basis of these criteria, the Secretary of the Interior conditionally approved the Wyoming program on November 26, 1980. You can find background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Wyoming program in the November 26, 1980 **Federal Register** at 45 FR 78637. You can also find later actions concerning the Wyoming program and program amendments at 30 CFR 950.10.

II. Description of the Proposed Amendment

By letter dated May 17, 2024, and electronically transmitted May 20, 2024 (Docket ID No. OSM-2024-0003), Wyoming sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). We found Wyoming's proposed amendment administratively complete on May 23, 2024.

On September 13, 2022, the Wyoming Environmental Quality Council approved a number of revisions to the Wyoming Land Quality Division Coal Rules and Regulations which comprise the Wyoming program. Specifically, Chapter 10 was revised to: make corrections to statutory citations contained in the section which relate to the filing of objections to coal exploration operations; include corrections to references to statute

subsections that were repealed; and include suggested grammatical and organizational revisions from the Attorney General's Office. Additionally, Chapter 13 was revised to: make corrections to statutory citations, similar to Chapter 10 above; amend the decision-making process for permit revision applications, timelines for decision making, notice requirements and other procedural adjustments to comply with the statutory changes to Wyoming Statute (W.S.) 35-11-406 (Senate File 0044); and include suggested grammatical and organizational revisions from the Attorney General's Office. The full text of the program and/or plan amendment is available for you to read at the locations listed above under **ADDRESSES** or at www.regulations.gov.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Electronic or Written Comments

If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

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.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., M.D.T. on August 14, 2024. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of their comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review and Executive Order 13563—Improving Regulation and Regulatory Review—Executive Order 14094—Modernizing Regulatory Review

Executive Order 12866, as amended by Executive Order 14094, provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of State program amendments is exempted from OMB review under Executive Order 12866, as amended by Executive Order 14094. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Other Laws and Executive Orders Affecting Rulemaking

When a state submits a program amendment to OSMRE for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment.

We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and Executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 950

Required program amendments, State-Federal cooperative agreement, State regulatory program approval, Surface mining.

David A. Berry,

Regional Director Unified Regions 5, 7–11.

[FR Doc. 2024–16539 Filed 7–29–24; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2023–0273; FRL–12121–01–R4]

Air Plan Approval; FL; Surface Coating of Miscellaneous Metal Parts and Products Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the Florida Department of Environmental Protection (FDEP) on October 12, 2022. The State is requesting amendments to allow the option for aerospace parts and products coating operations in Florida to comply with the Federal National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements in lieu of the volatile organic compound (VOC) standards in Florida’s Surface Coating of Miscellaneous Metal Parts and Products (MMPP) rule (hereinafter referred to as FL MMPP Rule) in the Florida SIP. The State has provided information in its October 12, 2022, submission to support the amendments to the FL MMPP Rule

in the Florida SIP pursuant to the Clean Air Act (CAA or Act). EPA is proposing to determine that the changes included in Florida’s October 12, 2022, submission are consistent with the applicable provisions of the CAA.

DATES: Comments are due on or before August 29, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2023–0273, at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Simone Jarvis, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Jarvis can be reached via phone number (404) 562–8393 or via electronic mail at Jarvis.Simone@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The FL MMPP Rule—Rule 62–296.513, *Surface Coating of Miscellaneous Metal Parts and Products*—provides specific reasonably available control technology (RACT) requirements for sources in Broward, Duval, Hillsborough, Miami-Dade, Orange, Palm Beach, or Pinellas Counties that apply surface coatings to any number of metal parts and products, to limit their VOC emission rates, including surface coating at aerospace manufacturing operations.¹ However, sources are exempt from regulation under this rule if they emit no more

than 15 pounds in any one day and no more than three pounds in any one hour. The FL MMPP Rule was incorporated into the Florida SIP to address the RACT requirements for areas that were designated nonattainment for the 1979 1-hour ozone standard.² EPA redesignated these areas to attainment in 1995.³

In September 1995, EPA promulgated a NESHAP for Aerospace Manufacturing and Rework Facilities at 40 CFR part 63, subpart GG (Aerospace NESHAP). EPA subsequently amended the Aerospace NESHAP in 1996, 1998, 2006, 2015, and 2016. In Florida’s October 12, 2022, SIP revision, the State seeks to amend the FL MMPP Rule by exempting certain aerospace parts and products coating operations from this rule if such operations comply with requirements of the applicable provisions of the Aerospace NESHAP. Area sources⁴ of hazardous air pollutants (HAPs) previously subject to the FL MMPP Rule that elect to comply with specific provisions of the Aerospace NESHAP related to the “primer, topcoat, and specialty coating VOC control requirements” would not be subject to the requirements of the FL MMPP Rule. Major sources of HAPs,⁵ which are required to comply with the NESHAP would also not be subject to the FL MMPP Rule.

Some specialty coatings operations that use surface coatings with VOC contents allowed under the Aerospace NESHAP may be allowed to use coatings that have higher VOC contents, which FDEP states could contribute to de minimus increases in the potential to

² On November 6, 1991, EPA designated and classified the Miami-Fort Lauderdale-W. Palm Beach Area (*i.e.*, Broward, Dade, and Palm Beach Counties) as moderate nonattainment for the 1979 1-hour ozone NAAQS; the Jacksonville Area (*i.e.*, Duval County) as transitional nonattainment; the Tampa-St. Petersburg-Clearwater Area (*i.e.*, Hillsborough and Pinellas Counties) as marginal nonattainment; and Orange County as attainment. See 56 FR 56694. Among the requirements applicable to nonattainment areas for the 1-hour ozone NAAQS was the requirement to amend the SIPs for areas to satisfy the requirements of Section 183 of the CAA.

³ See 60 FR part 41 for the Jacksonville, FL (Duval County) redesignation. See 60 FR 10325 for the Miami-Fort Lauderdale-W. Palm Beach, FL (Miami-Dade, Broward, and Palm Beach Counties) redesignation. See 60 FR 62748 for the Tampa-St. Petersburg-Clearwater, FL (Hillsborough and Pinellas Counties) redesignation.

⁴ Area source means any stationary source of hazardous air pollutants that is not a major source as defined in 40 CFR 63.2.

⁵ Major source means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants defined in 40 CFR 63.2.

¹ See Rule 62–296.500(3)(a).

emit VOCs at those facilities, but FDEP does not expect that actual VOC emissions will increase to any measurable extent. FDEP states that the cumulative VOC emissions increases potentially occurring at any existing facility subject to the FL MMPP Rule and proposed for exemption when complying with the Aerospace NESHAP would be well below levels that could, as precursors to ozone formation, significantly impact local or regional air quality. EPA is proposing to approve this revision to the Florida SIP for the reasons discussed in section II of this preamble.

II. EPA's Analysis of Florida's October 12, 2022, SIP Revision

As noted above, the Aerospace NESHAP regulates VOC emissions from the aerospace industry. EPA evaluated the proposed revision under section 110(l) of the CAA. Section 110(l) specifies that EPA may not approve a SIP revision if it would interfere with any applicable requirement concerning attainment of any of the National Ambient Air Quality Standards (NAAQS) and reasonable further progress, or any other applicable requirements of the CAA.

The State is seeking to revise the SIP to provide that aerospace parts and products coating operations classified as area sources of HAPs may, in lieu of complying with the VOC requirements of the FL MMPP Rule, instead comply with specified elements of EPA's Aerospace NESHAP, as adopted by reference in Rule 62–204.800.⁶ The changes would also exempt major sources of HAP emissions that are required to comply with the NESHAP from the FL MMPP Rule. Thus, area sources that are currently subject to the FL MMPP Rule, and instead opt to comply with the primer, topcoat, and specialty coating VOC control requirements in the NESHAP, as well as major sources of HAP emissions that are required to comply with the NESHAP, would no longer be subject to the requirements of the FL MMPP Rule. Applying the VOC control requirements of the Aerospace NESHAP to aerospace parts and products coating operations in Florida, in lieu of the FL MMPP rule, is not expected to result in emission increases that would interfere with attainment of the NAAQS.

On June 4, 2018,⁷ EPA designated all counties, except Duval County in Florida as attainment/unclassifiable for

the 2015 ozone NAAQS. On November 21, 2019,⁸ EPA redesignated Duval County from unclassifiable to attainment/unclassifiable for the 2015 ozone NAAQS. With all counties in Florida attaining the 1997, 2008, and 2015 ozone NAAQS, as well as the 2006 and 2012 PM_{2.5} NAAQS, and anticipated to attain the 2024 PM_{2.5} NAAQS based on preliminary monitoring data,⁹ it is unlikely that any de minimis increases in the potential to emit VOCs from aerospace coatings operations facilities would impact any NAAQS.¹⁰

Table 4–1 of the EPA Modeled Emissions Rates for Precursors (MERPs) guidance depicts the lowest, median, and highest illustrative MERP values (tons/year) of VOC emissions necessary to increase ozone by 1 part per billion (ppb).¹¹ Properly-supported MERPs provide a simple way to relate modeled downwind impacts with an air quality threshold that is used to determine if such an impact can cause or contribute to a violation of the appropriate NAAQS. These values are derived from photochemical modeling and indicate the precursor emissions levels required to result in the formation of pollutants, such as ozone. The lowest illustrative MERP value for VOC in the Southeast is 1,936 tons/year, meaning 1,936 tons/year is the amount of VOC emissions increase needed to increase ambient ozone by 1 ppb.

EPA further reviewed the National Emissions Inventory (NEI) data, excluding biogenic sources and focusing solely on anthropogenic impacts, to provide a better picture of VOC emissions from sources potentially impacted by this rule change. Within the NEI, there is an aerospace source category. State-wide VOC emissions

from Aerospace Industrial Surface Coating & Solvent Use in Florida were 480 tons in 2020, 338 tons in 2021, and 426 tons in 2022. Possible VOC increases associated with this proposed SIP revision would only be expected to potentially increase VOC emissions from this source category by a small fraction of the total VOC emissions from these facilities and, thus, would not approach the 1,936 tons/year level of VOC emissions, referenced above, that would be expected to impact the ozone NAAQS. EPA's NEI analysis is included in the docket for this proposed action.

Additionally, the significance level for Prevention of Significant Deterioration (PSD) permitting is 40 tons/year of VOCs as a precursor for ozone. Any modification at a major source resulting in projected VOC emissions increases exceeding significance thresholds would be subject to PSD permitting for ozone,¹² including an air quality analysis demonstrating that new or increased emissions will not cause or contribute to a violation of a NAAQS or PSD increment, long before any emissions from the modification could interfere with the NAAQS.

For the reasons discussed above, these proposed changes the proposed to the Florida SIP would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement.¹³ Therefore, EPA is proposing to approve the aforementioned changes to Rule 62–296.513 into the Florida SIP.

III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule amended regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as described in sections I and II of this preamble, EPA is proposing to incorporate by reference Florida Rule 62–296.513, F.A.C., *Surface Coating of Miscellaneous Metal Parts and Products*, State effective June 16, 2022. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

¹² Under PSD rules, VOCs are presumed not to be a precursor to PM_{2.5} in any attainment or unclassifiable area (see the definition of “regulated NSR pollutant” at 40 CFR 52.21(b)(50)(i)(b)(4)), and do not have a significance threshold as a precursor for PM_{2.5} (see 40 CFR 52.21(b)(23)(i)).

¹³ See CAA section 110(l).

⁸ See 84 FR 64206.

⁹ See Monitor Value Report. <https://www.epa.gov/outdoor-air-quality-data/monitor-values-report>. Please note, this report includes weighted annual means, not annual design values. Additionally, the values in this report have not yet been subject to the Teledyne data correction. Once released, corrected 2023 design values will be accessible on the EPA Air Quality Design Values web page: <https://www.epa.gov/air-trends/air-quality-design-values>.

¹⁰ There are six NAAQS established to protect human health and the environment. These NAAQS are carbon monoxide (CO), lead, nitrogen dioxide (NO₂), ozone, particulate matter (PM)—including PM_{2.5} and PM₁₀, and sulfur dioxide (SO₂). EPA does not believe that there would be any changes in emissions of CO, lead, NO₂, or SO₂ from this proposed change to the FL SIP.

¹¹ See Guidance on the Development of the Modeled Emission Rates for Precursors (MERPs) as a Tier 1 Demonstration Tool for Ozone and PM_{2.5} under the PSD Permitting Program, Table 4–1. <https://www.epa.gov/nsr/guidance-development-modeled-emission-rates-precursors-merps-tier-1-demonstration-tool-ozone>.

⁶ Rule 62–204.800 adopts and incorporates by reference Federal rules cited throughout FDEP's air pollution rules.

⁷ See 83 FR 25776.

IV. Proposed Action

EPA is proposing to approve the October 12, 2022, Florida SIP revision consisting of amendments to Rule 62–296.513, F.A.C., *Surface Coating of Miscellaneous Metal Parts and Products*, in the Florida SIP. EPA has evaluated Florida’s October 12, 2022, SIP revision, and has preliminarily determined that the changes to the FL MMPP Rule meet the applicable requirements of the CAA.

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely

affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

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

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation,

and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The Department did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this proposed action. Due to the nature of the action being proposed here, this proposed action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this proposed action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

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

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

Dated: July 23, 2024.

Jeaneanne Gettle,

Acting Regional Administrator, Region 4.

[FR Doc. 2024–16542 Filed 7–29–24; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 89, No. 146

Tuesday, July 30, 2024

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are 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 this information collection received by August 29, 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.

Office of the Secretary, White House Liaison Office

Title: Advisory Committee and Research and Promotion Board Membership Background Information.

OMB Control Number: 0505–0001.

Summary of Collection: The Department is required under Section 1804 of the Food and Agriculture Act of 1977 (7 U.S.C. 2281, *et seq.*) to provide information concerning advisory committee members' principal place of residence, persons or companies by whom employed, and other major sources of income. The Agriculture and Food Act of 1981 (Pub. L. 97–98) reiterates this requirement. Similar information will be required of research and promotion boards/committees/councils in addition to the supplemental commodity specific questions. The Secretary appoints board members under each program. Some of the information contained on form AD–755 is used by the Department to conduct background clearances of prospective board members required by departmental regulations. The clearance is required for all committee members who are appointed by the Secretary. The White House Liaison Office (WHLO) will collect information using form AD–755, "Advisory Committee and Research and Promotion Board Membership Background Information".

Need and Use of the Information: The WHLO will collect information on the background of the nominees to make sure there are no delinquent loans to the United States Department of Agriculture, (USDA), as well as making sure they have no negative record that could be a negative reflection to the USDA. The information obtained from the form is used in the compilation of an annual report to Congress. Failure of the Department to provide this information would require the Secretary to terminate the pertinent committee or board.

Description of Respondents: Individuals or households.

Number of Respondents: 6,500.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 3,250.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024–16685 Filed 7–29–24; 8:45 am]

BILLING CODE 3410–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

Gila National Forest; Revision of the Land Management Plan for the Gila National Forest

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of opportunity to object to the revised Land Management Plan and the Regional Forester's list of species of conservation concern for the Gila National Forest.

SUMMARY: The Forest Service, U.S. Department of Agriculture, is revising the Gila National Forest's Land Management Plan (Plan). The Forest Service has prepared a Final Environmental Impact Statement (FEIS) for its revised Plan and a draft Record of Decision (ROD). This notice is to inform the public that the Gila National Forest is initiating a 60-day period where individuals or entities with specific concerns about the Gila National Forest's revised Plan and the associated FEIS may file objections for Forest Service review prior to the approval of the revised Plan. This is also an opportunity to object to the Regional Forester's list of species of conservation concern for the Gila National Forest.

DATES: The Gila National Forest's revised Plan, FEIS, draft ROD, species of conservation concern list, and other supporting information will be available for review at: <https://www.fs.usda.gov/project/gila/?project=51887>. The publication date of the legal notice in the Gila National Forest's newspaper of record, Silver City Daily Press, initiates the 60-day objection period and is the exclusive means for calculating the time to file an objection (36 CFR 219.52(c)(5)). An electronic scan of the legal notice with the publication date will be posted at the link above.

ADDRESSES: Copies of the Gila National Forest's revised Plan, FEIS, draft ROD, and Regional Forester's list of species of conservation concern for the Gila

National Forest can be obtained online at: <https://www.fs.usda.gov/project/gila/?project=51887>, or at the following office: Gila National Forest Supervisor's Office, 3005 E Camino del Bosque, Silver City, NM 88061, Phone: (575) 388-8201.

Objections must be submitted to the Objection Reviewing Officer by one of the following methods:

- Electronic submissions via the project web page at <https://cara.fs2c.usda.gov/Public/CommentInput?Project=51887> are preferred. Electronic submissions (including all attachments) must be submitted in a format (word (.doc or .docx), rich text format (.rtf), text (.txt), portable document format (.pdf), and/or hypertext markup language (.html)) that is readable and searchable with optical character recognition software.

- Via regular mail, carrier, or hand delivery to the following address: USDA-Forest Service Southwest Region, ATTN: Objection Reviewing Officer, 333 Broadway Blvd. SE, Albuquerque, NM 87102. The office hours for submitting a hand-delivered objection are from 8:00 a.m. to 4:30 p.m. Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Jenny Rasmussen, Natural Resource Planner, at (575) 388-8483 or SM.FS.gilaplan@usda.gov.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The decision to approve the revised Plan for the Gila National Forest and the Regional Forester's list of species of conservation concern for the Gila National Forest will be subject to the objection process identified in 36 CFR part 219 subpart B (219.50 to 219.62). Per 36 CFR 219.53 only individuals and entities who have submitted substantive formal comments related to a plan revision during the opportunities for public comment that are attributable to the objector may file an objection, unless the objection concerns an issue that arose after the opportunities for formal comment.

How To File an Objection

Objectors must be submitted to the Reviewing Officer at the address shown in the **ADDRESSES** section of this notice. Please be explicit as to whether the objection is to the "Gila National Forest Plan Revision" or the "Regional Forester's list of Species of Conservation Concern for the Gila National Forest".

An objection must include the following (36 CFR 219.54(c)):

(1) The objector's name and address along with a telephone number or email address if available. In cases where no identifiable name is attached to an objection, the Forest Service will attempt to verify the identity of the objector to confirm objection eligibility;

(2) Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the objection);

(3) Identification of the lead objector when multiple names are listed on an objection. The Forest Service will communicate to all parties to an objection through the lead objector. Verification of the identity of the lead objector must also be provided if requested;

(4) The name of the plan, plan amendment, or plan revision being objected to, and the name and title of the responsible official;

(5) A statement of the issues and/or parts of the plan, plan amendment, or plan revision to which the objection applies;

(6) A concise statement explaining the objection and suggesting how the draft plan decision may be improved. If the objector believes that the plan, plan amendment, or plan revision is inconsistent with law, regulation, or policy, an explanation should be included;

(7) A statement that demonstrates the link between the objector's prior substantive formal comments and the content of the objection, unless the objection concerns an issue that arose after the opportunities for formal comment; and

(8) All documents referenced in the objection (a bibliography is not sufficient), except the following need not be provided:

- All or any part of a Federal law or regulation,
- Forest Service Directive System documents and land management plans or other published Forest Service documents,
- Documents referenced by the Forest Service in the planning documentation related to the proposal subject to objection, and
- Formal comments previously provided to the Forest Service by the objector during the proposed plan, plan amendment, or plan revision comment period.

It is the responsibility of the objector to ensure that the Reviewing Officer receives the objection in a timely manner. The regulations generally prohibit extending the length of the objection filing period (36 CFR

219.56(d)). However, when the time period expires on a Saturday, Sunday, or a Federal holiday, the time is extended to the end of the next Federal working day (11:59 p.m. for objections filed by electronic means such as email) (36 CFR 219.56).

Responsible Official

The responsible official who will approve the Record of Decision and the revised Plan for the Gila National Forest is Forest Supervisor Camille Howes, Gila National Forest Supervisor's Office, 3005 E Camino del Bosque, Silver City, NM 88061, Phone: (575) 388-8201. The responsible official for the list of species of conservation concern is Michiko Martin, Regional Forester, USDA Forest Service Southwestern Region, 333 Broadway Blvd. SE, Albuquerque, NM 87102.

The Regional Forester is the reviewing officer for the revised Plan since the Forest Supervisor is the responsible official (36 CFR 219.56(e)). Objection review of the Regional Forester's list of species of conservation concern will be subject to a separate objection process from the objection review of the Forest Plan. The Chief of the Forest Service is the reviewing officer for species of conservation concern identification since the Regional Forester is the responsible official (36 CFR 219.56(e)(2)).

This authority may be delegated to an individual Deputy Chief or Associate Deputy Chief for the National Forest System, consistent with delegations of authority provided in the Forest Service Manual at sections 1235.4 and 1235.5.

Keith Lannom,

Associate Deputy Chief National Forest System.

[FR Doc. 2024-14903 Filed 7-29-24; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-092]

Mattresses From the People's Republic of China: Rescission of Antidumping Duty Administrative Review; 2022-2023

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty order on mattresses from the People's Republic of China (China) for the period of review (POR)

December 1, 2022, through November 30, 2023.

DATES: Applicable July 30, 2024.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2972.

SUPPLEMENTARY INFORMATION:

Background

On December 16, 2019, Commerce published in the **Federal Register** the antidumping duty order on mattresses from China.¹ On December 1, 2023, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order*.² On December 29, 2023, Commerce received a timely request from domestic interested parties Corsicana Mattress Company, Future Foam Inc., FXI, Inc., Kolcraft Enterprises Inc., Leggett & Platt, Incorporated, Serta Simmons Bedding, LLC, and Tempur Sealy International, Inc. (collectively, the petitioners), in accordance with 19 CFR 351.213(b)(1), to conduct an administrative review of the *Order* for 44 companies.³

On February 8, 2024, Commerce published in the **Federal Register** a notice of initiation of administrative review with respect to imports of mattresses exported by 44 companies, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(c)(1)(i).⁴ On February 27, 2024, we placed on the record U.S. Customs and Border Protection (CBP) data for entries of mattresses from China during the POR, showing no reviewable POR entries and invited interested parties to comment.⁵ No interested party submitted comments to Commerce regarding the CBP data.

On April 2, 2024, Commerce notified all interested parties of its intent to rescind the instant review in full because there were no reviewable, suspended entries of subject

merchandise by any of the 44 companies listed in the *Initiation Notice* during the POR and invited interested parties to comment.⁶ No interested party submitted comments to Commerce in response to this notice.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an antidumping duty order when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended.⁷ Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate calculated for the review period.⁸ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct CBP to liquidate at the antidumping duty assessment rate calculated for the review period.⁹ As noted above, there were no entries of subject merchandise for any of the 44 companies listed in the *Initiation Notice* during the POR.

Accordingly, in the absence of suspended entries of subject merchandise during the POR, we are hereby rescinding this administrative review, in its entirety, in accordance with 19 CFR 351.213(d)(3).

Assessment

Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this rescission notice in the **Federal Register**.

Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the

disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: July 24, 2024.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2024-16758 Filed 7-29-24; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-557-816]

Certain Steel Nails From Malaysia: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Rescission of Review, in Part; 2022-2023

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily finds that certain producers and/or exporters subject to this administrative review made sales of subject merchandise at less than normal value during the period of review (POR) July 1, 2022, through June 30, 2023. Interested parties are invited to comment on these preliminary results.

DATES: Applicable July 30, 2024.

FOR FURTHER INFORMATION CONTACT: Peter K. Farrell or John K. Drury, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2104 or (202) 482-0195, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 13, 2015, Commerce published in the **Federal Register** an antidumping duty order on certain steel nails from Malaysia.¹ On September 11,

¹ See *Certain Steel Nails from the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan,*

¹ See *Mattresses from the People's Republic of China: Antidumping Duty Order*, 84 FR 68395 (December 16, 2019) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 88 FR 83917 (December 1, 2023).

³ See Petitioners' Letter, "Request for Administrative Review of Antidumping Order," dated December 29, 2023.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 8641 (February 8, 2024) (*Initiation Notice*).

⁵ See Memorandum, "Release of Customs and Border Protection Data," dated February 27, 2024.

⁶ See Memorandum, "Notice of Intent to Rescind Review," dated April 2, 2024.

⁷ See, e.g., *Diocetyl Terephthalate from the Republic of Korea: Rescission of Antidumping Administrative Review; 2020-2021*, 88 FR 24758 (April 24, 2023); see also *Certain Carbon and Alloy Steel Cut- to Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020-2021*, 88 FR 4157 (January 24, 2023); and *Lightweight Thermal Paper from Japan: Rescission of Antidumping Administrative Review; 2022-2023*, 89 FR 18373 (March 13, 2024).

⁸ See 19 CFR 351.212(b)(1).

⁹ See 19 CFR 351.213(d)(3).

2023, Commerce published the notice of initiation of the administrative review of the *Order*.² On March 18, 2024, we extended the time limit for completion of these preliminary results to July 23, 2024, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).³ On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.⁴ The deadline for the preliminary results is now July 30, 2024.

For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.⁵ A list of the topics discussed in the Preliminary Decision Memorandum is included as Appendix I. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be found at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order

The products covered by the scope of the *Order* are certain steel nails from Malaysia. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.

Preliminary Determination of No Shipments

Between October 4 and 11, 2023, we received letters from non-selected respondents Astrotech Steels Private Limited (Astrotech), Geekay Wires Limited (Geekay), Modern Factory for Steel Industries Co. Ltd. (Modern Factory), Trinity Steel Private Limited (Trinity), and Oman Fasteners LLC (Oman Fasteners) timely notifying Commerce that they had no exports, sales, or entries of subject merchandise

and the Socialist Republic of Vietnam: *Antidumping Duty Orders*, 80 FR 39994 (July 13, 2015) (*Order*).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 88 FR 62322 (September 11, 2023).

³ See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated March 18, 2024.

⁴ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated July 22, 2024.

⁵ See Memorandum, "Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Malaysia; 2022–2023," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

during the POR.⁶ We issued a no-shipment inquiry to U.S. Customs and Border Protection (CBP) with respect to each of these companies, and CBP responded that it has no record of any shipments of subject merchandise for these companies during the POR.⁷ The record, therefore, demonstrates that Astrotech, Geekay, Modern Factory, Trinity, and Oman Fasteners had no shipments during the POR. On this basis, we are preliminarily rescinding the review with respect to Astrotech, Geekay, Modern Factory, Trinity, and Oman Fasteners, and will issue appropriate instructions to CBP based on the final results of this review.⁸

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Act. For a full description of the methodology underlying these preliminary results, see the Preliminary Decision Memorandum.

Rate for Non-Selected Respondents

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual 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 market economy investigation, for guidance when calculating the rate 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 any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}."

In these preliminary results, we have calculated a non-*de minimis* weighted-average dumping margins for both Region International Co., Ltd. and

Region System Sdn. Bhd. (collectively, Region) and Inmax Sdn. Bhd. and Inmax Industries Sdn. Bhd. (collectively, Inmax). Region's and Inmax's weighted-average dumping margins were not determined entirely on the basis of facts available. Accordingly, for the preliminary results of this review, we are assigning a dumping margin which is determined as the simple average of the margins for Region and Inmax to the non-selected mandatory respondents. Therefore, the preliminary rate for non-selected respondents is 1.01 percent.

Preliminary Results of Review

We preliminarily determine that the following weighted-average dumping margins exist for the period July 1, 2022, through June 30, 2023:

Exporter/Producer	Estimated weighted-average dumping margin (percent)
Inmax Sdn. Bhd. and Inmax Industries Sdn. Bhd	0.74
Region International Co., Ltd. and Region System Sd. Bhd ..	1.28
Non-Selected Respondents ⁹	1.01

Disclosure and Public Comment

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs or other written comments to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the date for filing case briefs.¹⁰ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹¹

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that

⁹ See Appendix II for the list of non-selected respondents.

¹⁰ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹¹ See 19 CFR 351.309(c)(2) and (d)(2).

⁶ See Geekay's Letter, "Request for No Shipment during the Period of Review (POR)," dated October 4, 2023; Modern Factory's Letter, "Request for No Shipment during the Period of Review (POR)," dated October 5, 2023; Trinity's Letter, "Notice of No Sales during the Period of Review (POR)," dated October 4, 2023; Astrotech's Letter, "Request for No Shipment during the Period of Review (POR)," dated October 4, 2023; and Oman Fasteners' Letter, "No Shipments Letter," dated October 11, 2023.

⁷ See Memorandum, "No Shipment Inquiry for Multiple Companies During the Period 07/01/2022 through 06/30/2023," dated December 12, 2023.

⁸ We invite interested parties to comment on the preliminary rescission.

should be limited to five pages total, including footnotes. In this review, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹² Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹³

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.

Final Results of Review

Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, no later than 120 days after the date of publication of this notice in the **Federal Register**, unless extended, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Assessment Rates

Upon completion of this administrative review, pursuant to section 751(a)(2)(A) of the Act, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. If the weighted-average dumping margin for a mandatory respondent is not zero or *de minimis* in the final results of this review, we will calculate an importer-specific

assessment rate on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of such sales in accordance with 19 CFR 351.212(b)(1).¹⁴ If the weighted-average dumping margin is zero or *de minimis* in the final results of review, or if an importer-specific assessment rate is zero or *de minimis*, Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.¹⁵ For entries of subject merchandise during the POR produced by the respondent(s) for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.¹⁶ The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise under review and for future cash deposits of estimated antidumping duties, where applicable.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication in the **Federal Register** of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for companies subject to this review will be equal to the company-specific weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by a company not covered in this review but covered in a prior 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 less-than-fair-value investigation but the producer is, then the cash deposit rate will be the rate established in the most recently completed segment of the proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 2.66 percent, the all-others rate established in the less-than-fair-value investigation.¹⁷ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h)(2) and 19 CFR 351.221(b)(4).

Dated: July 23, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Rate for Non-Selected Respondents
- V. Preliminary Determination of No Shipments
- VI. Discussion of the Methodology
- VII. Currency Conversion
- VIII. Recommendation

Appendix II

Companies Not Selected for Individual Review

1. Alsons Manufacturing India, LLP
2. Asia Bolts & Nuts Sdn. Bhd.
3. AV Fastener (M) Sdn. Bhd.
4. Chia Pao Metal Co., Ltd.
5. Chin Lai Hardware Sdn. Bhd.
6. Chin Well Fasteners Co.

¹⁷ See *Certain Steel Nails from Malaysia: Final Determination of Sales at Less Than Fair Value*, 80 FR 28969 (May 20, 2015).

¹² We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹³ See *APO and Service Final Rule*.

¹⁴ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101, 8103 (February 14, 2012).

¹⁵ *Id.*, 77 FR at 8102–03; see also 19 CFR 351.106(c)(2).

¹⁶ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

7. Chuan Heng Hardware Paints and Building Materials Sdn. Bhd.
8. Come Best (Thailand) Co., Ltd.
9. Gbo Fastening Systems AB.
10. Gripwell Fastening (M) Sdn. Bhd.
11. Impress Steel Wire Industries Sdn. Bhd.
12. Fastenal Malaysia Sdn. Bhd.
13. Fuji Fastener Manufacturing Sdn. Bhd.
14. Kerry-Apex (Thailand) Co., Ltd.
15. Kimmu Trading Sdn., Bhd.
16. Kimmu Industries Sdn. Bhd.
17. Madura Fasteners Sdn. Bhd.
18. Multi Venture Resources Sdn. Bhd.
19. RM Wire Industries Sdn. Bhd.
20. S.H. Chooi Fasteners
21. SK Bolts & Fasteners Sdn. Bhd.
22. Soon Shing Building Materials Sdn. Bhd.
23. Storeit Services LLP
24. Sunmat Industries Sdn. Bhd.
25. Tag Fasteners Sdn. Bhd.
26. Tag Staples Sdn. Bhd.
27. Tampin Sin Yong Wai Industry Sdn. Bhd.
28. Top Remac Industries
29. UD Industries Sdn. Bhd.
30. Vien Group Sdn. Bhd.
31. Watasan Industries Sdn. Bhd.
32. Winston Mayer Sdn. Bhd.
33. Wing Tai Fastener Manufacturer
34. WWL India Private Ltd.
35. Yew Siong Industrial Supplies Sdn. Bhd.

[FR Doc. 2024-16686 Filed 7-29-24; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Recreational Angler Survey of Sea Turtle Interactions

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before September 30, 2024.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer,

at NOAA.PRA@noaa.gov. Please reference OMB Control Number 0648-0774 in the subject line of your comments. All comments received are part of the public record and will generally be posted on <https://www.regulations.gov> without change. 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 Wendy Piniak, Biologist, NOAA National Marine Fisheries Service, Office of Protected Resources, 1315 East-West Highway, Silver Spring, Maryland 20910; (301) 427-8402; wendy.piniak@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

NOAA's National Marine Fisheries Service (NOAA Fisheries) proposes to revise and extend a current information collection designed to assess the extent of hook and line interactions between recreational anglers on piers and other shore-based fishing locations and sea turtles. The collection comprises an Angler Intercept Survey, a Fishing Site Characterization Form, and a Survey Cover Sheet. The Angler Intercept Survey will be verbally administered on piers and shore-based fishing locations within NOAA Fisheries Greater Atlantic Region and Southeast Region and will be administered to approximately 20,000 individual recreational fishermen. The respondents will be verbally asked a series of questions about their fishing practices and observations of sea turtles and the interviewer will record their answers. The survey will also assess the feasibility of an intercept survey for this purpose in terms of response rates and data collection. The Fishing Site Characterization Form will be completed by the survey administrator at each fishing location and collects information on the structure and operation of the pier or shore-based fishing location. The Site Characterization Sheet will be completed by the survey administrator during each survey period and collects information on the environmental conditions for that particular day, the number of anglers fishing, number of lines in the water, and the number of surveys completed. The collection previously included a Sea Turtle Incidental Capture Form. This form will be removed from this collection and is now included in the National Sea Turtle Stranding & Salvage Network Stranding

& Gear Interaction Data Collection (0648-0496).

Collection of data on sea turtle interactions in the shore-based recreational fishing sector is necessary to fulfill statutory requirements of the Endangered Species Act (16 U.S.C. 1531 *et seq.*). This collection will allow NOAA Fisheries obtain specific information about recreational piers (defined here to include piers and other shore-based structures), the anglers that fish on piers, the nature of interactions between pier-based anglers and sea turtles, as well as to determine specific factors that may influence the rate of interactions. NOAA Fisheries can use the information collected to evaluate the impact of these interactions on sea turtle populations and determine conservation measures that can be implemented to reduce interactions and support the conservation and recovery of endangered and threatened sea turtle populations.

II. Method of Collection

The survey will be implemented through verbal interviews.

III. Data

OMB Control Number: 0648-0774.
Form Number(s): None.

Type of Review: Regular submission [Extension including a revision of a current information collection.]

Affected Public: Individuals or households.

Estimated Number of Respondents: 20,000.

Estimated Time per Response: 10 minutes for the Fishing Site Characterization Form, 5 minutes for the Survey Cover Sheet, 10 minutes for the Angler Intercept Survey.

Estimated Total Annual Burden Hours: 1,145.

Estimated Total Annual Cost to Public: \$100.

Respondent's Obligation: Voluntary.

Legal Authority: Collection of these data on sea turtle interactions in the shore-based recreational fishing sector is necessary to fulfill statutory requirements of the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c)

Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024-16759 Filed 7-29-24; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE018]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Washington State Department of Transportation's Seattle Slip 3 Vehicle Transfer Span Project in Washington State

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from Washington State Department of Transportation (WSDOT) for authorization to take marine mammals incidental to Seattle Slip 3 Vehicle Transfer Span (VTS) Replacement Project in Seattle, Washington. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-time, 1-year renewal that could be

issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than August 29, 2024.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be submitted via email to ITP.demarest@noaa.gov. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>. In case of problems accessing these documents, please call the contact listed below.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Austin Demarest, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to

harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NAO 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On December 19, 2023, NMFS received a request from WSDOT for an IHA to take marine mammals incidental to Seattle Slip 3 VTS Replacement Project in Elliott Bay of the Puget Sound, Seattle, WA. Following NMFS' review of the application, WSDOT submitted revised versions on March 4, April 8, April 18, and April 29, 2024. A final revised monitoring plan was

submitted on May 14, 2024 and a final revised application was submitted on May 16, 2024. The application was deemed adequate and complete on May 20, 2024. WSDOT's request is for take of 12 species of marine mammals, by Level B harassment only. Neither WSDOT nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity and Anticipated Impacts

Overview

WSDOT is proposing to replace the Seattle Slip 3 VTS at Colman Dock which is located in Elliott Bay of the Puget Sound in Seattle, Washington. The purpose of the construction project is to preserve the transportation function of an aging, seismically deficient transfer span. The existing VTS will be removed and replaced with a hydraulic transfer span consisting of steel drilled shafts and a new steel wingwall. In-water construction includes cutting sheet piles, installation

and removal of steel piles with a vibratory hammer, and proofing steel piles with an impact hammer to drive them to the maximum depth and ensure load bearing capacity. In-water pile removal and driving with vibratory and impact hammers may result in incidental take by Level B harassment of 12 marine mammal species within Elliott Bay and the Central Puget Sound. The effective construction window for the project, which is expected to require a maximum of 19 days, is from August 1, 2024 through February 15, 2025. Replacement of the Seattle Slip 3 VTS will allow WSDOT to continue to provide safe and reliable transportation services throughout the Puget Sound and San Juan Islands.

Dates and Duration

Construction for the Seattle Slip 3 VTS Replacement Project has an effective work window from August 1, 2024 through February 15, 2025 to avoid when ESA listed salmonids are most likely to be present. A maximum of 19

in-water construction days will occur, which includes a flexibility for adverse weather conditions and equipment malfunction. Operation hours for in-water construction will occur during daylight hours from sunrise to sunset but will be contingent upon weather conditions with good visibility. The IHA would be valid for 1 year from the date of issuance.

Specific Geographic Region

Seattle Slip 3 VTS Replacement Project is part of the Seattle Ferry Terminal at Colman Dock and located along the Seattle waterfront in Elliott Bay (Figures 1 and 2). Elliott Bay is an urban embayment that is approximately 8 square miles (mi²) (21 square kilometers (km²)), central in the Puget Sound, Washington. The Seattle waterfront is highly urbanized with residential, business, and industrial areas including the Port of Seattle container loading facility, the Pioneer Square Historic District, and local parks.

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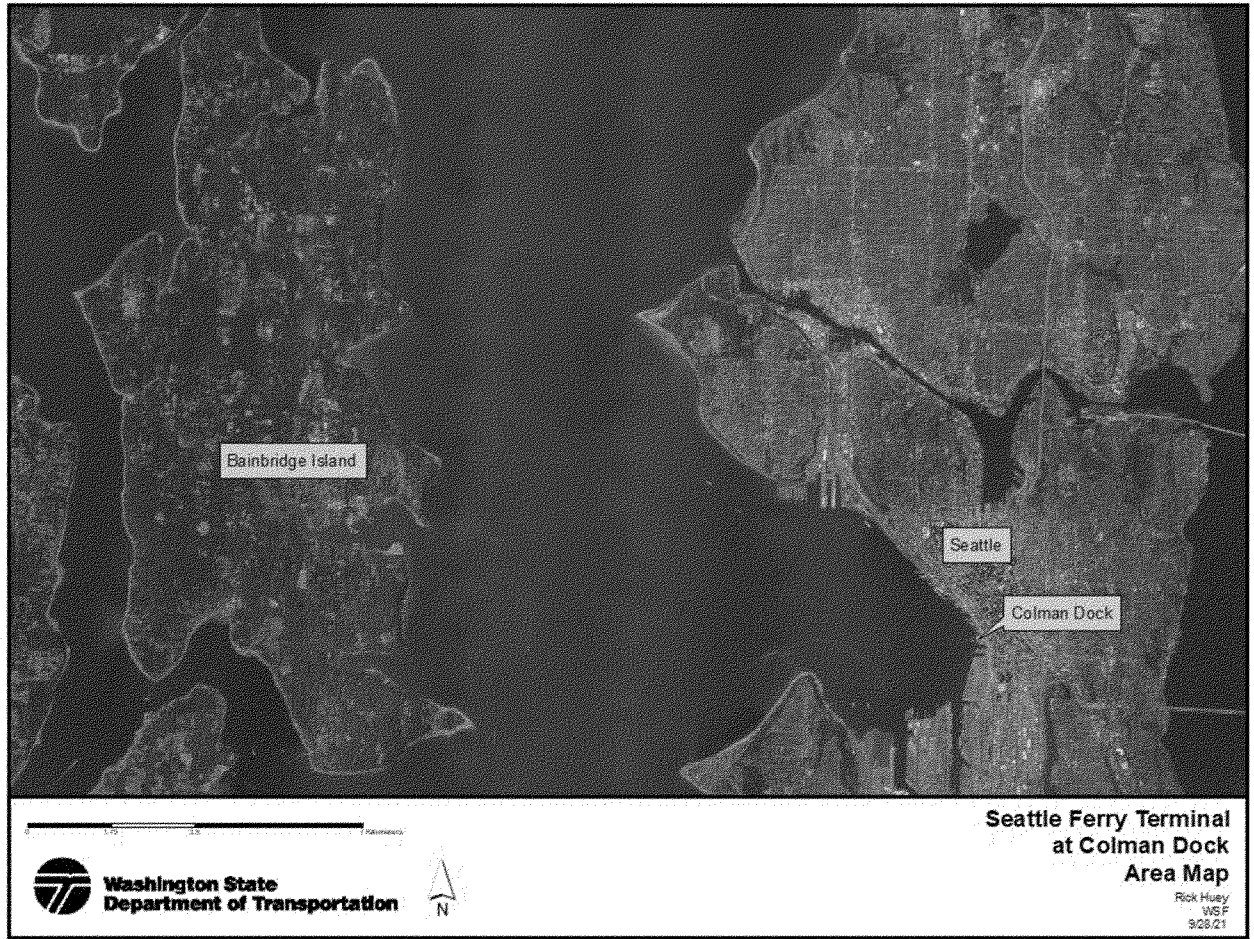


Figure 1 – Map of Proposed Project Area

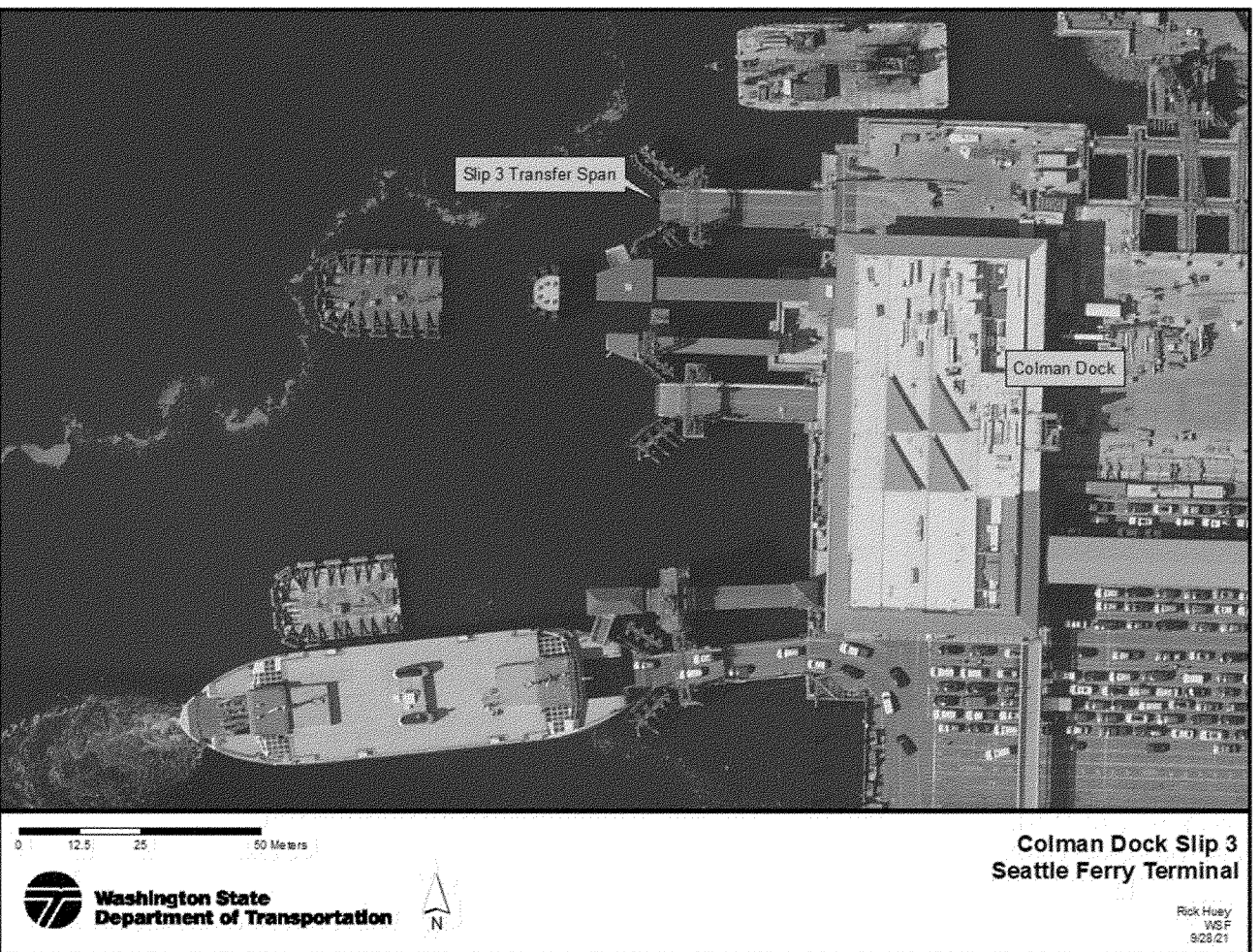


Figure 2 – Map of Proposed Project Features

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Detailed Description of the Specified Activity

Removal of the existing VTS and wingwall pile includes the extraction of 16 14-inch steel H-piles with a vibratory hammer and removal of a 30-inch concrete filled wingwall pile that would be cut at or below the mudline. Following removal of the VTS, 12 24-inch steel piles would be temporarily installed via a vibratory hammer and proofed with an impact hammer to confirm load bearing capacity for a temporary work platform. WSDOT

would then permanently install 2 78-inch hollow steel drilled shafts via vibratory hammer. All the materials inside the 78-inch steel shafts would be extracted with an auger or clamshell bucket and then dewatered for the hydraulic VTS. A 30-inch steel wing wall pile would then be installed with a vibratory hammer and then the 12 24-inch temporary steel piles would be extracted via a vibratory hammer which concludes in-water construction. Table 1 provides a summary of the number of piles that would be removed and installed, the driving method, pile size,

number of piles per day, time needed to drive each pile, and the maximum number of days needed to complete the Seattle Slip 3 VTS Replacement Project.

Pile driving activities described above may result in Level B harassment of marine mammals in Elliott Bay and the central Puget Sound to the eastern shore of Bainbridge Island. Cutting the 30-inch wingwall pile and removal of the material from inside the 78-inch piles is expected to produce negligible in-water sound, which is unlikely to cause any incidental take of marine mammals. In-water construction would be a

maximum of 19 days from August 1, 2024 through February 15, 2025. The Seattle Slip 3 VTS Replacement Project would not use multiple hammers for installation or removal concurrently but vibratory and impact hammer could be used on the same day.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions, instead of reprinting the information. Additional

information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>) and more general information about these species (e.g., physical and behavioral descriptions) may be found on NMFS' website (<https://www.fisheries.noaa.gov/find-species>).

TABLE 1—SUMMARY OF PILES TO BE INSTALLED AND REMOVED FOR THE SEATTLE SLIP 3 VTS REPLACEMENT PROJECT

Pile size and type	Method	Install or remove	Number of piles	Piles per day (24 hours)	Duration per pile (minutes)	Duration (days)
78-inch steel	Vibratory	Install	2	1	60	2
30-inch steel	Vibratory	Install	1	1	60	1
24-inch steel	Vibratory	Install	12	3	30	4
24-inch steel	Impact	Install	12	3	30	4
Subtotal .....	.....	.....	.....	.....	.....	11
24-inch steel	Vibratory	Remove	12	3	30	4
14-inch steel	Vibratory	Remove	16	4	30	4
Subtotal .....	.....	.....	.....	.....	.....	8
Total .....	.....	.....	.....	.....	.....	19

Table 2 lists all species or stocks for which take is expected and proposed to be authorized for this activity and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated

or proposed to be authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. Survey abundance (as compared to

stock or species abundance) is the total number of individuals estimated within the survey area, which may or may not align completely with a stock's geographic range as defined in the SARs. For some species, this geographic area or surveys may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Pacific and Alaska SARs. All values presented in table 2 are the most recent available at the time of publication (including from the draft 2023 SARs) and are available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>.

TABLE 2—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	PBR	Annual M/SI ⁴
Order Artiodactyla—Cetacea—Mysticeti (baleen whales)						
<i>Family Eschrichtiidae:</i>						
Gray whale	<i>Eschrichtius robustus</i>	Eastern N Pacific	- , - , N	26,960 (0.05, 25,849, 2016) ..	801	131
Minke whale	<i>Balaenoptera acutorostrata</i>	CA/OR/WA	- , - , N	915 (0.792, 509, 2018)	4.1	0.19
Odontoceti (toothed whales, dolphins, and porpoises)						
<i>Family Delphinidae:</i>						
Killer whale ⁵	<i>Orcinus orca</i>	West Coast Transient	- , - , N	349 (N/A, 349, 2018)	3.5	0.4
Bottlenose dolphin	<i>Tursiops truncatus</i>	CA/OR/WA offshore	- , - , N	3,477 (0.696, 2,048, 2018)	19.70	≥0.82
Long beaked common dolphin.	<i>Delphinus capensis</i>	CA	- , - , N	83,379 (0.216, 69,636, 2018)	668	≥29.7
Pacific white-sided Dolphin.	<i>Lagenorhynchus obliquidens</i>	CA/OR/WA	- , - , N	34,999 (0.222, 29,090, 2018)	279	7
<i>Family Phocoenidae (porpoises):</i>						

TABLE 2—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	PBR	Annual M/SI ⁴
Dall's porpoise	<i>Phocoenoides dalli</i>	CA/OR/WA	- , - , N	16,498 (0.61, 10,286, 2018) ..	99	≥0.66
Harbor porpoise	<i>Phocoena phocoena</i>	Washington Inland Waters	- , - , N	11,233 (0.37, 8,308, 2015)	66	≥7.2
Order Carnivora—Pinnipedia						
<i>Family Otariidae (eared seals and sea lions):</i>						
CA sea lion	<i>Zalophus californianus</i>	U.S.	- , - , N	257,606 (N/A, 233,515, 2014)	14,011	>321
Steller sea lion ⁶	<i>Eumetopias jubatus</i>	Eastern	- , - , N	36,308 (N/A, 36,308, 2022) ...	2,178	93.2
<i>Family Phocidae (earless seals):</i>						
Harbor seal	<i>Phoca vitulina</i>	Washington Northern Inland Waters.	- , - , N	16,451 (0.07, 15,462, 2019) ..	928	40
Northern elephant seal ⁷ ..	<i>Mirounga angustirostris</i>	CA Breeding	- , - , N	187,386 (N/A, 85,369, 2013)	5,122	13.7

¹ Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy (<https://marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies/>; Committee on Taxonomy (2022)).

² ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

³ NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region>. CV is coefficient of variation; Nmin is the minimum estimate of stock abundance.

⁴ These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

⁵ Nest is based upon count of individuals identified from photo-ID catalogs in analysis of a subset of data from 1958–2018.

⁶ Nest is best estimate of counts, which have not been corrected for animals at sea during abundance surveys. Estimates provided are for the U.S. only.

⁷ There is uncertainty in available population estimates due to limited surveys, limited reproductive data, and uncertainty in stock relationships and harvest statistics.

As indicated above, all 12 species in table 2 spatially and temporally co-occur with the activity to the degree that take is reasonably likely to occur. All species that could potentially occur in the proposed project areas are included in table 3 of the IHA application. While southern resident killer whales (SRKW), and humpback whales (HW) (Central America/Southern Mexico—California-Oregon-Washington, Mainland Mexico—California-Oregon-Washington, and Hawaii stocks) have been documented in the area, the temporal and/or spatial occurrence of these species is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here.

Generally SRKWs are considered common in the Puget Sound (Olson *et al.*, 2018). During the Seattle Multimodal Project 170 observations of SRKWs occurred over 377 construction days. Although SRKWs are relatively common in the construction area, WSDOT has expertise with monitoring for SRKWs and halting construction when they approach or enter established shutdown zones. For the Seattle Slip 3 VTS Replacement Project, WSDOT would establish shutdown zones for SRKWs at the estimated Level B harassment zones rounded up to the nearest 50 meters. WSDOT would also monitor marine mammal occurrence and movement with the Orca Network and the Whale Report Alert System (WRAS) networks daily for this project.

Considering SRKWs frequency of occurrence in the project area and WSDOTs experience mentioned above, take of SRKW is not expected.

The occurrence of HWs in Puget Sound is considered common with the greatest density of sightings off the south end of Vancouver Island in the Strait of Juan de Fuca (Olsen *et al.*, 2024). During the Seattle Multimodal Project 8 observations of HWs occurred over 377 construction days. Since the Seattle Slip 3 VTS Replacement Project is in the same area, HW occurrence in the construction area is expected to be rare. WSDOT would establish shutdown zones and monitor marine mammal occurrence and movement for HWs (identical to the measures described above for SRKWs). Therefore take of HWs is not expected. Details about mitigation measures, shutdown zones, and protected species observers (PSOs) can be found in the Proposed Mitigation and the Proposed Monitoring and Reporting sections below.

Due to these mitigation measures and these species being highly conspicuous, incidental take of SRKWs or HWs is not expected for the duration of this project.

Gray Whale

Generally, the Eastern North Pacific stock of gray whales feed in the Arctic in summer and fall months and then breed during winter and spring months off the coast of Mexico (Carretta *et al.* 2022, Calambokidis *et al.* 2024). During migration from Mexico to the Arctic, a

subpopulation of the Eastern North Pacific stock of Gray whales, commonly referred to as the Pacific Coast Feeding Group (PCFG), stop and feed along the coasts of Oregon and Washington including the Northern Puget Sound (Calambokidis *et al.* 2024). A subgroup of the PCFG that feed in the Puget Sound, recently termed as “Sounders” gray whales, are the most abundant from February through May. The highest concentrations Sounders Gray Whales occurs on the Southern ends of Whidbey and Camano Islands in the North Puget Sound (Calambokidis *et al.* 2024). Although Sounders gray whale observations are the highest in the Northern Puget Sound but observations also occur in the Southern Puget Sound and Elliott Bay, which is in the proposed action area (Orca Network, 2021).

There are Biologically Important Areas (BIAs) for migrating gray whales in the inland waters of the Northern Puget Sound from January through July and October through December and for feeding gray whales between February and June (Calambokidis *et al.*, 2015; Calambokidis *et al.*, 2024).

The NMFS declared an unusual mortality event (UME) for gray whales on May 30, 2019 after elevated numbers of strandings occurred along the Pacific coast of North America, The UME started December 17, 2018 and was closed on November 9, 2023, with peak strandings occurring from December 17, 2018 through December 31, 2020. The

UME included 690 gray whale standings, 347 in the United States, 316 in Mexico, and 27 in Canada. Necropsies were performed on a subset of the dead whales and malnutrition was common followed by evidence of killer whale predation, entanglement, vessel strikes, and biotoxins were found in some carcasses as in years without UMEs. NMFS concluded that the nutritional conditions of live gray whales was lower prior to and during the UME. Gray whale abundance declined and calf production decline following the UME but calf production has begun to rebound. Additional information about this UME can be found at <https://www.fisheries.noaa.gov/national/marine-life-distress/2019-2023-eastern-north-pacific-gray-whale-ume-closed>.

Minke Whale

The International Whaling Commission (IWC) recognizes three stocks of minke whales in the North Pacific: The Sea of Japan/East China Sea, the rest of the western Pacific west of 180° N, and the remainder of the Pacific (Donovan 1991). Minke whales are relatively common in the Bering and Chukchi seas and in the Gulf of Alaska, but are not considered abundant in any other part of the eastern Pacific (Brueggeman *et al.*, 1990). In the far north, minke whales are thought to be migratory, but they are believed to be year-round residents in coastal waters off the west coast of the United States (Dorsey *et al.*, 1990).

Minke whales are reported in Washington inland waters year-round, although few are reported in the winter (*i.e.*, during the anticipated in-water work window for these projects; Calambokidis and Baird 1994). They are relatively common in the San Juan Islands and Strait of Juan de Fuca (especially around several of the banks in both the central and eastern Strait), but are relatively rare in Puget Sound and the Orca Network has no sighting records of minke whales in the project areas. Although minke whales are considered rare within the Puget Sound, three minke whales were observed during the Seattle Multimodal Project during the 377 days of marine mammal monitoring from 2017–2021.

Killer Whale

There are three distinct ecotypes, or forms, of killer whales recognized in the north Pacific: resident, transient, and offshore. The three ecotypes differ morphologically, ecologically, behaviorally, and genetically. Resident killer whales exclusively prey upon fish, with a clear preference for salmon

(Ford and Ellis 2006; Hanson *et al.*, 2021; Ford *et al.*, 2016), while transient killer whales exclusively prey upon marine mammals (Carretta *et al.*, 2019). Less is known about offshore killer whales, but they are believed to consume primarily fish, including several species of shark (Dahlheim *et al.*, 2008). Currently, there are eight killer whale stocks recognized in the U.S. Pacific (Carretta *et al.*, 2021; Muto *et al.*, 2021). Of those, individuals from the West Coast Transient stock may occur in the project areas and be taken incidental to WSDOT's proposed activities.

Within Puget Sound, transient killer whales primarily hunt pinnipeds and porpoises, though some groups will occasionally target larger whales. The West Coast Transient stock of killer whales occurs from California through southeast Alaska (Muto *et al.*, 2021). The seasonal movements of transients are largely unpredictable, although there is a tendency to investigate harbor seal haulouts off Vancouver Island more frequently during the pupping season in August and September (Baird 1995; Ford 2014). Transient killer whales have been observed in central Puget Sound in all months (Orca Network 2021). During WSDOT's Seattle Multimodal Project, 79 transient killer whales were observed throughout the 377 days of in water work from 2017 through 2021 with a maximum of 20 individuals observed on a single day.

Bottlenose Dolphin

Bottlenose dolphins are distributed worldwide from approximately 45° N to 45° S. Bottlenose dolphins inhabiting west coast U.S. waters are considered to be in either the California coastal stock, which ranges from Mexico to the San Francisco area within approximately 1 kilometer of shore, or the California/Oregon/Washington offshore stock, which is most commonly found along the California coast, northward to about the Oregon border. NMFS offshore surveys from 1991 to 2014 resulted in no sightings during study transects off the Oregon or Washington coasts (Carretta *et al.*, 2019). In September 2017, however, multiple sightings of a bottlenose dolphin throughout the Puget Sound and in Elliott Bay were reported to Cascadia Research Collective and Orca Network. One of the individuals was identified as belonging to the California coastal stock (Cascadia Research Collective, 2017). Although bottlenose dolphins are considered rare in Puget Sound, six were observed during construction of the Seattle Multimodal Project from 2017 through 2022 (WSDOT 2022).

Long-Beaked Common Dolphin

Long-beaked common dolphins are commonly found along the U.S. West Coast, from Baja California, Mexico (including the Gulf of California), northward to about central California (Carretta *et al.*, 2020). The Salish Sea is not considered part of their typical range (Carretta *et al.*, 2020), but there have been reports of long-beaked common dolphins in inland waters. Two individual common dolphins were observed in August and September of 2011 (Whale Museum, 2015). The first record of a pod of long-beaked common dolphins in this area came in the summer of 2016. Beginning on June 16, 2016 long-beaked common dolphins were observed near Victoria, B.C. Over the following weeks, a pod of 15 to 20 (including a calf) was observed in central and southern Puget Sound. They were positively identified as long-beaked common dolphins (Orca Network 2016). Marine mammal monitors observed two long-beaked common dolphins during construction for the Washington State Ferries Multimodal Project at Colman Dock in Seattle from 2017–18 construction window (WSDOT 2022).

Pacific White-Sided Dolphin

The Pacific white-sided dolphin is found in cool temperate waters of the North Pacific from the southern Gulf of California to Alaska. Across the North Pacific, it appears to have a relatively narrow distribution between 38° N and 47° N (Brownell *et al.*, 1999). In the eastern North Pacific Ocean, the Pacific white-sided dolphin is one of the most common cetacean species, occurring primarily in shelf and slope waters (Green *et al.*, 1993; Barlow 2003, 2010). It is known to occur close to shore in certain regions, including (seasonally) southern California (Brownell *et al.*, 1999). Results of aerial and shipboard surveys strongly suggest seasonal north-south movements of the species between California and Oregon/Washington; the movements apparently are related to oceanographic influences, particularly water temperature (Green *et al.*, 1993; Forney and Barlow 1998; Buchanan *et al.*, 2001). During winter, this species is most abundant in California slope and offshore areas; as northern waters begin to warm in the spring, it appears to move north to slope and offshore waters off Oregon/Washington (Green *et al.*, 1992, 1993; Forney 1994; Forney *et al.*, 1995; Buchanan *et al.*, 2001; Barlow 2003). The highest encounter rates off Oregon and Washington have been reported during March-May in slope and offshore

waters (Green *et al.*, 1993). Large groups of Pacific white-sided dolphins have been observed in San Juan Channel (Orca Network 2012), north of Puget Sound, and may rarely occur in Central Puget Sound. During construction for the Washington State Ferries Multimodal Project at Colman Dock in Seattle, only 2 Pacific white-sided dolphins were observed on one of the 377 days of construction from 2017 through 2021 (WSDOT 2022).

Dall's Porpoise

Dall's porpoises are endemic to temperate waters of the North Pacific Ocean. Off the U.S. West Coast, they are commonly seen in shelf, slope, and offshore waters (Morejohn 1979). Sighting patterns from aerial and shipboard surveys conducted in California, Oregon, and Washington (Green *et al.*, 1992, 1993; Forney and Barlow 1998; Barlow 2016) suggest that north-south movement between these states occurs as oceanographic conditions change, both on seasonal and inter-annual time scales. Dall's porpoise are considered rare in Puget Sound. During construction for the Washington State Ferries Multimodal Project at Colman Dock in Seattle, only 8 Dall's porpoises were observed, with a maximum of 5 individuals observed on a single day during the 377 construction days from 2017 through 2021 (WSDOT 2022).

Harbor Porpoise

In the eastern North Pacific Ocean, harbor porpoise are found in coastal and inland waters from Point Barrow, along the Alaskan coast, and down the west coast of North America to Point Conception, California (Gaskin 1984). Harbor porpoise are known to occur year-round in the inland trans-boundary waters of Washington and British Columbia, Canada (Osborne *et al.*, 1988), and along the Oregon/Washington coast (Barlow 1988, Barlow *et al.*, 1988, Green *et al.*, 1992). There was a significant decline in harbor porpoise sightings within southern Puget Sound between the 1940s and 1990s but sightings have increased seasonally in the last 10 years (Carretta *et al.*, 2019). Annual winter aerial surveys conducted by the Washington Department of Fish and Wildlife from 1995 to 2015 revealed an increasing trend in harbor porpoise in Washington inland waters, including the return of harbor porpoise to Puget Sound. The data suggest that harbor porpoise were already present in Juan de Fuca, Georgia Straits, and the San Juan Islands from the mid-1990s to mid-2000s, and then expanded into Puget Sound and Hood

Canal from the mid-2000s to 2015, areas they had used historically but abandoned. Changes in fishery-related entanglement was suspected as the cause of their previous decline and more recent recovery, including a return to Puget Sound (Evenson *et al.*, 2016).

Seasonal surveys conducted in spring, summer, and fall 2013–2015 in Puget Sound and Hood Canal documented substantial numbers of harbor porpoise in Puget Sound. Observed porpoise numbers were twice as high in spring as in fall or summer, indicating a seasonal shift in distribution of harbor porpoise (Smultea 2015). The reasons for the seasonal shift and for the increase in sightings is unknown. During 377 total days of construction at the Washington State Ferries Multimodal Project at Colman Dock in Seattle from 2017 through 2021, 413 sightings of harbor porpoises were recorded in total, with a maximum of 40 sightings on a single day.

California Sea Lion

The California sea lion is the most frequently sighted pinniped found in Washington waters and uses haul-out sites along the outer coast, Strait of Juan de Fuca, and in Puget Sound. Haul-out sites are located on jetties, offshore rocks and islands, log booms, marina docks, and navigation buoys. This species also may be frequently seen resting in the water, rafted together in groups in Puget Sound. Only male California sea lions migrate into Pacific Northwest waters, with females remaining in waters near their breeding rookeries off the coast of California and Mexico. The California sea lion was considered rare in Washington waters prior to the 1950s. More recently, peak numbers of 3,000 to 5,000 animals move into the Salish Sea during the fall and remain until late spring, when most return to breeding rookeries in California and Mexico (Jeffries *et al.*, 2000).

There are four commonly used haul-out sites near the construction site, with the closest haul-out site located 3 km (2 mi) southwest. During the Seattle Multimodal Project from 2017 through 2021, a total of 3,669 sightings of California sea lions were recorded over 377 days with a maximum of 29 observations on a single day.

Steller Sea Lion

Steller sea lions range along the North Pacific Rim from northern Japan to California (Loughlin *et al.*, 1984). There are two separate stocks of Steller sea lions, the Eastern U.S. stock, which occurs east of Cape Suckling, Alaska (144° W), and the Western U.S. stock,

which occurs west of that point. Only the Western stock of Steller sea lions, which is designated as the Western DPS of Steller sea lions, is listed as endangered under the ESA (78 FR 66139; November 4, 2013). Unlike the Western U.S. stock of Steller sea lions, there has been a sustained and robust increase in abundance of the Eastern U.S. stock throughout its breeding range. The eastern stock of Steller sea lions has historically bred on rookeries located in Southeast Alaska, British Columbia, Oregon, and California. However, within the last several years a new rookery has become established on the outer Washington coast (at the Carroll Island and Sea Lion Rock complex), with more than 100 pups born there in 2015 (Muto *et al.*, 2020).

Steller sea lions use haul-out locations in Puget Sound, and may occur at the same haul-outs as California sea lions, but are considered rare visitors to Elliott Bay and the Seattle waterfront area. Few Steller sea lions have been observed during monitoring of recent construction projects in the area; typically fewer than 5 total observations per year (*e.g.*, Anchor QEA 2018, 2019). However, a total of 112 sightings of Steller sea lions were recorded over 377 days of monitoring from 2017 through 2021 at the Seattle Multimodal project with a maximum of 10 sightings on a single day.

Harbor Seal

Harbor seals inhabit coastal and estuarine waters off Baja California, north along the western coasts of the continental United States, British Columbia, and Southeast Alaska, west through the Gulf of Alaska and Aleutian Islands, and in the Bering Sea north to Cape Newenham and the Pribilof Islands (Carretta *et al.*, 2014). They haul out on rocks, reefs, beaches, and drifting glacial ice and feed in marine, estuarine, and occasionally fresh waters. Harbor seals generally are non-migratory, with local movements associated with such factors as tides, weather, season, food availability, and reproduction (Scheffer and Slipp 1944; Fisher 1952; Bigg 1969, 1981). Within U.S. West Coast waters, 5 stocks of harbor seals are recognized: (1) Southern Puget Sound (south of the Tacoma Narrows Bridge); (2) Washington Northern Inland Waters (including Puget Sound north of the Tacoma Narrows Bridge, the San Juan Islands, and the Strait of Juan de Fuca); (3) Hood Canal; (4) Oregon/Washington Coast; and (5) California. Harbor seals in the project areas would be from the Washington Northern Inland Waters stock.

Harbor seals are the only pinniped species that occurs year-round and breeds in Washington waters (Jeffries *et al.*, 2000). Pupping seasons vary by geographic region, with pups born in coastal estuaries (Columbia River, Willapa Bay, and Grays Harbor) from mid-April through June; Olympic Peninsula coast from May through July; San Juan Islands and eastern bays of Puget Sound from June through August; southern Puget Sound from mid-July through September; and Hood Canal from August through January (Jeffries *et al.*, 2000). The most recent estimate for the Washington Northern Inland Waters Stock is 16,451 based on surveys conducted in 2019 (Carretta *et al.*, 2023).

There is only one routinely used harbor seal haulout near Elliott Bay and the Seattle waterfront at Blakely Rocks, approximately 10.6 km (6.6 mi) west of the project sites. The haulout, which is estimated at less than 100 animals, consists of intertidal rocks and reef areas (Jeffries *et al.*, 2000). Harbor seals are a commonly observed marine mammal in the area of potential effects and are known to be comfortable and seemingly curious around human activities. Observations of harbor seals were reported during many recent construction projects along the Seattle waterfront. During construction for the Washington State Ferries Multimodal Project at Colman Dock in Seattle, a maximum of 32 harbor seals were observed on a single day from 2017 through 2021 for all 377 construction days.

Northern Elephant Seal

Northern elephant seals breed and give birth in California (U.S.) and Baja

California (Mexico), primarily on offshore islands (Stewart *et al.*, 1994), from December to March (NOAA 2015). Males migrate to the Gulf of Alaska and western Aleutian Islands along the continental shelf to feed on benthic prey, while females migrate to pelagic areas in the Gulf of Alaska and the central North Pacific Ocean to feed on pelagic prey (Le Boeuf *et al.*, 2000). Adults return to land between March and August to molt, with males returning later than females. Adults return to their feeding areas again between their spring/summer molting and their winter breeding seasons (Carretta *et al.*, 2015).

During all 377 construction days for the Washington State Ferries Multimodal Project at Colman Dock in Seattle from 2017 through 2021, only one northern elephant seal was observed. Elephant seals are generally considered rare in Puget Sound. However, a female elephant seal has been reported hauled-out in Mutiny Bay on Whidbey Island periodically since 2010. She was observed alone for her first three visits to the area, but in March 2015, she was seen with a pup. Since then, she has produced two more pups, born in 2018 and 2020. Northern elephant seals generally give birth in January but this individual has repeatedly given birth in March. She typically returns to Mutiny Bay in April and May to molt. Her pups have also repeatedly returned to haul-out on nearby beaches (Orca Network 2020)

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have

deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (*e.g.*, Richardson *et al.*, 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007, 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, *etc.*). Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in table 3.

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.*, 2006; Kastelein *et al.*, 2009; Reichmuth *et al.*, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information.

TABLE 3—MARINE MAMMAL HEARING GROUPS [NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i>).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.*, all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section provides a discussion of the ways in which components of the specified activity may impact marine mammals and their habitat. The Estimated Take of Marine Mammals

section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take of Marine Mammals

section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and whether those impacts are reasonably expected to, or reasonably likely to, adversely affect the

species or stock through effects on annual rates of recruitment or survival.

Acoustic effects on marine mammals during the specified activities can occur from impact pile driving and vibratory driving and removal. The effects of underwater noise from WSDOT's proposed activities are expected to result in only Level B harassment of marine mammals in the action areas.

Description of Sound Sources

The marine soundscape is comprised of both ambient and anthropogenic sounds. Ambient sound is defined as the all-encompassing sound in a given place and is usually a composite of sound from many sources both near and far (ANSI 1995). The sound level of an area is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.*, waves, wind, precipitation, earthquakes, ice, atmospheric sound), biological (*e.g.*, sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.*, vessels, dredging, aircraft, construction).

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise “ambient” or “background” sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 decibels (dB) from day to day (Richardson *et al.*, 1995). The result is that, depending on the source type and its intensity, sound from the specified activities may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

In-water construction activities associated with the project would include impact pile driving, vibratory pile driving, and vibratory pile removal. The sounds produced by these activities fall into one of two general sound types: impulsive and non-impulsive. Impulsive sounds (*e.g.*, explosions, gunshots, sonic booms, impact pile driving) are typically transient, brief (less than 1 second), broadband, and consist of high peak sound pressure

with rapid rise time and rapid decay (ANSI, 1986; NIOSH, 1998; ANSI, 2005; NMFS, 2018). Non-impulsive sounds (*e.g.*, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems) can be broadband, narrowband or tonal, brief or prolonged (continuous or intermittent), and typically do not have the high peak sound pressure with rapid rise/decay time that impulsive sounds do (ANSI, 1995; NIOSH, 1998; NMFS, 2018). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.*, Southall *et al.*, 2007).

Two types of pile hammers would be used on this project: impact and vibratory. Impact hammers operate by repeatedly dropping a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels. Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the sediment. Vibratory hammers produce non-impulsive continuous sounds and produce significantly less sound than impact hammers. Peak sound pressure levels (SPLs) may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.*, 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (Nedwell and Edwards, 2002; Carlson, *et al.*, 2005).

Potential or likely impacts on marine mammals from WSDOT's proposed construction include both non-acoustic and acoustic stressors. Non-acoustic stressors include the physical presence of equipment, vessels, and personnel. However, impacts from WSDOT's proposed construction is expected to primarily be acoustic in nature. Expected stressors from WSDOT's proposed activities are expected to be a result of heavy equipment operation for impact driving and vibratory driving and removal.

Acoustic Impacts

The introduction of anthropogenic noise into the aquatic environment from pile driving and removal is the primary means by which marine mammals may be harassed from WSDOT's specified activity. In general, animals exposed to natural or anthropogenic sound may experience physical and behavioral effects, ranging in magnitude from none to severe (Southall *et al.*, 2007, 2021). Generally, exposure to pile driving noise has the potential to result in

auditory threshold shifts (TS) and behavioral reactions (*e.g.*, avoidance, temporary cessation of foraging and vocalizing, changes in dive behavior). Exposure to anthropogenic noise can also lead to non-observable physiological responses such as an increase in stress hormones. Additional noise in a marine mammal's habitat can mask acoustic cues used by marine mammals to carry out daily functions such as communication and predator and prey detection. The effects of pile driving noise on marine mammals are dependent on several factors, including, but not limited to, sound type (*e.g.*, impulsive vs. non-impulsive), the species, age and sex class (*e.g.*, adult male vs. mom with calf), duration of exposure, the distance between the pile and the animal, received levels, behavior at time of exposure, and previous history with exposure (Wartzok *et al.*, 2004; Southall *et al.*, 2007). Here we discuss physical auditory effects (TSs) followed by behavioral effects and potential impacts on habitat. No physiological effects other than TTS are anticipated or proposed to be authorized, and therefore are not discussed further. Discussion of physical auditory effects (TSs), behavioral effects, and potential impacts on habitat are described below.

NMFS defines a noise-induced TS as a change, usually an increase, in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2018). The amount of threshold shift is customarily expressed in dB. A TS can be permanent or temporary. As described in NMFS (2018), there are numerous factors to consider when examining the consequence of TS, including, but not limited to, the signal temporal pattern (*e.g.*, impulsive or non-impulsive), likelihood an individual would be exposed for a long enough duration or to a high enough level to induce a TS, the magnitude of the TS, time to recovery (seconds to minutes or hours to days), the frequency range of the exposure (*i.e.*, spectral content), the hearing and vocalization frequency range of the exposed species relative to the signal's frequency spectrum (*i.e.*, how animal uses sound within the frequency band of the signal; *e.g.*, Kastelein *et al.*, 2014), and the overlap between the animal and the source (*e.g.*, spatial, temporal, and spectral).

Permanent Threshold Shift (PTS)—NMFS defines PTS as a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference

level (NMFS 2018). Available data from humans and other terrestrial mammals indicate that a 40 dB threshold shift approximates PTS onset (see Ward *et al.*, 1958, 1959; Ward, 1960; Kryter *et al.*, 1966; Miller, 1974; Ahroon *et al.*, 1996; Henderson *et al.*, 2008). PTS levels for marine mammals are estimates, because there are limited empirical data measuring PTS in marine mammals (*e.g.*, Kastak *et al.*, 2008), largely due to the fact that, for various ethical reasons, experiments involving anthropogenic noise exposure at levels inducing PTS are not typically pursued or authorized (NMFS, 2018).

Temporary Threshold Shift (TTS)—A temporary, reversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2018). Based on data from cetacean TTS measurements (Southall *et al.*, 2007), a TTS of 6 dB is considered the minimum threshold shift clearly larger than any day-to-day or session-to-session variation in a subject's normal hearing ability (Schlundt *et al.*, 2000; Finneran *et al.*, 2000, 2002). As described in Finneran (2015), marine mammal studies have shown the amount of TTS increases with cumulative sound exposure level (SELcum) in an accelerating fashion: At low exposures with lower SELcum, the amount of TTS is typically small and the growth curves have shallow slopes. At exposures with higher SELcum, the growth curves become steeper and approach linear relationships with the noise SEL.

Depending on the degree (elevation of threshold in dB), duration (*i.e.*, recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that takes place during a time when the animal is traveling through the open ocean, where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. We note that reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.*, 2007), so we can infer that strategies exist for coping with this condition to

some degree, though likely not without cost.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale (*Delphinapterus leucas*), harbor porpoise, and Yangtze finless porpoise (*Neophocoena asiakororientalis*) and five species of pinnipeds exposed to a limited number of sound sources (*i.e.*, mostly tones and octave-band noise) in laboratory settings (Finneran, 2015). TTS was not observed in trained spotted (*Phoca largha*) and ringed (*Pusa hispida*) seals exposed to impulsive noise at levels matching previous predictions of TTS onset (Reichmuth *et al.*, 2016). In general, harbor seals and harbor porpoises have a lower TTS onset than other measured pinniped or cetacean species (Finneran, 2015). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. No data are available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007), Finneran and Jenkins (2012), Finneran (2015), and table 5 in NMFS (2018).

Pile installation for this project includes impact pile driving and vibratory pile driving and removal. Vibratory and impact pile driving would not occur simultaneously but both methods could be used on the same day. There would be pauses in the activities producing impulsive and non-impulsive sounds each day. Given these pauses and the fact that many marine mammals are likely moving through the project areas and not remaining for extended periods of time, the potential for TS declines.

Behavioral Harassment—Exposure to noise from pile driving and removal also has the potential to behaviorally disturb marine mammals. Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.*, Lusseau and Bejder, 2007; Weilgart, 2007; NRC, 2005).

Disturbance may result in changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located. Pinnipeds may increase their haul out time, possibly to avoid in-water disturbance (Thorson and Reyff, 2006). Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.*, species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.*, Richardson *et al.*, 1995; Wartzok *et al.*, 2003; Southall *et al.*, 2007, 2021; Weilgart, 2007; Archer *et al.*, 2010). Behavioral reactions can vary not only among individuals but also within exposures of an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.*, 2012, Southall *et al.*, 2021), and can vary depending on characteristics associated with the sound source (*e.g.*, whether it is moving or stationary, number of sources, distance from the source). In general, pinnipeds seem more tolerant of, or at least habituate more quickly to, potentially disturbing underwater sound than do cetaceans, and generally seem to be less responsive to exposure to industrial sound than most cetaceans. For a review of the studies involving marine mammal behavioral responses to sound, see Southall *et al.*, 2007; Gomez *et al.*, 2016; and Southall *et al.*, 2021 reviews.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.*, bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.*, Croll *et al.*, 2001; Nowacek *et al.*, 2004; Madsen *et al.*, 2006; Yazvenko *et al.*, 2007). A determination of whether foraging disruptions incur fitness consequences would require information on estimates of the energetic requirements of the affected

individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Masking—Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (e.g., those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.*, 1995). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (e.g., snapping shrimp, wind, waves, precipitation) or anthropogenic (e.g., pile driving, shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (e.g., signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (e.g., sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions. Masking of natural sounds can result when human activities produce high levels of background sound at frequencies important to marine mammals. Conversely, if the background level of underwater sound is high (e.g., on a day with strong wind and high waves), an anthropogenic sound source would not be detectable as far away as would be possible under quieter conditions and would itself be masked. Elliott Bay and the Seattle area typically have elevated background sound levels due to active commercial shipping, fishing, and ferry operations as well as recreational use of the waterway.

Marine Mammal Habitat Effects

WSDOT's proposed construction activities could have localized temporary impacts on marine mammal habitat, including prey, by increasing in-water sound pressure levels and slightly decreasing water quality. Increased noise levels associated with this project are of short duration but may adversely affect acoustic habitat (see masking discussion above) and adversely affect marine mammal prey within the vicinity of the project (see discussion below). Elevated noise levels from impact and vibratory pile driving or removal would ensonify the project area where fish and marine mammals

occur, which could affect foraging success.

In-water pile driving and removal would also cause short term effects on water quality, which includes increase in turbidity. WSDOT would employ standard construction best management practices and comply with state water quality standards during all planned activities, thus reducing any impacts to water quality. Due to the nature and duration of proposed effects, combined with both measure described above, the impact from increased turbidity levels is expected to be discountable.

Pile driving and removal may temporarily increase turbidity due to increases in suspended sediment. However, possible increases in turbidity would temporary, restricted to the localized construction area, and minimal. WSDOT must also comply with state water quality standards, which would limit the extent of increased turbidity to the immediate project area. Generally, changes in turbidity is restricted to a localized radius of 25-feet around the pile (Everitt *et al.*, 1980). Cetaceans and pinnipeds are not expected to be within a radius that would have localized increases in turbidity, but if they did occur, they would likely be transiting through the area and could avoid the affected area. Therefore, the effects of turbidity to on marine mammal habitat is expected to be discountable. Lastly, pile driving and removal would not obstruct the migration or movement of marine mammals.

In-Water Construction Effect on Potential Foraging Habitat

The area likely impacted by the project is relatively small and provides marginal foraging habitat for marine mammals and fishes compared to the available habitat in Puget Sound. The area is highly influenced by anthropogenic activities. The total seafloor area affected by pile installation and removal is a small area compared to the vast foraging area available to marine mammals in the area. At best, the impact area provides marginal foraging habitat for marine mammals and fishes. Furthermore, pile driving and removal at the project site would not obstruct long-term movements or migration of marine mammals.

Avoidance by potential prey (*i.e.*, fish or, in the case of transient killer whales, other marine mammals) of the immediate area due to the temporary loss of this foraging habitat is also possible. The duration of fish and marine mammal avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment,

distribution, and behavior is anticipated. Any behavioral avoidance by fish or marine mammals of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat of similar or better quality in the nearby vicinity.

Effects on Potential Prey

Sound may affect marine mammals through impacts on the abundance, behavior, or distribution of prey species (e.g., crustaceans, cephalopods, fish, zooplankton, other marine mammals). Marine mammal prey varies by species, season, and location. Here, we describe studies regarding the effects of noise on known marine mammal prey other than other marine mammals (which have been discussed earlier).

Fish utilize the soundscape and components of sound in their environment to perform important functions such as foraging, predator avoidance, mating, and spawning (e.g., Zelick and Mann, 1999; Fay, 2009). Depending on their hearing anatomy and peripheral sensory structures, which vary among species, fishes hear sounds using pressure and particle motion sensitivity capabilities and detect the motion of surrounding water (Fay *et al.*, 2008). The potential effects of noise on fishes depends on the overlapping frequency range, distance from the sound source, water depth of exposure, and species-specific hearing sensitivity, anatomy, and physiology. Key impacts to fishes may include behavioral responses, hearing damage, barotrauma (pressure-related injuries), and mortality.

Fish react to sounds which are especially strong and/or intermittent low-frequency sounds, and behavioral responses such as flight or avoidance are the most likely effects. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. The reaction of fish to noise depends on the physiological state of the fish, past exposures, motivation (e.g., feeding, spawning, migration), and other environmental factors. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pile driving on fish; several are based on studies in support of large, multiyear bridge construction projects (e.g., Scholik and Yan, 2001, 2002; Popper and Hastings, 2009). Several studies have demonstrated that impulse sounds might affect the distribution and behavior of some fishes, potentially impacting foraging opportunities or increasing energetic costs (e.g., Fewtrell

and McCauley, 2012; Pearson *et al.*, 1992; Skalski *et al.*, 1992; Santulli *et al.*, 1999; Paxton *et al.*, 2017). However, some studies have shown no or slight reaction to impulse sounds (*e.g.*, Pena *et al.*, 2013; Wardle *et al.*, 2001; Jorgenson and Gyselman, 2009; Popper *et al.*, 2016).

SPLs of sufficient strength have been known to cause injury to fish and fish mortality. However, in most fish species, hair cells in the ear continuously regenerate and loss of auditory function likely is restored when damaged cells are replaced with new cells. Halvorsen *et al.* (2012a) showed that a TTS of 4–6 dB was recoverable within 24 hours for one species. Impacts would be most severe when the individual fish is close to the source and when the duration of exposure is long. Injury caused by barotrauma can range from slight to severe and can cause death, and is most likely for fish with swim bladders. Barotrauma injuries have been documented during controlled exposure to impact pile driving (Halvorsen *et al.*, 2012b; Casper *et al.*, 2013).

The most likely impact to fishes from pile driving and removal and construction activities at the project areas would be temporary behavioral avoidance of the area. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution, and behavior is anticipated.

Construction activities, in the form of increased turbidity, have the potential to adversely affect forage fish in the project areas. Forage fish form a significant prey base for many marine mammal species that occur in the project areas. Increased turbidity is expected to occur in the immediate vicinity (on the order of 10 ft (3 m) or less) of construction activities. However, suspended sediments and particulates are expected to dissipate quickly within a single tidal cycle. Given the limited area affected and high tidal dilution rates any effects on forage fish are expected to be minor or negligible. Finally, exposure to turbid waters from construction activities is not expected to be different from the current exposure; fish and marine mammals in Elliott Bay are routinely exposed to substantial levels of suspended sediment from natural and anthropogenic sources.

In summary, given the short daily duration of sound associated with individual pile driving events and the relatively small areas being affected, pile driving activities associated with the proposed actions are not likely to have a permanent, adverse effect on any

fish habitat, or populations of fish species. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity. Thus, we conclude that impacts of the specified activities are not likely to have more than short-term adverse effects on any prey habitat or populations of prey species. Further, any impacts to marine mammal habitat are not expected to result in significant or long-term consequences for individual marine mammals, or to contribute to adverse impacts on their populations.

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes proposed for authorization through the IHA, which will inform NMFS' consideration of "small numbers," the negligible impact determinations, and impacts on subsistence uses.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form behavioral reactions and TTS for individual marine mammals resulting from exposure to noise from impact and vibratory pile driving and removal. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.*, shutdown zones at the Level A harassment area) discussed in detail below in the Proposed Mitigation section, Level A harassment is neither anticipated nor proposed to be authorized.

As described previously, no serious injury or mortality is anticipated or proposed to be authorized for this activity. Below we describe how the proposed take numbers are estimated.

For acoustic impacts, generally speaking, we estimate take by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified

above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) the number of days of activities. We note that while these factors can contribute to a basic calculation to provide an initial prediction of potential takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.*, previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimates.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (*e.g.*, frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.*, bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.*, Southall *et al.*, 2007, 2021, Ellison *et al.*, 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared pressure received levels (RMS SPL) of 120 dB (referenced to 1 micropascal (re 1 μ Pa)) for continuous (*e.g.*, vibratory pile driving, drilling) and above RMS SPL 160 dB re 1 μ Pa for non-explosive impulsive (*e.g.*, seismic airguns) or intermittent (*e.g.*, scientific sonar) sources. For in-air sounds, NMFS predicts that harbor seals exposed above received levels of 90 dB re 20 μ Pa (rms) will be behaviorally harassed, and other pinnipeds will be harassed when exposed above 100 dB re 20 μ Pa (rms). Generally speaking, Level B harassment take estimates based on these behavioral

harassment thresholds are expected to include any likely takes by TTS as, in most cases, the likelihood of TTS occurs at distances from the source less than those at which behavioral harassment is likely. TTS of a sufficient degree can manifest as behavioral harassment, as reduced hearing sensitivity and the potential reduced opportunities to detect important signals (conspecific communication, predators, prey) may result in changes in behavior patterns that would not otherwise occur.

WSDOT's proposed activity includes the use of continuous (vibratory

hammer) and impulsive (impact hammer) sources, and therefore the RMS SPL thresholds of 120 and 160 dB re 1 μ Pa, respectively, are applicable.

Level A Harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-

impulsive). WSDOT's proposed activity includes the use of impulsive (impact hammer) and non-impulsive (vibratory hammer) sources.

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS' 2018 Technical Guidance, which may be accessed at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance>.

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds* (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	Cell 1: $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	Cell 2: $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	Cell 3: $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	Cell 4: $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	Cell 5: $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	Cell 6: $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	Cell 7: $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	Cell 8: $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	Cell 9: $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	Cell 10: $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μ Pa, and cumulative sound exposure level (L_E) has a reference value of 1 μ Pa²s. In this table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.*, varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that are used in estimating the area ensonified above the acoustic thresholds, including source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the proposed project. Marine mammals are expected to be affected by sound generated from the impact and vibratory pile driving components of this project.

In order to calculate distances to the Level A harassment and Level B harassment thresholds for the methods and piles used in the proposed project, NMFS used acoustic monitoring data from previous pile driving at WSDOT's Bainbridge Island Ferry Terminal Project (vibratory removal of 12-inch H-

piles), Port Townsend Ferry Terminal Project (vibratory installation and/or removal of 24 and 30-inch steel piles), Phase 2 of Colman Dock construction for the Seattle Multimodal Project (impact installation of 24-inch steel piles), and the Ebey Slough Bridge Replacement Project (Vibratory installation of 72-inch steel piles). Each of the projects listed above occurred within the Puget Sound and provided the most suitable source levels due to similar physical habitat characteristics, pile sizes, and pile driving or removal methods (Table 5).

Source levels from the Bainbridge Terminal Ferry Project and the Ebey Slough Bridge Replacement Project were used as proxies for the vibratory installation of 78-inch steel pipe piles and the vibratory removal of 14-inch steel H-piles for the proposed project because source levels for identical pile

sizes were unavailable. Results from the vibratory installation of 72-inch piles at the Ebey Slough Bridge Replacement Project showed that the unweighted RMS SPL source levels was 170 dB re 1 μ Pa at 15 m, therefore it was assumed that source levels for 78-inch piles would be 174 dB re 1 μ Pa at 10 m. The source levels for 14-inch H-piles was assumed to be equivalent to the vibratory removal of 12-inch H-piles at the Bainbridge Island Ferry Terminal where the unweighted RMS SPL source level was 153 dB re 1 μ Pa at 10 m (WSDOT 2023). Bubble curtains would be employed for impact installation of 24-inch steel piles but zero dB of effective attenuation is assumed because a bubble curtain was used at Phase 2 of Colman Dock construction for the Seattle Multimodal Project, thus source levels would be the same.

TABLE 5—SEATTLE SLIP 3 VEHICLE TRANSFER SPAN PROXY SOUND SOURCE LEVELS FOR PILE SIZES AND DRIVING METHODS

Pile type and size (in)	Method	Source Level at 10 m (dB re 1 μ Pa)	Reference
14-inch steel H-piles	Vibratory Removal	153 dB rms	WSDOT (2023).

TABLE 5—SEATTLE SLIP 3 VEHICLE TRANSFER SPAN PROXY SOUND SOURCE LEVELS FOR PILE SIZES AND DRIVING METHODS—Continued

Pile type and size (in)	Method	Source Level at 10 m (dB re 1 μPA)	Reference
24-inch steel pipe piles	Vibratory installation and removal	174 dB rms	Huey (2010).
24-inch steel pipe piles	Impact installation	166 SEL, 176 dB rms, 194 dB peak.	Greenbusch Group (2019).
30-inch steel sheet piles	Vibratory installation	174 dB rms	Huey (2010).
78-inch steel pipe piles	Vibratory installation	174 dB rms	WSDOT (2011).

Level B Harassment Zones

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * \text{Log}_{10} (R1/R2)$$

Where:

TL = transmission loss in dB

B = transmission loss coefficient; for practical spreading equals 15

R1 = the distance of the modeled SPL from the driven pile, and

R2 = the distance from the driven pile of the initial measurement

The recommended TL coefficient for most nearshore environments is the practical spreading value of 15. This

value results in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions, which is the most appropriate assumption for the WSDOT's proposed activities in the absence of specific modelling. The estimated Level B harassment zones for the WSDOT's proposed activities are shown in Tables 6 and 7.

Level A Harassment Zones

The ensouffied area associated with Level A harassment is more technically challenging to predict due to the need to account for a duration component. Therefore, NMFS developed an optional user spreadsheet tool to accompany the Technical Guidance that can be used to relatively simply predict an isopleth distance for use in conjunction with marine mammal density or occurrence to help predict potential takes. We note that because of some of the assumptions

included in the methods underlying this optional tool, we anticipate that the resulting isopleth estimates are typically going to be overestimates of some degree, which may result in an overestimate of potential take by Level A harassment. However, this optional tool offers the best way to estimate isopleth distances when more sophisticated modeling methods are not available or practical. For stationary sources such as pile installation and removal, the optional User Spreadsheet tool predicts the distance at which, if a marine mammal remained at that distance for the duration of the activity, it would be expected to incur PTS. Inputs used in the optional User Spreadsheet tool (e.g., number of piles per day, during and/or strikes per pile) are presented in table 1, and the resulting estimated isopleths and ensouffied areas are reported in tables 6 and 7.

TABLE 6—LEVEL A AND LEVEL B HARASSMENT ZONES

Pile size and type	Pile driving method	Level A harassment zone (m)					Level A harassment zone (m)
		LF cetaceans	MF cetaceans	HF cetaceans	Phocids	Otarids	
14-inch steel	Vibratory removal	3.2	0.3	4.7	1.9	0.1	1,585
24-inch steel	Vibratory installation and removal.	65.8	5.8	97.3	40.0	2.8	^a 15,410
24-inch steel	Impact installation	75.9	2.7	90.4	40.6	3.0	736
30-inch steel	Vibratory installation	50.2	4.5	74.3	30.5	2.1	^a 15,410
78-in steel	Vibratory installation	50.2	4.5	74.3	30.5	2.1	^a 15,410

^aLand is reached at a maximum of 15,410 km/9.6 miles.

TABLE 7—LEVEL A AND LEVEL B HARASSMENT ZONES

Pile size and type	Pile driving method	Level A harassment zone (m)					Level B harassment zone (m)
		LF cetaceans	MF cetaceans	HF cetaceans	Phocids	Otarids	
14-inch steel	Vibratory removal	8.0	0.07	17.4	2.8	0.007	3,247,392
24-inch steel	Vibratory installation and removal.	4,524.5	5.7	6,418	1,294.6	7.07	75,844,286
24-inch steel	Impact installation	75.9	2.7	90.4	40.6	3.0	861,188
30-inch steel	Vibratory installation	1,979.2	15.9	4,336	730.6	3.5	75,844,286
78-inch steel	Vibratory Installation	1,979.2	15.9	4,336	730.6	3.5	75,844,286

Marine Mammal Occurrence and Take Estimation

In this section we provide information about the occurrence of marine mammals, including density or other relevant information which will inform proposed take incidental to WSDOT's pile driving activities for the Seattle Slip 3 VTS Replacement Project. Throughout this section the pile installation or removal will be referred to as "pile driving" unless specified otherwise. From 2017 through 2021 WSDOT monitored for marine mammals in

Elliott Bay for the Seattle Multimodal Project. During this time, marine mammal monitoring occurred for 377 days. Since the Seattle Multimodal Project occurred in Elliott Bay, WSDOT considered this marine mammal monitoring data to be the most comprehensive and relevant for estimating take for the Seattle Slip 3 VTS Replacement Project. Therefore, this data compiled all of these monitoring results and calculated total sightings, average sightings per day, and maximum sightings per day for all

species of marine mammals that were observed (table 8). WSDOT used their best professional judgement and used this data to estimate take by multiplying maximum sighting per day by 19, which is the maximum number of in-water working days WSDOT estimates it would take to complete the project in a total worst case scenario.

NMFS has carefully evaluated these methods and concludes that it is an accurate and appropriate method for estimating take for WSDOT's activities for this project.

TABLE 8—MARINE MAMMALS SIGHTED AT THE SEATTLE MULTIMODAL PROJECT

Species	Total individuals sighted ^a	Average individuals sighted/day (377 days) ^a	Maximum individuals sighted in one-day ^a	Take requested
Harbor seal	2,271	6.0	32	Yes
Northern elephant seal	1	0.003	1	Yes
California sea lion	3,669	9.7	29	Yes
Steller sea lion	112	0.3	10	Yes
Unidentified pinniped	121	N/A	N/A	N/A
Killer whale Southern resident	170	0.5	26	No
Killer whale transient	79	0.2	20	Yes
Gray whale	5	0.01	2	Yes
Humpback whale	8	0.02	1	No
Minke whale	3	0.008	1	Yes
Unidentified large whale	2	N/A	1	N/A
Unidentified small whale	10	N/A	N/A	N/A
Harbor porpoise	655	1.7	72	Yes
Dall's porpoise	8	0.02	5	Yes
Common bottlenose dolphin	6	0.02	2	Yes
Pacific white-sided dolphin	2	0.005	2	Yes
Long-beaked common dolphin	0	N/A	0	Yes
Unidentified dolphin/porpoise	46	N/A	6	N/A

^aWSDOT 2022.

Gray Whale—Although gray whales are common on the southern ends of Whidbey and Camano Islands in the Puget Sound February through May, they are rarely sighted in the proposed construction area (Calambokidis et al. 2024). During the Seattle multimodal project only 5 gray whales were detected over 377 days of monitoring with a maximum of two individuals observed on a single day (WSDOT 2022). WSDOT estimated that up to 2 gray whales could be taken per day for the 19 days of construction, for a total of 38 takes by Level B harassment.

Since Seattle Slip 3 VTS Replacement Project construction would occur from August through mid-February, gray whales occurrence is expected to be relatively low. In this context, and given that gray whales are highly conspicuous, we have a high degree of confidence that WSDOT can successfully implement shutdowns as necessary to avoid any potential Level A harassment of gray whales. WSDOT must also monitor the Orca Network and the Whale Report Alert System

(WRAS) daily in order to maintain awareness of regional whale occurrence and movements (see Proposed Mitigation and Proposed Monitoring and Reporting sections below). Therefore, take of gray whales by Level A harassment is not anticipated or for authorization.

Minke Whale—Minke whales are uncommon during fall and winter months in the Puget Sound but are rarely sighted in the proposed construction area (Calambokidis and Baird 1994). During the Seattle Multimodal Project only three minke whale detections occurred over 377 days of monitoring with a maximum of one detection on a single day (WSDOT 2022). WSDOT estimated that up to one minke whale could be taken per day for the 19 days of construction, for a total of 19 takes by Level B harassment.

Since the Seattle Slip 3 VTS Replacement Project construction would occur from August through mid-February, minke whale occurrence is expected to be relatively low. In these circumstances, and given that minke

whales are highly conspicuous, we have a high degree of confidence that WSDOT can successfully implement shutdowns as necessary to avoid any potential Level A harassment of minke whales. WSDOT must also monitor the Orca Network and the Whale Report Alert System (WRAS) daily in order to maintain awareness of regional whale occurrence and movements (see Proposed Mitigation and Proposed Monitoring and Reporting sections below). Therefore, take of minke whales by Level A harassment is not anticipated or for authorization.

Transient Killer Whale—Transient killer whales are common in in the Puget Sound in all months and a total of 79 transient killer whale detections occurred over 377 days of monitoring for the Seattle Multimodal Project with a maximum of 20 detections in a single day (Orca Network 2021, WSDOT 2022). WSDOT estimated that up to 20 incidents of take for transient killer whales could occur per day for 19 days of construction, for a total of 380 takes by Level B Harassment. Transient killer

whales are common in the Puget Sound and are highly conspicuous.

The largest Level A harassment zone for mid-frequency cetaceans for all construction for the Seattle Slip 3 VTS Replacement Project is less than 6 m. It is highly unlikely that any cetacean would enter within 6 m of active pile driving, and no take by Level A harassment for any mid-frequency cetacean is expected to occur. WSDOT must also monitor the Orca Network and the Whale Report Alert System (WRAS) daily in order to maintain awareness of regional whale occurrence and movements (see Proposed Mitigation and Proposed Monitoring and Reporting sections below). Therefore, take of transient killer whales by Level A harassment is not anticipated or for authorization.

Bottlenose Dolphin—Bottlenose dolphins are considered to be rare in the Puget Sound but they were detected by the Cascadia Research Collective and reported via the Orca Network in 2017 (Cascadia Research Collective, 2017). They were also detected on 6 occasions with a maximum of 2 detections on a single day during the Seattle Multimodal Project (WSDOT 2022). WSDOT estimated that up to two bottlenose dolphins could be taken per day for the 19 days of construction, for a total of 38 takes by Level B harassment.

The largest Level A harassment zone for mid-frequency cetaceans for all construction of the Seattle Slip 3 VTS Replacement Project is less than 6 m. It is highly unlikely that any cetacean would enter within 6 m of active pile driving, and no take by Level A harassment for any mid-frequency cetacean is expected to occur. WSDOT must also monitor the Orca Network and the Whale Report Alert System (WRAS) daily in order to maintain awareness of regional whale occurrence and movements (see Proposed Mitigation and Proposed Monitoring and Reporting sections below). Therefore, take of bottlenose dolphins by Level A harassment is not anticipated or for authorization.

Long-Beaked Common Dolphin—No confirmed detections of long-beaked common dolphins occurred during the Seattle Multimodal Project but 6 unidentified delphinids were observed (WSDOT 2022). WSDOT assumed that up to two of these unidentified delphinids could have been long-beaked common dolphins. Therefore, WSDOT estimated that up to two long-beaked common dolphins could be taken per day for the 19 days of construction, for a total of 38 takes by Level B harassment.

The largest Level A harassment zone for mid-frequency cetaceans for all construction of the Seattle Slip 3 VTS Replacement Project is less than 6 m. It is highly unlikely that any cetacean would enter within 6 m of active pile driving, and no take by Level A harassment for any mid-frequency cetacean is expected to occur. WSDOT must also monitor the Orca Network and the Whale Report Alert System (WRAS) daily in order to maintain awareness of regional whale occurrence and movements (see Proposed Mitigation and Proposed Monitoring and Reporting sections below). Therefore, take of long-beaked common dolphins by Level A harassment is not anticipated or for authorization.

Pacific White-Sided Dolphin—Pacific white-sided dolphins are rare in the Puget Sound but have been observed in San Juan Channel (Orca Network 2012). Two Pacific white sided dolphins were also observed during the Seattle Multimodal Project (WSDOT 2022). WSDOT estimated that up to two Pacific white-sided dolphins could be taken per day for the 19 days of construction, for a total of 38 takes by Level B harassment.

The largest Level A harassment zone for mid-frequency cetaceans for all construction of the Seattle Slip 3 VTS Replacement Project is less than 6 m. It is highly unlikely that any cetacean would enter within 6 m of active pile driving, and no take by Level A harassment for any mid-frequency cetacean is expected to occur. WSDOT must also monitor the Orca Network and the Whale Report Alert System (WRAS) daily in order to maintain awareness of regional whale occurrence and movements (see Proposed Mitigation and Proposed Monitoring and Reporting sections below). Therefore, take of Pacific white-sided dolphins by Level A harassment is not anticipated or for authorization.

Dall's Porpoise—Dall's porpoises are considered rare within the project area. WSDOT recorded only 8 detections over 377 days of monitoring during the Seattle Multimodal Project (WSDOT 2022). WSDOT estimated that up to 5 Dall's porpoises could be taken per day for the 19 days of construction, for a total of 95 takes by Level B harassment.

The largest Level A harassment zone for high-frequency cetaceans for all construction of the Seattle Slip 3 VTS Replacement Project is less than 100 m. Due to the relatively short duration of construction for the Seattle Slip 3 VTS Replacement Project and infrequent detections of Dall's porpoises, WSDOT estimated that no Dall's porpoises would be likely to enter the Level A

harassment zone. Take by Level A harassment of Dall's Porpoises is not anticipated or proposed to be authorized.

Harbor Porpoise—From 2017 through 2022, WSDOT recorded 655 detections of harbor porpoises with a maximum of 72 detections on a single day (WSDOT 2022). WSDOT estimated that up to 72 instances of take for harbor porpoises could occur per day for the 19 days of construction, for a total of 1,368 takes by Level B harassment.

The largest Level A harassment zone for high-frequency cetaceans is under 100 m. Although harbor porpoises are relatively common in the Puget Sound, we assume that WSDOT would be able to cease construction if harbor porpoises entered the Level A harassment zone before sufficient duration of exposure for PTS to occur. Take by Level A harassment is not anticipated or proposed to be authorized.

California Sea Lion—California sea lions are relatively common throughout the Puget Sound. During the Seattle Multimodal Project a maximum of 29 sea lions were detected on a single day with a total of 3,669 sightings over the 377 days of monitoring (WSDOT 2022). WSDOT estimated that 32 California sea lions would enter the Level B harassment zone for each of the 19 days of construction, for a total of 551 takes by Level B harassment.

The largest Level A harassment zone for Otariids for all construction of the Seattle Slip 3 VTS Replacement Project is less than 3 m. It is highly unlikely that any Otariids would enter within 3 m of active pile driving, and no take by Level A harassment for any mid-frequency cetacean is expected to occur. Therefore, take of California sea lions by Level A harassment is not anticipated or for authorization.

Steller Sea Lion—Monitoring during the Seattle Multimodal Project recorded 112 detections of Steller sea lions over 377 days of monitoring, which is less than one detection per day. However, a maximum of 10 detections were recorded in a single day. Therefore, WSDOT estimated that 10 stellar sea lions would enter the Level B harassment zone each day for the 19 days of construction of the project, for a total of 190 takes by Level B harassment.

The largest Level A harassment zone for Otariids for all construction of the Seattle Slip 3 VTS Replacement Project is less than 3 m. It is highly unlikely that any Otariids would enter within 3 m of active pile driving, and no take by Level A harassment for any mid-frequency cetacean is expected to occur. Therefore, take of steller sea lions by

Level A harassment is not anticipated or for authorization.

Harbor Seal—Harbor seals are common in the project area. During the Seattle Multimodal Project WSDOT recorded an average of 6 harbor seal detections per day and a maximum of 32 in a single day (WSDOT 2022). WSDOT estimated that a maximum of 32 harbor seals will enter the Level B harassment zones for each of the 19 days of construction, for a total of 608 takes by Level B harassment.

The largest Level A harassment zone for high-frequency phocids is under 41 m. Although harbor seals are relatively common in the Puget Sound, we assume that WSDOT would be able to cease

construction if harbor seals entered the Level A harassment zone before sufficient duration of exposure for PTS to occur. Take by Level A harassment is not anticipated or proposed to be authorized.

Northern Elephant Seal—Although northern elephant seals are rare in the Puget Sound, 1 individual was detected during the Seattle Multimodal Project. Since northern elephant seals are rare in the proposed construction area, WSDOT estimated that a maximum of 1 elephant seal would enter the Level B harassment zone per day for each of the 19 days of construction. A total of 19 takes by Level B harassment is estimated for

northern elephant seals for construction associated with the Seattle Slip 3 VTS Replacement Project.

Similar to harbor seals, the largest harassment zone is less than 41 m for all construction activities. Given the anticipated rarity of occurrence for elephant seals, WSDOT does not expect northern elephant seals to enter Level A harassment zones without being detected prior to shutdown. Construction would cease if a northern elephant seal was observed entering Level A harassment zone. Therefore, no take by Level A harassment of northern elephant seals is anticipated or proposed to be authorized.

TABLE 9—ESTIMATED TAKE OF MARINE MAMMAL BY LEVEL B HARASSMENT FOR 19 DAYS OF IN-WATER CONSTRUCTION

Species	Maximum sightings/day ^a	Total takes by Level B harassment	Percent of stock
Phocids			
Harbor seal	32	608	5.51
Northern elephant seal	1	19	0.02
Otariids			
California sea lion	29	551	0.24
Steller sea lion	10	190	0.23
Cetaceans			
Killer whale transient	20	380	110
Gray whale	2	38	0.15
Minke whale	1	19	3.7
Harbor porpoise	72	1,368	16.5
Dall's porpoise	5	95	0.37
Common bottlenose dolphin	2	38	3.0
Pacific white-sided dolphin	2	38	0.13
Long-beaked common dolphin	5	38	0.05

^aWSDOT 2022.

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, and impact on operations.

Shutdown Zones

Prior to the start of any in-water construction, WSDOT would establish shutdown zones for all planned activities. Shutdown zones are pre-defined areas within which construction would be halted upon sightings of a marine mammal or in anticipation of a marine mammal entering the established shutdown zones. Pile-driving would not re-commence until all marine mammals are assumed to have cleared these established shutdown zones.

WSDOT proposed to establish shutdown zones for SRKWs and HWs at the Level B harassment zone for the vibratory removal of 14-in piles at 1,600

m and at 750 m for impact driving 24-in piles (Table 6 and Table 10). These shutdown zones are the Level B harassment zone rounded up to the nearest 50 m for each pile size and driving method. Proposed shutdown zones for the remaining pile-driving for SRKWs and HWs would be established at 15,410 m, which is equivalent to the maximum Level B harassment area before it reaches land.

The largest Level A harassment zone for the vibratory removal of 14-in piles is 3.2 m for all cetaceans and pinnipeds. However, WSDOT proposed conservatively to implement a shutdown zone at 50 m for removal of 14-in piles. The proposed shutdown zones for the remaining pile-driving activities would be established at 100 m for all hearing groups of cetaceans

(except SRKWs and HWs, as discussed above) and 50 m for all pinnipeds. The largest Level A harassment zone amongst all hearing groups of cetaceans is would be 97.3 m for the remaining pile-driving (Table 6). The largest Level A harassment zone amongst pinnipeds would be 40.6 m for the remaining pile driving (Table 6). With WSDOT's proposed shutdown zones, all incidental take would be prevented for SRKWs and HWs and only take by Level B harassment would occur for the remaining species of cetaceans and pinnipeds.

WSDOT would also establish shutdown zones for all other species of marine mammals for which take has not been authorized or for which incidental take has been authorized but the number of authorized takes has already

been met. Those zones would be equivalent to Level B harassment zones provided for each activity in Table 6.

In addition to the shutdown zones mentioned above, WSDOT proposes to implement shutdown measures for SRKWs and HWs. If SRKWs or HWs are observed within or approaching established shutdown zones (see table 10), WSDOT would shut down pile driving equipment to avoid take of these species. If a killer whale approaches a Level B harassment zone, and it is unknown if it is a SRKW or a Transient killer whale, WSDOT would assume it is a SRKW and implement shutdown measures. Pile driving would only resume if the killer whale could be confirmed as a Transient killer whale.

TABLE 10—SHUTDOWN ZONES FOR ALL PILE-DRIVING ACTIVITIES FOR THE SEATTLE SLIP 3 VTS REPLACEMENT PROJECT

Pile size and type	Pile driving method	Shutdown zones (m)					SRKW and HW shutdown zones (m)
		LF cetaceans	MF cetaceans	HF cetaceans	Phocids	Otarids	
14-in steel	Vibratory removal	50	50	50	50	50	1,600
24-in steel	Vibratory installation and removal.	100	100	100	50	50	* 15,410
24-in steel	Impact installation	100	100	100	50	50	750
30-in steel	Vibratory installation	100	100	100	50	50	* 15,410
78-in steel	Vibratory Installation	100	100	100	50	50	* 15,410

* 15,410 m is the maximum distance sound can travel before reaching land.

Protected Species Observers

The monitoring locations for all protected species observers (PSOs) during all pile driving activities (described in the Proposed Monitoring and Reporting Section) would ensure that the entirety of all shutdown zones are visible. If environmental conditions deteriorate such that the entirety of shutdown zones would not be visible (e.g., fog, heavy rain, Beaufort sea state, etc.), all pile driving would be delayed until PSOs are confident that marine mammals in the shutdown zones could be detected.

Monitoring for Level A and Level B Harassment

All of the harassment zones would be monitored by PSOs to the extent practicable. Established monitoring zones would allow PSOs to observe marine mammals and define clear monitoring protocols for areas adjacent to shutdown zones. The monitoring zones and protocols would enable PSOs to be aware of and communicate the presence of marine mammals in project areas and outside of project areas to prepare for potential cessation of pile

driving activities should a marine mammal enter a shutdown zone.

Pre-Activity Monitoring

Prior to the start of daily in-water construction activities, or whenever a break in pile driving of 30 minutes or longer occurs, PSOs would observe shutdown and monitoring zones for a 30 minute period. The shutdown zone would be considered cleared when a marine mammal has not been observed within the zone for that 30-minute period. If pile driving is delayed or halted due to the presence of a marine mammal, the activities would not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zones or 15 minutes have passed without re-detection of the animal. When a marine mammal for which Level B harassment take is authorized is present in the Level B harassment zone and authorized take has not been met, activities may begin. If work ceases for more than 30 minutes, the pre-activity monitoring of the shutdown zones would commence. A determination that the shutdown zone is clear must be made during a period of

good visibility (i.e., the entire shutdown zone and surrounding waters must be visible to the naked eye).

Soft Start

Soft-start procedures are used to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors would be required to provide an initial set of three strikes from the hammer at reduced energy, followed by a 30-second waiting period, then two subsequent reduced-energy strike sets. Soft start would be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer.

Bubble Curtain

A bubble curtain would be employed during impact installation or proofing of steel piles, unless the piles are driven in the dry, or water is less than 3 ft (0.9 m) in depth. A noise attenuation device would not be required during vibratory pile driving. If a bubble curtain or

similar measure is used, it would distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column. Any other attenuation measure would be required to provide 100 percent coverage in the water column for the full depth of the pile. The lowest bubble ring would be in contact with the mudline for the full circumference of the ring. The weights attached to the bottom ring would ensure 100 percent mudline contact. No parts of the ring or other objects would prevent full mudline contact.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.*, presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.*, source characterization, propagation, ambient noise); (2) affected species (*e.g.*, life

history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.*, age, calving or feeding areas);

- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.*, marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Visual Monitoring

Marine mammal monitoring during pile driving activities would be conducted by PSOs meeting NMFS' standards and in a manner consistent with the following:

- PSOs must be independent of the activity contractor (for example, employed by a subcontractor) and have no other assigned tasks during monitoring periods;
- At least one PSO would have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization;
- Other PSOs may substitute education (degree in biological science or related field) or training for experience; and
- Where a team of three or more PSOs is required, a lead observer or monitoring coordinator would be designated. The lead observer would be required to have prior experience working as a marine mammal observer during construction.
- PSOs must be approved by NMFS prior to beginning any activities subject to this IHA.

PSOs should have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;

- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and

- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

During all pile driving activities, a minimum of 3 PSO will monitor shutdown zones during pile driving activities. A total of 3 PSOs will monitor the area for the vibratory removal 14-in steel H-piles, 2 PSOs will monitor from the construction site and the other PSO will monitor from Pier 69/70. For the vibratory installation and removal of 24, 30, and 78-in steel pipe piles 8 PSOs will monitor shutdown zones. PSOs as described above, 1 PSO will be stationed on each of the Seattle-Bainbridge Island Ferries (2 PSOs in total on ferries), 1 PSO stationed at Alki Beach Pier on the south end of Elliott Bay, 1 PSO stationed at Magnolia Viewpoint on the north end of Elliott Bay, 1 PSO station at Rolling Bay on Bainbridge Island, and another PSO stationed at Rockaway Beach on Bainbridge Island. During impact pile driving 24-in steel pipe piles, 2 PSOs will be stationed at the construction site and an additional PSO will be stationed at pier 62 at the north end of the SRKW and HW shutdown zones (Figure 3).

Monitoring would be conducted 30 minutes before, during, and 30 minutes after all in water construction activities. In addition, observers would record all incidents of marine mammal occurrence, regardless of distance from activity, and would document any behavioral reactions in concert with distance from piles being driven or removed. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

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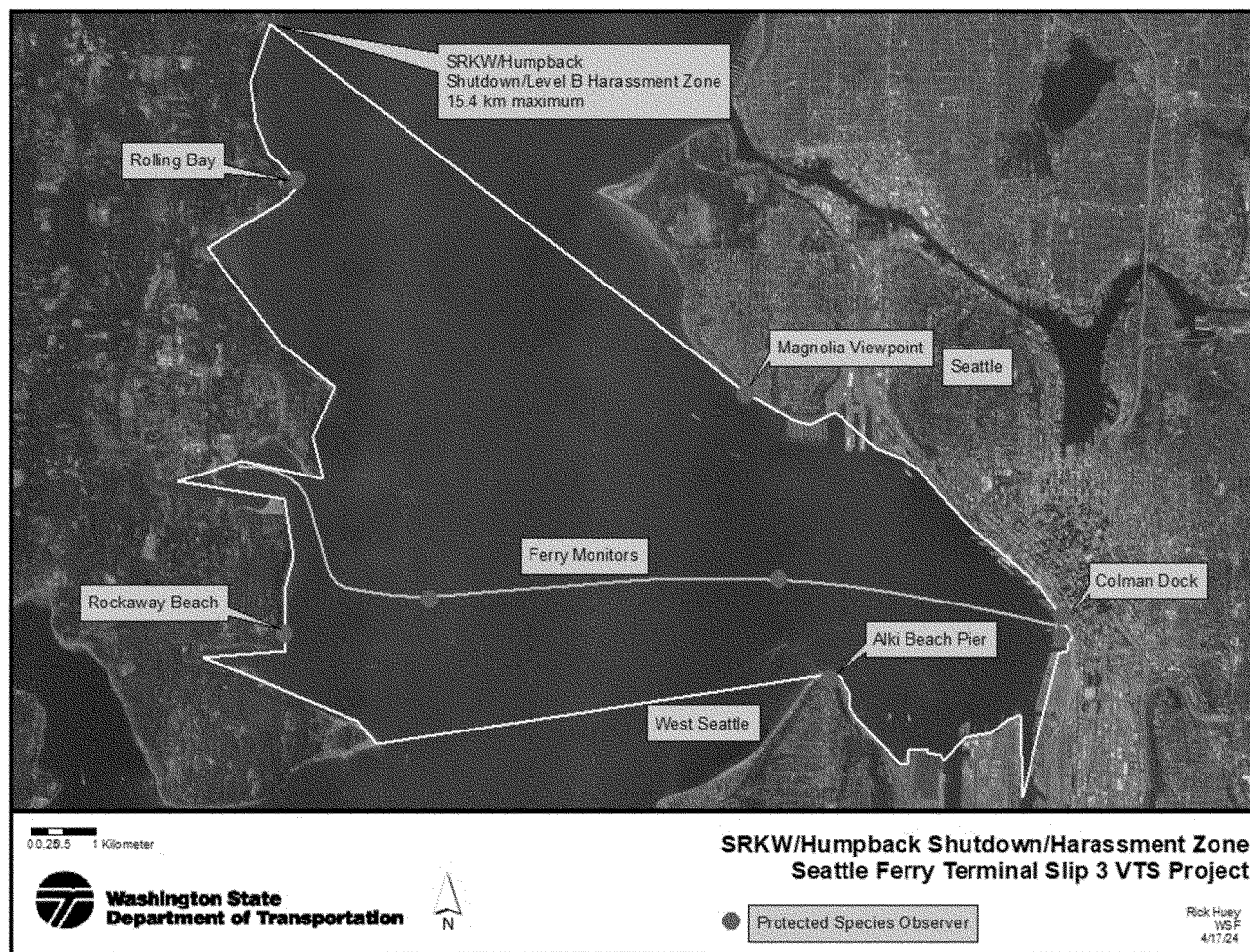


Figure 3 – Placement of Protected Species Observers

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Coordination With Marine Mammal Research Networks

Prior to the start of pile driving for the day, the PSOs would contact the Orca Network to find out the location of the nearest marine mammal sightings. Daily sightings information will be checked several times a day. The Orca Network consists of a list of over 600 (and growing) residents, scientists, and government agency personnel in the United States and Canada. Sightings are called or emailed into the Orca Network and immediately distributed to the NMFS Northwest Fisheries Science Center, the Center for Whale Research, Cascadia Research, the Whale Museum Hotline, and the British Columbia Sightings Network.

Sightings information collected by the Orca Network includes detection by hydrophone. The SeaSound Remote Sensing Network is a system of interconnected hydrophones installed

in the marine environment of Haro Strait (west side of San Juan Island) to study orca communication, in-water noise, bottom fish ecology, and local climatic conditions. A hydrophone at the Port Townsend Marine Science Center measures average in-water sound levels and automatically detects unusual sounds. These passive acoustic devices allow researchers to hear when different marine mammals come into the region. This acoustic network, combined with the volunteer visual sighting network allows researchers to document presence and location of various marine mammal species.

WSDOT also participates in the Whale Report Alert System (WRAS/ WhaleReport Alert System—Ocean Wise). In October 2018, the Ocean Wise Sightings Network (formerly the B.C. Cetacean Sightings Network) launched an alert system that broadcasts details of whale presence to large commercial vessels. Information on whale presence

is obtained from real-time observations reported to the Ocean Wise Sightings Network via the WhaleReport app. The alerts inform shipmasters and pilots of cetacean occurrence in their vicinity. This awareness better enables vessels to undertake adaptive mitigation measures, such as slowing down or altering course in the presence of cetaceans, to reduce the risk of collision and disturbance.

All WSDOT ferry vessel crews have been trained in the use of WRAS, and input new sightings of cetaceans so data would be available to other vessels and to PSOs on the project. The lead PSO will check the WRAS sightings regularly during the day to be aware of cetaceans approaching the shutdown zones.

With this level of coordination in the region of activity, WSDOT would be able to get additional real-time information on the presence or absence of cetaceans prior to start of in-water construction each day.

Reporting

A draft marine mammal monitoring report would be submitted to NMFS within 90 days after the completion of pile driving activities, or 60 days prior to a requested date of issuance of any future IHAs for the project, or other projects at the same location, whichever comes first. The marine mammal report would include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report would include:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including: (a) How many and what type of piles were driven or removed and the method (*i.e.*, impact or vibratory); and (b) the total duration of time for each pile (vibratory driving) number of strikes for each pile (impact driving);
- PSO locations during marine mammal monitoring; and
- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance.

For each observation of a marine mammal, the following would be reported:

- Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting;
- Time of sighting;
- Identification of the animal(s) (*e.g.*, genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species;
- Distance and location of each observed marine mammal relative to the pile being driven or hole being drilled for each sighting;
- Estimated number of animals (min/max/best estimate);
- Estimated number of animals by cohort (adults, juveniles, neonates, group composition, etc.);
- Description of any marine mammal behavioral observations (*e.g.*, observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.*, no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);
- Number of marine mammals detected within the harassment zones, by species; and

- Detailed information about implementation of any mitigation (*e.g.*, shutdowns and delays), a description of specified actions that ensued, and resulting changes in behavior of the animal(s), if any.

If no comments are received from NMFS within 30 days, the draft reports would constitute the final reports. If comments are received, a final report addressing NMFS' comments would be required to be submitted within 30 days after receipt of comments. All PSO datasheets and/or raw sighting data would be submitted with the draft marine mammal report.

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, WSDOT would report the incident to the Office of Protected Resources (OPR) (PR.ITP.MonitoringReports@noaa.gov), NMFS and to the West Coast Region (WCR) regional stranding coordinator as soon as feasible. If the death or injury was clearly caused by the specified activity, WSDOT would immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the IHAs. WSDOT would not resume their activities until notified by NMFS.

The report would include the following information:

1. Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
2. Species identification (if known) or description of the animal(s) involved;
3. Condition of the animal(s) (including carcass condition if the animal is dead);
4. Observed behaviors of the animal(s), if alive;
5. If available, photographs or video footage of the animal(s); and
6. General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact

determination. In addition to considering estimates of the number of marine mammals that might be "taken" through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.*, intensity, duration), the context of any impacts or responses (*e.g.*, critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Pile driving and removal activities associated with this project have the potential to disturb or displace marine mammals. The activities for this project may result in incidental take, in the form of Level B harassment, from underwater sound generated from pile driving or removal. Potential takes could occur if marine mammals are present in the ensonified zone when pile driving activities are underway.

The takes from Level B harassment would be due to potential behavioral disturbance and TTS. No serious injury or mortality is anticipated given the nature of the activities and measures designed to minimize the possibility of injury to marine mammals. The potential for harassment is minimized through the construction method and the implementation of the planned mitigation measures (see Proposed Mitigation section).

To avoid repetition, the discussion of our analysis applies to all the species listed in Table 2, given that the anticipated effects of this activity on these different marine mammal stocks are expected to be similar in nature. Where there are special circumstances for a species or stock (*e.g.*, gray whales), they are included as a separate subsection below.

NMFS has identified key factors which may be employed to assess the level of analysis necessary to conclude whether potential impacts associated with a specified activity should be considered negligible. These include (but are not limited to) the type and magnitude of taking, the amount and importance of the available habitat for

the species or stock that is affected, the duration of the anticipated effect to the species or stock, and the status of the species or stock. The following factors support negligible impact determinations for all affected stocks.

No take by Level A harassment is anticipated or proposed to be authorized incidental to the Seattle Slip 3 VTS Replacement Project. However, take by Level B harassment is expected and proposed to be authorized for 12 marine mammal species. Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as area avoidance, increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (e.g., Thorson and Reyff 2006 and NMFS 2018). Individual marine mammals would most likely move away from sound sources and temporarily avoid the ensonified area while pile driving is occurring. If the sound produced from the construction activities is sufficiently disturbing, marine mammals are likely to simply avoid the area while activities are occurring, particularly as the project is located on a busy waterfront with high amounts of vessel traffic. We expect that any avoidance of the project areas by marine mammals would be temporary in nature and that any marine mammals that avoid the project areas during construction would not be permanently displaced. Short-term avoidance of the project areas and energetic impacts of interrupted foraging or other important behaviors is unlikely to affect the reproduction or survival of individual marine mammals, and the effects of behavioral disturbance on individuals is not likely to accrue in a manner that would affect the rates of recruitment or survival of any affected stock.

The projects are also not expected to have significant adverse effects on affected marine mammals' habitats. The project activities will not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected (with no known particular importance to marine mammals), the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences. Aside from the biologically important area (BIA) for

gray whales described below, there are no known areas of importance for other marine mammals, such as feeding or pupping areas, in the project area.

For all species and stocks, take would occur within a limited, relatively confined area (Elliott Bay within central Puget Sound) of the stocks' ranges. Given the availability of suitable habitat nearby, any displacement of marine mammals from the project areas is not expected to affect marine mammals' fitness, survival, and reproduction due to the limited geographic area that will be affected in comparison to the much larger habitat for marine mammals in Puget Sound. Level B harassment will be reduced to the level of least practicable adverse impact to the marine mammal species or stocks and their habitat through use of mitigation measures described herein. Some individual marine mammals in the project areas may be present and be subject to repeated exposure to sound from pile driving on multiple days. However, these individuals would likely return to normal behavior during gaps in pile driving activity. The Seattle waterfront is a busy area and monitoring reports from previous in water pile driving activities indicate that marine mammals remain in Elliott Bay and the central Puget Sound area throughout pile driving activities. Therefore, any behavioral effects of repeated or long duration exposures are not expected to negatively affect survival or reproductive success of any individuals. Thus, even repeated Level B harassment of some small subset of an overall stock is unlikely to result in any effects on rates of reproduction and survival of the stock.

Gray Whales

The Puget Sound is part of a BIA for gray whales as they migrate between the Arctic and Mexico (Calambokidis et al., 2024). Although the proposed project area is located within the Puget Sound, the gray whale BIA does not overlap with the ensonified zones and gray whales typically remain further north around Whidbey and Camano Islands (Calambokidis et al., 2018). Gray whales are also rarely seen in the project area. This suggests that impacts from the project would have minimal to no impact on the migration of gray whales in the BIA, and would therefore not affect reproduction or survival.

There was a UME for gray whales from 2018 through 2023 (see the Description of Marine Mammals in the Area of Specified Activities section of this notice). However, we do not expect takes proposed to be authorized for this project to have any additional affects to

reproduction or survival. As mentioned previously, no take by Level A harassment, serious injury or mortality is expected. Takes proposed to be authorized by Level B harassment of gray whales would primarily be in the form of behavioral disturbance. The results from necropsies showed evidence that gray whale nutritional condition was poor during the UME. The area that would be temporarily impacted from construction does not overlap with the gray whale feeding BIA in the northern Puget Sound. Therefore, the construction associated with the Seattle Slip 3 VTS Replacement Project is unlikely to disrupt any critical behaviors (e.g., feeding) or have any effect on reproduction or survival of gray whales.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- Level A harassment is not anticipated or proposed to be authorized for all 12 marine mammal species;
- Level B harassment would be in the form of behavioral disturbance, primarily resulting in avoidance of the project areas around where impact or vibratory pile driving is occurring, and some low-level TTS that may limit the detection of acoustic cues for relatively brief amounts of time in relatively confined footprint of the activities;
- Nearby areas of similar habitat value within Puget Sound are available for marine mammals that may temporarily vacate the project areas during construction activities for both projects;
- Effects on species that serve as prey for marine mammals from the activities are expected to be short-term and, therefore, any associated impacts on marine mammal feeding are not expected to result in significant or long-term consequences for individuals, or to accrue to adverse impacts on their populations from either project;
- The number of anticipated takes by Level B harassment is relatively low for all stocks for both projects;
- The ensonified areas from the project is very small relative to the overall habitat ranges of all species and stocks, and will not adversely affect ESA-designated critical habitat, or cause more than minor impacts in any BIAs or any other areas of known biological importance;

- The lack of anticipated significant or long-term negative effects to marine mammal habitat from the project;

- The efficacy of the mitigation measures in reducing the effects of the specified activities on all species and stocks for the project; and

- Monitoring reports from similar work in Puget Sound that have documented little to no effect on individuals of the same species that could be impacted by the specified activities from the project.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

For all species and stocks other than killer whales from the West Coast Transient stock, the proposed take is below one-third of the stock abundance. The proposed take of Transient killer whales as a proportion of the stock abundance is greater than one-third, if all takes are assumed to occur for different individuals. The project area represents a small portion of the stock's range from Alaska to California (Muto et al., 2019). Sighting reports from the Orca Network support that it is reasonable to suspect that the same individual Transient Killer whales would be present within the ensouffied project area during the relatively short duration (19 days) of proposed activities. Since the construction area represents a small portion of Transient

killer whales range and construction would occur over a short period, it is more likely that there will be multiple takes of the same individuals during proposed activities.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to WSDOT for conducting the Seattle Slip 3 VTS Replacement Project at Colman Dock in Seattle, Washington, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>.

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed Seattle Slip 3 VTS Replacement Project. We also request

comment on the potential renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, one-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical activities as described in the Description of Proposed Activity section of this notice is planned or (2) the activities as described in the Description of Proposed Activity section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the Dates and Duration section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond one year from expiration of the initial IHA); and

- The request for renewal must include the following:

(1) An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take); and

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648-XE095]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Site Characterization Surveys Offshore From Massachusetts to New Jersey for Vineyard Northeast, LLC

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued a renewal incidental harassment authorization (IHA) to Vineyard Northeast, LLC (Vineyard Northeast) to incidentally harass marine mammals incidental to marine site characterization surveys offshore from Massachusetts to New Jersey in the Bureau of Ocean Energy Management (BOEM) Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf Lease Areas OCS-A 0522 and OCS-A 0544 (Lease Areas) and associated offshore export cable corridor (OECC) routes.

DATES: This renewal IHA is effective from July 27, 2024, through July 26, 2025.

ADDRESSES: Electronic copies of the original application, renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable>. In case of problems accessing these documents, see **FOR FURTHER INFORMATION CONTACT** section. **FOR FURTHER INFORMATION CONTACT:** Jessica Taylor, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:**Background**

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce

(as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, an IHA is issued.

Authorization for incidental takings shall be granted if NMFS finds the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as “mitigation measures”). Monitoring and reporting of such takings are also required. The meaning of key terms such as “take,” “harassment,” and “negligible impact” can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency’s regulations at 50 CFR 216.103.

NMFS’ regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed 1 year for each reauthorization. In the notice of proposed IHA for the initial IHA, NMFS described the circumstances under which we would consider issuing a renewal for this activity, and requested public comment on a potential renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-time 1-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical, or nearly identical, activities as described in the Detailed Description of Specified Activities section of the initial IHA issuance notice is planned or (2) the activities as described in the Description of the Specified Activities and Anticipated Impacts section of the initial IHA issuance notice would not be completed by the time the initial IHA expires and a renewal would allow for completion of the activities beyond that described in the **DATES** section of the notice of issuance of the initial IHA, provided all of the following conditions are met:

1. A request for renewal is received no later than 60 days prior to the needed

renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA).

2. The request for renewal must include the following:

- An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduced effort) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

- A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed renewal. A description of the renewal process may be found on our website at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals>.

History of Request

On July 27, 2022, NMFS issued an IHA (hereafter, referred to as the 2022 IHA) to Vineyard Northeast to take marine mammals incidental to marine site characterization surveys offshore from Massachusetts to New Jersey, in the Lease Areas and potential OECC routes to landfall locations, effective from July 27, 2022, through July 26, 2023 (87 FR 52913, August 30, 2022). On April 23, 2023, NMFS received a request from Vineyard Northeast to issue an IHA to take marine mammals incidental to continued marine site characterization surveys offshore from Massachusetts to New Jersey, in the BOEM Lease Areas and potential OECC routes. Although the IHA renewal requirements were otherwise satisfied, NMFS determined that the availability of updated marine mammal density data (Roberts *et al.*, 2023), upon which the

take estimates were based, for all species in the Project Area warranted updated analysis and, therefore, the issuance of a new IHA (hereafter, referred to as the 2023 IHA) instead of a renewal IHA, as described in the **Federal Register** notice for the proposed 2023 IHA (88 FR 40212, June 21, 2023). The 2023 IHA, *i.e.*, the initial IHA was issued to Vineyard Northeast with effective dates of July 27, 2023 through July 26, 2024 (88 FR 50117, August 1, 2023).

On April 29, 2024, NMFS received a request from Vineyard Northeast for the renewal of the 2023 IHA. Due to unanticipated delays, Vineyard Northeast will not be able to complete the surveys before the expiration date of the 2023 IHA. The activities for which incidental take was requested consisted of a subset of the identical activities associated with the 2023 IHA. As required, Vineyard Northeast also provided a preliminary monitoring report, which demonstrated that they implemented the required marine mammal mitigation and monitoring and did not exceed the levels of take authorized under the 2023 IHA. These monitoring results are available to the public on our website: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable>. The notice of the proposed renewal IHA was published for public comment on June 18, 2024 (89 FR 51501).

Description of the Specified Activity and Anticipated Impacts

Vineyard Northeast's 2023 IHA authorized take of marine mammals incidental to marine site characterization surveys, including high-resolution geophysical (HRG) surveys, offshore from Massachusetts to southern New Jersey, specifically within the Lease Areas and along potential submarine OECCs. The purpose of these surveys are to obtain an assessment of seabed (geophysical, geotechnical, and geohazard), ecological, and archeological conditions within the footprint of the planned offshore wind facility development area. Surveys are also conducted to inform and support engineering design and to map unexploded ordnance. While actively surveying, the vessel operates at a maximum speed of 4 knots (4.6 miles per hour (mph) or 7.4 kilometers per hour (km/h)). Vineyard Northeast's 2023 survey plan included 37,360 km of track line over 467 planned survey days. However Vineyard Northeast actually completed only 860 km of track line over 11 survey days prior to the request

for renewal, representing approximately 2 percent of the total planned survey effort.

Under the renewal IHA, Vineyard Northeast plans to continue to conduct survey activities over the remaining approximately 36,500 km of track line that was not completed in 2023. These surveys will be conducted over up to approximately 456 survey days using a maximum of four vessels operating concurrently within the Lease Areas and OECCs. A "survey day" is defined as a 24-hour (hr) activity period in which active HRG acoustic sources are used. This schedule is inclusive of any inclement weather downtime and crew transfers. The number of survey days is calculated as the number of days needed to reach the overall level of effort required to meet survey objectives assuming any single vessel covers, on average, 80 km (49.7 miles) of survey track line per 24 hours of operations.

The potential impacts of Vineyard Northeast's planned activities on marine mammals involve potential acoustic stressors and are unchanged from the impacts described in the **Federal Register** notice for the proposed 2023 IHA (88 FR 40212, June 21, 2023), which relies upon information in the notice of the proposed 2022 IHA (87 FR 30872, May 20, 2022). Underwater sound, resulting from particular components of Vineyard Northeast's HRG survey activities, has the potential to result in incidental take of marine mammals, in the form of Level B harassment only, in the specified geographic region.

This renewal IHA is for the remainder of work that will not be completed by the expiration date of the 2023 IHA. The renewal IHA authorizes incidental take, by Level B harassment, only of 19 species (comprising 20 stocks) of marine mammals for a subset of marine site characterization survey activities to be completed in 1 year, in the same area, using survey methods identical to those conducted under the 2023 IHA. Neither Vineyard Northeast nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate. Take by Level A harassment (injury) is unlikely, even absent mitigation, based on the characteristics of the signals produced by the acoustic sources planned for use. Therefore, the anticipated effects on marine mammals and the affected stocks also remain the same. All mitigation, monitoring, and reporting measures would remain exactly as described in the **Federal Register** notice for the issued 2023 IHA (88 FR 50117, August 1, 2023) and the notice of the proposed

2022 IHA (87 FR 52913, August 30, 2022).

Detailed Description of the Activity

A detailed description of the marine site characterization survey activities for which incidental take is authorized here may be found in the **Federal Register** notice of the proposed 2023 IHA (88 FR 40212, June 21, 2023), which relies upon information in the notice of the proposed 2022 IHA (87 FR 30872, May 20, 2022). The specific geographic region and specified activities, including the types of survey equipment and number of survey vessels planned for use, are identical to those described in the previous notices, with the exception of the reduction in the size of the survey area since a small subset of the survey work planned under the 2022 IHA was completed. The renewal would be effective for a period not exceeding 1 year from the date of expiration of the initial IHA.

Comments and Responses

A notice of NMFS' proposal to issue a renewal IHA to Vineyard Northeast was published in the **Federal Register** on June 18, 2024 (89 FR 51501). That notice either described, or referenced descriptions of, Vineyard Northeast's survey activity, the marine mammal species that may be affected by the activity, the anticipated effects on marine mammals and their habitat, estimated amount and manner of take, and proposed mitigation, monitoring and reporting measures.

During the 15-day public comment period, NMFS received 4 public comment letters from three individuals and one from a non-governmental organization (NGO), Clean Ocean Action (COA). NMFS has reviewed all public comments received on the Vineyard Northeast HRG renewal IHA. All relevant, substantive comments, and NMFS' responses, are provided below. Comments indicating general support for or opposition to offshore wind construction or impacts to other non-marine mammal species, except inasmuch as they may be relevant to impacts to marine mammal prey, are not relevant to the proposed action and therefore were not considered and are not addressed here. The comments and recommendations are available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable>. Please see the comment submissions for full details regarding the recommendations and supporting rationale.

Comment 1: A commenter recommended that NMFS increase the

size of all pre-start clearance, separation, and shutdown zones to 500 meters (m) for all ESA-listed baleen whales.

Response: NMFS does not concur with this recommendation, and does not adopt it. The NMFS Greater Atlantic Regional Fisheries Office (GARFO) 2021 Offshore Wind Site Assessment Survey Programmatic ESA consultation (see <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic#offshore-wind-site-assessment-and-site-characterization-activities-programmatic-consultation>) determined that a 500-m shutdown zone for North Atlantic right whales or unidentified large whales and a 100-m shutdown zone for all other ESA-listed whales is sufficient to minimize exposure to noise from HRG acoustic sources that could be disturbing. Accordingly, NMFS has adopted this shutdown zone size for all baleen whale species, other than the North Atlantic right whale. The commenter does not provide additional scientific information for NMFS to consider to support the recommendation to expand the shutdown zone for baleen whales. Given that these surveys are relatively low impact, NMFS has determined that an increase in the size of the shutdown zone for ESA-listed baleen whales (excluding North Atlantic right whales) during HRG surveys is not warranted, and the commenter provides no evidence to the contrary.

Comment 2: Several commenters expressed general concern for North Atlantic right whales and impacts from the proposed survey activities, and specifically concern that the proposed renewal IHA and its associated specified activities would lead to mortality (death) of marine mammals.

Response: NMFS appreciates the commenters' general concern for North Atlantic right whales. NMFS emphasizes that there is no credible scientific evidence available suggesting that mortality and/or serious injury or Level A harassment is a potential outcome of the planned survey activity. NMFS notes there have never been reports of any serious injuries or mortalities of any marine mammal associated with site characterization surveys. The best available science indicates that Level B harassment, or disruption of behavioral patterns, may occur as a result of Vineyard Northeast's specified activities. We also refer to the GARFO 2021 Programmatic Consultation, which finds that these survey activities are in general not likely to adversely affect marine mammal species listed under the ESA (*i.e.*,

GARFO's analysis conducted pursuant to the ESA finds that marine mammals are not likely to be taken at all (as that term is defined under the ESA), much less be taken by serious injury or mortality). That document is found at: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic#offshore-wind-site-assessment-and-site-characterization-activities-programmatic-consultation>. Additionally, NMFS cannot authorize mortality or serious injury via an IHA, and such taking is prohibited under Condition 3(c) of the IHA and may result in modification, suspension, or revocation of the IHA. The impacts of Level B harassment (*i.e.*, behavioral disturbance) are expected to have a negligible impact on the North Atlantic right whale population as well as other potentially impacted marine mammal populations. NMFS has made the required findings based on the best scientific information available and has included mitigation measures to effect the least practicable adverse impact on North Atlantic right whales and other potentially impacted marine mammals.

Comment 3: A commenter claims that NMFS should be required to conduct further NEPA analysis for the project, considering the cumulative effects of the proposed IHA relative to other authorized takes in the area and adjust permitted activities accordingly. The commenter further indicated that NMFS does not justify why extraordinary circumstances do not apply and indicates that lack of this justification warrants NEPA analysis further than a Categorical Exclusion.

Response: NMFS does not agree with the commenter. A CE is a category of actions that an agency has determined does not individually or cumulatively have a significant effect on the quality of the human environment, and is appropriately applied for such categories of actions so long as there are no extraordinary circumstances present that would indicate that the effects of the action may be significant. Extraordinary circumstances are situations for which NOAA has determined further NEPA analysis is required because they are circumstances in which a normally excluded action may have significant effects. A determination of whether an action that is normally excluded requires additional evaluation because of extraordinary circumstances focuses on the action's potential effects and considers the significance of those effects in terms of both context (consideration of the affected region, interests, and resources) and intensity

(severity of impacts). Potential extraordinary circumstances relevant to this action include (1) adverse effects on species or habitats protected by the MMPA that are not negligible; (2) highly controversial environmental effects; (3) environmental effects that are uncertain, unique, or unknown; and (4) the potential for significant cumulative impacts when the proposed action is combined with other past, present, and reasonably foreseeable future actions.

The relevant NOAA CE associated with issuance of incidental take authorizations is CE B4, "Issuance of incidental harassment authorizations under section 101(a)(5)(A) and (D) of the MMPA for the incidental, but not intentional, take by harassment of marine mammals during specified activities and for which no serious injury or mortality is anticipated." This action falls within CE B4. In determining whether a CE is appropriate for a given incidental take authorization, NMFS considers the applicant's specified activity and the potential extent and magnitude of takes of marine mammals associated with that activity along with the extraordinary circumstances listed in the Companion Manual for NOAA Administrative Order (NAO) 216-6A and summarized above.

The issuance of this IHA will not result in highly controversial environmental effects or result in environmental effects that are uncertain, unique, or unknown because numerous entities have been engaged in site characterization surveys that result in Level B harassment of marine mammals in the United States. This type of activity is well documented; prior authorizations and analysis demonstrate issuance of an IHA for this type of action only affects the marine mammals that are the subject of the specific authorization and, thus, no potential for significant cumulative impacts are expected, regardless of past, present, or reasonably foreseeable actions, even though the impacts of the action may not be significant by itself. Based on this evaluation, we concluded that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

The evaluation of whether extraordinary circumstances (if present) have the potential for significant environmental effects is limited to the decision NMFS is responsible for, which is issuance of the incidental take authorization. While there may be environmental effects associated with the underlying action, potential effects of NMFS' action are limited to those that would occur due to the authorization of incidental take of

marine mammals. NMFS prepared numerous EAs analyzing the environmental impacts of the categories of activities encompassed by CE B4 which resulted in Findings of No Significant Impacts (FONSI) and, in particular, numerous EAs prepared in support of issuance of IHAs related to similar survey actions are part of NMFS' administrative record supporting CE B4. These EAs demonstrate the issuance of a given IHA does not affect other aspects of the human environment because the action only affects the marine mammals that are the subject of the IHA. These EAs also addressed factors in 40 CFR 1508.27 regarding the potential for significant impacts and demonstrate the issuance of IHA for the categories of activities encompassed by CE B4 do not individually or cumulatively have a significant effect on the human environment.

Specifically for this action, NMFS plans to rely upon the previously issued CE for the 2023 IHA. NMFS independently evaluated the use of the CE for issuance of Vineyard Northeast's 2023 IHA, which included consideration of extraordinary circumstances. As part of that analysis, NMFS considered whether the 2023 IHA issuance would result in cumulative impacts that could be significant. The issuance of the 2023 IHA to Vineyard Northeast is expected to result in minor, short-term behavioral effects on marine mammal species due to exposure to underwater sound from site characterization survey activities, and this determination remains relevant for the current IHA. Behavioral disturbance is possible to occur intermittently in the vicinity of Vineyard Northeast's survey area during the 1-year timeframe. Level B harassment will be reduced through use of mitigation measures described herein. Additionally, as discussed elsewhere, NMFS has determined that Vineyard Northeast's activities fall within the scope of activities analyzed in GARFO's programmatic consultation regarding geophysical surveys along the U.S. Atlantic coast in the three Atlantic Renewable Energy Regions (completed June 29, 2021; revised September 2021), which concluded surveys such as those planned by Vineyard Northeast are not likely to adversely affect endangered listed species or adversely modify or destroy critical habitat. Accordingly, NMFS has determined that the issuance of this renewal IHA will result in no more than negligible (as that term is defined by the Companion Manual for NAO 216-6A) adverse effects on species protected by the ESA and the MMPA.

Comment 4: A commenter suggested that a Letter of Authorization (LOA) would be more appropriate than an IHA for the proposed survey activities as the survey activities have spanned more than one year and "it is not clear how long the proposed activities would span given past delays."

Response: NMFS disagrees with the commenter that an LOA would be more appropriate for the planned survey activities than an IHA. All IHAs issued, whether an initial IHA or a renewal, are valid for a period of not more than 1 year. Vineyard Northeast's request for the initial IHA indicated a project duration of 1 year. As delays may be encountered, applicants may apply for a renewal IHA if the work under the initial IHA is not able to be completed within the effective period of the authorization. In order to qualify for a renewal IHA, the proposed renewal must consist of up to another year of identical, or nearly identical, activities as were covered by the initial IHA or a subset of the activities covered by the initial IHA. Vineyard Northeast's request falls under the latter requirements and the necessary preliminary monitoring data collected under the initial IHA were provided. Therefore, Vineyard Northeast's request is appropriate for a renewal IHA.

Regarding clarification on authorizations, as described on our website, IHAs are 1-year authorizations and Incidental Take Regulations (ITR) are 5-year regulations that allow for the issuance of LOA. An ITR must be used if authorization of take by mortality is necessary. However, both options are available for applicants requesting authorization of harassment only. While applicants may request a 5-year regulation for HRG survey activities, NMFS has not received any such requests to date and there is no expectation presented in the MMPA or Congressional record that activities continuing for more than 1 year must seek ITR and authorization under 101(a)(5)(A) of the MMPA. Therefore, a determination of which option to take is not dependent on any expectation regarding whether the activity will continue for more than 1 year or not.

Comment 5: Multiple commenters provided general concerns regarding recent marine mammal stranding events on the Atlantic Coast, including speculation that the strandings may be related to wind energy development-related activities. Commenters further urged NMFS to "reject Vineyard Northeast's application to renew its IHA" and postpone issuing IHAs for any wind energy development-related activities until NMFS can "definitively"

determine the cause of the recent strandings.

Response: NMFS authorizes take of marine mammals incidental to construction activities and marine site characterization surveys, provided the necessary findings are made, but does not authorize the activities themselves. Therefore, while NMFS has the authority to modify, suspend, or revoke an IHA if the IHA holder fails to abide by the conditions prescribed therein (e.g., failure to comply with monitoring or reporting requirements), or if NMFS determines that (1) the authorized taking is having or is likely to have more than a negligible impact on the species or stocks of affected marine mammals, or (2) the prescribed measures are likely not or are not effecting the least practicable adverse impact on the affected species or stocks and their habitat, it is not within NMFS' jurisdiction to delay offshore wind development or to require activities to cease.

NMFS reiterates that there is no evidence that acoustic noise resulting from offshore wind development-related activities could potentially cause marine mammal stranding, and there is no evidence linking recent marine mammal mortalities and currently ongoing offshore wind development activities. This point has been well supported by other agencies, including BOEM and the Marine Mammal Commission (Marine Mammal Commission Newsletter, Spring 2023). In addition, a recent study (Thorne and Wiley, 2024) reviewed spatiotemporal patterns of strandings, mortalities, and serious injuries of humpback whales along the US east coast from 2016–2022 and found vessel strikes to be the major driver in the increase of humpback whale strandings, mortalities, and serious injury. Based upon the spatiotemporal analysis, no evidence was found that offshore wind development played a role in the increased number of strandings over time; for example, spatiotemporal patterns between strandings and site assessment surveys did not seem associated. In fact, the potential for vessel strike increased from 2016–2022 in association with increased container vessel traffic that overlapped with whales in new and shallow foraging areas. This potential for vessel strike also seemed to increase with the increased presence of juvenile humpback whales foraging off the Mid-Atlantic States. Under the renewal IHA, NMFS would require Vineyard Northeast to abide by vessel speed restrictions and maintain separation distances between vessels and marine

mammals that would minimize the risk of any potential vessel strikes.

There is an ongoing Unusual Mortality Event (UME) for humpback whales along the Atlantic coast from Maine to Florida, which includes animals stranded since 2016. Partial or full necropsy examinations were conducted on approximately half of the whales. Necropsies were not conducted on other carcasses because they were too decomposed, not brought to land, or stranded on protected lands (*e.g.*, national and state parks) where responders had limited or no access to the carcasses. Of the roughly 90 whales examined, about 40 percent had evidence of human interaction (*i.e.*, vessel strike or entanglement). The remaining 50 necropsied whales either had an undetermined cause of death due to a limited examination or decomposition of the carcass, or had other causes of death (*e.g.*, parasite-caused organ damage and starvation). Ongoing UMEs are also occurring for North Atlantic right whales and minke whales, both since 2017. NMFS will continue to gather data to help us determine the cause of death for these stranded whales. Vessel strikes and entanglement in fishing gear continue to be the greatest human threats to large whales.

Comment 6: A commenter claims that issuance of the renewal IHA violates the Endangered Species Act (ESA) as the planned survey activities would result in “impacts on the ecology” of the area.

Response: NMFS disagrees with commenters that the renewal IHA violates the ESA. Under section 7(a)(2) of the ESA, Federal agencies are required to consult with NMFS or the U.S. Fish and Wildlife Service, as appropriate, to ensure that the actions they fund, permit, authorize, or otherwise carry out will not jeopardize the continued existence of any listed species or result in the destruction or adverse modification of designated critical habitats. NMFS has determined that Vineyard Northeast’s planned survey activities fall within the scope of activities analyzed in NMFS GARFO’s programmatic consultation regarding geophysical surveys along the U.S. Atlantic coast in the three Atlantic Renewable Energy Regions (completed June 29, 2021; revised September 2021). This consultation found that these survey activities are in general not likely to adversely affect any ESA-listed species listed or critical habitat.

Changes From Proposed to Final Renewal IHA

No changes were made from the proposed renewal IHA to the final renewal IHA.

Description of Marine Mammals

A description of the marine mammals in the proposed survey area may be found in the **Federal Register** notice for the proposed 2023 IHA (88 FR 40212, June 21, 2023), which relies upon information in the notice of the proposed 2022 IHA (87 FR 30872, May 20, 2022). After the 2023 IHA was issued, NMFS released its draft 2023 stock assessment reports (SARs). NMFS has reviewed the draft 2023 SARs, which included updates to certain stock abundance estimates, information on relevant unusual mortality events (UME), and other scientific literature. The draft 2023 SAR updated the population estimate (N_{best}) of North Atlantic right whales from 338 to 340 and annual mortality and serious injury from 31.2 to 27.2. The updated population estimate in the draft 2023 SAR is based upon sighting history through December 2021 (89 FR 5495, January 29, 2024). Total annual average observed North Atlantic right whale mortality during the period 2017–2021 was 7.1 animals and annual average observed fishery mortality was 4.6 animals, however, estimates of 27.2 total mortality and 17.6 fishery mortality account for undetected mortality and serious injury (89 FR 5495, January 29, 2024). In October 2023, NMFS released a technical report identifying that the North Atlantic right whale population size based on sighting history through 2022 was 356 whales, with a 95 percent credible interval ranging from 346 to 363 (Linden, 2023). NMFS conservatively relies in this circumstance on the lower SAR abundance estimate. NMFS has determined that neither this nor any other new information affects which species or stocks have the potential to be affected or any other pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the 2023 and 2022 IHAs.

On August 1, 2022, NMFS announced proposed changes to the existing North Atlantic right whale vessel speed regulations to further reduce the likelihood of mortalities and serious injuries to endangered North Atlantic right whales from vessel collisions, which are a leading cause of the species’ decline and a primary factor in an ongoing UME (87 FR 46921, August 1,

2022). Should a final vessel speed rule be issued and become effective during the effective period of this renewal IHA (or any other MMPA incidental take authorization), the authorization holder would be required to comply with any and all applicable requirements contained within the final rule. Specifically, where measures in any final vessel speed rule are more protective or restrictive than those in this or any other MMPA authorization, authorization holders would be required to comply with the requirements of the rule. Alternatively, where measures in this or any other MMPA authorization are more restrictive or protective than those in any final vessel speed rule, the measures in the MMPA authorization would remain in place. These changes would become effective immediately upon the effective date of any final vessel speed rule and would not require any further action on NMFS’s part.

Potential Effects on Marine Mammals and Their Habitat

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which incidental take is authorized here may be found in the notice of the proposed IHA for the 2022 IHA (87 FR 30872, May 20, 2022), which is relied upon in the notice for the proposed 2023 IHA (88 FR 40212, June 21, 2023). NMFS has reviewed the monitoring data from the 2023 IHA, recent draft SARs, information on relevant UMEs, and other scientific literature, and determined that there is no new information that affects our initial analysis of impacts on marine mammals and their habitat.

Estimated Take

A detailed description of the methods used to estimate take for the specified activity are found in the notices of the proposed and final IHA for the 2022 IHA (87 FR 30872, May 20, 2022; 87 FR 52913, August 30, 2022) and summarized in the notices of the proposed and final IHA for the 2023 IHA (88 FR 40212, June 21, 2023; 88 FR 50117, August 1, 2023). The methods of estimating take are identical to those used in the 2022 IHA and 2023 IHA (88 FR 40212, June 21, 2023). Specifically, the source levels, stocks taken, methods of take, and types of take remain unchanged from the 2022 IHA and 2023 IHA. In 2023, Vineyard Northeast updated the marine mammal densities based on new information (Roberts *et al.*, 2016; Roberts *et al.*, 2023), available online at: <https://seamap.env.duke.edu/models/Duke/EC/>. We refer the reader to table 8 in Vineyard Northeast’s 2023

IHA request for the specific density values used in the analysis. The IHA request is available online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-vineyard-northeast-llcs-marine-site>

characterization-survey. The marine mammal density/occurrence data applicable to this renewal authorization remains unchanged from the 2023 IHA. The number of takes authorized are a subset of the initial authorized takes

that better represent the amount of the remaining activity Vineyard Northeast has left to complete. These estimated takes, which reflect the remaining survey days, are indicated below in table 1.

TABLE 1—AUTHORIZED NUMBER OF TAKES BY LEVEL B HARASSMENT BY SPECIES AND STOCK AND PERCENT OF TAKE BY STOCK

Species	Scientific name	Stock	Abundance	2023 IHA authorized take	2024 renewal IHA	
					Authorized take ¹	Max percent population
Blue whale	<i>Balaenoptera musculus</i>	Western North Atlantic	402	1	1	0.25
North Atlantic right whale	<i>Eubalaena glacialis</i>	Western North Atlantic	340	12	12	3.52
Humpback whale	<i>Megaptera novaeangliae</i>	Gulf of Maine	1,396	12	12	0.86
Fin whale	<i>Balaenoptera physalus</i>	Western North Atlantic	6,802	20	20	0.29
Sei whale	<i>Balaenoptera borealis</i>	Nova Scotia	6,292	5	5	0.08
Minke whale	<i>Balaenoptera acutorostrata</i>	Canadian Eastern Coastal	21,968	46	45	0.21
Sperm whale	<i>Physeter macrocephalus</i>	North Atlantic	5,895	2	2	0.03
Long-finned pilot whale ¹	<i>Globicephala melas</i>	Western North Atlantic	39,215	17	17	0.04
Killer whale ^{2,3}	<i>Orcinus orca</i>	Western North Atlantic	UNK	4	4	⁴ 5.97
False killer whale ²	<i>Pseudorca crassidens</i>	Western North Atlantic	1,298	5	5	0.39
Atlantic spotted dolphin ³	<i>Stenella frontalis</i>	Western North Atlantic	31,506	29	29	0.09
Atlantic white-sided dolphin	<i>Lagenorhynchus acutus</i>	Western North Atlantic	93,233	129	126	0.14
Bottlenose dolphin	<i>Tursiops truncatus</i>	Western North Atlantic	6,639	45	44	0.66
		Northern Migratory Coastal				
		Western North Atlantic Off-shore	64,587	169	165	0.26
Common dolphin	<i>Delphinus delphis</i>	Western North Atlantic	93,100	7,472	7,296	7.84
Risso's dolphin	<i>Grampus griseus</i>	Western North Atlantic	44,067	9	9	0.02
White-beaked dolphin ^{2,3}	<i>Lagenorhynchus albirostris</i>	Western North Atlantic	536,016	30	30	0.006
Harbor porpoise	<i>Phocoena phocoena</i>	Gulf of Maine/Bay of Fundy	85,765	347	339	0.40
Harbor seal ⁵	<i>Phoca vitulina</i>	Western North Atlantic	61,336	939	917	1.49
Gray seal ⁵	<i>Halichoerus grypus</i>	Western North Atlantic	⁶ 27,911	418	408	0.09

¹ Roberts *et al.* (2023) only provides density estimates for pilot whales as a guild. Given the project's location, NMFS assumes that all take will be of long-finned pilot whales.

² Rare (or unlikely to occur) species.

³ Adjusted according to average group size (Kraus *et al.*, 2016; Palka *et al.*, 2017).

⁴ Based upon minimum population estimate of 67 individual killer whales identified in the Northwestern Atlantic Ocean (Lawson and Stevens, 2014).

⁵ Roberts *et al.* (2023) only provides a density estimate for seals as a guild. Vineyard Wind used Protected Species Observer (PSO) data collected during site characterization surveys within the survey area (2019, 2022–2024) to scale density-based exposure estimates for the seal guild for harbor and gray seals.

⁶ NMFS' stock abundance estimate (and associated PBR value) applies to U.S. population only. Total stock abundance (including animals in Canada) is approximately 451,600.

Description of Mitigation, Monitoring and Reporting Measures

These required mitigation, monitoring, and reporting measures are identical to those included in the **Federal Register** notices announcing the issuance of the 2023 IHA (88 FR 50117, August 1, 2023) and the 2022 IHA (87 FR 52913, August 30, 2022). In addition, the discussion of the least practicable adverse impact included in those documents as well as the notice of the proposed IHAs for 2022 (87 FR 30872, May 20, 2022) and 2023 (88 FR 40212, August 1, 2023) remains accurate. NMFS will require the following measures for this renewal IHA:

Establishment of Shutdown Zones—Marine mammal shutdown zones must be established around the HRG survey equipment and monitored by NMFS-approved PSOs during HRG surveys as follows:

- 500-m shutdown zone for North Atlantic right whales during use of specified acoustic sources (impulsive: sparkers and boomers; non-impulsive:

non-parametric sub-bottom profilers); and

- 100-m shutdown zone for all other marine mammals (excluding North Atlantic right whales) during operation of the sparker and boomer. The only exception for this is for pinnipeds (seals) and small delphinids (*i.e.*, those from the genera *Delphinus*, *Lagenorhynchus*, *Stenella* or *Tursiops*).

If a marine mammal is detected approaching or entering the shutdown zones during the HRG survey, the vessel operator will adhere to the shutdown procedures described below to minimize noise impacts on the animals. During use of acoustic sources with the potential to result in marine mammal harassment (sparkers, boomers, and non-parametric sub-bottom profilers; *i.e.*, anytime the acoustic source is active, including ramp-up), occurrences of marine mammals outside the shutdown zones must be communicated to the vessel operator to prepare for potential shutdown of the acoustic source.

Visual Monitoring—Monitoring must be conducted by NMFS-approved PSOs with minimum qualifications described in the **Federal Register** notices for the 2023 Proposed and Final IHAs (88 FR 40212, June 21, 2023; 88 FR 50117, August 1, 2023). Vineyard Northeast must have one PSO on duty during the day and a minimum of two PSOs must be on duty and conducting visual observations when HRG equipment is in use at night. Visual monitoring must begin no less than 30 minutes prior to ramp-up of HRG equipment and continue until 30 minutes after use of the acoustic source. PSOs must establish and monitor the applicable clearance zones, shutdown zones, and vessel separation distances as described in the 2022 IHA (87 FR 52913, August 30, 2022). PSOs must coordinate to ensure 360-degree visual coverage around the vessel from the most appropriate observation posts, and must conduct observations while free from distractions and in a consistent, systematic, and diligent manner. PSOs are required to estimate distances to

observed marine mammals. It is the responsibility of the Lead PSO on duty to communicate the presence of marine mammals as well as to communicate action(s) that are necessary to ensure mitigation and monitoring requirements are implemented as appropriate.

Pre-Start Clearance—Marine mammal clearance zones must be established around the HRG survey equipment and monitored by NMFS-approved PSOs prior to use of boomers, sparkers, and non-parametric sub-bottom profilers as follows:

- 500-m clearance zone for all ESA-listed species; and
- 100-m clearance zone for all other marine mammals.

Prior to initiating HRG survey activities, Vineyard Northeast must implement a 30-minute pre-start clearance period. The operator must notify a designated PSO of the planned start of ramp-up where the notification time should not be less than 60 minutes prior to the planned ramp-up to allow the PSOs to monitor the clearance zones for 30 minutes prior to the initiation of ramp-up. Prior to ramp-up beginning, Vineyard Northeast must receive confirmation from the PSO that the clearance zones are clear prior to preceding. Any PSO on duty has the authority to delay the start of survey operations if a marine mammal is detected within the applicable pre-start clearance zones.

During this 30-minute period, the entire clearance zone must be visible. The exception to this would be in situations where ramp-up must occur during periods of poor visibility (inclusive of nighttime) as long as appropriate visual monitoring has occurred with no detections of marine mammals in 30 minutes prior to the beginning of ramp-up.

If a marine mammal is observed within the relevant clearance zones during the pre-start clearance period, initiation of HRG survey equipment must not begin until the animal(s) has been observed exiting the respective clearance zone, or, until an additional period has elapsed with no further sighting (*i.e.*, minimum 15 minutes for small odontocetes and seals; 30 minutes for all other species). The pre-start clearance requirement includes small delphinids. PSOs must also continue to monitor the zone for 30 minutes after survey equipment is shut down or survey activity has concluded.

Ramp-Up of Survey Equipment—When technically feasible, a ramp-up procedure must be used for geophysical survey equipment capable of adjusting energy levels at the start or re-start of survey activities. The ramp-up

procedure must be used at the beginning of HRG survey activities in order to provide additional protection to marine mammals near the project area by allowing them to detect the presence of the survey and vacate the area prior to the commencement of survey equipment operation at full power. Ramp-up of the survey equipment must not begin until the relevant shutdown zones have been cleared by the PSOs, as described above. HRG equipment operators must ramp up acoustic sources to half power for 5 minutes and then proceed to full power. If any marine mammals are detected within the shutdown zones prior to or during ramp-up, the HRG equipment must be shut down (as described below).

Shutdown Procedures—If an HRG source is active and a marine mammal is observed within or entering a relevant shutdown zone (as described above), an immediate shutdown of the HRG survey equipment is required. When shutdown is called for by a PSO, the acoustic source must be immediately deactivated and any dispute resolved only following deactivation. Any PSO on duty has the authority to delay the start of survey operations or to call for shutdown of the acoustic source if a marine mammal is detected within the applicable shutdown zone. The vessel operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the HRG source(s) to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch. Subsequent restart of the HRG equipment may only occur after the marine mammal has been observed exiting the relevant shutdown zone, or, until an additional period has elapsed with no further sighting of the animal within the relevant shutdown zone.

Upon implementation of shutdown, the HRG source may be reactivated after the marine mammal that triggered the shutdown has been observed exiting the applicable shutdown zone or, following a clearance period of 15 minutes for small odontocetes (*i.e.*, harbor porpoise) and 30 minutes for all other species with no further observation of the marine mammal(s) within the relevant shutdown zone. If the HRG equipment is shut down for brief periods (*i.e.*, less than 30 minutes) for reasons other than mitigation (*e.g.*, mechanical or electronic failure) the equipment may be reactivated as soon as is practicable at full operational level, without 30 minutes of pre-clearance, only if PSOs have maintained constant visual observation during the shutdown and no visual detections of marine mammals occurred within the applicable

shutdown zones during that time. For a shutdown of 30 minutes or longer, or if visual observation was not continued diligently during the pause, pre-clearance observation is required, as described above.

The shutdown requirement is waived for pinnipeds (seals) and certain genera of small delphinids (*i.e.*, *Delphinus*, *Lagenorhynchus*, *Stenella*, or *Tursiops*) under certain circumstances. If a delphinid(s) from these genera is visually detected within the shutdown zone, shutdown would not be required. If there is uncertainty regarding identification of a marine mammal species (*i.e.*, whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived), PSOs must use best professional judgment in making the decision to call for a shutdown.

If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized number of takes have been met, approaches or is observed within the area encompassing the Level B harassment isopleth (178 m), shutdown must occur.

Vessel Strike Avoidance—Vineyard Northeast must comply with vessel strike avoidance measures as summarized in the **Federal Register** notice for the 2023 IHA (88 FR 50117, August 1, 2023). For a detailed description of vessel strike avoidance measures, please see the **Federal Register** notice for the 2022 IHA (87 FR 52913, August 30, 2022). This includes speed restrictions (10 knots or less) when mother/calf pairs, pods, or large assemblages of cetaceans are spotted near a vessel; species-specific vessel separation distances; appropriate vessel actions when a marine mammal is sighted (*e.g.*, avoid excessive speed, remain parallel to animal's course, *etc.*); and monitoring of the NMFS North Atlantic Right Whale reporting system and WhaleAlert daily.

Throughout all phases of the survey activities, Vineyard Northeast must monitor NOAA Fisheries North Atlantic right whale reporting systems for the establishment of a dynamic management area (DMA). If NMFS establishes a DMA in the surrounding area, including the project area or export cable routes being surveyed, Vineyard Northeast is required to abide by the 10-knot speed restriction.

Training—Project-specific training is required for all vessel crew prior to the start of survey activities.

Reporting—PSOs must record specific information as described in the **Federal Register** notice of the issuance of the 2023 IHA (88 FR 50117, August 1,

2023). Within 90 days after completion of survey activities, Vineyard Northeast must provide NMFS with a monitoring report, which must include summaries of recorded takes and estimates of the number of marine mammals that may have been harassed.

In the event of a ship strike or discovery of an injured or dead marine mammal, Vineyard Northeast must report the incident to the NMFS Office of Protected Resources (PR.ITP.MonitoringReports@noaa.gov) and to the NMFS Greater Atlantic Stranding Hotline (866-755-6622) as soon as feasible. The incident must also be reported to the NMFS GARFO (nmfs.gar.incidental-take@noaa.gov). The report must include the information listed in the **Federal Register** notice of the issuance of the 2022 IHA (87 FR 52913, August 30, 2022).

Determinations

Vineyard Northeast's HRG survey activities are a subset but otherwise unchanged from those analyzed in support of the 2023 IHA. The effects of the activity, taking into consideration the required mitigation and related monitoring measures, remain unchanged from those evaluated in support of the 2023 IHA. NMFS expects that all potential takes would be short-term Level B harassment in the form of temporary avoidance of the area or decreased foraging, reactions that are considered to be of low severity and with no lasting biological consequences (e.g., Southall *et al.*, 2007). In addition to being temporary, the maximum harassment zone around a survey vessel is 178 m from use of the Applied Acoustics AA251 Boomer. Although this distance is assumed for all survey activity evaluated here and in estimating authorized take numbers, in reality, much of the survey activity would involve use of acoustic sources with a reduced acoustic harassment zone (4 m for the Edge Tech Chirp 216 or 141 m for the GeoMarine Geo Spark 2000), producing expected effects of particularly low severity. Therefore, the ensouffled area surrounding each vessel is relatively small compared to the overall distribution of the animals in the area and the available habitat.

The survey area overlaps or is in close proximity to feeding biologically important areas (BIA) for North Atlantic right whales (Cape Cod Bay and Massachusetts Bay BIA, February–April/Great South Channel and Georges Bank Shelf Break BIA, April–June), humpback whales (March–December), fin whales (year-round/March–October), sei whales (May–November), and minke whales (March–November), as well as

overlaps the migratory BIA for North Atlantic right whales (November 1–April 30) (LaBrecque *et al.*, 2015). Most of these feeding BIAs are extensive and sufficiently large (e.g., 3,149 km² and 12,247 km² for North Atlantic right whales; 47,701 km² for humpback whales; 18,015 km² and 2,933 km² for fin whales; 56,609 km² for sei whales; 54,341 for minke whales), and the acoustic footprint of the proposed survey is sufficiently small that feeding opportunities for these species would not be reduced appreciably. In addition, the survey area also overlaps with the area south of Martha's Vineyard and Nantucket, primarily along the western side of Nantucket Shoals, which has been identified as year-round core North Atlantic right whale foraging habitat (Leiter *et al.*, 2017; O'Brien *et al.*, 2022; Quintana-Rizzo *et al.*, 2021; Van Parijs *et al.*, 2023). As prey species are mobile and broadly distributed throughout the survey area, marine mammals that are temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise, thus we do not expect biologically significant impacts to feeding behavior. Due to the temporary nature of the disturbance, the availability of similar habitat and resources in the surrounding area, and required mitigation measures, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations. The impacts of these lower severity exposures are not expected to accrue to a degree that the fitness of any individuals would be impacted and, therefore, no impacts on the annual rates of recruitment or survival would result.

As previously discussed in the 2023 IHA (88 FR 50117, August 1, 2023), impacts from the survey are expected to be localized to the specific area of activity and only during periods when Vineyard Northeast's acoustic sources are active. There are no rookeries, mating or calving grounds known to be biologically important to marine mammals within the survey area.

As noted for the 2023 IHA (88 FR 50117, August 1, 2023), the survey area overlaps a migratory corridor BIA and migratory route seasonal management areas (SMAs) (Port of New Jersey/New York and Block Island) for North Atlantic right whales. As the survey activities would be temporary and the spatial acoustic footprint produced by the survey would be very small relative to the spatial extent of the available

migratory habitat in the BIA (269,448 km²), NMFS does not expect North Atlantic right whale migration to be impacted by the survey. Required vessel strike avoidance measures would also decrease risk of ship strike during migration; no ship strike is expected to occur during Vineyard Northeast's activities. Vineyard Northeast would be required to comply with seasonal speed restrictions of these SMAs, and in any DMA, should NMFS establish one (or more) in the proposed survey area. The 2022 IHA included the Cape Cod Bay SMA in the survey area, however, in 2023 the survey area was reduced and no longer overlapped with this SMA. The survey area for this renewal IHA also does not include the Cape Cod Bay SMA.

Although take by Level B harassment of North Atlantic right whales has been authorized by NMFS, we anticipate a very low level of harassment, should it occur, because Vineyard Northeast is required to maintain a shutdown zone of 500 m if a North Atlantic right whale is observed. The authorized takes account for any missed animals wherein the survey equipment is not shut down immediately. As shutdown would be called for immediately upon detection (if the whale is within 500 m), it is likely the exposure time would be very limited and received levels would not be much above the harassment threshold. Further, the 500-m shutdown zone for right whales is conservative, considering the distance to the Level B harassment isopleth for the most impactful acoustic source (*i.e.*, Applied Acoustics AA251 Boomer—which may not be used on all survey days) is estimated to be 178 m, and thereby minimizes the potential for behavioral harassment of this species. As noted previously, Level A harassment is not expected due to the small permanent threshold shift zones associated with HRG equipment types planned for use. NMFS does not anticipate North Atlantic right whale takes that would result from Vineyard Northeast's activities would impact annual rates of recruitment or survival. Thus, any takes that occur would not result in population level impacts.

We also note that our findings for other species with active UMEs that were previously described for the 2023 IHA (88 FR 50117, August 1, 2023) remain applicable to this project. In addition, our analysis of survey effects on species with BIAs that overlap with the survey area remains unchanged. Therefore, in conclusion, there is no new information suggesting that our analysis or findings should change.

NMFS has concluded that there is no new information suggesting that our analysis or findings should change from those reached for the 2023 IHA. This includes consideration of the slight increase in estimated abundance of six stocks and slight decrease in estimated abundance of three stocks. Based on the information contained here and in the referenced documents, NMFS has determined the following: (1) the required mitigation measures would effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes would have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) Vineyard Northeast's activities would not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action; and (5) appropriate monitoring and reporting requirements are included.

National Environmental Policy Act

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental take authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS determined that the issuance of the initial IHA qualified to be categorically excluded from further NEPA review. NMFS has determined that the application of this categorical exclusion remains appropriate for this renewal IHA.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS Office of Protected Resources consults internally whenever we propose to authorize take for endangered or threatened species.

NMFS has authorized the incidental take of five species of marine mammals

which are listed under the ESA, including the North Atlantic right, fin, sei, blue, and sperm whale, and has determined that this activity falls within the scope of activities analyzed in NMFS GARFO's programmatic consultation regarding geophysical surveys along the U.S. Atlantic coast in the three Atlantic Renewable Energy Regions (completed June 29, 2021; revised September 2021).

Renewal

NMFS has issued a renewal IHA to Vineyard Northeast for the take of marine mammals incidental to conducting marine site characterization surveys offshore from Massachusetts to New Jersey in the BOEM Lease Areas OCS-A 0522 and OCS-A 0544 and associated OECC routes, from July 27, 2024, through July 26, 2025.

Dated: July 25, 2024.

Kimberly Damon-Randall,

Director, Office of Protected Resources,
National Marine Fisheries Service.

[FR Doc. 2024-16734 Filed 7-29-24; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; StormReady, TsunamiReady, TsunamiReady Supporter, StormReady Supporter & Weather-Ready Nation Ambassador Application Forms

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before September 30, 2024.

ADDRESSES: Interested persons are invited to submit written comments to

Adrienne Thomas, NOAA PRA Officer, at adrienne.thomas@noaa.gov. Please reference OMB Control Number 0648-0419 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or specific questions related to collection activities should be directed to Doug Hilderbrand, 1325 East West Hwy., Bldg. SSMC2, Silver Spring, MD 20910-3283, (301) 713-1768, ext. 170, or douglas.hilderbrand@noaa.gov for StormReady and Weather-Ready Ambassadors and to Greg Schoor, 1325 East West Hwy., Bldg. SSMC2, Silver Spring, MD 20910-3283, (301) 427-9848, or gregory.m.schoor@noaa.gov for TsunamiReady.

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for extension and revision of an existing information collection.

The National Weather Service (NWS) established the StormReady program in 1999 and the TsunamiReady program in 2002 to help communities, counties, Indian nations, universities and colleges, military bases, government sites, commercial enterprises and other groups reduce the potential for weather-related and tsunami hazards through advanced planning, education and awareness. The program encourages communities to take a new, proactive approach to improving local hazardous weather operations by providing emergency managers with clear-cut guidelines on how to improve their hazardous weather operations. By participating in this program, local agencies earn recognition for their jurisdiction by meeting guidelines established by the NWS in partnership with federal, state, and local emergency management professionals. Information and details on the StormReady and TsunamiReady programs are located at <https://www.weather.gov/stormready/> and <https://www.weather.gov/tsunami-ready/>.

A Supporter is an organization, business, facility, or local government entity actively engaged in weather safety and preparedness that is unable to meet all the requirements of the full StormReady or TsunamiReady program. Sites may be eligible based on the bylaws of the local NWS StormReady Advisory Board and endorsement of local emergency management. A local StormReady Advisory Board has final approval for Supporter designation.

StormReady/TsunamiReady are voluntary programs that provide

guidance and incentive to officials interested in improving their hazardous weather operations. The government will use the information collected by the StormReady/TsunamiReady application to determine whether a community has met all of the guidelines to receive StormReady/TsunamiReady recognition.

NOAA requests revision to the title of the collection to include The Weather-Ready Nation Ambassador™ program which is being added as a new information collection to this control number. The Weather-Ready Nation (WRN) Ambassador™ is a program of the National Oceanic and Atmospheric Administration (NOAA), designed to strengthen partnerships with external organizations toward building community resilience in the face of increasing vulnerability to extreme weather, climate, and water events. Organizations can apply for Weather-Ready Nation Ambassador™ recognition. This program recognizes NOAA partners who are improving the nation's readiness, responsiveness, and overall resilience against extreme weather, water, and climate events. As a Weather-Ready Nation Ambassador, partners commit to working with NOAA and other Ambassadors to strengthen national resilience against extreme weather.

II. Method of Collection

The information is collected via a digital or paper form. The forms are accessible on the internet in PDF. Requirements are verified by NWS staff via an in person or virtual site visit.

III. Data

OMB Control Number: 0648–0419.

Form Number(s): None.

Type of Review: Regular [Revision and extension of a current information collection].

Affected Public: Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government.

Estimated Number of Respondents: 700 per year.

Estimated Time per Response: 1 hour: StormReady and TsunamiReady Application, StormReady Supporter Application Form, and TsunamiReady Supporter Application Form. 15 minutes: Weather-Ready Ambassador Application Form.

Estimated Total Annual Burden Hours: 2,275 hours.

Estimated Total Annual Cost to Public: None.

Respondent's Obligation: Voluntary.

Legal Authority: None.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–16756 Filed 7–29–24; 8:45 am]

BILLING CODE 3510–KE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Marine Recreational Fishing Expenditure Survey

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the

impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before September 30, 2024.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at NOAA.PRA@noaa.gov. Please reference OMB Control Number 0648–0693 in the subject line of your comments. All comments received are part of the public record and will generally be posted on <https://www.regulations.gov> without change. 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 Sabrina Lovell, Economist, Office of Science and Technology, NMFS, 1315 East West Hwy, Silver Spring, MD 20910. Tel: (301) 427–8153 or sabrina.lovell@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for revision and extension of an approved information collection.

As specified in the Magnuson-Stevenson Fishery Conservation and Management Act of 1996 (and reauthorized in 2007), NMFS is required to enumerate the economic impacts of the policies it implements on fishing participants and coastal communities. The objective of the survey is to collect information on marine (saltwater) recreational fishing trip expenditures and durable good expenditures made by marine recreational anglers. The survey has two parts which may be conducted either jointly during the same calendar year or in separate years. The trip expenditure portion will ask anglers about the expenses incurred on their most recent marine recreational fishing trip. The durable goods portion will ask anglers about their purchases of durable goods such as fishing gear, boats, vehicles, and second homes over a 12 month period. The expenditure data collected in this regular survey is widely used by both federal, state, and non-governmental organizations for research and analysis regarding the economic importance and contributions of marine recreational fishing to each coastal state and nationwide. The

program office would like to make minor changes to a few of the questions on the survey. These changes will not affect the integrity or overall purpose of said survey. The NMFS Office of Science and Technology conducts the survey and publishes the results in both technical reports and the annual 'Fisheries Economics of the U.S.' report series.

II. Method of Collection

The trip expenditure portion of the survey may be conducted using in-person interviews at fishing sites or using email or mail invitations to an online web survey (with a paper version of the survey for anglers without internet access). The durable goods expenditure portion will use email or mail invitations to an online web survey (with a paper version of the survey for anglers without internet access).

III. Data

OMB Control Number: 0648–0693.

Form Number(s): None.

Type of Review: Regular submission (extension and revision of a current information collection).

Affected Public: Individuals.

Estimated Number of Respondents: 86,650: 13,350 for durable goods expenditure survey; 73,300 for trip expenditure survey.

Estimated Time per Response: Durable goods expenditure survey, 15 minutes; trip expenditure survey 5 minutes (intercept); 8 minutes (web); 15 minutes (Hawaii trip/durable combination).

Estimated Total Annual Burden Hours: 3,289

Estimated Total Annual Cost to Public: \$0 in record keeping and reporting costs.

Respondent's Obligation: Voluntary.

Legal Authority: Magnuson-Stevenson Fishery Conservation and Management Act of 1996 (and reauthorized in 2007).

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–16757 Filed 7–29–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID: 0648–XE117]

Endangered Species; File No. 28282

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

ACTION: Notice of receipt; withdrawal of a notice of intent.

SUMMARY: Notice is hereby given that NMFS received an application for a Federal Endangered Species Act (ESA) incidental take permit from United Water Conservation District (applicant) located in Oxnard, California and the permit application is hereby open for public comment. The permit application concerns the incidental take of endangered Southern California steelhead (*Oncorhynchus mykiss*) associated with the applicant's otherwise lawful continued operation and maintenance of the existing Freeman Diversion on the lower Santa Clara River, Ventura County, and future proposed activities for expanding the diversion. We are considering issuing a 50-year permit to the applicant that would exempt the applicant's incidental take of endangered steelhead, and are making the permit application and related documents available to the public for review and comment. We will use the comments received, the permit application, and other information required by applicable statute and regulation, to determine whether the permit application meets the criteria for

issuing the permit to the applicant. Additionally, we are issuing this notice to advise Federal, State, and local government agencies and the public that we are withdrawing our 2013 Notice of Intent (NOI) to prepare a draft Environmental Impact Statement (EIS) for a previous application from United Water Conservation District for an incidental take permit under the ESA.

DATES: Written comments on the permit application (File no. 28282) must be received at the appropriate email address (see **ADDRESSES**) on or before August 29, 2024.

The notice to prepare an EIS for the previous permit application is withdrawn as of July 30, 2024.

ADDRESSES: The permit application is available for download and review online at <https://www.fisheries.noaa.gov/action/united-water-conservation-districts-application-section-10a1b-incidental-take-permit>. The application is also available upon request (see **FOR FURTHER INFORMATION CONTACT**).

You may submit comments electronically through email to the following address:

UnitedWaterHcp.wcr@noaa.gov.

Instructions: We may not consider comments submitted by any other method, to another address, or to a specific individual. All comments received are part of the public record and will be made available in a future **Federal Register** notice. Commenters should avoid including any personally identifiable information or otherwise sensitive information with submissions, which are publicly accessible. We will accept comments that are classified as anonymous or the commenter clearly indicates the intent to remain anonymous. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Rick Bush at rick.bush@noaa.gov or 562–980–3562.

SUPPLEMENTARY INFORMATION:

ESA-Listed Species Covered in This Notification

The endangered Southern California Distinct Population Segment of steelhead (*Oncorhynchus mykiss*).

Background

Approximately 16-kilometers (km) upstream of the confluence with the Pacific Ocean, the applicant operates the Freeman Diversion on the lower Santa Clara River to redirect a maximum of 10.62 m³ per second of water from the river to spreading basins for

groundwater recharge or directly to the neighboring farming community on the Oxnard Plain. Spanning the entire 366-m river channel, the 7.6-m tall diversion dam presents an obstacle to endangered steelhead that must migrate to and from their historical spawning and rearing habitats in the upper watershed and the estuary and ocean to complete their life cycle. To improve passage of endangered steelhead and renovate and expand the existing headworks of the Freeman Diversion, the applicant's April 9, 2024 application proposes: (1) renovating the existing Denil fish ladder and diversion headworks; (2) resurfacing the diversion's grade-control structure; (3) operating the fish-passage, water diversion, and sediment-management systems; (4) capturing and relocating steelhead; (5) expanding the off-channel water-conveyance infrastructure and diversion capacity to 21.24 m³ per second; (6) maintaining facilities and property; (7) developing conservation and monitoring programs; (8) restoring and enhancing habitat; and (9) implementing adaptive-management measures. The applicant seeks a 50-year permit term to exempt incidental take of endangered steelhead associated with the foregoing activities, which are described further in the applicant's Habitat Conservation Plan (HCP). Additionally, the HCP specifies the steps that the applicant will undertake to avoid, minimize, mitigate, and monitor the impacts of the proposed activities and related incidental take on endangered steelhead.

Authority

Section 9 of the ESA and Federal regulation prohibit the take of the Endangered Southern California Distinct Population Segment of Steelhead (endangered steelhead). The ESA defines "take" to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. However, under section 10(a)(1)(B) of the ESA, we may issue permits to authorize incidental take. "Incidental take" is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Section 10(a)(2)(A) of the ESA requires an applicant for an incidental take permit to submit an HCP that specifies the steps the applicant will take to minimize and mitigate the impacts of the taking on the species. Regulations governing incidental take permits for threatened and endangered species are found at 50 CFR 222.307.

National Environmental Policy Act

We are withdrawing the NOI published in the **Federal Register** on November 11, 2013 (78 FR 67336) to prepare an EIS in accordance with the National Environmental Policy Act (NEPA) to analyze the impacts on the human environment resulting from the potential for issuing a HCP on a previous permit application from the applicant. We are taking this action because the proposed action for the previous permit application used as the basis for preparing the NOI has changed, and the original analysis is outdated. Additional details about the range of alternatives considered in this action are included in the November 11, 2013 NOI and are not repeated here. We solicited public input on the scope of the analysis through a public comment on the NOI from November 11, 2013 until January 13, 2014.

We will revisit and fulfill all necessary NEPA obligations once the revised permit application has been determined to meet issuance criteria.

Next Steps

We will evaluate the applicant's April 9, 2024 permit application, including the HCP, related documents, and public comments received, to determine whether the application meets the criteria for issuing a permit under 16 U.S.C. 1539(a)(2)(B). In addition, we will evaluate whether issuing a section 10(a)(1)(B) permit to the applicant would comply with section 7 of the ESA through the conduct of an intra-agency section 7 consultation. The final NEPA and permit determinations will not be made until after the end of the comment period. NMFS will publish a record of its final action in the **Federal Register**.

Dated: July 23, 2024.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2024-16563 Filed 7-29-24; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF DEFENSE

Department of the Air Force

Record of Decision for the KC-46A Fifth Main Operating Base Beddown

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Notice of availability of a record of decision.

SUMMARY: The United States Air Force signed the Record of Decision for the

KC-46A Fifth Main Operating Base (MOB 5) on July 16, 2024.

ADDRESSES: For further information contact: Mr. Austin Narranjo, AFCEC/CIE, 2261 Hughes Ave., Suite 155, JBSA Lackland, TX 78236, ph: (478) 222-9225.

FOR FURTHER INFORMATION CONTACT: Mr. Austin Narranjo, AFCEC/CIE, 2261 Hughes Ave., Suite 155, JBSA Lackland, TX 78236, phone: (478) 222-9225, or email: austin.naranjo.1@us.af.mil.

SUPPLEMENTARY INFORMATION: The Record of Decision reflects the Air Force decision to beddown 12 KC-46A Primary Aerospace Vehicles Authorized (PAA) at March Air Reserve Base in Riverside County, California.

The decision was based on matters discussed in the KC-46A Fifth Main Operating Base Beddown Final Environmental Impact Statement, contributions from the public and regulatory agencies, and other relevant factors. The Final Environmental Impact Statement was made available to the public on April 19, 2024 through a Notice of Availability published in the **Federal Register** (Volume 89, Number 77, page 28771) with a 30-day wait period that ended on May 19, 2024.

Authority: This Notice of Availability is published pursuant to the regulations (40 CFR part 1506.10) implementing the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) and the Air Force's Environmental Impact Analysis Process (32 CFR parts 989.21(b) and 989.24(b)(7)).

Tommy W. Lee,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2024-16674 Filed 7-29-24; 8:45 am]

BILLING CODE 3911-44-P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity Meeting

AGENCY: National Advisory Committee on Institutional Quality and Integrity (NACIQI or Committee), Office of Postsecondary Education, Department of Education.

ACTION: Announcement of an open meeting; and update to the meeting location.

SUMMARY: This notice sets forth the agenda, time, and instructions to access or participate in the August 6-8, 2024, virtual meeting of NACIQI, and provides information to members of the public regarding the meeting, including

requesting to make written or oral comments. The notice of this meeting is required under the Higher Education Act (HEA) of 1965, as amended.

ADDRESSES: The meeting will be virtual.

DATES: The virtual NACIQI meeting will be held on August 6–8, 2024, from 9:00 a.m. to 5:00 p.m. Eastern Standard Time. This notice is an update to a previous **Federal Register** notice dated 07/02/2024, Document Citation 89 FR 54803, which indicated that the meeting would be hybrid.

FOR FURTHER INFORMATION CONTACT:

George Alan Smith, Executive Director/ Designated Federal Official (DFO), NACIQI, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202, telephone: (202) 453–7757, or email: *George.Alan.Smith@ed.gov*.

SUPPLEMENTARY INFORMATION:

Statutory Authority and Function: NACIQI is established under section 114 of the HEA (20 U.S.C. 1011c). NACIQI advises the Secretary of Education with respect to:

- The establishment and enforcement of the standards of accrediting agencies or associations under subpart 2, part H, Title IV of the HEA, as amended;
- The recognition of specific accrediting agencies or associations;
- The preparation and publication of the list of nationally recognized accrediting agencies and associations;
- The eligibility and certification process for institutions of higher education under Title IV of the HEA, together with recommendations for improvement in such process;
- The relationship between (1) accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions; and
- Any other advisory function relating to accreditation and institutional eligibility that the Secretary of Education may prescribe by regulation.

Meeting Agenda

The purpose of the meeting is to conduct a review of the following applications for renewals of recognition.

Applications for Renewal of Recognition

1. WASC Accrediting Commission for Community and Junior Colleges. Scope of Recognition: The accreditation and pre-accreditation (“Candidate for Accreditation”) of community and other colleges which have as a primary mission the granting of associate degrees, but which may also award certificates and other credentials, not to exceed the bachelor degree level, where

the provision of such credentials is within the institution’s mission and, if applicable, is authorized by their governmental authorities, and the accreditation of such programs offered via distance education and correspondence education at these colleges. This recognition also extends to the Committee on Substantive Change of the Commission, for decisions on substantive changes, and the Appeals Panel. Geographic Area of Accrediting Activities: Throughout the United States.

2. American Veterinary Medical Association, Council on Education. Scope of Recognition: The accreditation and preaccreditation (“Provisional Accreditation”) in the United States of programs leading to professional degrees (D.V.M. or V.M.D.) in veterinary medicine. Geographic Area of Accrediting Activities: Throughout the United States.

3. Accrediting Council for Continuing Education and Training. Scope of Recognition: The accreditation throughout the United States of institutions of higher education that offer continuing education and vocational programs that confer certificates or occupational associate degrees, including those programs offered via distance education. Geographic Area of Accrediting Activities: Throughout the United States.

4. Council on Education for Public Health. Scope of Recognition: The accreditation of schools of public health and public health programs outside schools of public health, at the baccalaureate and graduate degree levels, including those offered via distance education. Geographic Area of Accrediting Activities: Throughout the United States.

5. National Association of Schools of Dance, Commission on Accreditation. Scope of Recognition: The accreditation throughout the United States of freestanding institutions that offer dance and dance-related programs (both degree and non-degree-granting), including those offered via distance education. Geographic Area of Accrediting Activities: Throughout the United States.

6. National Association of Schools of Music, Commission on Accreditation. Scope of Recognition: The accreditation throughout the United States of freestanding institutions that offer music and music related programs (both degree and non-degree-granting) including those offered via distance. This recognition also extends to the Commission on Community College Accreditation. Geographic Area of

Accrediting Activities: Throughout the United States.

7. National Association of Schools of Theatre, Commission on Accreditation. Scope of Recognition: The accreditation throughout the United States of freestanding institutions that offer theatre and theatre-related programs (both degree and non-degree-granting), including those offered via distance education. Geographic Area of Accrediting Activities: Throughout the United States.

8. Puerto Rico State Agency for the Approval of Public Postsecondary Vocational, Technical Institutions and Programs. Scope of Recognition: State agency for the approval of vocational education.

9. Maryland State Board of Nursing. Scope of Recognition: State agency for the approval of nursing education.

10. New York State Board of Regents (nursing education). Scope of Recognition: State approval agency for nursing education.

To ensure sufficient time for all agency reviews, including NACIQI questions and discussion, the Department requests that the agencies limit their opening statements to 10 minutes (total for one or more statements), and that the agencies avoid extended discussions about agency representatives and their backgrounds. Following the brief opening statement, the agency’s presentation should focus on the regulatory criteria, and in particular, responses to areas where the staff has recommended a finding of noncompliance or substantial compliance, or where other concerns have been raised that the agency would like to address. However, the agency should expect that questions from NACIQI members may focus on other areas.

Administration Policy Update

Assistant Secretary for Postsecondary Education, Dr. Nasser Paydar, will provide an update on the Administration’s postsecondary education policy priorities.

Accreditor Dashboards Updates

The Committee will refer to the Accreditor Dashboards for accrediting agencies up for review. These dashboards will include information about post-completion earnings and cumulative loan debt.

Policy Discussion

In addition to its review of accrediting agencies and State approval agencies for Secretarial recognition, there will be time for Committee discussions regarding any of the categories within

NACIQI's statutory authority in its capacity as an advisory committee.

Instructions for Accessing the Meeting Registration

You may register for the meeting on your computer using the link below. After you register, you will receive a confirmation email containing personalized participation links for each day of the three-day meeting no later than 8:00 a.m. Eastern Standard Time on August 6, 2024.

Registration Link

<https://cvent.me/N7blbg>.

Public Comment

Submission of requests to make an oral comment regarding a specific accrediting agency under review, or to make an oral comment or written statement regarding other issues within the scope of NACIQI's authority:

Opportunity to submit a written statement regarding a specific accrediting agency under review was solicited by a previous **Federal Register** notice published on May 3, 2023 (88 FR 27876; Document Number 2023-09362). The period for submission of such statements is now closed. Additional written statements regarding a specific accrediting agency or state approval agency under review will not be accepted at this time. However, members of the public may submit written statements regarding other issues within the scope of NACIQI's authority for consideration by NACIQI in the manner described below.

Members of the public may make oral comments regarding a specific accrediting agency under review and/or other agenda topics. Oral comments may not exceed three minutes. Oral comments about an agency's recognition when a compliance report has been required by the Senior Department Official or the Secretary must relate to the criteria for recognition cited in the Senior Department Official's letter that requested the report, or in the Secretary's appeal decision, if any. Oral comments about an agency seeking expansion of scope must be directed to the agency's ability to serve as a recognized accrediting agency with respect to the kinds of institutions or programs requested to be added. Oral comments about the renewal of an agency's recognition must relate to its compliance with the criteria for the Recognition of Accrediting Agencies, which are available at <http://www.ed.gov/admins/finaid/accred/index.html>.

Written statements and oral comments concerning NACIQI's work

outside of a specific accrediting agency under review must be limited to matters within the scope of NACIQI's authority, as outlined under Section 114 of the HEA (20 U.S.C. 1011c), and written comments of any kind submitted after the deadline will not be considered by the Department or provided to NACIQI for purposes of the current cycle review.

Instructions on Requesting To Make Public Comment

To request to make oral comments of three minutes or less during the August 6-8, 2024, meeting, please follow either Method One or Method Two below. To submit a written statement to NACIQI concerning its work outside a specific accrediting agency under review, please follow Method One.

Method One: Submit a request by email to the ThirdPartyComments@ed.gov mailbox. Please do not send material directly to NACIQI members. Written statements to NACIQI concerning its work outside of a specific accrediting agency under review and requests to make oral comment must be received by July 30, 2024, and include the subject line "Oral Comment Request: (agency name)," "Oral Comment Request: (subject)" or "Written Statement: (subject)." The email must include the name(s), title, organization/affiliation, mailing address, email address, and telephone number, of the person(s) submitting a written statement or requesting to speak. All individuals submitting an advance request in accordance with this notice will be afforded an opportunity to speak. Written statements of any kind submitted after the deadline will not be considered by the Department or provided to NACIQI for purposes of the current cycle review.

Method Two (Only available to those seeking to make oral comments): Submit a request by email on August 6, 2024, between 7:45 a.m. and 8:45 a.m. Eastern Standard Time to the ThirdPartyComments@ed.gov mailbox. The email must include the subject on which the requestor wishes to comment, in addition to his or her name, title, organization/affiliation, mailing address, email address, and telephone number. If you intend to make your comments by dialing into the meeting rather than using a computer, please be sure to include that information in your email request. A total of up to fifteen minutes for each agenda item will be allotted for oral commenters who register on August 6, 2024, between 7:45 a.m. and 8:45 a.m. Eastern Standard Time. Individuals will be selected on a first-come, first-served basis. If selected,

each commenter may not exceed three minutes.

Access to Records of the Meeting: The Department will post the official report of the meeting on the NACIQI website <https://sites.ed.gov/naciqi/archive-of-meetings/> within 90 days after the meeting. In addition, pursuant to 5 U.S.C. 1009(b), the public may request to inspect records of the meeting at 400 Maryland Avenue SW, Washington, DC, by emailing aslrecordsmanager@ed.gov or by calling (202) 453-7415 to schedule an appointment. Senior Department Official's (as defined in 34 CFR 602.3) decisions, pursuant to 34 CFR 602.36, associated with all NACIQI meetings can be found at the following website: <https://surveys.ope.ed.gov/erecognition/#/public-documents>.

Reasonable Accommodations: The dial-in information and weblink access to the meeting are accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of the Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You also may access documents of the Department published in the **Federal Register** by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: Section 114 of the HEA of 1964, as amended (20 U.S.C. 1011c).

Antoinette Flores,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 2024-16678 Filed 7-29-24; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION**Notice Inviting Guaranty Agencies To Submit Requests To Participate in a Voluntary Flexible Agreement**

AGENCY: Office of the Under Secretary, U.S. Department of Education.

ACTION: Notice.

SUMMARY: The Secretary invites guaranty agencies with agreements to participate in the Federal Family Education Loan (FFEL) Program to submit interest in entering into a Voluntary Flexible Agreement (VFA) with the Secretary, as authorized by the Higher Education Act of 1965, as amended (HEA). Guaranty agencies who ultimately agree to the VFA through a separate process will operate under the requirements of the VFA in lieu of the guaranty agency agreements established under the HEA. The Secretary intends to enter into VFAs with guaranty agencies to support vulnerable borrowers in resolving their delinquent or defaulted loans quickly, maximize long-term repayment success of borrowers exiting default with immediate enrollment in Income-Driven Repayment (IDR) plans available under the Direct Loan program, and ensure stability in the FFEL Program as the number of outstanding loans continues to decline over the coming years.

DATES: Deadline for submission of interest in a VFA: August 20, 2024.

ADDRESSES: An indication of interest in a VFA must be submitted via email to VFATeam@ed.gov.

FOR FURTHER INFORMATION CONTACT: Jerry Wallace, U.S. Department of Education. Telephone: (202) 453-6605. Email: jerry.wallace@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:**Background**

Under section 428(b) and (c) of the HEA, guaranty agencies perform certain roles in the FFEL Program pursuant to agreements with the Secretary. Section 428A of the HEA authorizes the Secretary to enter into VFAs with guaranty agencies in lieu of the agreements entered into under section 428(b) and (c) of the HEA. This authority allows the Secretary to work with guaranty agencies to develop, utilize, and evaluate alternate ways of ensuring that the responsibilities of the guaranty agencies are fulfilled in the most cost-effective and efficient manner possible. A VFA may provide that the guaranty agency will earn revenues and

fees in a manner different than that provided under the regular guaranty agency agreements under section 428(b) and (c) of the HEA.

As part of a VFA with a guaranty agency, the Secretary may waive or modify statutory and regulatory requirements as necessary, except that the Secretary may not waive any statutory requirements related to the terms and conditions attached to student loans or to default claim amounts paid to FFEL Program lenders.

A VFA will also specify the circumstances under which it may be terminated by the Secretary in advance of any established termination date and any other provisions the Secretary believes are necessary to protect the United States from unreasonable risk of loss.

Reasons for This Expression of Interest

It has been 14 years since the last new FFEL Program loan was made. As the number of outstanding FFEL loans continues to steadily decline, the revenues available to guaranty agencies to fund operational budgets are also decreasing. The Secretary expects that over the next several years many guaranty agencies may struggle to continue providing stable services for borrowers, lenders, and the Department under the existing compensation structure. The continued decline of the number of outstanding FFEL loans and the loss of associated revenue means it will likely be harder for guaranty agencies to maintain the systems and staff needed to provide quality services for vulnerable borrowers, which creates an unacceptable risk of loss to the Department and Federal taxpayers.

The Secretary believes that a structured and predictable compensation model for guaranty agencies will help protect the integrity of the outstanding FFEL Program loan portfolio as the number of loans and guaranty agencies continues to decline. This model presents an opportunity for the Department and guaranty agencies to better serve borrowers by aligning financial incentives with helping borrowers avoid or exit student loan default. The model will also leverage operational procedures established during the Fresh Start period that provide borrowers efficient and direct access to more affordable IDR plans, which feature enhanced borrower benefits and will best support their long-term repayment success. Additionally, transferring more defaulted FFEL loans to the Department that are not otherwise resolved will assist borrowers and provide long-term benefits to the Department by improving

the opportunities for resolution of the loan.

Scope of the VFAs

The Department expects that VFAs entered into will address the compensation structures, outreach activities, loan transfer schedules, and future planning for guaranty agencies.

Compensation

A VFA may provide that a guaranty agency will earn revenues and fees differently than it would under agreements pursuant to section 428(b) and (c) of the HEA. The Department expects that the revised schedule of revenues and fees will be common to all VFA-participating guaranty agencies.

The Department expects that the VFAs will include a replacement for all compensation paid to guaranty agencies, with the exception of the account maintenance fee and reimbursement into the Federal fund for claims paid to lenders. The replaced compensation includes the default aversion fee, refunds of the default aversion fee, and revenues from collections on defaulted loans usually charged to borrowers in the form of fees. Instead of this revenue, guaranty agencies would receive two forms of compensation:

(1) A special account maintenance fee (SAMF). The SAMF would be calculated based on the guaranty agency's outstanding net guarantees using the same formula as the Account Maintenance Fee (AMF) as defined in section 428(h) of the HEA and 34 CFR 682.404(h). It would be paid in equal quarterly installments.

(2) A successful resolution fee (SRF). This fee would be paid when a borrower with at least one loan in default at a guaranty agency successfully consolidates all their defaulted loans at that guaranty agency into the Direct Loan program. This fee would be the lesser of a set dollar amount or a percentage of the amount of the outstanding loans being resolved. This fee would be paid quarterly.

The Secretary expects that increasing the number of defaulted loans that are quickly returned to good standing or otherwise transferred to the Department will result in financial savings for the Department and better long-term performance for borrowers. Guaranty agencies will have guarantees of minimum quarterly income through the SAMF to ensure stability in the program and strong incentives to assist defaulted borrowers quickly to earn an SRF payment.

Outreach Activities

The Department expects that, in addition to continuing their current default aversion assistance work, under a VFA, guaranty agencies will focus their efforts on borrower outreach and counseling, with a focus on options that will help borrowers return to good standing and access repayment programs and benefits that will promote successful long-term repayment on their loans. This will also include targeted outreach campaigns mutually agreed upon with the Department.

Loan Transfers

To ensure that the guaranty agency can focus its efforts on loan counseling and consolidation, under the VFA guaranty agencies will adopt a schedule for transferring defaulted loans to the Department. The oldest loans will be transferred to the Department immediately after the effective date of the VFA, while newer defaults will be transferred after a set period if they are not otherwise successfully resolved, such as through consolidation, discharge, or pay off.

Future Planning

To ensure long-term success and stability for the FFEL Program, all guaranty agencies that enter into a VFA with the Department will map their loan data and systems to at least one other guaranty agency acceptable to the Department. The goal is to ensure that a successor agency is ready to perform the agency's functions if the agency participating in the VFA becomes unable to meet its responsibilities. Each guaranty agency will also agree to keep the Department apprised of any significant changes in personnel or finances so that if a guaranty agency chooses to exit the program there is minimal disruption for borrowers and long-term loan servicing activities.

The terms of any VFA will be subject to applicable Federal, State, Local, and U.S. Territory laws and regulations, including any changes in the HEA (or other applicable laws) and the Department's regulations, unless waived or modified by the Secretary, and to any applicable administrative actions of the Secretary.

Duration of the VFA

The Secretary expects that the VFAs will have a term of two years, subject to year-to-year renewals if the parties agree. The VFA will also provide that either party may terminate the agreement at any time by providing written notice to the other party, with provisions for sufficient notice before the effective date of termination.

Agency Demonstrated Performance

The Secretary will select the agencies with which to enter into a VFA by identifying agencies that have the managerial and operational capacity to assume the responsibilities of the VFA. The Department expects to enter into VFAs with all or the vast majority of guaranty agencies.

A guaranty agency that ultimately enters into a VFA with the Secretary must have the capability to:

- Conduct meaningful high-touch borrower outreach.
- Successfully transfer defaulted loans to the Secretary within set periods.
- Map systems to a potential successor guaranty agency.

Secretary's Oversight

The Secretary will conduct oversight and monitoring of the activities of guaranty agencies participating in the FFEL Program under a VFA to assess each agency's continuing financial viability and operational capacity to properly perform all FFEL Program guaranty agency responsibilities in accordance with the VFA. The Secretary will also conduct oversight and monitoring of the borrower outreach work and the transfer of defaulted loans. This oversight will include, at a minimum, requirements that the guaranty agency submit operational status reports, financial reports, and performance metrics on its loan portfolio.

Letters of Request for a VFA

Guaranty agencies with agreements with the Secretary under section 428(b) and (c) of the HEA that wish to enter into a VFA under the terms outlined in this notice must submit an email indicating interest to VFATeam@ed.gov by the deadline in the **DATES** section of this notice.

The expression of interest notice must be submitted by the chief executive officer of the guaranty agency. The Secretary may request that the agency provide supporting or other documentation to assist the Secretary in making a decision regarding the agency's possible participation in a VFA.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotope, compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other Department documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You also may access Department documents published in the **Federal Register** by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C. 1078–1.

James Kvaal,

Under Secretary, Office of the Under Secretary.

[FR Doc. 2024–16760 Filed 7–29–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0096]

Agency Information Collection Activities; Comment Request; Federal Student Aid (FSA) Partner Connect System and User Access Management

AGENCY: Federal Student Aid (FSA), 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 September 30, 2024.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2024–SCC–0096. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information

collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Manager of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 4C210, Washington, DC 20202–1200.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–570–8414.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. 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: Federal Student Aid (FSA) Partner Connect System and User Access Management.

OMB Control Number: 1845–NEW.

Type of Review: A new ICR.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 48,600.

Total Estimated Number of Annual Burden Hours: 10,196.

Abstract: This is a request for a new information collection. Federal Student Aid (FSA) Partner Connect will be replacing Student Aid internet Gateway

(SAIG) Enrollment via fsawebenroll.ed.gov. SAIG Mailboxes will remain as the access point for electronically transmitting and receiving data. FSA Partner Connect System and User Access Management allows authorized entities, including postsecondary educational institutions, institutional third-party servicers, guaranty agencies and guaranty agency (GA) servicers, Federal Family Education Loan Program (FFELP) lenders and lender servicers, federal loan servicers, and State Higher Education Agencies, to exchange data electronically with the U.S. Department of Education (Department). In order to participate, each entity must enroll for system and service access through FSA Partner Connect (fsapartners.ed.gov). The enrollment process enables the organization enrolling to create new users and select services to receive, submit, view, and/or update student financial aid data online and by batch using Department provided software EDconnect (PC-based software) or TDClient (client software for multiple environments). As authorized by the Higher Education Act of 1965, as amended (HEA); 20 U.S.C. 1070 *et seq.*, and in order to manage the Title IV, HEA assistance programs, the entities listed above may electronically transmit and receive data from the following FSA systems through SAIG Mailboxes by enrolling through FSA Partner Connect:

Free Application for Federal Student Aid (FAFSA) Processing System (FPS)

Common Origination and Disbursement (COD) System

National Student Loan Data System (NSLDS) Online

Electronic Cohort Default Rate (eCDR) Appeals

Total and Permanent Disability (TPD) System

Digital Customer Care (DCC) Customer Relationship Management (CRM) Online

Access and Identity Management System (AIMS)

Financial Management System (FMS)

Additionally, entities may request access to eZ-Audit and the U.S. Department of Homeland Security's Systemic Alien Verification Entitlements (SAVE) Program through FSA Partner Connect to manage Title IV, HEA assistance programs.

Dated: July 25, 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. 2024–16717 Filed 7–29–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Amended Record of Decision for the Continued Operation of the Nevada National Security Site and Off-Site Locations in the State of Nevada

AGENCY: National Nuclear Security Administration, Department of Energy.

ACTION: Amended record of decision.

SUMMARY: The National Nuclear Security Administration (NNSA), a semi-autonomous agency within the United States Department of Energy (DOE), is issuing this amendment to the December 30, 2014, Record of Decision (ROD) for the *Site-Wide Environmental Impact Statement for Continued Operation of the Department of Energy/National Nuclear Security Administration Nevada National Security Site and Off-Site Locations in the State of Nevada* (DOE/EIS–0426) (SWEIS). In this Amended ROD (AROD), NNSA announces its decision to implement the actions and operations described in a 2024 Supplement Analysis (SA) to the earlier SWEIS. The SA assessed the potential environmental impacts of projects/changes that have occurred at the Nevada National Security Site (NNS) and off-site locations in the State of Nevada, since publication of the SWEIS and ROD, or are expected to occur within approximately the next five years. Based on the analysis, NNSA determined that the potential impacts associated with the actions and operations evaluated in the SA: would not be significantly different than impacts presented in the SWEIS; would not constitute a substantial change to the actions evaluated in the SWEIS relevant to environmental concerns; there are no significant new circumstances or information relevant to environmental concerns; and no additional National Environmental Policy Act (NEPA) documentation is required at this time.

FOR FURTHER INFORMATION CONTACT: For further information on this AROD or the SA, contact: Ms. Patricia Gallo, NEPA Compliance Officer, NNSA Nevada

Field Office, 232 Energy Way, North Las Vegas, Nevada, 89030; by phone at (702) 295-3211; or via email at patricia.gallo@nnsa.doe.gov. This AROD as well as the SA, SWEIS, and related NEPA documents are available at <https://www.energy.gov/nnsa/nnsa-nepa-reading-room>.

SUPPLEMENTARY INFORMATION:

Background

NNSA is responsible for meeting the national security requirements established by the President and the Congress to maintain and enhance the safety, reliability, and performance of the United States nuclear weapons stockpile. NNSS supports the NNSA nuclear Stockpile Stewardship and Management Plan (SSMP) mission as well as other DOE and NNSA programs, national security programs, and other Federal agency work. NNSA published a SWEIS in 2013 that analyzed the potential environmental impacts of continued management and operation of the NNSS. A ROD for the SWEIS was announced in the **Federal Register** (FR) on December 30, 2014 (79 FR 78421). Since publication of the 2014 ROD, NNSA has been conducting operations in accordance with the ROD, with no notable changes.

The 2024 *Final Supplement Analysis of the Site-Wide Environmental Impact Statement for the Continued Operation of the Department of Energy/National Nuclear Security Administration Nevada National Security Site and Off-Site Locations in the State of Nevada* (DOE/EIS-0426-SA-01) SA evaluation included the same four locations evaluated in the SWEIS: the NNSS, located approximately 65 miles northwest of Las Vegas, and three off-site locations in Nevada; the Tonopah Test Range (TTR), located north of the NNSS within the Nevada Test and Training Range; the North Las Vegas Facility (NLVF), located in North Las Vegas; and the Remote Sensing Laboratory-Nellis (RSL-Nellis), located at the Nellis Air Force Base north of Las Vegas.

The actions analyzed in the SA are consistent with the 2014 ROD. The actions and operations evaluated at the NNSS include modernization of site facilities and infrastructure, expansion of existing facility operations and experimentation at the Device Assembly Facility and the U1a Complex, expanded uncrewed aerial system operations, and construction and operation of a new waste disposal cell at the Radioactive Waste Management Complex. NNSA also proposed and evaluated actions to increase energy security and reduce greenhouse gas

emissions at the NNSS by constructing solar projects, installing electric vehicle charging stations across the site, and transitioning to 100 percent zero-emission vehicle acquisitions by approximately 2035.

For the TTR, the SA evaluated operational changes and increased maintenance activities, but operations remain consistent with past operations. For the NLVF, the SA evaluated the potential construction and relocation of personnel and light laboratory spaces to a new campus in a planned industrial park that has not yet been built, referred to as the Northwest Las Vegas (NWLV) Campus. The NWLV Campus would replace some facilities at the NLVF, which are inefficiently designed, oversized, and outdated. The NWLV Campus would be located at a site that is approximately 12 to 15 miles northwest of the existing NLVF. NNSA did not identify any actions or notable changes in operations at RSL-Nellis; therefore, the SA did not analyze any changes at RSL-Nellis. A complete listing of the actions and operations evaluated for the NNSS and the off-site locations in the State of Nevada is found in Table 2-2 of the SA.

NEPA Process for This AROD

NNSA prepared the SA in accordance with the DOE NEPA implementing procedures at 10 CFR part 1021, to assess the potential environmental impacts of continued operations at the NNSS and off-site locations in the State of Nevada. The purpose of the SA is to determine if the actions evaluated in the SA constitute a substantial change to the actions evaluated in the 2013 SWEIS, if there are significant new circumstances or information relevant to environmental concerns, and whether a new or supplemental SWEIS or whether no further NEPA documentation is required. The SA focuses on the projects/changes that have occurred at the NNSS and the off-site locations in the State of Nevada since publication of the 2013 SWEIS and 2014 ROD or are expected to occur within approximately the next five years. The SA evaluates the impacts of these projects/changes against the impacts presented in the 2013 SWEIS.

Although publication of a Draft SA is not required, NNSA provided the Draft SA to the Nevada Division of Environmental Protection (NDEP), Nye and Clark County representatives, the American Indian Writers Subgroup, and the 16 tribes culturally affiliated with the NNSS. NNSA provided a 30-day review period for the Draft SA. During that review period, NNSA received one comment document from NDEP. The

NDEP comments and NNSA's corresponding responses are provided in Appendix B of the Final SA.

Summary of Impacts

The SA analyzed the potential impacts of the actions and operations described in Table 2-2 of the SA on the following areas: land use; infrastructure and energy; transportation and traffic; socioeconomics; geology and soils; hydrology; biological resources; air quality, climate, and noise; visual resources; cultural resources; waste management; human health and safety; environmental justice; and accidents and intentional destructive acts. Impacts are presented for the NNSS (see Section 3.1 of the SA), TTR (see Section 3.2 of the SA), and the NLVF/NWLV Campus (see Section 3.3 of the SA). Section 4 of the SA presents the cumulative impacts.

Based on the analyses in the SA, NNSA determined that the potential impacts associated with the actions evaluated in the SA are not significantly different than impacts presented in the SWEIS. Consequently, NNSA determined that: (1) the actions evaluated in the SA do not constitute a substantial change to the actions evaluated in the 2013 SWEIS; (2) there are no significant new circumstances or information relevant to environmental concerns; and therefore (3) no further NEPA analysis or documentation is required at this time.

Environmentally Preferable Alternative

In the 2014 ROD, NNSA identified the Reduced Operations Alternative as the environmentally preferable alternative because fewer adverse impacts would result compared to the other alternatives. NNSA still believes the Reduced Operations Alternative is the environmentally preferable alternative.

Decision

The continued operation of NNSS is critical to NNSA's SSMP, to prevent the spread and use of nuclear weapons worldwide, and to other areas that impact national security and global stability. The primary mission supported by NNSS is ensuring the United States stockpile of nuclear weapons remains safe and reliable. Other activities conducted on the NNSS include experiments aimed at improving national nonproliferation objectives, arms control and treaty verification; weapons of mass destruction first responder training; experiments involving the controlled release and monitoring of hazardous material; remediation of legacy contamination sites; preparing waste for compliant disposition at the Waste

Isolation Pilot Plant (WIPP) in Carlsbad, New Mexico, including waste that will be processed at the Idaho National Laboratory in Idaho Falls, Idaho, to meet the WIPP waste acceptance criteria; and disposal of low-level radioactive waste (LLW) and mixed LLW. NNSA will implement the actions and operations described in Table 2–2 of the SA. Implementing these actions and operations will enable NNSA to fulfill its responsibilities by properly considering economic, environmental, technical, and other factors.

Basis for Decision

In making this decision, NNSA considered the SA, the 2013 SWEIS, the 2014 ROD, and its statutory responsibilities to safeguard the nuclear weapons stockpile. Federal law and national security policies require NNSA to maintain and enhance the safety, reliability, and performance of the United States nuclear weapons stockpile and maintain a responsive nuclear weapons infrastructure that is cost-effective and has adequate capacity to meet foreseeable national security requirements. The NNSS and off-site locations in the State of Nevada support the NNSA nuclear stockpile stewardship and management mission as well as other DOE and NNSA programs, national security programs, and other Federal agency work. The SA provided the NNSA decision-maker with valuable information regarding the potential environmental impacts of the actions required to accomplish the national security mission and related programs. In addition to environmental information, NNSA also considered statutory responsibilities, strategic objectives, technical needs, safeguards and security, costs, and schedule in its decision-making.

This AROD documents NNSA's decision to continue operations at the NNSS and off-site locations in the State of Nevada and provides public notification of this decision. This decision enables NNSA to continue to meet its statutory obligations to safeguard the nuclear weapons stockpile and support the national security mission.

Mitigation Measures

No potential adverse impacts were identified that will require additional mitigation measures beyond those contained in the SWEIS, required by environmental laws, regulations, permits, and agreements, or achieved through design features or best management practices. Because no new potential adverse impacts were identified that will require additional

mitigation measures, NNSA does not expect to prepare a Mitigation Action Plan.

Signing Authority

This document of the Department of Energy was signed on July 12, 2024, by Jill Hruby, Under Secretary for Nuclear Security and Administrator, NNSA, pursuant to delegated authority from the Secretary of Energy. The document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the DOE. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on July 25, 2024.

Treana V. Garrett,

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

[FR Doc. 2024–16689 Filed 7–29–24; 8:45 am]

BILLING CODE 6450–01–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: RP24–910–000.
Applicants: LA Storage, LLC.
Description: 4(d) Rate Filing: Filing of Negotiated Rate, Conforming IW Agreements 7.23.24 to be effective 7/23/2024.

Filed Date: 7/23/24.

Accession Number: 20240723–5046.

Comment Date: 5 p.m. ET 8/5/24.

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 23, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–16654 Filed 7–29–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24–679–002.
Applicants: Duke Energy Florida, LLC, Duke Energy Carolinas, LLC.
Description: Compliance filing: Duke Energy Florida, LLC submits tariff filing per 35: DEF—Amendment to Second Compliance Filing—Att. J to be effective 4/1/2024.

Filed Date: 7/24/24.

Accession Number: 20240724–5089.

Comment Date: 5 p.m. ET 8/14/24.

Docket Numbers: ER24–1676–002.
Applicants: MEMS Industrial Supply LLC.

Description: Tariff Amendment: Amendment to 2 to be effective 4/2/2024.

Filed Date: 7/24/24.

Accession Number: 20240724–5056.

Comment Date: 5 p.m. ET 8/14/24.

Docket Numbers: ER24–2581–000.
Applicants: Energy Prepay III, LLC.
Description: Baseline eTariff Filing: Baseline new to be effective 7/24/2024.

Filed Date: 7/23/24.

Accession Number: 20240723–5114.

Comment Date: 5 p.m. ET 8/13/24.

Docket Numbers: ER24–2582–000.

Applicants: American Electric Power Service Corporation, PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: American Electric Power Service Corporation submits tariff filing per 35.13(a)(2)(iii): AEP submits update to Att. 1 of ILDSA, SA No. 1336 to be effective 7/1/2024.

Filed Date: 7/24/24.

Accession Number: 20240724–5024.

Comment Date: 5 p.m. ET 8/14/24.

Docket Numbers: ER24–2583–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: 205(d) Rate Filing: Initial Filing of Rate Schedule FERC No. 376 to be effective 6/24/2024.

Filed Date: 7/24/24.

Accession Number: 20240724–5048.

Comment Date: 5 p.m. ET 8/14/24.

Docket Numbers: ER24–2584–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: 205(d) Rate Filing: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii): ISO–NE and NEPOOL; Revisions to Expand Fuel Price Adjustment Functionality to be effective 12/31/9998.

Filed Date: 7/24/24.

Accession Number: 20240724–5086.

Comment Date: 5 p.m. ET 8/14/24.

Docket Numbers: ER24–2585–000.

Applicants: AEP Texas Inc.

Description: 205(d) Rate Filing: AEPTX–Bracero Pecan Storage Generation Interconnection Agreement to be effective 6/27/2024.

Filed Date: 7/24/24.

Accession Number: 20240724–5112.

Comment Date: 5 p.m. ET 8/14/24.

Docket Numbers: ER24–2586–000.

Applicants: AEP Texas Inc.

Description: 205(d) Rate Filing: AEPTX–S&S Renewables (Ross) Generation Interconnection Agreement to be effective 6/27/2024.

Filed Date: 7/24/24.

Accession Number: 20240724–5115.

Comment Date: 5 p.m. ET 8/14/24.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES24–43–000.

Applicants: Wolverine Power Supply Cooperative, Inc.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Wolverine Power Supply Cooperative, Inc.

Filed Date: 7/24/24.

Accession Number: 20240724–5096.

Comment Date: 5 p.m. ET 9/23/24.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR24–4–000.

Applicants: North American Electric Reliability Corporation.

Description: North American Electric Reliability Corporation submits Five-Year Electric Reliability Organization (ERO) Performance Assessment for the 2019–2023 Assessment Period.

Filed Date: 7/19/24.

Accession Number: 20240719–5260.

Comment Date: 5 p.m. ET 8/19/24.

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 24, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–16743 Filed 7–29–24; 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: RP24–911–000.

Applicants: Antero Resources Corporation, MU Marketing LLC.

Description: Complaint of Antero Resources Corporation and MU Marketing LLC v. Columbia Gas Transmission, LLC.

Filed Date: 7/23/24.

Accession Number: 20240723–5087.

Comment Date: 5 p.m. ET 8/22/24.

Docket Numbers: RP24–912–000.

Applicants: Algonquin Gas

Transmission, LLC.

Description: 4(d) Rate Filing:

Negotiated Rates—Various Releases eff 7–23–24 to be effective 7/23/2024.

Filed Date: 7/23/24.

Accession Number: 20240723–5092.

Comment Date: 5 p.m. ET 8/5/24.

Docket Numbers: RP24–913–000.

Applicants: Gulf South Pipeline Company, LLC.

Description: 4(d) Rate Filing:

Amendment to Neg Rate Agmt (Chevron 41610) eff 7–23–2024 to be effective 7/23/2024.

Filed Date: 7/23/24.

Accession Number: 20240723–5111.

Comment Date: 5 p.m. ET 8/5/24.

Docket Numbers: RP24–914–000.

Applicants: Leaf River Energy Center LLC.

Description: 4(d) Rate Filing: Firm Storage and Service Agreement with TN Gas Pipeline to be effective 9/1/2024.

Filed Date: 7/24/24.

Accession Number: 20240724–5000.

Comment Date: 5 p.m. ET 8/5/24.

Docket Numbers: RP24–915–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: Compliance filing: Rate Schedules GSS and LSS EGTs Penalty Flow Through Refund Report 2024 to be effective N/A.

Filed Date: 7/24/24.

Accession Number: 20240724–5001.

Comment Date: 5 p.m. ET 8/5/24.

Docket Numbers: RP24–916–000.

Applicants: Northern Natural Gas Company.

Description: 4(d) Rate Filing:

20240724 Housekeeping Filing to be effective 8/24/2024.

Filed Date: 7/24/24.

Accession Number: 20240724–5063.

Comment Date: 5 p.m. ET 8/5/24.

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 24, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-16742 Filed 7-29-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24-492-000]

Hess Tioga Gas Plant LLC; Notice of Application and Establishing Intervention Deadline

Take notice that on July 12, 2024, Hess Tioga Gas Plant LLC (Hess TGP), 1501 McKinney Street, Houston, Texas 77010, filed an application under section 7(c) of the Natural Gas Act (NGA), and part 157 of the Commission's regulations requesting authorization to own, operate, and maintain the North Dakota Natural Gas Pipeline located in Williams and McKenzie counties, North Dakota (the

North Dakota Gas Pipeline Project). Specifically, Hess TGP requests: (1) to own, operate, and maintain the North Dakota Natural Gas Pipeline (North Dakota Pipeline), an existing 60.5 mile, 10.75-inch-diameter natural gas pipeline currently operated as a gathering facilities, as a jurisdictional pipeline; (2) a blanket certificate, pursuant to part 157, subpart F of the Commission's regulations; (3) waivers of certain regulatory requirements, as further described in its application; and (4) confirmation that the Commission's assertion of jurisdiction over the North Dakota Pipeline does not jeopardize the non-jurisdictional status of Hess TGP's gathering and processing facilities, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<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.

Any questions regarding the proposed project should be directed to Jamie Miller Mathews, Senior Legal Counsel-Onshore, 1501 McKenny, Houston, Texas 77010, by phone at 713-496-7249, or by email at Jamie.m.mathews@hess.com.

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,¹ within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other

milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file comments on the project, you can protest the filing, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on August 14, 2024. How to file protests, motions to intervene, and comments is explained below.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections, to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be.

Protests

Pursuant to sections 157.10(a)(4)² and 385.211³ of the Commission's regulations under the NGA, any person⁴ may file a protest to the application. Protests must comply with the requirements specified in section 385.2001⁵ of the Commission's regulations. A protest may also serve as

² 18 CFR 157.10(a)(4).

³ 18 CFR 385.211.

⁴ Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

⁵ 18 CFR 385.2001.

¹ 18 CFR 157.9.

a motion to intervene so long as the protestor states it also seeks to be an intervenor.

To ensure that your comments or protests are timely and properly recorded, please submit your comments on or before August 14, 2024.

There are three methods you can use to submit your comments or protests to the Commission. In all instances, please reference the Project docket number CP24–492–000 in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at www.ferc.gov under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments or protests electronically by using the eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Comment on a Filing"; or

(3) You can file a paper copy of your comments or protests by mailing them to the following address below. Your written comments must reference the Project docket number (CP24–492–000).

To file via USPS: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502–8258 or FercOnlineSupport@ferc.gov.

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a

party, you must intervene in the proceeding. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,⁶ has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure⁷ and the regulations under the NGA⁸ by the intervention deadline for the project, which is August 14, 2024. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to-intervene.asp>.

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP24–492–000 in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Intervention." The eFiling feature includes a document-less intervention option; for more information, visit <https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf>; or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below. Your motion to intervene must reference the Project docket number CP24–492–000.

To file via USPS: Debbie-Anne A. Reese, Acting Secretary, Federal Energy

Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or FercOnlineSupport@ferc.gov.

Protests and motions to intervene must be served on the applicant either by mail or email at: Jamie Miller Mathews, Senior Legal Counsel-Onshore, 1501 McKenny, Houston, Texas 77010, or at Jamie.m.mathews@hess.com. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service can be via email with a link to the document.

All timely, unopposed⁹ motions to intervene are automatically granted by operation of Rule 214(c)(1).¹⁰ Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.¹¹ A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at www.ferc.gov using the "eLibrary" link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings

⁹ The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

¹⁰ 18 CFR 385.214(c)(1).

¹¹ 18 CFR 385.214(b)(3) and (d).

⁶ 18 CFR 385.102(d).

⁷ 18 CFR 385.214.

⁸ 18 CFR 157.10.

by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to www.ferc.gov/docs-filing/esubscription.asp.

Intervention Deadline: 5:00 p.m. Eastern Time on August 14, 2024.

Dated: July 24, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-16744 Filed 7-29-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24-2558-000]

Hanford BESS 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 Hanford BESS 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 August 13, 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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Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-16655 Filed 7-29-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC24-105-000.
Applicants: ALLETE, Inc., Alloy Parent LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of ALLETE, Inc.

Filed Date: 7/19/24.

Accession Number: 20240719-5259.

Comment Date: 5 p.m. ET 8/9/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER23-1335-003.

Applicants: Ameren Illinois Company.

Description: Compliance Filing of Ameren Illinois Company.

Filed Date: 7/22/24.

Accession Number: 20240722-5142.

Comment Date: 5 p.m. ET 8/12/24.

Docket Numbers: ER24-1866-001.

Applicants: Power Authority of the State of New York, New York Independent System Operator, Inc.

Description: Tariff Amendment: Power Authority of the State of New York submits tariff filing per 35.17(b): NYPA Deficiency Response re: Formula Rate Template Revisions to be effective 7/1/2024.

Filed Date: 7/23/24.

Accession Number: 20240723-5054.

Comment Date: 5 p.m. ET 8/13/24.

Docket Numbers: ER24-2570-000.

Applicants: Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: Revisions to Modify Make Whole Payments During Order No. 831 Conditions to be effective 10/16/2024.

Filed Date: 7/22/24.

Accession Number: 20240722-5207.

Comment Date: 5 p.m. ET 8/12/24.

Docket Numbers: ER24-2571-000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amended ISA, SA No. 5286; AC1-068/AC1-069 & Cancellation of ISA, SA No. 5290 to be effective 9/23/2024.

Filed Date: 7/22/24.

Accession Number: 20240722-5211.

Comment Date: 5 p.m. ET 8/12/24.

Docket Numbers: ER24-2572-000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amended ISA, SA No. 5409; AC1-166/AC1-165 & Cancellation of ISA, SA No. 5291 to be effective 9/23/2024.

Filed Date: 7/22/24.

Accession Number: 20240722-5220.

Comment Date: 5 p.m. ET 8/12/24.

Docket Numbers: ER24-2573-000.

Applicants: Old Dominion Electric Cooperative.

Description: 205(d) Rate Filing: Submission of Third Amended and Restated Wholesale Power Contracts to be effective 9/30/2024.

Filed Date: 7/23/24.
Accession Number: 20240723–5016.
Comment Date: 5 p.m. ET 8/13/24.
Docket Numbers: ER24–2574–000.
Applicants: PacifiCorp.
Description: Tariff Amendment: Termination of UAMPS Const Agmt Hyrum BTM Resource Modeling to be effective 8/31/2024.

Filed Date: 7/23/24.
Accession Number: 20240723–5042.
Comment Date: 5 p.m. ET 8/13/24.
Docket Numbers: ER24–2575–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: 205(d) Rate Filing: Notice of Cancellation of FERC Rate Schedule Nos. 113, 151, 153, and 177 to be effective 5/8/2024.

Filed Date: 7/23/24.
Accession Number: 20240723–5048.
Comment Date: 5 p.m. ET 8/13/24.
Docket Numbers: ER24–2575–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: Report Filing: Notice of Cancellation re Exhibit A to be effective N/A.

Filed Date: 7/23/24.
Accession Number: 20240723–5090.
Comment Date: 5 p.m. ET 8/13/24.
Docket Numbers: ER24–2576–000.
Applicants: Talen Conemaugh LLC.
Description: Initial rate filing: Reactive Service Rate Schedule, Req. for Expedited Action Confidential Treatment to be effective 12/31/9998.

Filed Date: 7/23/24.
Accession Number: 20240723–5079.
Comment Date: 5 p.m. ET 8/13/24.
Docket Numbers: ER24–2577–000.
Applicants: Talen Keystone LLC.
Description: Initial rate filing: Reactive Service Rate Schedule, Req. for Expedited Action Confidential Treatment to be effective 12/31/9998.

Filed Date: 7/23/24.
Accession Number: 20240723–5084.
Comment Date: 5 p.m. ET 8/13/24.
Docket Numbers: ER24–2578–000.
Applicants: Louisville Gas and Electric Company.
Description: 205(d) Rate Filing: LGEKU_Engineering and Procurement Svcs Agrmt RS 526 to be effective 9/22/2024.

Filed Date: 7/23/24.
Accession Number: 20240723–5096.
Comment Date: 5 p.m. ET 8/13/24.
Docket Numbers: ER24–2579–000.
Applicants: Kentucky Utilities Company.
Description: 205(d) Rate Filing: KU Concurrence E and P Rate Schedule No. 526 to be effective 9/22/2024.

Filed Date: 7/23/24.
Accession Number: 20240723–5104.

Comment Date: 5 p.m. ET 8/13/24.
Docket Numbers: ER24–2580–000.
Applicants: White Pine Hydro, LLC.
Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 9/22/2024.

Filed Date: 7/23/24.
Accession Number: 20240723–5105.
Comment Date: 5 p.m. ET 8/13/24.
 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 23, 2024.
Debbie-Anne A. Reese,
Acting Secretary.
 [FR Doc. 2024–16653 Filed 7–29–24; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY
Federal Energy Regulatory Commission
[Project No. 9194–027]
Passaic Valley Water Commission;
Notice of Intent To File Nonpower License Application.

a. *Type of Filing:* Notice of Intent to File Application for Nonpower License.
 b. *Project No.:* 9194–027.

c. *Date Filed:* February 28, 2024.
 d. *Submitted By:* Passaic Valley Water Commission.
 e. *Name of Project:* Little Falls Hydroelectric Project.
 f. *Location:* On the Passaic River in the Township of Little Falls and Borough of Totowa, Passaic County, New Jersey.
 g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 and part 4 of the Commission’s regulations.
 h. *Potential Applicant Contact:* James G. Mueller, Passaic Valley Water Commission, 1525 Main Avenue, P.O. Box 230, Clifton, NJ 07011; (973) 340–4307.
 i. *FERC Contact:* John Smith at (202) 502–8972; or email at john.smith@ferc.gov.
 j. With this notice, we are initiating informal consultation with 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. We are also initiating consultation with the New Jersey 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.
 k. With this notice, we are designating Passaic Valley Water Commission as the Commission’s non-Federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and consultation pursuant to section 106 of the National Historic Preservation Act.
 l. Passaic Valley Water Commission filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission. 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 Online Support at FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY).
 m. The licensee states its unequivocal intent to submit an application for a nonpower license for Project No. 9194. Pursuant to 18 CFR 16.9, each application for a license or nonpower license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license or nonpower license for this project must be filed by March 1, 2027.

n. 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, contact FERC Online Support.

o. 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 24, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-16745 Filed 7-29-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Staff Attendance at North American Electric Reliability Corporation Project 2022-02 Uniform Modeling Framework for IBR Standard Drafting Team Meeting

The Federal Energy Regulatory Commission hereby gives notice¹ that members of the Commission and/or Commission staff may attend the following meetings:

North American Electric Reliability Corporation: Project 2022-02 Uniform Modeling Framework for IBR Standard Drafting Team Meeting, WebEx
July 29, 2024 | 10:30 a.m.–12:30 p.m. Eastern

Further information regarding this meeting and how to join remotely may be found at: <https://www.nerc.com/pa/Stand/Lists/stand/DispForm.aspx?ID=2401>.

The discussions at the meetings, which are open to the public, may address matters at issue in the following Commission proceedings:

Docket No. RR24-2-000 North American Electric Reliability Corporation

For further information, please contact Leigh Anne Faugust at (202) 502-6396 or leigh.faugust@ferc.gov.

Dated: July 24, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-16746 Filed 7-29-24; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-12134-01-OA]

Announcement of Meeting of the National Environmental Education Advisory Council

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act, the Environmental Protection Agency (EPA) gives notice of a teleconference meeting of the National Environmental Education Advisory Council (NEEAC). The NEEAC was created by Congress to advise, consult with, and make recommendations to the Administrator of the Environmental Protection Agency (EPA) on matters related to activities, functions, and policies of EPA under the National Environmental Education Act (the Act). The purpose of this meeting is to discuss specific topics of relevance by the council to provide advice and insights to the Agency on environmental education.

DATES: The National Environmental Education Advisory Council will hold a public meeting on Thursday, August 22, 2024, from 10 a.m. until 3 p.m. Eastern Standard Time. The meeting will be virtual. A link for participation will be provided upon request.

FOR FURTHER INFORMATION CONTACT: Javier Araujo, Designated Federal Officer, araujo.javier@epa.gov, 202-441-8981, U.S. EPA, Office of Environmental Education, William Jefferson Clinton North, Room 1426, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Members of the public wishing to gain access to the teleconference, make brief oral comments, or provide a written statement to the NEEAC must contact Javier Araujo, Designated Federal Officer, at araujo.javier@epa.gov or 202-441-8981 by 10 business days prior to each regularly scheduled meeting. Oral comments at this meeting will be limited to three minutes and will be accommodated as time permits.

Meeting Access: For information on access or services for individuals with disabilities or to request accommodations, please contact Javier

Araujo at araujo.javier@epa.gov or 202-441-8981, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Jessica Loya,

Deputy Associate Administrator, Office of Public Engagement and Environmental Education.

[FR Doc. 2024-16688 Filed 7-29-24; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2020-0530, FRL-12078-01-OW]

Agency Information Collection Activities; Proposed Information Collection Request; Comment Request; Information Collection Request Renewal for the Final Unregulated Contaminant Monitoring Rule (UCMR 5)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is preparing to submit an information collection request (ICR) renewal, "Information Collection Request Renewal for the Final Unregulated Contaminant Monitoring Rule (UCMR 5)" (EPA ICR Number 2683.03, OMB Control Number 2040-0304) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed renewal of the original ICR, which is currently approved through January 31, 2025. This notice allows 60 days for public comments.

DATES: Comments must be submitted on or before September 30, 2024.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA-HQ-OW-2020-0530, to EPA online using www.regulations.gov (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. The EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other

¹ 18 CFR 385.2009 (2023).

information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Brenda Bowden, Standards and Risk Management Division, Office of Ground Water and Drinking Water (MS 140), Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268; telephone number: (513) 569-7961; email address: bowden.brenda@epa.gov.

SUPPLEMENTARY INFORMATION: This is a proposed renewal of the original ICR, which is currently approved through January 31, 2025. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

This notice allows 60 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR renewal. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate forms of information technology. The EPA will consider the comments received and amend the ICR renewal as appropriate. The final ICR renewal package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR renewal to OMB and the additional opportunity to submit comments to OMB.

Abstract: Section 1445(a)(2) of the Safe Drinking Water Act (SDWA) requires that once every five years, beginning in 1999, the EPA issue a new list of not more than 30 priority

unregulated contaminants in drinking water to be monitored by public water systems (PWSs). Information collected under the program informs the EPA's decision making regarding whether or not to regulate particular contaminants in drinking water. UCMR 5 requires sample collection for 30 chemical contaminants and was published in the **Federal Register** on December 27, 2021 (86 FR 73131). This information collection does not require respondents to disclose confidential information.

Form Numbers: None.

Respondents/affected entities: Data associated with this ICR renewal will be collected and maintained by PWSs subject to the rule. UCMR is a federally implemented program; however, States, territories, and Tribes (herein after referred to as "States" for simplicity) can choose to participate in UCMR 5 implementation through a voluntary Partnership Agreement with the EPA to help administer this regulatory program. Partnering States will sometimes collect samples and maintain records.

Respondent's obligation to respond: Mandatory. The information collection is carried out per Section 1445(a) of SDWA.

Estimated number of respondents: Approximately 3,493 respondents (total among PWSs and States) participate in UCMR 5 during the ICR renewal years 2025-2027. There are approximately 10,367 respondents to UCMR 5 during the full five-year program period.

Frequency of response: The frequency and number of responses varies across respondents. PWSs that rely on surface water and ground water under the direct influence of surface water will sample quarterly (four sampling events), and PWSs that rely on ground water will sample twice (at 6-month intervals). All sample collection will take place during a continuous 12-month period during the sampling timeframe. Sample collection for the UCMR 5 contaminants takes place at the entry point to the distribution system. The number of samples collected by PWSs also differs based on the size of the PWS and the number of entry points within each PWS. Over the three ICR renewal years of 2025 through 2027, the total number of responses per respondent averages 3.0, or an average of 1.0 responses per respondent per year.

Total estimated burden: The EPA estimates the labor burden at 21,275.2 hours (per year) during the ICR renewal years of 2025 through 2027 for States and PWSs. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: During the ICR renewal years of 2025 through 2027, the EPA estimates the total cost for States

and PWSs at \$5,633,415 (per year), which includes \$4,702,003 annualized capital or operation & maintenance costs. The total costs include labor costs and laboratory analysis (non-labor) costs. The EPA pays for the analytical and sample shipping costs for small PWSs (*i.e.*, serving 10,000 or fewer people).

Changes in the Estimates: There is a decrease of 81,579 hours in the total estimated respondent burden for PWSs and States during the ICR renewal years of 2025 through 2027 compared with the original (2022-2024) ICR currently approved by OMB. This decrease is due to:

- Fewer PWSs participate during the ICR renewal period of 2025-2027 than in 2022-2024. Only one-third of PWSs collect samples for UCMR 5 contaminants during the ICR renewal period (in 2025); two-thirds of PWS monitored for UCMR 5 contaminants in 2023 and 2024 (*i.e.*, during the 2022-2024 original ICR period).
- Some initial, pre-monitoring activities were conducted by all systems in 2022 (*i.e.*, during the original ICR period). These activities will not take place during 2025-2027.
- States are expected to incur less burden during 2025-2027, since their support is associated with monitoring and less monitoring is occurring during the renewal period.

Jennifer L. McLain,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 2024-16656 Filed 7-29-24; 8:45 am]

BILLING CODE 6560-50-P

EXPORT-IMPORT BANK

Sunshine Act Meetings

Notice of Open Meeting of the Advisory Committee and Sub-Saharan Africa Advisory Committees of the Export-Import Bank of the United States (EXIM)

TIME AND DATE: Monday, August 12th, 2024 from 1:00-2:30 p.m. EDT.

A joint meeting of the EXIM Advisory Committee, Sub-Saharan Africa Advisory Committee, and EXIM Advisory Councils.

PLACE:

Microsoft Teams: The meeting will be held virtually for committee and council members, EXIM's Board of Directors, support staff, and all other participants.

Registration and Public Comment: Virtual Public Participation: The meeting will be open to public participation virtually and time will be allotted for questions or comments

submitted online. Members of the public may also file written statements before or after the meeting to advisory@exim.gov.

Interested parties may register for the meeting at: <https://events.teams.microsoft.com/event/4902a560-9057-4c4c-ade3-471b15dd7b56@b953013c-c791-4d32-996f-518390854527>.

MATTERS TO BE CONSIDERED: Discussion of EXIM policies and programs to provide competitive financing to expand United States exports and comments for inclusion in EXIM's Report to the U.S. Congress on Global Export Credit Competition.

CONTACT PERSON FOR MORE INFORMATION: For further information, contact India Walker, Senior External Engagement Specialist, at 202-480-0062 or india.walker@exim.gov.

SUPPLEMENTARY INFORMATION: The Advisory Committee has been established as directed by Section 3(d) of the Export-Import Bank Act of 1945 (the "Act"), 12 U.S.C. 635a(d)(1)(A). This Advisory Committee is chartered in accordance with the Federal Advisory Committee Act ("FACA"), 5 U.S.C. App.

India A. Walker,

Senior External Engagement Specialist, Office of External Engagement.

[FR Doc. 2024-16900 Filed 7-26-24; 4:25 pm]

BILLING CODE 6690-01-P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Appointments Panel Meeting

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Appointments Panel, a subcommittee of the Federal Accounting Standards Advisory Board (FASAB), will hold a meeting on August 29, 2024. The Appointments Panel makes recommendations regarding appointments for non-federal member positions.

FOR FURTHER INFORMATION CONTACT: Ms. Monica R. Valentine, Executive Director, 441 G Street NW, Suite 1155, Washington, DC 20548, or call (202) 512-7350.

SUPPLEMENTARY INFORMATION: The meetings are closed to the public. The reason for the closure is that matters covered by 5 U.S.C. 552b(c)(2) and (6) will be discussed. Any such discussions will involve matters that relate solely to internal personnel rules and practices of

the sponsor agencies and the disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Pursuant to section 10(d) of the Federal Advisory Committee Act (FACA), 5 U.S.C. 1009(d), portions of advisory committee meetings may be closed to the public where the head of the agency to which the advisory committee reports determines that such portion of such meeting may be closed to the public in accordance with subsection (c) of section 552b of title 5, United States Code. The determination shall be in writing and shall contain the reasons for the determination. A determination has been made in writing by the U.S. Government Accountability Office, the U.S. Department of the Treasury, and the Office of Management and Budget, as required by section 10(d) of FACA, that such portions of the meetings may be closed to the public in accordance with subsection (c) of section 552b of title 5, United States Code.

Authority: 31 U.S.C. 3511(d); Federal Advisory Committee Act, 5 U.S.C. 1001-1014)

Dated: July 24, 2024.

Monica R. Valentine,
Executive Director.

[FR Doc. 2024-16682 Filed 7-29-24; 8:45 am]

BILLING CODE 1610-02-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1086; FR ID 234939]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the

quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before September 30, 2024. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-1086.

Title: Section 74.787, Digital

Licensing; Section 74.790, Permissible Service of Digital TV Translator and LPTV Stations; Section 74.794, Digital Emissions, Section 74.796, Modification of Digital Transmission Systems and Analog Transmission Systems for Digital Operation.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit entities; not for profit institutions; State, local or Tribal government.

Number of Respondents/Responses: 8,445 respondents; 19,586 responses.

Estimated Hours per Response: 0.50 hours-3 hours.

Frequency of Response:

Recordkeeping requirement; One-time reporting requirement; Third party disclosure requirement.

Total Annual Burden: 27,711 hours.

Total Annual Cost: \$61,728,000.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in section 301 of the Communications Act of 1934, as amended.

Needs and Uses: The information collection requirements approved under this collection are as follows:

a. 47 CFR 74.787(a)(3) provides that mutually exclusive applicants applying for construction permits for new digital stations and for major changes to existing stations in the LPTV service will similarly be allowed to submit in writing to the Commission, settlements and engineering solutions to rectify the problem.

b. 47 CFR 74.787(a)(4) provides that mutually exclusive displacement relief applicants filing applications for digital LPTV and TV translator stations may be resolved by submitting settlements and engineering solutions in writing to the Commission.

c. 47 CFR 74.787(a)(5)(v) states that a license for a digital-to-digital replacement television translator will be issued only to a full-power television broadcast station licensee that demonstrates in its application a loss in the station's pre-auction digital service area as a result of the broadcast television spectrum incentive auction, including the repacking process, conducted under section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112-96). "Pre-auction digital service area" is defined as the geographic area within the full power station's noise-limited contour (as set forth in Public Notice, DA 15-1296, released November 12, 2015). The service area of the digital-to-digital replacement translator shall be limited to only the demonstrated loss area within the full power station's pre-auction digital service area, provided that an applicant for a digital-to-digital replacement television translator may propose a de minimis expansion of its full power pre-auction digital service area upon demonstrating that the expansion is necessary to replace a loss in its pre-auction digital service area.

d. 47 CFR 74.790(f) permits digital TV translator stations to originate emergency warnings over the air deemed necessary to protect and safeguard life and property, and to originate local public service announcements (PSAs) or messages seeking or acknowledging financial support necessary for its continued operation. These announcements or messages shall not exceed 30 seconds each, and be broadcast no more than once per hour.

e. 47 CFR 74.790(e) requires that a digital TV translator station shall not retransmit the programs and signal of any TV broadcast or DTV broadcast station(s) without prior written consent of such station(s). A digital TV translator operator electing to multiplex signals must negotiate arrangements and obtain written consent of involved DTV station licensee(s).

f. 47 CFR 74.790(g) requires a digital LPTV station who transmits the programming of a TV broadcast or DTV broadcast station received prior written consent of the station whose signal is being transmitted.

g. 47 CFR 74.794 mandates that digital LPTV and TV translator stations operating on TV channels 22-24, 32-36 and 38 with a digital transmitter not specifically FCC-certificated for the channel purchase and utilize a low pass filter or equivalent device rated by its manufacturer to have an attenuation of at least 85 dB in the GPS band. The licensees must retain with their station license a description of the low pass filter or equivalent device with the manufacturer's rating or a report of measurements by a qualified individual.

h. 47 CFR 74.796(b)(5) requires digital LPTV or TV translator station licensees that modify their existing transmitter by use of a manufacturer-provided modification kit would need to purchase the kit and must notify the Commission upon completion of the transmitter modifications. In addition, a digital LPTV or TV translator station licensees that modify their existing transmitter and do not use a manufacturer-provided modification kit, but instead perform custom modification (those not related to installation of manufacturer-supplied and FCC-certified equipment) must notify the Commission upon completion of the transmitter modifications and shall certify compliance with all applicable transmission system requirements.

i. 47 CFR 74.796(b)(6) provides that operators who modify their existing transmitter by use of a manufacturer-provided modification kit must maintain with the station's records for a period of not less than two years, and will make available to the Commission upon request, a description of the nature of the modifications, installation and test instructions, and other material provided by the manufacturer, the results of performance-tests and measurements on the modified transmitter, and copies of related correspondence with the Commission. In addition, digital LPTV and TV translator operators who custom modify their transmitter must maintain with the station's records for a period of not less than two years, and will make available to the Commission upon request, a description of the modifications performed and performance tests, the results of performance-tests and measurements on the modified transmitter, and copies of related correspondence with the Commission.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024-16737 Filed 7-29-24; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Recordkeeping Guidance Associated with Changes in Foreign Investments Made Pursuant to Regulation K (FR 2064; OMB No. 7100-0109).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452-3884.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements (which contain more detailed information about the information collections and burden estimates than this notice), and approved collection of information instrument(s) are available at <https://www.reginfo.gov/public/do/PRAMain>. These documents are also available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR 2064.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Collection title: Recordkeeping Guidance Associated with Changes in Foreign Investments. Made Pursuant to Regulation K.

Collection identifier: FR 2064.

OMB control number: 7100–0109.

General description of collection: Internationally active U.S. banking organizations are expected to maintain adequate internal records to allow examiners to review compliance with the investment provisions of Regulation K. This recordkeeping guidance is what makes up the FR 2064. For each investment made under Subpart A of Regulation K, a banking organization investor should maintain internal records regarding the type of investment; the amount of the investment; the percentage ownership; activities conducted by the company and the legal authority for such activities; and whether the investment was made under general consent, prior notice, or specific consent authority. With respect to investments made under general consent authority, information also should be maintained that demonstrates compliance with the various limits set out in section 211.9 of Regulation K. These records are reviewed by examiners during examinations, allowing the examiners to determine a banking organization's compliance with the Federal Reserve Act and Subpart A of Regulation K. Monitoring banking organizations' international investments also permits the Federal Reserve to ensure that banking organizations do not expose themselves to undue risk.

Frequency: On-going.

Respondents: U.S. banking organizations (member banks, Edge Act and agreement corporations, and bank holding companies) that have made a foreign investment.

Total estimated number of respondents: 20.

Total estimated annual burden hours: 160.

Current actions: On March 29, 2024, the Board published a notice in the **Federal Register** (89 FR 22147) requesting public comment for 60 days on the extension, without revision, of the FR 2064. The comment period for this notice expired on May 28, 2024. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, July 24, 2024.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–16673 Filed 7–29–24; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the International Applications and Prior Notifications under Subpart B of Regulation K (FR K–2; OMB No. 7100–0284).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrahi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrahi@frb.gov, (202) 452–3884.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements (which contain more detailed information about the information collections and burden estimates than this notice), and approved collection of information instrument(s) are available at <https://www.reginfo.gov/public/do/PRAMain>. These documents are also available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR K–2.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Collection title: International Applications and Prior Notifications under Subpart B of Regulation K.

Collection identifier: FR K–2.

OMB control number: 7100–0284.

General description of collection: Subpart B of Regulation K implements the International Banking Act of 1978 (IBA). Under the IBA foreign banks are required to obtain the prior approval of the Board to establish a branch, agency, or representative office in the United States; to establish or acquire ownership or control of a commercial lending company in the United States; or to change the status of an agency or limited branch to a branch in the United States. The Board's FR K–2 information collection consists of attachments submitted in connection with these prior approval applications and helps in supervising foreign banks with offices in the United States.

Frequency: Event-generated.

Respondents: Foreign banks.

Total estimated number of respondents: 13.

Total estimated annual burden hours: 372.

Current actions: On March 29, 2024, the Board published a notice in the **Federal Register** (89 FR 22149) requesting public comment for 60 days on the extension, without revision, of the FR K–2. The comment period for this notice expired on May 28, 2024. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, July 24, 2024.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–16670 Filed 7–29–24; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Federal Reserve Payments Study (FR 3066; OMB No. 7100–0351).

DATES: Comments must be submitted on or before September 30, 2024.

ADDRESSES: You may submit comments, identified by FR 3066, by any of the following methods:

- *Agency Website:* <https://www.federalreserve.gov/>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.

- *Email:* regs.comments@federalreserve.gov. Include the OMB number or FR number in the subject line of the message.

- *Fax:* (202) 452–3819 or (202) 452–3102.

- *Mail:* Federal Reserve Board of Governors, Attn: Ann E. Misback, Secretary of the Board, Mailstop M–4775, 2001 C St. NW, Washington, DC 20551.

All public comments are available from the Board's website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room M–4365A, 2001 C St. NW, Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. on weekdays, except for Federal holidays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452–3884.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising

this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR 3066. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

Collection title: Federal Reserve Payments Study.

Collection identifier: FR 3066.

OMB control number: 7100–0351.

General description of collection: The Federal Reserve Payments Study (FRPS) is supported by the following surveys: Depository and Financial Institutions Payments Survey (FR 3066a), and Networks, Processors, and Issuers Payments Surveys (FR 3066b).

The information on these surveys is used by the Federal Reserve to estimate the aggregate number and value of all cash and noncash payments, as well as cash withdrawals and deposits, made by U.S. consumers and businesses, including for-profit and not-for-profit enterprises, and federal, state, and local government agencies. The aggregate estimates produced from the survey data are widely cited in academic working papers, journal articles, and industry publications; reported in the media; and used by the public, industry, and policy makers as a quantitative aggregate benchmark of noncash payments and cash withdrawal and deposit activity in the United States.

Frequency: Annually.

Respondents: Organizations with a significant role in processing payments, including depository and financial institutions, general-purpose payment networks, third-party payment processors, issuers of private-label payment instruments, and providers of various alternative payment methods and systems.

Total estimated number of respondents: FR 3066a, 513, FR 3066b, 170.

Estimated average hours per response: FR 3066a, 22; FR 3066b, 8.

Total estimated annual burden hours: 12,646.

Board of Governors of the Federal Reserve System, July 24, 2024.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–16672 Filed 7–29–24; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is

adopting a proposal to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with the Consumer Financial Protection Bureau's (CFPB) Regulation M (FR M; OMB No. 7100-0202).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452-3884.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements (which contain more detailed information about the information collections and burden estimates than this notice), and approved collection of information instrument(s) are available at <https://www.reginfo.gov/public/do/PRAMain>. These documents are also available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR M.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Collection title: Recordkeeping and Disclosure Requirements Associated with the CFPB's Regulation M.

Collection identifier: FR M.

OMB control number: 7100-0202.

General description of collection: The Consumer Leasing Act (CLA) and Regulation M require lessors uniformly to disclose to consumers the costs, liabilities, and terms of consumer lease transactions. The Dodd-Frank Wall Street Reform and Consumer Protection

Act transferred rulemaking authority for the CLA to the Consumer Financial Protection Bureau (CFPB) except for certain motor vehicle dealers that are excluded from the CFPB's authority, which remain subject to the Board's Regulation M. The FR M is the Board's information collection associated with Regulation M. These disclosures are provided to consumers before they enter into lease transactions and in advertisements that state the availability of consumer leases on particular terms. The disclosures are intended to provide consumers with meaningful disclosures about the costs and terms of leases for personal property and enable consumers to compare the terms for a particular lease with those for other leases and, when appropriate, to compare lease terms with those for credit transactions.

Frequency: Event generated.

Respondents: The FR M panel comprises state member banks with assets of \$10 billion or less that are not affiliated with an insured depository institution with assets over \$10 billion (irrespective of the consolidated assets of any holding company); non depository affiliates of such state member banks; and non depository affiliates of bank holding companies that are not affiliated with an insured depository institution with assets over \$10 billion. Notwithstanding the foregoing, the CFPB, and not the Board, has supervisory authority for Regulation M with respect to automobile leasing over non-banks defined as "larger participants" in the automobile finance market pursuant to 12 U.S.C. 5514 (implemented by 12 CFR 1090.108).

Total estimated number of respondents: 3.

Total estimated annual burden hours: 17.

Current actions: On March 7, 2024, the Board published a notice in the **Federal Register** (89 FR 16567) requesting public comment for 60 days on the extension, without revision, of the FR M. The comment period for this notice expired on May 6, 2024. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, July 23, 2024.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024-16676 Filed 7-29-24; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Recordkeeping Requirements Associated with Regulation GG (FR GG; OMB No. 7100-0317).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452-3884.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements (which contain more detailed information about the information collections and burden estimates than this notice), and approved collection of information instrument(s) are available at <https://www.reginfo.gov/public/do/PRAMain>. These documents are also available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR GG.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Collection title: Recordkeeping Requirements Associated with Regulation GG.

Collection identifier: FR GG.

OMB control number: 7100–0317.

General description of collection:

Regulation GG—Prohibition on Funding of Unlawful internet Gambling (12 CFR part 233) is related to the Unlawful internet Gambling Enforcement Act of 2006. The FR GG is the Board's information collection associated with Regulation GG and requires participants in designated payment systems to establish written policies and procedures related to unlawful internet gambling. These recordkeeping requirements are contained in section 5 of Regulation GG. Policies and procedures reasonably designed to identify and block, or otherwise prevent or prohibit, restricted transactions are necessary because Congress found that internet gambling is primarily funded through personal use of payment system instruments, credit cards, and wire transfers.

Frequency: Event-generated.

Respondents: Depository institutions, card system operators, credit unions, and money transmitting business operators.

Total estimated number of respondents: 4,635.

Total estimated annual burden hours: 46,410.

Current actions: On March 7, 2024, the Board published a notice in the **Federal Register** (89 FR 16572) requesting public comment for 60 days on the extension, without revision, of the FR GG. The comment period for this notice expired on May 6, 2024. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, July 24, 2024.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–16675 Filed 7–29–24; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (collectively, the “agencies”) may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management

and Budget (OMB) control number. On March 4, 2024, the Board, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, requested public comment for 60 days on a proposal to extend, without revision, the Country Exposure Report for U.S. Branches and Agencies of Foreign Banks (FFIEC 019), which is currently an approved collection of information. The comment period for the proposal ended on May 3, 2024. As described in the **SUPPLEMENTARY INFORMATION** section, the agencies will extend the FFIEC 019 as proposed. The Board hereby gives notice of its plan to submit to OMB a request to approve the revision and extension of this information collection, and again invites comment on the proposal.

DATES: Comments must be submitted on or before August 29, 2024.

ADDRESSES: Interested parties are invited to submit written comments, identified by “FFIEC 019,” by any of the following methods:

- *Agency Website:* <https://www.federalreserve.gov/>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.

- *Email:* regs.comments@federalreserve.gov. Include the reporting form number in the subject line of the message.

- *Fax:* (202) 452–3819 or (202) 452–3102.

- *Mail:* Federal Reserve Board of Governors, Attn: Ann E. Misback, Secretary of the Board, Mailstop M–4775, 2001 C St. NW, Washington, DC 20551.

All public comments are available from the Board's website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the OMB

desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503; by fax to (202) 395–6974; or by email to oir_submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: For further information about the proposed extension without revision of the FFIEC 019 discussed in this notice, please contact the agency staff member whose name appears below. In addition, a copy of the FFIEC 019 form can be obtained at the FFIEC's website (https://www.ffiec.gov/ffiec_report_forms.htm).

Nuha Elmaghrabi, Federal Reserve Board Clearance Officer, (202) 452–3884, Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. Telecommunications Device for the Deaf users may call (202) 263–4869.

SUPPLEMENTARY INFORMATION: The Board is proposing to extend for three years, without revision, the FFIEC 019.

Report Title: Country Exposure Report for U.S. Branches and Agencies of Foreign Banks.

Form Number: FFIEC 019.

OMB control number: 7100–0213.

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

Respondents: All branches and agencies of foreign banks domiciled in the United States with total direct claims on foreign residents in excess of \$30 million.

Estimated Number of Respondents: 147.

Estimated Average Burden per Response: 10 hours.

Estimated Total Annual Burden: 5,880 hours.

I. General Description of Report

This information collection is required pursuant to sections 7 and 13 of the International Banking Act (12 U.S.C. 3105 and 3108) for the Board, sections 7 and 10 of the Federal Deposit Insurance Act (12 U.S.C. 1817 and 1820) for the FDIC, and the National Bank Act (12 U.S.C. 161) as applied through section 4 of the International Banking Act (12 U.S.C. 3102) for the OCC. The FFIEC 019 is given confidential treatment consistent with 5 U.S.C. 552(b)(4) and (b)(8).

The FFIEC 019 report must be filed by each U.S. branch or agency of a foreign bank that has total direct claims on foreign residents in excess of \$30 million. The branch or agency reports its total exposure (1) to residents of its

home country, and (2) to the other five foreign nations to which its exposure is largest and is at least \$20 million. The home country exposure must be reported regardless of the size of the total claims for that nation.

Each respondent must report by country, as appropriate, the information on its direct claims (assets such as deposit balances with banks, loans, or securities), indirect claims (which include guarantees), and total adjusted claims on foreign residents, as well as information on commitments. The respondent also must report information on claims on related non-U.S. offices that are included in total adjusted claims on the home country, as well as a breakdown for the home country and each other reported country of adjusted claims on unrelated foreign residents by the sector of borrower or guarantor, and by maturity (in two categories: one year or less, and over one year). The Board collects and processes this report on behalf of all three agencies.

II. Current Actions

On March 4, 2024, the Board published a notice in the **Federal Register** (89 FR 15575) requesting comment for 60 days on a proposal to extend for three years, without revision, the FFIEC 019. The comment period for the proposal ended on May 3, 2024, and no comments were received.

III. Request for Comment

Public comment is requested on all aspects of this notice. Comment is also specifically invited on:

a. Whether the information collection is necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted to the Board in response to this notice will be shared with the other agencies. All comments will become a matter of public record.

Board of Governors of the Federal Reserve System, July 25, 2024.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024-16730 Filed 7-29-24; 8:45 am]

BILLING CODE 6210-01-P

GENERAL SERVICES ADMINISTRATION

[Notice-MG-2024-02; Docket No. 2024-0002; Sequence 34]

Office of Federal High-Performance Green Buildings; Notification of Public Comment Period for GSA's Green Building Certification System Review

AGENCY: Office of Government-wide Policy (OGP); General Services Administration, (GSA).

ACTION: Notification of public comment period.

SUMMARY: GSA is seeking comments on its draft recommendations to the Secretary of Energy on those green building certification systems that will most likely "encourage a comprehensive and environmentally sound approach" to the certification of high-performance green Federal buildings, per requirements of the Energy Independence and Security Act of 2007. These draft recommendations are based on the information contained in GSA's 2024 Green Building Certification System Review Findings Report that analyzed green building certification systems and their alignment with Federal green building performance requirements. GSA will be using stakeholder input to potentially augment its final recommendations to the Secretary of Energy. The information being asked for in this notice is not for the purpose of a proposed GSA rulemaking or a GSA regulation.

DATES: Interested parties should submit written comments by one of the methods shown below on or before August 29, 2024 to be considered in the formation of GSA's final recommendations to the Secretary of Energy.

ADDRESSES: Submit comments in response to Notice-MG-2024-02 by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for "Notice-MG-2024-02". Select the link "Submit a Comment" that corresponds with "Notice-MG-2024-02" Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Notice-

MG-2024-02 on your attached document.

- *Email:* highperformancebuildings@gsa.gov.

Instructions: Please submit comments only and cite Notice-MG-2024-02 in all correspondence related to this case.

Visit <https://www.gsa.gov/gbcertificationreview> for more information.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Steverson, Office of Federal High-Performance Green Buildings, telephone 202-501-6115, or via email, at bryan.steverson@gsa.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 436(h) of the Energy Independence and Security Act of 2007 (EISA) requires GSA to evaluate green building certification systems and provide a recommendation to the Secretary of Energy who, in consultation with the Department of Defense and GSA, formally identifies system(s) to be used across the Federal Government. GSA's Office of Federal High-Performance Green Buildings has just completed and published its 2024 Green Building Certification System Review Findings Report (Findings Report), which can be accessed at <https://www.gsa.gov/gbcertificationreview>. This report summarizes GSA's formal review of six green building certification systems (BOMA BEST, BREEAM, Green Globes, LEED, Living Building Challenge, and Passive House US, Inc). These systems were assessed against a set of review criteria contained in statute that evaluate how they were developed and how the systems align with current Federal green building performance requirements.

Request for Public Comment: GSA is seeking public comment on its draft recommendations to the Secretary of Energy on those green building certification systems that "will most likely encourage a comprehensive and environmentally sound approach" to the certification of high-performance green Federal buildings. GSA's draft recommendations can be found on its website: <https://www.gsa.gov/gbcertificationreview>.

Draft Recommendations

Based on the information contained in its Findings Report, GSA recommends that agencies consider using LEED or Green Globes for new construction or major renovation projects. Both of these systems meet the basic requirements established under DOE Rule: "Green Building Certification Systems Requirement for New Federal Buildings

and Major Renovations of Federal Buildings” by:

- Allowing assessors and auditors to independently verify the criteria and measurement metrics of the system
- Being developed by a certification organization that provides an opportunity for public comment on the system and provides an opportunity for development and revision of the system through a consensus-based process
- Being nationally recognized within the building industry
- Being subject to periodic evaluation and assessment of the environmental and energy benefits that result under the certification system, and
- Including a verification system for post-occupancy assessment of the rated buildings to demonstrate continued energy and water savings at least every four years after initial occupancy

For existing buildings, GSA recommends that agencies consider the use of BOMA Best, BREEAM In-Use, Green Globes, LEED, Living Building Challenge, Living Building Challenge CORE, or PHIUS CORE Revive. Each of these systems contains requirements and options that align to varying degrees with green building performance criteria and provides a sound approach to certification of high-performance green Federal buildings. It is important for agencies to ensure that the options selected within a certification system are those that align with Federal criteria in order to realize the benefits of using such a system. GSA recommends agencies use the certification system that best meets their mission, building type, and portfolio needs and certify to a level that promotes the high performance sustainable building goals referenced in Executive Orders 14008 and 14057.

It should be noted that on October 14, 2014, the U.S. DOE published its final rule that formally identifies criteria that green building certification systems must meet in order to be used by the Federal Government. This GSA request for public comment is not for the purposes of that final rulemaking, but to inform GSA on its related responsibilities to study green building certification systems and recommend ones to the DOE that may fit within the framework of the final rule. DOE’s final rule can be found at <https://www.regulations.gov/document/DOE-EERE-OT-2010-0007-0084>.

Kinga Hydras,

Acting Director, Office of Federal High-Performance Green Buildings, General Services Administration.

[FR Doc. 2024–16664 Filed 7–29–24; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10434 #82]

Medicaid and Children’s Health Insurance Program (CHIP) Generic Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: On May 28, 2010, the Office of Management and Budget (OMB) issued Paperwork Reduction Act (PRA) guidance related to the “generic” clearance process. Generally, this is an expedited process by which agencies may obtain OMB’s approval of collection of information requests that are “usually voluntary, low-burden, and uncontroversial collections,” do not raise any substantive or policy issues, and do not require policy or methodological review. The process requires the submission of an overarching plan that defines the scope of the individual collections that would fall under its umbrella. This **Federal Register** notice seeks public comment on one or more of our collection of information requests that we believe are generic and fall within the scope of the umbrella. Interested persons are invited to submit comments regarding our burden estimates or any other aspect of this collection of information, including: the necessity and utility of the proposed information collection for the proper performance of the agency’s functions, the accuracy of the estimated burden, ways to enhance the quality, utility and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by August 13, 2024.

ADDRESSES: When commenting, please reference the applicable form number (CMS–10434 #82) and the OMB control number (0938–1188). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for “Comment or Submission” or “More Search Options” to find the information collection

document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: CMS–10434 #82/OMB control number: 0938–1188, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/medicare/regulations-guidance/legislation/paperwork-reduction-act-1995/pralisting>.

FOR FURTHER INFORMATION CONTACT: William N. Parham at 410–786–4669.

SUPPLEMENTARY INFORMATION: Because of system limitations, we are submitting this generic collection of information request on an interim basis under CMS–10434 (OMB 0938–1188). At the appropriate time we will move this request under its proper place (CMS–10398, OMB 0938–1148) and subsequently remove it from CMS–10434 to prevent duplication. The public can monitor the status of such activities at reginfo.gov.

Following is a summary of the use and burden associated with the subject information collection(s). More detailed information can be found in the collection’s supporting statement and associated materials (see **ADDRESSES**).

Generic Information Collection

1. *Title of Information Collection:* Quality Improvement Affinity Group Expression of Interest Form; *Type of Information Collection Request:* New information collection request information request; *Use:* The new CMCS Quality Improvement Affinity Group Expression of Interest (EOI) Form will replace the following topic-specific EOI forms: CMS–10398 #72 for Infant Well-Care and CMS–10398 #76 for Maternal Health. Both will be discontinued sometime after the new form is approved by OMB. We host multiple affinity groups with overlapping time frames, with health topics changing to meet state interest and needs as well as to address emerging health disparities as new health data becomes available. In this iteration, we intend for a more general EOI form that will not change with new affinity groups; it will remain the same no matter the subject matter therefore burden will not change. The general

form will allow state participants to list multiple Affinity Groups they may be interested in, as well as provide state participants with a more reliable, streamlined, and consistent process for participation going forward. *Form Number:* CMS–10434 #82 (OMB control number: 0938–1188); *Frequency:* Once; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 20; *Total Annual Responses:* 20; *Total Annual Hours:* 60. (For policy questions regarding this collection contact: Sarah Leetham at 720–853–2612.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–16735 Filed 7–29–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10114 and CMS–10829]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by September 30, 2024.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for “Comment or Submission” or “More Search Options” to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10114 National Provider Identifier (NPI) Application and Update Form and Supporting Regs in 45 CFR 142.408, 45 CFR 162.408, 45 CFR 162.406

CMS–10829 Improper Payment Pre-Testing and Assessment (IPPTA) Data Request Form

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of

information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection Request:* Extension of a currently approved information collection; *Title of Information Collection:* National Provider Identifier (NPI) Application and Update Form and Supporting Regs in 45 CFR 142.408, 45 CFR 162.408, 45 CFR 162.406; *Use:* The adoption by the Secretary of HHS of the standard unique health identifier for health care providers is a requirement of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The unique identifier is to be used on standard transactions and may be used for other lawful purposes in the health care system. The CMS Final Rule published on January 23, 2004, adopts the National Provider Identifier (NPI) as the standard unique health identifier for health care providers. Health care providers that are covered entities under HIPAA must apply for and use NPIs in standard transactions. Other health care providers are eligible for NPIs but are not required by regulation to apply for them or use them. Health care providers began applying for NPIs on May 23, 2005.

The National Provider Identifier Application and Update Form is used by health care providers to apply for NPIs and furnish updates to the information they supplied on their initial applications. The form is also used to deactivate their NPIs if necessary. The original application form was approved in February 2005 and has been in use since May 23, 2005. The form is available on paper or can be completed via a web-based process. Health care providers can mail a paper application, complete the application via the web-based process via the National Plan and Provider Enumeration System (NPPES), or have a trusted organization submit the application on their behalf via the Electronic File Interchange (EFI) process. The Enumerator uses the NPPES to process the application and generate the NPI. NPPES is the Medicare contractor tasked with issuing NPIs, and maintaining and storing NPI data. *Form Number:* CMS–10114 (OMB control number: 0938–0931); *Frequency:* Occasionally; *Affected Public:* Business or other for-profits, Not for-profits and Federal Government; *Number of Respondents:* 1,275,912; *Number of*

Responses: 1,275,912; *Total Annual Hours:* 298,777. (For policy questions regarding this collection contact Da'Vona Boyd at 410-786-7483).

2. *Type of Information Collection Request:* Revision of an approved information collection; *Title of Information Collection:* Improper Payment Pre-Testing and Assessment (IPPTA) Data Request Form; *Use:* To comply with the Payment Integrity Information Act of 2019 (PIIA), HHS finalized the IPPTA to prepare State Exchanges for the measurement of improper payments of advance payments of the premium tax credit (APTC), to test processes and procedures that support HHS's review of determinations of APTC made by State Exchanges, and to provide a mechanism for HHS and State Exchanges to share information that would aid in developing an efficient measurement process. The PIIA requires executive agencies to report on Federal programs susceptible to significant improper payments. The APTC program was identified as a Federal program susceptible to significant improper payments. Currently in operation are 19 State Exchanges, which do not use the Federal platform to perform eligibility and enrollment determinations. Each State Exchange was selected to participate in the IPPTA data collection for a period of 2 calendar years, which began in 2024 or will begin in 2025 depending on which group the State Exchange is assigned. HHS has revised the approved data request form to include new instructions and a data mapping tool to aid State Exchanges in their understanding and collecting of necessary data. This collection of data and data documentation is intended to allow HHS to test the data elements as specified in the scenarios provided to each State Exchange in the pre-testing and assessment data request form to enable HHS to comply with the requirements of the Payment Integrity Information Act of 2019 (PIIA) and implementing guidance. *Form Number:* CMS-10829 (OMB control number: 0938-1439); *Frequency:* Annually; *Affected Public:* State, Local, and Federal Government; *Number of Respondents:* 11; *Number of Responses:* 11; *Total Annual Hours:* 265. (For policy questions regarding this collection contact Halina DeSantis at 410-786-1000).

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024-16736 Filed 7-29-24; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS-10437]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by August 29, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Generic Social Marketing & Consumer Testing Research; *Use:* The purpose of this submission is to extend the approval of the generic clearance for a program of consumer research aimed at a broad audience of those affected by CMS programs including Medicare, Medicaid, Children's Health Insurance Program (CHIP), and health insurance exchanges. This program extends strategic efforts to reach and tailor communications to beneficiaries, caregivers, providers, stakeholders, and any other audiences that would support the Agency in improving the functioning of the health care system, improve patient care and outcomes, and reduce costs without sacrificing quality of care. The information collected will be used to create a streamlined and proactive process for collection of data and utilizing the feedback on service delivery for continuous improvement of communication activities aimed at diverse CMS audiences. The generic clearance will allow rapid response to inform CMS initiatives using a mixture of qualitative and quantitative consumer research strategies (including formative research studies and methodological tests) to improve communication with key CMS audiences. As new information resources and persuasive technologies are developed, they can be tested and evaluated for beneficiary response to the materials and delivery

channels. Results will inform communication development and information architecture as well as allow for continuous quality improvement. The overall goal is to maximize the extent to which consumers have access to useful sources of CMS program information in a form that can help them make the most of their benefits and options. The activities under this clearance involve social marketing and consumer research using samples of self-selected customers, as well as convenience samples, and quota samples, with respondents selected either to cover a broad range of customers or to include specific characteristics related to certain products or services. All collection of information under this clearance will utilize a subset of items drawn from a core collection of customizable items referred to as the Social Marketing and Consumer Testing Item Bank. This item bank is designed to establish a set of pre-approved generic question that can be drawn upon to allow for the rapid turn-around consumer testing required for us to communicate more effectively with our audiences. The questions in the item bank are divided into two major categories. One set focuses on characteristics of individuals and is intended primarily for participant screening and for use in structured quantitative on-line or telephone surveys. The other set is less structured and is designed for use in qualitative one-on-one and small group discussions or collecting information related to subjective impressions of test materials. Results will be compiled and disseminated so that future communication can be informed by the testing results. We will use the findings to create the greatest possible public benefit. Form Number: CMS-10437 (OMB control number: 0938-1247); Frequency: Yearly; Affected Public: Individuals; Number of Respondents: 7,732; Number of Responses: 61,992; Total Annual Hours: 26,688. (For policy questions regarding this collection contact Hemal Giri Gosai at 410-786-0000.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024-16738 Filed 7-29-24; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2018-N-1768]

Advisory Committee; Pharmacy Compounding Advisory Committee; Renewal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; renewal of Federal advisory committee.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the renewal of the Pharmacy Compounding Advisory Committee by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the Pharmacy Compounding Advisory Committee for an additional 2 years beyond the charter expiration date. The new charter will be in effect until the April 25, 2026, expiration date.

DATES: Authority for the Pharmacy Compounding Advisory Committee will expire on April 25, 2026, unless the Commissioner formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Takyiah Stevenson, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993-0002, 240-402-2507, PCAC@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 41 CFR 102-3.65 and approval by the Department of Health and Human Services and by the General Services Administration, FDA is announcing the renewal of the Pharmacy Compounding Advisory Committee (the Committee). The Committee is a non-discretionary Federal advisory committee established to provide advice to the Commissioner. The Committee advises the Commissioner or designee in discharging responsibilities as they relate to compounding drugs for human use and, as required, any other product for which FDA has regulatory responsibility.

The Committee shall provide advice on scientific, technical, and medical issues concerning drug compounding under sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353a and 353b), and, as required, any other product for which FDA has regulatory responsibility and make appropriate recommendations to the Commissioner.

Pursuant to its charter, the Committee shall consist of a core of 12 voting

members including the Chair. Members and the Chair are selected by the Commissioner or designee from among authorities knowledgeable in the fields of pharmaceutical compounding, pharmaceutical manufacturing, pharmacy, medicine, and related specialties. These members will include representatives from the National Association of Boards of Pharmacy, the United States Pharmacopeia, pharmacists with current experience and expertise in compounding, physicians with background and knowledge in compounding, and patient and public health advocacy organizations. Members will be invited to serve for overlapping terms of up to 4 years.

Non-Federal members of this committee will serve as Special Government Employees, representatives, or Ex-Officio members. Federal members will serve as Regular Government Employees or Ex-Officios members. The core of voting members may include one or more technically qualified members, selected by the Commissioner or designee, who are identified with consumer interests and are recommended by either a consortium of consumer-oriented organizations or other interested persons. In addition to the voting members, the Committee may include one or more non-voting representative members who are identified with industry interests. There may also be an alternate industry representative.

The Commissioner or designee shall have the authority to select members of other scientific and technical FDA advisory committees (normally not to exceed 10 members) to serve temporarily as voting members and to designate consultants to serve temporarily as voting members when: (1) expertise is required that is not available among current voting standing members of the Committee (when additional voting members are added to the Committee to provide needed expertise, a quorum will be based on the combined total of regular and added members), or (2) to comprise a quorum when, because of unforeseen circumstances, a quorum is or will be lacking. Because of the size of the Committee and the variety in the types of issues that it will consider, FDA may, in connection with a particular committee meeting, specify a quorum that is less than a majority of the current voting members. The Agency's regulations (21 CFR 14.22(d)) authorize a committee charter to specify quorum requirements.

If functioning as a medical device panel, an additional non-voting

representative member of consumer interests and an additional non-voting representative member of industry interests will be included in addition to the voting members.

Further information regarding the most recent charter and other information can be found at <https://www.fda.gov/advisory-committees/pharmacy-compounding-advisory-committee/pharmacy-compounding-advisory-committee-charter> or by contacting the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). In light of the fact that no change has been made to the committee name or description of duties, no amendment will be made to 21 CFR 14.100.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app.). For general information related to FDA advisory committees, please visit us at <http://www.fda.gov/AdvisoryCommittees/default.htm>.

Dated: July 24, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024-16667 Filed 7-29-24; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to the Office of Management and Budget for Review and Approval; Public Comment Request; The Maternal, Infant, and Early Childhood Home Visiting Program Performance Measurement Information System

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than August 29, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Joella Roland, the HRSA Information Collection Clearance Officer, at paperwork@hrsa.gov or call (301) 443-3983.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Maternal, Infant, and Early Childhood Home Visiting Program Performance Measurement Information System, OMB No. 0906-0017—Revision.

Abstract: This request is for continued approval of the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program Performance Measurement Information System. The MIECHV Program is administered by the Maternal and Child Health Bureau within HRSA in partnership with the Administration for Children and Families, and provides support to all 56 states and jurisdictions, as well as tribes and tribal organizations. Through a needs assessment, states, jurisdictions, tribes, and tribal organizations identify target populations and select the home visiting service delivery model(s) that best meet their needs. There is no proposed change to the previously approved information collection instruments. Over the next 3 years, as part of efforts to implement new statutory provisions enacted as part of the reauthorization of the MIECHV program, HRSA intends to engage with MIECHV awardees, home visiting model developers, and federal partners to identify opportunities to reduce administrative burden related to performance reporting, to enhance performance measures to measure disparities, and to align performance measures with other programs administered by HRSA's Maternal and Child Health Bureau.

A 60-day notice published in the **Federal Register** on April 3, 2024, 89 FR 23028–29. HRSA received one comment from a local MIECHV-funded program administrator. The comment discussed obtaining additional qualitative information for program benchmark data, improving response categories for race and ethnicity, and changing breastfeeding performance measure. HRSA has considered this comment;

however, per congressional direction, HRSA's current primary focus is minimizing burden for local MIECHV-funded programs. The changes sought by the comment would impose additional burden. As a result, no change to the proposed information collection tools is proposed at this time. As previously stated, HRSA intends to re-assess the current performance measurement system over the next 3 years, including considering and addressing the issues raised by the commenter.

Need and Proposed Use of the Information: HRSA uses performance information to demonstrate program accountability and continuously monitor and provide oversight to MIECHV program awardees. The information is also used to provide quality improvement guidance and technical assistance to awardees and help inform the development of early childhood systems at the national, state, and local level. HRSA is seeking to continue to collect information on demographic, service utilization, and select clinical indicators for participants enrolled in home visiting services and a set of standardized performance and outcome indicators that correspond with the statutorily identified benchmark areas. This information will be used to demonstrate awardees' compliance with statutory and programmatic requirements. It will also be used to monitor and provide continued oversight for awardee performance and to target technical assistance resources to awardees.

Likely Respondents: MIECHV Program awardees that are states, jurisdictions, and, where applicable, nonprofit organizations providing home visiting services within states.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Form 1: Demographic, Service Utilization, and Select Clinical Indicators	56	1	56	560	31,360
Form 2: Performance Indicators and Systems Outcome Measures	56	1	56	221	12,376
Total	56	.....	56	.....	43,736

Maria G. Button,
Director, Executive Secretariat.
 [FR Doc. 2024-16719 Filed 7-29-24; 8:45 am]
BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Organization, Functions, And Delegations of Authority; Part G, Office of Environmental Health and Engineering

AGENCY: Indian Health Service, Department of Health and Human Services.

ACTION: Final notice.

SUMMARY: This Notice advises the public that the Indian Health Service (IHS) proposes Part G, of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS), as amended May 6, 2005, July 1, 2010, and November 5, 2014, and most recently as amended December 26, 2018 is hereby amended to reflect additions of Standard Administrative Codes to better reflect the structure of the Indian Health Service (IHS) Office of Environmental Health and Engineering (OEHE), Division of Sanitation Facilities Construction (DSFC) program. The IHS is establishing these Standard Administrative Codes to improve granularity of the human resource data to allow better identification of Sanitation Facilities Construction (SFC) Program staff within the human resource data system. There will be no change in function or reporting relationships.

SUPPLEMENTARY INFORMATION:

Great Plains Area—GFA

- Div of Sanitation FAC Construction—Minot District—GFAAC11
- Div of Sanitation FAC Construction—Mobridge Field Office—GFAAC111
- Div of Sanitation FAC Construction—Belcourt Field Office—GFAAC112
- Div of Sanitation FAC Construction—Pierre District—GFAAC12

- Div of Sanitation FAC Construction—Eagle Butte Field Office—GFAAC121
- Div of Sanitation FAC Construction—Martin Field Office—GFAAC122
- Div of Sanitation FAC Construction—Sioux City District—GFAAC13
- Div of Sanitation FAC Construction—Sisseton Field Office—GFAAC131
- Div of Sanitation FAC Construction—Rosebud Field Office—GFAAC132

Albuquerque Area—GFC

- Div of Sanitation FAC Construction—Albuquerque District—GFC421
- Div of Sanitation FAC Construction—Mescalero Field Office—GFC4211
- Div of Sanitation FAC Construction—Santa Fe District—GFC422
- Div of Sanitation FAC Construction—Durango Field Office—GFC4221

Bemidji Area—GFE

- Div of Sanitation FAC Construction—Bemidji Area—GFE2AA
- Div of Sanitation FAC Construction—Minnesota District—GFE2AA1
- Div of Sanitation FAC Construction—Duluth Field Office—GFE2AA11
- Div of Sanitation FAC Construction—Rhineland District—GFE2AA2
- Div of Sanitation FAC Construction—Sault Ste Marie Field Office—GFE2AA21
- Div of Sanitation FAC Construction—Traverse City Field Office—GFE2AA22

Billings Area—GFF

- Div of Sanitation FAC Construction—Browning Field Office—GFF931
- Div of Sanitation FAC Construction—Crow Agency Field Office—GFF932
- Div of Sanitation FAC Construction—Lame Deer Field Office—GFF933
- Div of Sanitation FAC Construction—Wolf Point Field Office—GFF934
- Div of Sanitation FAC Construction—Fort Washakie Field Office—GFF935
- Div of Sanitation FAC Construction—Fort Belknap Field Office—GFF936

Nashville Area—GFH

- Div of Sanitation FAC Construction—Nashville Area—GFH2A
- Div of Sanitation FAC Construction—Manlius District—GFH2A1
- Div of Sanitation FAC Construction—Lockport Field Office—GFH2A11

- Div of Sanitation FAC Construction—Atmore Field Office—GFH2A2
- Div of Sanitation FAC Construction—Bangor Field Office—GFH2A3
- Div of Sanitation FAC Construction—Catawba Field Office—GFH2A4
- Div of Sanitation FAC Construction—Charles City Field Office—GFH2A5
- Div of Sanitation FAC Construction—Mashpee Field Office—GFH2A6
- Div of Sanitation FAC Construction—Opelousas Field Office—GFH2A7

Navajo Area—GFJ

- Div of Sanitation FAC Construction—Fort Defiance District—GFJ4B1
- Div of Sanitation FAC Construction—Many Farms Field Office—GFJ4B11
- Div of Sanitation FAC Construction—Gallup District—GFJ4B2
- Div of Sanitation FAC Construction—Crownpoint Field Office—GFJ4B21
- Div of Sanitation FAC Construction—Shiprock District—GFJ4B3
- Div of Sanitation FAC Construction—Farmington Field Office—GFJ4B31
- Div of Sanitation FAC Construction—Tuba City District—GFJ4B4
- Div of Sanitation FAC Construction—Kayenta Field Office—GFJ4B41
- Div of Sanitation FAC Construction—Tuba City Field Office—GFJ4B42
- Div of Sanitation FAC Construction—Winslow Field Office—GFJ4B43

Oklahoma City Area—GFK

- Div of Sanitation FAC Construction—Oklahoma City Area—GFK34
- Div of Sanitation FAC Construction—Clinton Field Office—GFK34B
- Div of Sanitation FAC Construction—Holton Field Office—GFK34C
- Div of Sanitation FAC Construction—Lawton Field Office—GFK34D
- Div of Sanitation FAC Construction—Pawnee Field Office—GFK34E
- Div of Sanitation FAC Construction—Shawnee Field Office—GFK34G
- Div of Sanitation FAC Construction—Miami Field Office—GFK34H
- Div of Sanitation FAC Construction—Oklmulgee Field Office—GFK34J

Phoenix Area—GFL

- Div of ENV Health Services—IEH—GFL52IE
- Div of ENV Health Services—IP—GFL52IP

Div of ENV Health Services—Eastern Arizona District—GFL52E
 Div of ENV Health Services—Keams Canyon Service Unit—GFL52E1
 Div of ENV Health Services—San Carlos Service Unit—GFL52E2
 Div of ENV Health Services—White River Service Unit—GFL52E3
 Div of ENV Health Services—Reno District—GFL52R
 Div of ENV Health Services—Elko Service Unit—GFL52R1
 Div of ENV Health Services—Uintah-Ouray Service Unit—GFL52R2
 Div of ENV Health Services—Western Arizona District—GFL52W
 Div of ENV Health Services—Colorado River Service Unit—GFL52W1
 Div of ENV Health Services—Fort Yuma Service Unit—GFL52W2
 Div of Facilities Management—Design and Construction Branch—GFL53DC
 Div of Facilities Management—Operations Branch—GFL53FM
 Div of Sanitation FAC Construction—Eastern Arizona District—GFL54E
 Div of Sanitation FAC Construction—Keams Canyon Service Unit—GFL54E1
 Div of Sanitation FAC Construction—San Carlos Service Unit—GFL54E2
 Div of Sanitation FAC Construction—White River Service Unit—GFL54E3
 Div of Sanitation FAC Construction—Reno District—GFL54R
 Div of Sanitation FAC Construction—Elko Service Unit—GFL54R1
 Div of Sanitation FAC Construction—Uintah-Ouray Service Unit—GFL54R2
 Div of Sanitation FAC Construction—Western Arizona District—GFL54W
 Div of Sanitation FAC Construction—Colorado River Service Unit—GFL54W1
 Div of Sanitation FAC Construction—Fort Yuma Service Unit—GFL54W2

Portland Area—GFM

Div of Sanitation FAC Construction—Portland Area—GFM52
 Div of Sanitation FAC Construction—Western Oregon District—GFM52A
 Div of Sanitation FAC Construction—Warm Springs Field Office—GFM52A1
 Div of Sanitation FAC Construction—Yakama Field Office—GFM52A2
 Div of Sanitation FAC Construction—Olympic District—GFM52B
 Div of Sanitation FAC Construction—Port Angeles Field Office—GFM52B1
 Div of Sanitation FAC Construction—Spokane District—GFM52C
 Div of Sanitation FAC Construction—Fort Hall Field Office—GFM52C1

Tucson Area—GFN

Div of Sanitation FAC Construction—Tucson Area/District—GFNADA

Div of Sanitation FAC Construction—Casa Grande Field Office—GFNADA1

Roselyn Tso,

Director, Indian Health Service.

[FR Doc. 2024–16620 Filed 7–29–24; 8:45 am]

BILLING CODE 4166–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Acquired Immunodeficiency Syndrome Research Study Section, Acquired Immunodeficiency Syndrome Research Study Section (AIDS).

Date: August 21–22, 2024.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3D32, Rockville, MD 20892 (Video Assisted Meeting).

Contact Person: Robert C. Unfer, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3D32, Rockville, MD 20892, (240) 669–5035, robert.unfer@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 25, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–16722 Filed 7–29–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Neurological Sciences Training Initial Review Group; NST–1 Study Section, NST–1 Clinician K Grant Review.

Date: September 23–24, 2024.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314 (In-Person and Virtual Meeting).

Contact Person: William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/HHS NSC, 6001 Executive Boulevard, Rockville, MD 20852, 301–496–0660, benzingw@mail.nih.gov.

Name of Committee: Neurological Sciences Training Initial Review Group; NST–2 Study Section NINDS K99 and K01.

Date: September 26–27, 2024.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: DeAnna Lynn Adkins, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS NSC, 6001 Executive Boulevard, Rockville, MD 20852, 301–496–9223, deanna.adkins@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: July 24, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–16684 Filed 7–29–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Functional Omics Core Laboratory (N01).

Date: August 30, 2024.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E71, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Samita S. Andreansky, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E71, Rockville, MD 20852, 240-669-2915, samita.andreansky@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 25, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-16721 Filed 7-29-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Privacy Act of 1974; System of Records

AGENCY: National Institutes of Health, Department of Health and Human Services.

ACTION: Rescindment of system of records notices.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the Department of Health and Human Services (HHS) is rescinding 14 systems of records maintained by the National Institutes of Health (NIH), for the reason that each system of records either is obsolete or duplicates another system of records.

DATES: In accordance with 5 U.S.C. 552a(e)(4), this notice is applicable upon publication.

ADDRESSES: The public may submit written comments, by mail or email, to Dustin Close, Office of Management Assessment, National Institutes of Health, 6705 Rockledge Drive—Suite 601, Bethesda, MD 20892, email privacy@mail.nih.gov.

FOR FURTHER INFORMATION CONTACT: General questions about the systems of records may be submitted to Dustin Close, Office of Management Assessment, National Institutes of Health, 6705 Rockledge Drive—Suite 601, Bethesda, MD 20892, telephone 301-496-4606, email privacy@mail.nih.gov.

SUPPLEMENTARY INFORMATION: NIH/HHS is rescinding the 14 systems of records based on the following reasons:

I. Records No Longer Exist

Four of the systems of records are obsolete; the records were disposed of in accordance with the applicable disposition schedule approved by the National Archives and Records Administration (NARA), cited below:

1. 09-25-0078, *Administration: Consultant File, HHS/NIH/NHLBI.*

These records were maintained on computer disks and paper file folders. They were used to identify and select experts and consultants for program reviews and evaluations and to evaluate National Heart, Lung, and Blood Institute (NHLBI) special grants and contracts. Records included the individuals' curriculums vitae, resumes, and names. The data on the disks and in the folders had not been updated in years and was no longer used. At the end of 2023, the records were deleted in compliance with NIH Records Retention Schedule 12-014, Electronic Information Systems/Administration (Disposition Authority DAA-0443-2013-0004-0004).

2. 09-25-0121, *International Activities: Senior International Fellowships Program, HHS/NIH/FIC.* These records were maintained by the Fogarty International Center (FIC) on computer disks and paper file folders.

The records were used by FIC for award and administration of fellowships to outstanding faculty members in mid-career from U.S. biomedical research and educational institutions for study abroad, to distinguished scientists, and to scholars invited to accept NIH scholarships. The records were comprised of the individuals' applications and associated records, reports, employment and education histories, and references. The programs no longer exist, and the records were deleted in compliance with NIH Records Retention Schedule 12-019, Electronic Information Systems/Activities: International Fellowship Program (Disposition Authority DAA-0443-2019-0008-0001).

3. 09-25-0034, *International Activities: Scholars-in-Residence Program, HHS/NIH/FIC.* Same explanation and same disposition schedule as for 09-25-0121.

4. 09-25-0041, *Research Resources: Scientists Requesting Hormone Distribution.* These records consisted of applications from scientists requesting hormones and antibodies from the National Institute of Diabetes, and Digestive and Kidney Diseases (NIDDK) for research purposes. They were stored in paper file folders and were used to review the applications to determine if the scientists were qualified to receive the materials. The programs no longer exist, and the records were deleted in compliance with NIH Records Retention Schedule 12-011, Electronic Information Systems/Research Resources (Disposition Authority DAA-0443-2012-0007-0003).

II. Records Exist But Are No Longer Retrieved by Personal Identifier

The records in one system of records still exist but are no longer retrieved by personal identifier so no longer constitute Privacy Act records:

5. 09-25-0033, *International Activities: Fellowships Awarded by Foreign Organizations, HHS/NIH/FIC.* These records were about U.S. citizens qualified in health-related sciences who submitted applications through NIH for fellowships for study abroad. They were stored in paper file folders and were used by NIH to perform scientific reviews and evaluations of the applicants' qualifications to determine which applicants were suitable for referral to the fellowship-awarding organizations. The paper file system that was used was terminated. Existing records have been moved to electronic form and are stored on a network shared drive. The files are no longer kept in a system from which they can be retrieved by a unique identifier. The files are now

kept as general program correspondence in compliance with NIH Records Retention Schedule 12–006, International Activities: Fellowships Awarded by Foreign Organizations (Disposition Authority DAA–0443–2018–0004–0001).

III. Records Exist But Are Now Covered In Another System of Records

The records in the remaining nine systems of records still exist but are now covered by another NIH SORN.

- The seven systems of records listed below are being rescinded as duplicative of system of records 09–25–0200, Clinical, Basic, and Population-based Research Studies of the National Institutes of Health (NIH), HHS/NIH/OD. All seven cover records used for clinical, basic, and population-based NIH research studies, mirroring the categories of individuals and categories of records covered in system of records 09–25–0200. The legal authorities cited for system of records 09–25–0200 overlap those cited for the systems of records being rescinded. Specifically, 42 U.S.C. 241—Research and Investigations Generally (Sec. 301 of the Public Health Service (PHS) Act) is cited for six of the seven systems of records, and 42 U.S.C. 284—Directors of National Research Institutes (Sec. 405 of the PHS Act) is cited for four of the seven systems of records, and system of records 09–25–0200 cites Secs. 301 and 405 of the PHS Act in addition to several other sections of the PHS Act which cover research and investigations, in general, while giving authority to the Directors of NIH Institutes and Centers to carry out the mission of NIH.

6. 09–25–0202, *Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1976) Treated at the PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky.*

7. 09–25–0203, *National Institute on Drug Abuse, Intramural Research Program, Federal Prisoner and Non-Prisoner Research Files.*

8. 09–25–0207, *Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse and on Treatment Medications.*

9. 09–25–0208, *Drug Abuse Treatment Outcome Study.*

10. 09–25–0209, *Subject-Participants in Drug Abuse Research Studies on Drug Dependence and in Research Supporting Investigational New Drug and New Drug Applications.*

11. 09–25–0210, *Shipment Records of Drugs of Abuse to Authorized Researchers.*

12. 9–25–0211, *Intramural Research Program Records of In-and-Out-Patients with Various Types of Alcohol Abuse*

and Dependence, Relatives of Patients with Alcoholism, and Healthy Volunteers.

- The below system of records is being rescinded as duplicative of system of records 09–25–0166, Administration: Radiation and Occupational Safety and Health Management Information Systems, HHS/NIH/Office of Research Services (ORS), which covers the same records (records used to administer safety glasses to individuals) used by the same office (the Division of Occupational Health and Safety) under the same authority (5 U.S.C. 7902) under its second listed purpose: to monitor, track, and assess the use of personal protective equipment in the workplace to ensure availability, effectiveness, and proper maintenance.

13. 09–25–0007, *Administration: NIH Safety Glasses Issuance Program, HHS/NIH/ORS.*

- The below system of records is being rescinded as duplicative of system of records 09–25–0036, Extramural Awards and Chartered Advisory Committees (IMPAC 2), Contract Information (DCIS), and Cooperative Agreement Information, which covers the same application information (e.g., award processing information, historical information pertaining to awarded contracts, and general contact information for former fellows and applicants used for contractual business with NIH) and cites more appropriate authorities (i.e., 5 U.S.C. 301; 42 U.S.C. 217a, 241, 282(b)(6), 284a, and 288; and 48 CFR Subparts 15.3 and 42.15) than the authority cited in the below system of records (i.e., 42 U.S.C. 209):

14. 09–25–0124, *Administration: Pharmacology Research Associates.*

For the foregoing reasons, the below 14 systems of records are rescinded:

SYSTEM NAME AND NUMBER:

Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1976) Treated at the PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky, 09–25–0202.

HISTORY:

67 FR 60742 (Sept. 26, 2002), 83 FR 6591 (Feb. 14, 2018).

SYSTEM NAME AND NUMBER:

National Institute on Drug Abuse, Intramural Research Program, Federal Prisoner and Non-Prisoner Research Files, 09–25–0203.

HISTORY:

67 FR 60742 (Sept. 26, 2002), 83 FR 6591 (Feb. 14, 2018).

SYSTEM NAME AND NUMBER:

Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse and on Treatment Medications, 09–25–0207.

HISTORY:

67 FR 60742 (Sept. 26, 2002), 83 FR 6591 (Feb. 14, 2018).

SYSTEM NAME AND NUMBER:

Drug Abuse Treatment Outcome Study, 09–25–0208.

HISTORY:

67 FR 60742 (Sept. 26, 2002), 83 FR 6591 (Feb. 14, 2018).

SYSTEM NAME AND NUMBER:

Subject-Participants in Drug Abuse Research Studies on Drug Dependence and in Research Supporting Investigational New Drug and New Drug Applications, 09–25–0209.

HISTORY:

67 FR 60742 (Sept. 26, 2002), 83 FR 6591 (Feb. 14, 2018).

SYSTEM NAME AND NUMBER:

Shipment Records of Drugs of Abuse to Authorized Researchers, 09–25–0210.

HISTORY:

67 FR 60742 (Sept. 26, 2002), 83 FR 6591 (Feb. 14, 2018).

SYSTEM NAME AND NUMBER:

Administration: Consultant File, HHS/NIH/NHLBI, 09–25–0078.

HISTORY:

67 FR 60742 (Sept. 26, 2002), 83 FR 6591 (Feb. 14, 2018).

SYSTEM NAME AND NUMBER:

International Activities: Senior International Fellowships Program, HHS/NIH/FIC, 09–25–0121.

HISTORY:

67 FR 60742 (Sept. 26, 2002), 83 FR 6591 (Feb. 14, 2018).

SYSTEM NAME AND NUMBER:

International Activities: Fellowships Awarded by Foreign Organizations, HHS/NIH/FIC, 09–25–0033.

HISTORY:

67 FR 60742 (Sept. 26, 2002), 83 FR 6591 (Feb. 14, 2018).

SYSTEM NAME AND NUMBER:

International Activities: Scholars-in-Residence Program, HHS/NIH/FIC, 09–25–0034.

HISTORY:

67 FR 60742 (Sept. 26, 2002), 83 FR 6591 (Feb. 14, 2018).

SYSTEM NAME AND NUMBER:

Administration: Pharmacology
Research Associates, 09–25–0124.

HISTORY:

67 FR 60742 (Sept. 26, 2002), 83 FR 6591 (Feb. 14, 2018).

SYSTEM NAME AND NUMBER:

Research Resources: Scientists
Requesting Hormone Distribution, 09–25–0041.

HISTORY:

67 FR 60742 (Sept. 26, 2002), 83 FR 6591 (Feb. 14, 2018).

SYSTEM NAME AND NUMBER:

Administration: NIH Safety Glasses
Issuance Program, HHS/NIH/ORS, 09–25–0007.

HISTORY:

67 FR 60742 (Sept. 26, 2002), 83 FR 6591 (Feb. 14, 2018).

SYSTEM NAME AND NUMBER:

Intramural Research Program Records
of In-and-Out-Patients with Various
Types of Alcohol Abuse and
Dependence, Relatives of patients with
Alcoholism, and Healthy Volunteers,
09–25–0211.

HISTORY:

67 FR 60742 (Sept. 26, 2002), 83 FR 6591 (Feb. 14, 2018).

Alfred C. Johnson,

*Deputy Director for Management, National
Institutes of Health.*

[FR Doc. 2024–16669 Filed 7–29–24; 8:45 am]

BILLING CODE 4140–01–P

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

National Institutes of Health

**Proposed Collection; 60-Day Comment
Request; National Institutes of Health
(NIH)—Fellow Forms**

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 Institutes of Health (NIH) 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: Dr. Patricia Wagner, Program
Analyst, Office of Intramural Research,
Office of the Director, National
Institutes of Health; 2 Center Drive;
Building 2/Room 2E06; Bethesda,
Maryland 20892 or call non-toll-free
number 240–476–3619 or email your
request, including your address to:
wagnerpa@od.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 minimize the
burden of the collection of information
on those who are to respond, including
the use of appropriate automated,
electronic, mechanical, or other
technological collection techniques or
other forms of information technology.

Proposed Collection Title: National
Institutes of Health (NIH)—Fellow
Forms, 0925–XXXX, Expiration *Date:*
XX/XXXX, NEW, Office of Intramural
Research (OIR), Office of the Director
(OD), National Institutes of Health
(NIH).

*Need and Use of Information
Collection:* The NIH Intramural
Research Program (NIH IRP) administers
a variety of programs, initiatives, and
activities to train future biomedical
scientists. Fellows participating in the
NIH IRP are provided financial
assistance through one of the following
appointment mechanisms: Intramural
Research Training Award, Cancer
Research Training Award, and Visiting
Fellow. Recently, NIH IRP fellows voted
to form a union. To comply with federal
regulations governing engagement with
a union, the NIH IRP created a series of
collection forms.

OMB approval is requested for 3
years. There are no costs to respondents
other than their time. The total
estimated annualized burden hours are
135.

ESTIMATED ANNUALIZED BURDEN HOURS

Collection form	Number of respondents	Number of responses annually per respondent	Average time/response (hours)	Total annual burden hours
Dues Deduction Request	600	1	3/60	30
Dues Deduction Cancellation	600	1	3/60	30
Grievance Report	300	1	15/60	75
Total	1,500	1,500	n/a	135

Dated: July 24, 2024.

Lawrence A. Tabak,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2024–16739 Filed 7–29–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Dental and Oral Sciences.

Date: August 21, 2024.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Chee Lim, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, Bethesda, MD 20892, (301) 435–1850, limc4@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 25, 2024.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–16720 Filed 7–29–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of meeting of the National Asthma Education Prevention Program Coordinating Committee.

The meeting will be held as a virtual meeting and will be open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed from the NIH Videocast at the following link: <https://videocast.nih.gov/watch=54913>.

Name of Committee: National Asthma Education Prevention Program Coordinating Committee.

Date: September 23, 2024.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: Programmatic and Scientific Updates.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20892, <https://videocast.nih.gov/watch=54913> (Virtual Meeting).

Contact Person: Mihaela Stefan, Ph.D., Program Director, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20892, 301–435–4782, mihaela.stefan@nih.gov.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: <https://www.nhlbi.nih.gov/advisory-and-peer-review-committees/national-asthma-education-andprevention-program-coordinating>, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for

Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 24, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–16680 Filed 7–29–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Neurological Disorders and Stroke Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend as well as those who need special assistance, such as sign language interpretation or other reasonable accommodations, must notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (<https://videocast.nih.gov/>).

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Neurological Disorders and Stroke Council (NANDSC).

Date: September 4–5, 2024.

Open: September 4, 2024, 10:00 a.m. to 5:00 p.m.

Agenda: Report by the Director, NINDS; Report by the Acting Director, Division of Extramural Activities; and Administrative and Program Developments.

Open session will be videocast from this link: <https://videocast.nih.gov/>.

Closed: September 5, 2024, 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications and the Division of Intramural

Research Board of Scientific Counselors' Reports.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Room 1145, Rockville, Maryland 20852 (In-Person and Virtual Meeting).

Contact Person: David Owens, Ph.D., Director of Extramural Activities (Acting), National Institute of Neurological Disorders and Stroke, NIH, 6001 Executive Blvd., 5th Floor, MSC 9531, Rockville, MD 20852, (301) 496-9248, owensd@ninds.nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice at least 10 days in advance of the meeting. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: www.ninds.nih.gov, where an agenda and any additional information for the meeting will be posted when available.

In the interest of security, NIH has procedures at <https://www.nih.gov/about-nih/visitor-information/campus-access-security> for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS.)

Dated: July 24, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-16679 Filed 7-29-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_NV_FRN_MO#4500180231]

Establishment and Call for Nominations for the Avi Kwa Ame National Monument Advisory Committee

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) is publishing this notice in accordance with the Federal Land Policy and Management Act

(FLPMA), the Federal Advisory Committee Act (FACA), and Presidential Proclamation 10533, "Establishment of the Avi Kwa Ame National Monument". The BLM gives notice that the Secretary of the Interior is establishing the Avi Kwa Ame National Monument Advisory Committee (MAC) and is seeking nominations for individuals to be considered as MAC members.

DATES: Comments regarding the establishment of this MAC must be submitted no later than August 14, 2024. All nominations must be received no later than August 29, 2024.

ADDRESSES: Nominations for the MAC should be sent to the BLM office listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

FOR FURTHER INFORMATION CONTACT: Kirsten Cannon, Public Affairs Specialist, Southern Nevada District, 4701 North Torrey Pines, Las Vegas, Nevada 89130; phone: (702) 515-5057; email: k1cannon@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: Presidential Proclamation 10533 directs the Secretary of the Interior to establish and maintain an advisory committee under FACA (5 U.S.C. ch. 10) with the specific purpose of providing information and advice regarding the development of the management plan and management of the monument. The MAC is established in accordance with section 309 of FLPMA, as amended (43 U.S.C. 1739). The BLM is subject to standards and procedures for the creation, operation, and termination of BLM resource advisory councils found at 43 CFR 1784 subpart 1787 and the Federal Advisory Committee regulations found at 41 CFR part 102-3.

The MAC will consist of 15 representatives to be appointed by the Secretary of the Interior as follows:

1. Eight representatives of Tribal Nations with historical connection to the lands within the Monument;
2. A representative of developed outdoor recreation activities;
3. A representative of dispersed recreational activities, including hunting or wildlife organizations;
4. A representative of the conservation community;

5. A representative of the scientific community;

6. A representative of local business owners;

7. A representative of local governmental entities; and

8. A representative of local citizens.

Representatives will be appointed to the MAC to serve three-year staggered terms.

Nomination Information: Nominations should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding the membership requirements of the MAC and permit the Department of the Interior to contact a potential member. Nominees are strongly encouraged to include supporting letters from employers, associations, professional organizations, and/or other organizations that indicate support by a meaningful constituency for the nominee. Nominees should indicate any BLM permits, leases, or licenses that you hold personally or are held by your employer. Members of the MAC serve without compensation. However, while away from their homes or regular places of business, members engaged in MAC business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703, in the same manner as persons employed intermittently in Federal Government service.

The MAC will meet approximately two to four times annually, and at such other times as designated by the Designated Federal Officer.

Simultaneous with this notice, the BLM will issue a press releases providing additional information for submitting nominations.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you may ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 CFR 1784.4-1)

Deb Haaland,

Secretary of the Interior.

[FR Doc. 2024-16562 Filed 7-29-24; 8:45 am]

BILLING CODE 4331-21-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management****[BLM_AK_FRN_MO4500181191]****Filing of Plats of Survey: Alaska****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice of official filing.

SUMMARY: The plats of survey of lands described in this notice are scheduled to be officially filed in the Bureau of Land Management (BLM), Alaska State Office, Anchorage, Alaska. The surveys, which were executed at the request of the BLM, are necessary for the management of these lands.

DATES: The BLM must receive protests by August 29, 2024.

ADDRESSES: You may buy a copy of the plats from the BLM Alaska Public Information Center, 222 W. 7th Avenue, Mailstop 13, Anchorage, AK 99513. Please use this address when filing written protests. You may also view the plats at the BLM Alaska Public Information Center, Fitzgerald Federal Building, 222 W. 7th Avenue, Anchorage, Alaska, at no cost.

FOR FURTHER INFORMATION CONTACT: Thomas B. O'Toole, Chief, Branch of Cadastral Survey, Alaska State Office, Bureau of Land Management, 222 W. 7th Avenue, Anchorage, AK 99513; 907-271-4231; totoole@blm.gov. People who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the BLM during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lands surveyed are:**Copper River Meridian, Alaska**

T. 11 N., R. 7 E., accepted June 5, 2024.

Fairbanks Meridian, Alaska

T. 16 N., R. 19 E., accepted May 14, 2024.

Seward Meridian, Alaska

T. 29 N., R. 1 E., accepted July 22, 2024.
 T. 31 N., R. 1 E., accepted July 22, 2024.
 T. 32 N., R. 1 E., accepted July 22, 2024.
 T. 33 N., R. 1 E., accepted July 22, 2024.
 T. 30 N., R. 2 E., accepted July 22, 2024.
 T. 31 N., R. 2 E., accepted July 22, 2024.
 T. 32 N., R. 2 E., accepted July 22, 2024.
 T. 33 N., R. 2 E., accepted July 22, 2024.
 T. 29 N., R. 3 E., accepted July 22, 2024.
 T. 30 N., R. 3 E., accepted July 22, 2024.
 T. 31 N., R. 3 E., accepted July 22, 2024.
 T. 30 N., R. 4 E., accepted July 22, 2024.
 T. 31 N., R. 4 E., accepted July 22, 2024.
 T. 32 N., R. 4 E., accepted July 22, 2024.
 T. 30 N., R. 5 E., accepted July 22, 2024.

T. 31 N., R. 5 E., accepted July 22, 2024.
 T. 32 N., R. 5 E., accepted July 22, 2024.
 T. 29 N., R. 6 E., accepted July 22, 2024.
 T. 31 N., R. 6 E., accepted July 22, 2024.
 T. 32 N., R. 6 E., accepted July 22, 2024.
 T. 30 N., R. 7 E., accepted July 22, 2024.
 T. 31 N., R. 7 E., accepted July 22, 2024.
 T. 32 N., R. 7 E., accepted July 22, 2024.
 T. 31 N., R. 1 W., accepted July 22, 2024.
 T. 32 N., R. 1 W., accepted July 22, 2024.

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest with the State Director for the BLM in Alaska. The protest may be filed by mailing to BLM State Director, Alaska State Office, Bureau of Land Management, 222 W. 7th Avenue, Anchorage, AK 99513 or by delivering it in person to BLM Alaska Public Information Center, Fitzgerald Federal Building, 222 W. 7th Avenue, Anchorage, Alaska. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. You must file the notice of protest before the scheduled date of official filing for the plat(s) of survey being protested. The BLM will not consider any notice of protest filed after the scheduled date of official filing. A notice of protest is considered filed on the date it is received by the State Director for the BLM in Alaska during regular business hours; if received after regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the State Director for the BLM in Alaska within 30 calendar days after the notice of protest is filed.

If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personally identifiable information in a notice of protest or statement of reasons, you should be aware that the documents you submit, including your personally identifiable information, may be made publicly available in their entirety at any time. While you can ask the BLM to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C. ch. 3.**Thomas O'Toole,***Chief Cadastral Surveyor, Alaska.*

[FR Doc. 2024-16677 Filed 7-29-24; 8:45 am]

BILLING CODE 4331-10-P**DEPARTMENT OF THE INTERIOR****National Park Service****[NPS-WASO-NAGPRA-NPS0038353; PPWCORADN0-PCU00RP14.R50000]****Notice of Inventory Completion: Western Washington University, Department of Anthropology, Bellingham, WA****AGENCY:** National Park Service, Interior.**ACTION:** Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Western Washington University (WWU), has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from 45-WH-15 in Whatcom County, WA.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 29, 2024.

ADDRESSES: Dr. Judith Pine, Western Washington University, Department of Anthropology, Arntzen Hall 340, 516 High Street, Bellingham, WA 98225, telephone (360) 650-4783, email pinej@wwu.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the WWU, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual have been identified. The four associated funerary objects consist of one bone pin, one modified antler, one stone bowl, and an adze blade. The human remains and associated funerary objects in this notice were removed from 45-WH-15 (Marietta/Lummi Reservation) by

brothers Howard and Ray Buswell between 1906 and the late 1950s. The Buswell brothers referred to the site as the "Gillen Midden." Dr. Gar Grabert, WWU, visited the site in 1968 and recorded it as 45-WH-15. Sometime after 1970, the archaeological collection was donated to Western Washington University. No known individuals were identified. No hazardous chemicals are known to have been used to treat the human remains and associated funerary objects while in the custody of WWU.

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological information, archaeological information, geographical information, historical information, and oral tradition.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The WWU has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The four objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Lummi Tribe of the Lummi Reservation and Nooksack Indian Tribe.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that

the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 29, 2024. If competing requests for repatriation are received, the WWU must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The WWU is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 17, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-16709 Filed 7-29-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

**[NPS-WASO-NAGPRA-NPS0038346;
PPWOCRADN0-PCU00RP14.R50000]**

Notice of Intended Repatriation: Wesleyan University, Middletown, CT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Wesleyan University intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after August 29, 2024.

ADDRESSES: Wendi Field Murray, Wesleyan University (Archaeology & Anthropology Collections), 265 Church Street, Exley Science Building, Middletown, CT 06459, telephone (860)-685-2085, email wmurray01@wesleyan.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Wesleyan University and additional information

on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of six cultural items have been requested for repatriation. The six unassociated funerary objects are one projectile point covered in red ochre and five ceramic sherds. The projectile point is a long-stemmed point of grey chert. Approximately six and one-half inches long, the point has a triangular blade, and the entire surface is covered in red ochre. According to available records, the object was donated to Wesleyan University by George M. Southmayd in 1890. Southmayd (1824-1908) was a Middletown businessman whose family operated a funeral home on Main Street for several decades. Collections records indicate that the collector of the object is unknown, but that it was found near the Air Line Depot in Middletown, CT the same year it was donated (1890). No other objects appear to have been donated with it.

The five ceramic sherds were all received in a transfer from the Smithsonian Institution to Wesleyan University in 1874. One is a grit-tempered sherd with a hole drilled through it and cross-hatched surface impressions (1971.411.1); two of the sherds are shell-tempered with cord-marked surface impressions (1971.411.2-.3); and two sherds are sand or grit-tempered with cord-marked surface impressions (1971.411.4-.5). According to Wesleyan's records, all five objects were collected by William Andros at an unknown date from "an Indian burying ground on the CT River in East Hartford, CT."

No cultural affiliation information was included in the records of the taking or the transfer, though their geographical origin and the well-documented cultural and historical connections between the joint claimants, central Connecticut, and the Connecticut River indicates a cultural affiliation with the Mashantucket Pequot Indian Tribe and the Mohegan Tribe of Indians of Connecticut.

The presence of potentially hazardous substances (*i.e.*, pesticide residues) on these particular objects is unknown. In 2021, Wesleyan University discovered the presence of pesticide residue (arsenic) on one organic object from Samoa that was transferred from the Smithsonian in the 19th century, as well as several taxidermy specimens. This suggests the possibility that other objects in the collection may be

contaminated. While pesticides were not typically applied to stone or ceramic objects due to their inherent resilience to pest damage, the objects have potentially been intermingling with organic objects in a large ethnographic teaching collection since the late 19th century, so cross-contamination is a possibility.

There is one documented instance of pest fumigation relating to the collections that dates to 1972–1973. This was to treat a silverfish infestation in underground storage rooms that held the museum's objects after it closed. The proposal was for the application of dichlorodiphenyltrichloroethane (DDT) to the floors, the placement of open containers of paradichlorobenzene (PDB) around the room, and the placement of a mildew-retarding insecticide inside the wraps of specimens. The specific contents of the room in which the chemicals were applied, and to what extent they were shielded from them, is unknown.

Determinations

Wesleyan University has determined that:

- The six unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

- There is a reasonable connection between the cultural items described in this notice and the Mashantucket Pequot Indian Tribe and the Mohegan Tribe of Indians of Connecticut.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or

a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after August 29, 2024. If competing requests for repatriation are received, Wesleyan University must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. Wesleyan University is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: July 17, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-16702 Filed 7-29-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038350; PPWOCRADNO-PCU00RP14.R50000]

Notice of Intended Disposition: U.S. Department of the Interior, Bureau of Reclamation, Oklahoma-Texas Area Office, Oklahoma City, OK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, Bureau of Reclamation, Oklahoma-Texas Area Office (OTAO) (Reclamation) intends to carry out the disposition of human remains removed from Federal or Tribal lands to the lineal descendants, Indian Tribe, or Native Hawaiian organization with priority for disposition in this notice.

DATES: Disposition of the human remains in this notice may occur on or after August 29, 2024. If no claim for disposition is received by July 30, 2025, the human remains in this notice will become unclaimed human remains.

ADDRESSES: Send written claims for disposition of the human remains to Kate Ellison, Bureau of Reclamation, 5924 NW 2nd Street, Oklahoma City, OK 73127-6514, or by email to kellison@usbr.gov.

FOR FURTHER INFORMATION CONTACT: Kate Ellison, Bureau of Reclamation, at

telephone (405) 470-4816, or by email to kellison@usbr.gov. Individuals 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: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Reclamation, and additional information on the human remains or cultural items in this notice, including the results of consultation, can be found in the related records. The National Park Service is not responsible for the identifications in this notice.

Abstract of Information Available

Based on the information available, human remains representing, at least, one individual has been reasonably identified. No associated funerary objects are present. The human remains are a single petrous (ear bone). The human remains are from 34GR4 in Greer County, Oklahoma, and were received by Hector Garcia, then a Reclamation archeologist, on February 14, 1997, from citizens that had recovered the human remains from the W.C. Austin Project (Lake Altus), OK.

Determinations

Reclamation has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma has priority for disposition of the human remains described in this notice.

Claims for Disposition

Written claims for disposition of the human remains in this notice must be sent to the appropriate official identified in this notice under **ADDRESSES**. If no claim for disposition is received by July 30, 2025, the human remains in this notice will become unclaimed human remains. Claims for disposition may be submitted by:

- Any lineal descendant, Indian Tribe, or Native Hawaiian organization identified in this notice.
- Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows,

by a preponderance of the evidence, that they have priority for disposition.

Disposition of the human remains in this notice may occur on or after August 29, 2024. If competing claims for disposition are received, Reclamation must determine the most appropriate claimant prior to disposition. Requests for joint disposition of the human remains are considered a single request and not competing requests. Reclamation is responsible for sending a copy of this notice to the lineal descendants, Indian Tribes, and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3002, and the implementing regulations, 43 CFR 10.7.

Dated: July 17, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-16706 Filed 7-29-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038345; PPWOCRADN0-PCU00RP14.R50000]

Notice of Intended Repatriation: Virginia Museum of Fine Arts, Richmond, VA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Virginia Museum of Fine Arts intends to repatriate a certain cultural item that meets the definition of a sacred object, and that has a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural item in this notice may occur on or after August 29, 2024.

ADDRESSES: Kelly Burrow, Virginia Museum of Fine Arts, 200 N. Arthur Ashe Boulevard, Richmond, VA 23220, telephone (804) 204-2669, email kelly.burrow@vmfa.museum.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Virginia Museum of Fine Arts, and additional information on the determinations in this notice, including the results of consultation, can be found in the

summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one cultural item has been requested for repatriation. The one sacred object is a painted shield made of buffalo hide, and the Virginia Museum of Fine Arts records identify the shield as Pueblo of Santa Ana. The shield was purchased from Christie's New York, Sale 1688, Lot 144, January 12, 2006, by Robert and Nancy Nooter, who donated it to the Virginia Museum of Fine Arts in June 2017. Results of consultation with the Pueblo of Santa Ana Tribal Historic Preservation Office and Conservation Enforcement confirm that this sacred object originated from the Pueblo of Santa Ana, New Mexico.

Determinations

The Virginia Museum of Fine Arts has determined that:

- The one sacred object described in this notice is a specific ceremonial object needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization.
- There is a reasonable connection between the cultural item described in this notice and the Pueblo of Santa Ana, New Mexico.

Requests for Repatriation

Additional, written requests for repatriation of the cultural item in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural item in this notice to a requestor may occur on or after August 29, 2024. If competing requests for repatriation are received, the Virginia Museum of Fine Arts must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural item is considered a single request and not competing requests. The Virginia Museum of Fine Arts is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: July 17, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-16701 Filed 7-29-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038347; PPWOCRADN0-PCU00RP14.R50000]

Notice of Intended Repatriation: The Metropolitan Museum of Art, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Metropolitan Museum of Art (the Met) intends to repatriate certain cultural items that meet the definition of unassociated funerary objects or objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations listed in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after August 29, 2024.

ADDRESSES: Jennifer Day, NAGPRA Coordinator & Community Liaison, The Metropolitan Museum of Art, 1000 Fifth Avenue, New York, NY 10028, telephone (212) 396-2616, email jennifer.day@metmuseum.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Met, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of nine cultural items have been requested for repatriation. The five objects of cultural patrimony are one Raven Rattle (Met acc. no. 1979.206.439), one Dagger (1979.206.884), two Ceremonial Robes (Chilkat Blankets) (1979.206.1040 and 1986.476.8), and one Headdress Frontlet (2011.154.37). The four unassociated funerary objects are one necklace with

pendants (1978.412.212), one amulet (1979.206.518), one transformation mask (2002.602.2a–d), and one mask (1979.206.440). The latter mask was obtained by Walter C. Waters in Wrangell, AK, under unknown conditions. Consultation with the Central Council of the Tlingit & Haida Indian Tribes indicate that these four items were shamanic items and so likely would have been placed at the shaman's gravesite. Museum records indicate that the cultural items are from Alaska; with the exceptions indicated, the Met has no other geographical information about the items.

Determinations

The Met has reasonably determined that:

- The four unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

- The five objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization, and furthermore, these objects are reasonably identified as being of such importance central to the group that they cannot or could not be alienated, appropriated, or conveyed by any person, including their caretaker, regardless of whether the person is a member of the group, and they have been considered inalienable by the group at the time the object was separated from the group.

- There is a reasonable connection between the cultural items described in this notice and the Central Council of the Tlingit & Haida Indian Tribes.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this

notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after August 29, 2024. If competing requests for repatriation are received, the Met must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Met is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in This Notice And To Any Other Consulting Parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: July 17, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–16703 Filed 7–29–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038344; PPWOCRADNO–PCU00RP14.R50000]

Notice of Inventory Completion: Kansas State University, Manhattan, KS

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Kansas State University has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 29, 2024.

ADDRESSES: Megan Williamson, Department of Sociology, Anthropology, and Social Work, Kansas State

University, 204 Waters Hall, 1603 Old Claflin Place, Manhattan, KS 66506–4003, telephone (785) 532–6005, email mwillia1@ksu.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Kansas State University, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, two individuals have been identified. There are 2,002 associated funerary objects present. The associated funerary objects include ceramics, chipped and ground stone tools, numerous pieces of chipped stone debris, unmodified stone, five pieces of modified animal bone, unmodified animal bone and teeth, fragments of mussel shell, one piece of daub, one charcoal sample, and 20 items of non-native manufacture (e.g., Euro-American ceramics, glass, lamp parts and other metal).

The Leary site located in Richardson County, Nebraska on the bounds of the reservation of the Iowa Tribe of Kansas and Nebraska. The Leary assemblage housed at Kansas State University is believed to be a day long surface collection from a field school in June of 1968 under the lead of Dr. Patricia O'Brien of Kansas State University. The assemblage also includes artifacts collected and donated by Dr. Dale Henning to Kansas State University in 2002.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by geographic location or acquisition history of the human remains and associated funerary objects described in the notice.

Determinations

Kansas State University has determined that:

- The human remains described in this notice represent the physical remains of two individuals of Native American ancestry.

- The 2,002 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.

• There is a connection between the human remains and associated funerary objects described in this notice and the Iowa Tribe of Kansas and Nebraska.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 29, 2024. If competing requests for repatriation are received, Kansas State University must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. Kansas State University is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 17, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-16700 Filed 7-29-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038351; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Reclamation, Oklahoma-Texas Area Office, Oklahoma City, OK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, Bureau of Reclamation, Oklahoma-Texas Area Office (OTAO) (Reclamation) has

completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after August 29, 2024.

ADDRESSES: Send written requests for repatriation of human remains to Kate Ellison, Bureau of Reclamation, 5924 NW 2nd Street, Suite 200, Oklahoma City, OK 73127-6514, or by email to kellison@usbr.gov.

FOR FURTHER INFORMATION CONTACT: Kate Ellison, Bureau of Reclamation, at telephone (405) 470-4816, or by email to kellison@usbr.gov. Individuals 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: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Reclamation, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, 13 individuals have been identified. No associated funerary objects are present. A contractor conducted an inventory of artifacts and human remains for Reclamation in 2023 at the Museum of the Great Plains in Lawton, Oklahoma. The artifacts and human remains were recovered by local collectors from the W.C. Austin Project (Lake Altus), Oklahoma before 1990.

34GR—

Human remains representing one individual were found in a box with mixed rock and ground stone from Greer County, Oklahoma. No associated funerary objects are present.

Human remains representing one individual were found in a box among faunal bones from Greer County, Oklahoma. No associated funerary objects are present.

34GR3

Human remains representing one individual were found in a box with archeological artifacts. No associated funerary objects are present.

34GR4—Rattlesnake Slough

Human remains representing one individual were found in a box with archeological artifacts. No associated funerary objects are present.

34GR6

Human remains representing eight individuals were found in a box with archeological artifacts. No associated funerary objects are present.

Radiocarbon dating performed in 1985 at site 34GR6 identified that the site was occupied during the two periods: 1,270 ±90 B.P. and 1,390 ±90 B.P. The 120-year gap between the two dates is a reasonable period for a single group to occupy a location.

34GR8—Taylor

Human remains representing one individual were found in a box with archeological artifacts. No associated funerary objects are present.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains described in this notice.

Determinations

Reclamation has determined that:

• The human remains described in this notice represent the physical remains of 13 individuals of Native American ancestry.

• There is a connection between the human remains described in this notice and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains described in this notice to a requestor

may occur on or after August 29, 2024. If competing requests for repatriation are received, Reclamation must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. Reclamation is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 17, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-16707 Filed 7-29-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038349; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: University of Tennessee, Department of Anthropology, Knoxville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Tennessee, Department of Anthropology (UTK) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 29, 2024.

ADDRESSES: Dr. Ellen Lofaro, University of Tennessee, Office of Repatriation, 5723 Middlebrook Pike, Knoxville, TN 37921-6053, telephone (865) 974-3370, email nagpra@utk.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of UTK, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The

National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, 24 individuals have been identified. The seven associated funerary objects are one lot of faunal remains, one lot of historic objects, one lot of ceramics, one lot of mica, one lot of lithics, one lot of botanicals, and one lot of shell. In September 2004, local children found the remains in a cave, (site 40AN236), in Anderson County, TN. Members of the Anderson County Sherriff's Department were called to investigate. The Sherriff's Department contacted the UTK Forensic Anthropology Center (FAC) for assistance in recovering the remains. The remains were removed in 2004 and housed at the FAC as case 04-23. In 2009, the remains were transferred to Dr. Nicholas Herrmann (formerly of UTK) at Mississippi State University. At an unknown date, the remains were returned to the FAC, where they remained until they were recently transferred to the UTK Office of Repatriation (OR). To our knowledge, no potentially hazardous substances were used to treat the remains or objects.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. On February 11, 2008, a person brought the remains (found in a cave on her property), to the Anderson County (Tennessee) Sherriff's Department. Investigators contacted the FAC, and on February 14, Nicholas Herrmann accompanied the investigators to the cave. Herrmann recorded multiple individuals within the cave, severely disturbed by looters. Except for the original remains brought to the Sherriff's Department, all the remains found in the cave were reburied on site by Herrmann after his examination. The original remains were examined by Herrmann, determined to be Native American, and were retained by the FAC as case 08-03. They remained at the FAC until they were recently transferred to the OR. To our knowledge, no potentially hazardous substances were used to treat the remains.

Human remains representing, at least, two individuals have been identified. No associated funerary objects are present. On October 6, 1981, a member of the Elizabethton Police Department contacted Dr. William Bass to inform him that remains had been disinterred by a backhoe during construction of a culvert in Elizabethton, Carter County, TN. The remains were sent to the FAC for examination and arrived at UTK on October 12, 1981. Patrick Willey

examined the remains on October 22. They were determined to be Native American, and they were retained as case 81-22. They remained at the FAC until they were recently transferred to the OR. Some of the remains have been "repaired" using glue, but to our knowledge, no potentially hazardous substances were used to treat the remains.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. On March 17, 1991, the remains were found in a rock shelter in Eagan, Claiborne County, TN. On March 18, the Claiborne County Sherriff's Office called Bass at UTK for assistance. UTK graduate student Theresa Woltanski met a representative of the Sherriff's Office at the site and determined the remains were likely archaeological. The remains were brought to the FAC for examination, were determined to be Native American, and were retained as case 91-9. They remained at the FAC until they were recently transferred to the OR. To our knowledge, no potentially hazardous substances were used to treat the remains.

Human remains representing, at least, three individuals have been identified. The two associated funerary objects are one lot of faunal remains, and one lot of lithics. At an unknown date, these remains were removed from an unknown cave site in Tazewell, Claiborne County, TN, by an unknown party. On May 18, 1993, a Tennessee Bureau of Investigation (TBI) agent transferred the remains to the FAC for examination, and upon completion, they were determined to be Native American, and were retained as case 93-22. They remained at the FAC until they were recently transferred to the OR. Some of the remains were "repaired" using glue, and plaster is present on some of the remains. To our knowledge, no other substances, hazardous or other, were used to treat the remains.

Human remains representing, at least, one individual have been identified. The two associated funerary objects are one lot of faunal remains, and one lot of burial soil. At an unknown date, an unknown party removed the remains from a cave site in Claiborne County, TN. On February 26, 1996, the remains were transferred from the Claiborne County Sherriff's Office to the FAC for examination, and upon completion, they were determined to be Native American and were retained as case 96-8. They remained at the FAC until they were recently transferred to the OR. Some of the remains were "reconstructed" using glue, but to our knowledge, no potentially hazardous

substances were used to treat the remains.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. On November 12, 1996, hunters found a wooden box containing the remains in the woods in Claiborne County, TN, and notified police. The Claiborne County Sheriff's Department contacted Bass at UTK for assistance, and they were transferred to the FAC the following day. Dr. Richard Jantz examined the remains, and determined they were likely Native American, and not of medico-legal concern (*i.e.*, not a missing person or crime victim). The remains were retained as case 96-34, and they remained there until they were recently transferred to the OR. To our knowledge, no potentially hazardous substances were used to treat the remains.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. At an unknown date, around January 2005, these remains were removed from an unknown cave site in Fentress County, TN, by an unknown party. On January 24, 2005, these remains were delivered to Lee Meadows Jantz (of the FAC) by the Fentress County rescue squad. A team including Meadows Jantz returned to the cave on January 6, 2006, for further investigation. Other remains observed there were left in the cave. After examination of the site and the remains, Meadows Jantz determined the remains were Native American. The remains originally brought to the FAC were retained as case 05-37. They remained at the FAC until they were recently transferred to the OR. To our knowledge, no potentially hazardous substances were used to treat the remains.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. On November 20, 2006, a child digging in Fentress County, TN found the remains eroding from a bluff and alerted the police. The Fentress County Sheriff's Department transferred the remains to the FAC, where they were received on December 5, 2006. After examination was complete, the remains were determined to be Native American, and were retained as case 06-33. They remained at the FAC until they were recently transferred to the OR. To our knowledge, no potentially hazardous substances were used to treat the remains.

Human remains representing, at least, one individual have been identified. The two associated funerary objects are one lot of faunal remains, and one lot of

charcoal. A man found the remains after entering a cave in Hawkins County, TN, in February 1988. He left them in place and contacted the Hawkins County Sheriff's Office. The Sheriff's Office contacted Bass on February 13, 1988. On February 15, FAC staff went to the cave and removed the remains. They searched for additional remains but found none. The remains were transferred to the FAC and assessed by Patrick Willey and Stephen Langdon. After the examination was complete, the remains were determined to be Native American, and were retained as case 88-3. To our knowledge, no potentially hazardous substances were used to treat the remains.

Human remains representing, at least, one individual have been identified. The one associated funerary object is one lot of lithics. On an unknown date, around June or July 1991, the remains were removed by an unknown party from a farm in Jackson County, TN. The remains were brought to the FAC by a TBI Special Agent, and a representative of the District Attorney's office on July 12, 1991. The remains were assessed by Bass' graduate students William Grant and Theresa Woltanski. After the examination was complete, the remains were determined to be Native American, and were retained as case 91-26. They remained at the FAC until they were recently transferred to the OR. To our knowledge, no potentially hazardous substances were used to treat the remains.

Human remains representing, at least, one individual have been identified. The two associated funerary objects are one lot of botanicals and one lot of faunal remains. These remains were removed from 40MC1, (Bugtussle Rockshelter), in Macon County, TN, on February 11, 1983. Looters uncovered the burial while digging at the site. This discovery came to the attention of the TBI. Once the remains were determined to be from a Native American burial, a TBI agent contacted Bass at UTK. At Bass' request, the remains were transferred to the FAC. After Bass completed examination, the remains were assigned FAC case number 83-3, and housed at the McClung Museum of Natural History and Culture at UTK until they were recently transferred to the OR. To our knowledge, no potentially hazardous substances were used to treat the remains.

Human remains representing, at least, one individual have been identified. The one associated funerary object is one lot of faunal remains. These remains were reportedly found lying on the ground in Clarksville, Montgomery County, TN, on August 19, 1982, and

given to the Clarksville Police Department. The remains were sent to the FAC around September 10, 1982, and were retained by the FAC as case 82-17. After examination, they were determined to be likely Native American. They remained at the FAC until they were recently transferred to the OR. To our knowledge, no potentially hazardous substances were used to treat the remains.

Human remains representing, at least, one individual have been identified. The one associated funerary object is one lot of faunal remains. On February 20, 1997, a TBI Special Agent contacted Bass about these remains, which had been found by construction workers under wooden pallets in an abandoned barn in Montgomery County, TN. Bass and two students accompanied the Agent and law enforcement officials to the scene and subsequently transferred the remains to the FAC for assessment. Once examined, they were determined to be Native American, and were retained as case 97-6. They remained at the FAC until they were recently transferred to the OR. At an unknown date, glue was used in an attempt to "reconstruct" some of the remains, but to our knowledge, no potentially hazardous substances were used to treat the remains.

Human remains representing, at least, two individuals have been identified. The two associated funerary objects are one lot of ceramics, and one lot of lithics. These individuals were found in September 2002, in a shed, near a barrel reportedly containing lithics and stone, on recently purchased property in Montgomery County, TN. The landowner gave the remains to someone else, who subsequently transferred them to Montgomery County law enforcement officials. The Montgomery County Sheriff's Office contacted FAC staff for assistance in determining the age and ethnicity of the individuals. After the FAC established that the remains were Native American in origin and not of medico-legal concern, the remains were retained by the FAC as case 02-39. They remained at the FAC until they were recently transferred to the OR. Glue is present on some of the remains, but to our knowledge, no potentially hazardous substances were used to treat the remains.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. The remains were reportedly found in a box in Livingston, Overton County, TN, in early 2004. The Livingston Police Department contacted the FAC for assistance on October 9, 2004. The remains were transferred by the

department to the FAC on October 11, 2004. After the remains were identified as Native American and not of medico-legal concern the remains were retained as case 04–25. They remained at the FAC until they were recently transferred to the OR. To our knowledge, no potentially hazardous substances were used to treat the remains.

Human remains representing, at least, two individuals have been identified. The three lots of associated funerary objects are one lot of lithics, one lot of ceramics, and one lot of faunal remains. On an unknown date, around December 1982, these remains were found in a cave in Pickett County, TN. On December 30, 1982, an Assistant District Attorney (ADA) for the 5th Judicial District contacted Bass to inform him of the discovery. The following day the ADA delivered the remains to Bass' home for assessment. On January 8, 1983, Bass and a group of students returned to the cave to investigate. After the remains were examined, they were determined to be Native American, and were retained by the FAC as case 82–21. They remained at the FAC until they were recently transferred to the OR. To our knowledge, no potentially hazardous substances were used to treat the remains.

Human remains representing, at least, one individual have been identified. The one associated funerary object is one lot of an unknown fibrous material. The remains were found by highway workers in Putnam County, TN, and turned over to law enforcement officials. A representative of the Cookeville Police Department brought the remains to the FAC for examination on February 6, 2003. After the examination was complete, they were determined to be Native American, and were retained as case 03–03. They remained at the FAC until they were recently transferred to the OR. The remains appear to have possibly been treated with an unknown preservative.

Human remains representing, at least, four individuals have been identified. The one associated funerary object is one lot of faunal remains. At an unknown date, these remains were removed from a rockshelter in Scott County, TN by an unknown party. On April 2, 2001, FAC staff were contacted by a Scott County ADA. The remains were transferred to the FAC later that day, and additional remains were subsequently collected by law enforcement officials and FAC staff once the origin (the rockshelter) of the disturbed burial was identified. All the removed remains were examined by the FAC, determined to be Native American, and retained as case 01–22.

They remained at the FAC until they were recently transferred to the OR. To our knowledge, no potentially hazardous substances were used to treat the remains.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. In July 1992, utility workers discovered the remains under a rock in Sumner County, TN, and alerted the police. On September 8, 1992, the Sumner County Sheriff's Department contacted Bass and sent the remains to the FAC on September 9. After the remains were examined, they were determined to be Native American and were retained as case 92–23. They remained at the FAC until they were recently transferred to the OR. To our knowledge, no potentially hazardous substances were used to treat the remains.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. These remains were recovered in October 1995 by a detective from the Sumner County Sheriff's Office during an investigation of a burglary in Sumner County, TN. The person from whose home the remains had been stolen stated that a friend of his had removed them from "an Indian burial ground" on his property 20–30 years before. The detective contacted Bass and Bass met the detective in Nashville on October 19, 1995, likely to pick up the remains and bring them back to Knoxville. Once Bass' report was complete (around October 31), the remains were determined to be Native American, and were retained by the FAC as case 95–26. They remained at the FAC until they were recently transferred to the OR. Glue is present on the remains, but to our knowledge, no potentially hazardous substances were used to treat the remains.

Human remains representing, at least, seven individuals have been identified. The two associated funerary objects are one lot of faunal remains, and one lot of stone. The remains were discovered by two boys digging in a cave north of Maynardville, Union County, TN, on November 23, 1980. The remains were brought to the FAC the following day by Union County Sheriff's Deputies for Bass to examine. After Bass' report was submitted to Union County officials on January 27, 1981, the remains were determined to be Native American, and were retained by as case 80–13. They remained at the FAC until they were recently transferred to the OR. To our knowledge, no potentially hazardous substances were used to treat the remains.

Anderson, Claiborne, Fentress, Hawkins, Jackson, Montgomery, Overton, Pickett, Putnam, Scott, Sumner, and Union Counties are part of the Ancestral Homelands of the Cherokee, as established in Treaties with the Cherokee, 1785, 1791, 1798, 1805. Historical information (Treaty of Sycamore Shoals) confirms that Carter and Macon Counties are also part of the Ancestral Homelands of the Cherokee.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

UTK has determined that:

- The human remains described in this notice represent the physical remains of 59 individuals of Native American ancestry.
- The 27 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Cherokee Nation; Eastern Band of Cherokee Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 29, 2024. If competing requests for repatriation are received, UTK must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not

competing requests. UTK is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 17, 2024

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-16705 Filed 7-29-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038354;
PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Army Corps of Engineers, Little Rock District, Little Rock, AR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Army Corps of Engineers, Little Rock District has completed an inventory of associated funerary objects and has determined that there is a cultural affiliation between the associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the associated funerary objects in this notice may occur on or after August 29, 2024.

ADDRESSES: Mr. Allen Wilson, District Archaeologist and Tribal Liaison, U.S. Army Corps Engineers, Little Rock District, P.O. Box 867, Little Rock, AR 72203, telephone (501) 324-5752, email allen.d.wilson@usace.army.mil.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the U.S. Army Corps of Engineers, Little Rock District, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

In 1961, Charles McGimsey of the University of Arkansas undertook archaeological research at the Mineral Springs site (3HO1) on the Millwood Reservoir, Howard County, AR. Artifacts

indicate a Fourche Maline phase with a Caddoan Mississippian occupation of the site from 500 B.C. to the Contact Period. A Notice of Inventory Completion was published in the **Federal Register** on January 16, 2014 (79 FR 2864-2866) listing a minimum of 11 individuals and 106 associated funerary objects from this site. Subsequently, 766 additional associated funerary objects were identified in collections at the University of Arkansas. The collection is located at the University of Arkansas Museum, University of Arkansas, Fayetteville, AR. The 766 associated funerary objects are two celts, 558 individual and 25 lots of ceramic sherds, four individual and two lots of fragmented ceramic vessels, 20 intact vessels, one cut nail, one faunal bone, three fragmented clay pipes, five glass fragments, four groundstone, two incomplete celts, 112 individual and one lot of lithics, three lithic flakes, five polished stones, seven projectile points, two reconstructed vessels, one red ochre, three rocks, four shell fragments, and one walnut shell.

In 1961, Michael P. Hoffman of the University of Arkansas undertook archaeological research at the Bell site (3HO11) on the Millwood Reservoir, Howard County, AR. Artifacts indicate a late Fourche Maline phase with a Caddoan Mississippian occupation of the site from 500 B.C. to the Contact Period. A Notice of Inventory Completion was published in the **Federal Register** on January 16, 2014 (79 FR 2864-2866) listing a minimum of three individuals and no associated funerary objects. Subsequently, 24 additional associated funerary objects were identified in collections at the University of Arkansas. The collection is stored in the University of Arkansas Museum, University of Arkansas, Fayetteville, AR. The 24 associated funerary objects are one daub, two individual and one lot of faunal bone, two lithic bifaces, two chipped stone, three unmodified quartzite, 11 ceramics, and two shells.

In the early 1960s, under the direction of James Scholtz, the University of Arkansas undertook archaeological research at the White Cliffs site (3LR12) on the Millwood Reservoir, Little River County, AR. Artifacts indicate an early Caddoan Mississippian occupation of the site from A.D. 900 to 1200. A Notice of Inventory Completion was published in the **Federal Register** on January 14, 2014 (70 FR 2864-2866) listing a minimum of 11 individuals and 19 associated funerary objects. Subsequently, 284 additional associated funerary objects were identified in collections at the University of

Arkansas. The collection is stored in the University of Arkansas Museum, University of Arkansas, Fayetteville, AR. The 284 associated funerary objects are 20 biface fragments, 82 ceramic sherds, four lots of charcoal, 68 pieces of debitage, one decorated pipe, three drills, 39 faunal bones, four gravers, six groundstone fragments, one modified faunal bone, 37 projectile points, two lots of soil matrix, one uniface, and 16 unmodified stones.

In the early 1960s, under the direction of Charles McGimsey, the University of Arkansas undertook archaeological research at the Old Martin Place site (3LR49) on the Millwood Reservoir, Little River County, AR. Artifacts indicate a Fourche Maline phase with a Caddoan Mississippian occupation of the site from 500 to the Contact Period. A Notice of Inventory Completion was published in the **Federal Register** on January 16, 2014 (79 FR 2864-2866) listing a minimum of 47 individuals and eight associated funerary objects. Subsequently, 78 additional associated funerary objects were identified in collections at the University of Arkansas. The collection is stored in the University of Arkansas Museum, University of Arkansas, Fayetteville, AR. The 78 associated funerary objects are 11 ceramic sherds, 21 faunal bones, 25 lithics, one lot of mixed faunal, five rocks, 14 shells, and one soil sample.

In the early 1960s, Michael P. Hoffman of the University of Arkansas undertook archaeological research at the Millers Crossing site (3SV10) on the Millwood Reservoir, Sevier, AR. Artifacts indicate an early Caddoan Mississippian occupation of the site from A.D. 900 to 1200. A Notice of Inventory Completion was published in the **Federal Register** on January 16, 2014 (79 FR 2864-2866) listing a minimum of seven individuals and 16 associated funerary objects. Subsequently, 47 additional associated funerary objects were identified in collections at the University of Arkansas. The collection is stored in the University of Arkansas Museum, University of Arkansas, Fayetteville, AR. The 47 associated funerary objects are one stone knife, 42 ceramic sherds, two lithics, one faunal bone, and one shell.

In the early 1960s, Michael P. Hoffman of the University of Arkansas undertook archaeological research at the Graves Chapel site (3SV15) on the Millwood Reservoir, Sevier, AR. Artifacts indicate a late Archaic period (3000-650 B.C.) and Late Woodland (A.D. 500-900) to Early Caddoan Mississippian (A.D. 900-1200) components of the site. A Notice of

Inventory Completion was published in the **Federal Register** on January 16, 2014 (79 FR 2864–2866) listing a minimum of five individuals and no associated funerary objects.

Subsequently, 53 associated funerary objects were discovered in collections at the University of Arkansas. The collection is stored in the University of Arkansas Museum, University of Arkansas, Fayetteville, AR. The 53 associated funerary objects are one charcoal sample, 46 ceramic sherds, and six lithics.

In the early 1960s, archaeological research was conducted at the Millwood Reservoir site (3SV21) in Sevier County, AR. Artifacts indicate a late prehistoric period occupation of the site from A.D. 900 to 1500. A Notice of Inventory Completion was published in the **Federal Register** on January 16, 2014 (79 FR 2864–2866) listing a minimum of two individuals and no associated funerary objects. Subsequently, five associated funerary objects were discovered collections at the in University of Arkansas. The collection is stored in the University of Arkansas Museum, University of Arkansas, Fayetteville, AR. The five associated funerary objects are two projectile points, one groundstone, one chipped stone, and one shell.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation with the Caddo Nation of Oklahoma is clearly identified by the information available about the associated funerary objects described in this notice.

Determinations

The U.S. Army Corps of Engineers, Little Rock District has determined that:

- The 1,257 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Caddo Nation of Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 29, 2024. If competing requests for repatriation are received, the U.S. Army Corps of Engineers, Little Rock District must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The U.S. Army Corps of Engineers, Little Rock District is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 17, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–16710 Filed 7–29–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038356;
PPWOCRADNO–PCU00RP14.R50000]

Notice of Inventory Completion: Grand Rapids Public Museum, Grand Rapids, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Grand Rapids Public Museum has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 29, 2024.

ADDRESSES: Alex Forist, Grand Rapids Public Museum, 272 Pearl Street NW, Grand Rapids, MI 49504 telephone (616) 929–1809, email aforist@grpm.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Grand Rapids Public Museum and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. The ancestral remains were acquired in or before 1875 from a burial mound at Aurora, Kane County, Illinois excavated by E.H. Crane (1840–1917).

Human remains representing, at least, nine individuals have been identified. The eight associated funerary objects are two bear jaws, one rodent tooth, one lot of mammal teeth, one lot of shell beads, one stone pendant, one pearl bead, and one arrowhead. The ancestral remains and associated funerary objects were acquired in or before 1877 from a burial mound at Portage Mounds (11JD1), Jo Daviess County, Illinois excavated by E.H. Crane (1840–1917).

Human remains representing at least, three individuals have been identified. The one associated funerary object is a busycon shell. The ancestral remains and associated funerary object were acquired in or before 1875 from a burial mound at Jo Daviess County, Illinois excavated by E.H. Crane (1840–1917). Museum records indicate they were removed from a site called “Battle Bluff Edgerton Farm Group.” An 1870 and 1880 census listed an Edgerton family of farmers in Hanover, Jo Daviess County.

On July 10, 1917, the Grand Rapids Public Museum purchased a substantial number of objects from the E. H. Crane Estate that included ancestral remains and associated funerary objects from these three sites. Crane was a collector and proprietor of Crane's Museum in Grand Rapids who excavated mounds in the Midwest in the late 1800s.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The Grand Rapids Public Museum has determined that:

- The human remains described in this notice represent the physical remains of 13 individuals of Native American ancestry.
- The nine objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains described in this notice and the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana; Citizen Potawatomi Nation, Oklahoma; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Ho-Chunk Nation of Wisconsin; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Shell Tribe of Chippewa Indians of Montana; Little Traverse Bay Bands of Odawa Indians, Michigan; Lower Sioux Indian Community in the State of Minnesota; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Nottawaseppi Huron Band of the Potawatomi, Michigan; Otoe-Missouria Tribe of Indians, Oklahoma; Ottawa Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band Potawatomi Nation; Prairie Island Indian Community in the State of Minnesota; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Santee Sioux Nation, Nebraska; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Shakopee Mdewakanton Sioux Community of

Minnesota; St. Croix Chippewa Indians of Wisconsin; Turtle Mountain Band of Chippewa Indians of North Dakota; Winnebago Tribe of Nebraska; and the Yankton Sioux Tribe of South Dakota.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 29, 2024. If competing requests for repatriation are received, the Grand Rapids Public Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Grand Rapids Public Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 17, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-16714 Filed 7-29-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038348; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Tennessee Department of Conservation and Environment, Division of Archaeology, Nashville, TN

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), and in response to claims from the Chickasaw

Nation dated December 22, 2023, the Tennessee Department of Conservation and Environment, Division of Archaeology (TDEC-TDOA) has completed an inventory of human remains from Benton County, Tennessee and has determined in consultation that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after August 29, 2024.

ADDRESSES: Phillip R. Hodge, Tennessee Department of Environment and Conservation, Division of Archaeology, 1216 Foster Avenue, Cole Building #3, Nashville, TN 37243, telephone (615) 626-2025, email Phil.Hodge@tn.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the TDEC-TDOA, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at minimum eight individuals have been identified. No associated funerary objects are present.

"Eva Mo #6," Benton County, TN

Ancestral remains of at minimum four individuals were donated to the TDEC-TDOA on March 9, 1989. No records exist as to the timing, donor, or circumstances of this donation. The specific geographical location of this site was originally reported to National NAGPRA as "unknown." The Chickasaw Nation claimed these ancestors on December 22, 2023, and consultation took place on May 2, 2024. In consultation, The Chickasaw Nation requested that the geographical location be updated to Benton County, Tennessee. There is no known exposure to hazardous substances or treatments.

Cypress Creek Area, Nathan Bedford Forrest State Park, Benton County, TN

Ancestral remains of at minimum one individual were donated to the TDEC-TDOA on September 8, 1990. No records exist as to the timing, donor, or circumstances of this donation. The specific geographical location of this site was originally reported to National NAGPRA only as "Cypress Creek, NBSP." The Chickasaw Nation claimed

these ancestors on December 22, 2023, and consultation took place on May 2, 2024. In consultation, The Chickasaw Nation requested that the geographical location be updated to Benton County, Tennessee. There is no known exposure to hazardous substances or treatments.

Tennessee River Near Big Sandy, Benton County, TN

Ancestral remains of at minimum one individual were donated to the TDEC–TDOA in June 2008 by a private individual. No further records exist as to the timing or circumstances of this donation. This ancestor had not been previously reported to National NAGPRA, but was identified during TDEC–TDOA inventory efforts in 2024 and presented to The Chickasaw Nation in consultation on May 2, 2024. In consultation, The Chickasaw Nation requested that this ancestor be included in the current claim. There is no known exposure to hazardous substances or treatments.

Site U-3-T and U-12-T, Benton County, TN

In 2021, the TDEC–TDOA accepted donation of a collection of artifacts from more than 30 sites located in Tennessee. During curation efforts in January 2024, ancestral remains were identified within surface collected artifacts from two Benton County sites. These remains include a minimum of one individual per site. These ancestors had not been previously reported to National NAGPRA. In consultation on May 2, 2024, The Chickasaw Nation requested that these ancestors be included in the current claim.

Hazardous substances or treatments consisting of rat poison were observed within the donated storage containers.

Cultural Affiliation

Based on the information available and the results of consultation, reasonably identified by the geographical location of the human remains in this notice.

Determinations

TDEC–TDOA has determined that:

- The human remains described in this notice represent the physical remains of eight individuals of Native American ancestry.
- There is a connection between the human remains described in this notice and The Chickasaw Nation.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after August 29, 2024. If competing requests for repatriation are received, TDEC–TDOA must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. TDEC–TDOA is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 17, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–16704 Filed 7–29–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038352; PPWOCRADNO–PCU00RP14.R50000]

Notice of Inventory Completion: Stamford Museum & Nature Center, Stamford, CT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Stamford Museum & Nature Center has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after August 29, 2024.

ADDRESSES: Roanne Wilcox, Stamford Museum & Nature Center, 39 Scofieldtown Road, Stamford, CT 06903, telephone (203) 977–6543, email RWilcox@stamfordmuseum.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Stamford Museum & Nature Center and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing at least eight individuals have been identified. No associated funerary objects are present. The individuals were removed from the Everglades and Collier County in Florida by Dr. Ralph Ives and donated to the Stamford Museum in 1941. No hazardous substances were used to treat the remains.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains described in this notice.

Determinations

The Stamford Museum & Nature Center has determined that:

- The human remains described in this notice represent the physical remains of eight individuals of Native American ancestry.
- There is a connection between the human remains and the Seminole Tribe of Florida.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after August 29, 2024. If competing requests for repatriation are received, the Stamford Museum & Nature Center must determine the most appropriate requestor prior to repatriation. Requests for joint

repatriation of the human remains are considered a single request and not competing requests. The Stamford Museum & Nature Center is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 17, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-16708 Filed 7-29-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038358; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Peabody Museum of Archaeology and Ethnology, Harvard University (PMAE) has completed an inventory of human remains and has determined that there are known lineal descendants connected to the human remains in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after August 29, 2024.

ADDRESSES: Jane Pickering, Peabody Museum of Archaeology and Ethnology, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496-2374, email jpickering@fas.harvard.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the PMAE, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing one individual has been reasonably identified. No associated funerary objects are present. The human remains

were collected at the Fort Totten Indian School, Benson County, ND, and are hair clippings collected from one individual, Eliza Ladoucer, who was recorded as being 16 years old and identified as "Chippewa." Orrin C. Gray took the hair clippings at the Fort Totten Indian School between 1930 and 1933. Gray sent the hair clippings to George Woodbury, who donated the hair clippings to the PMAE in 1935.

Lineal Descendant

Based on the information available and the results of consultation, lineal descendants are connected to the human remains described in this notice.

Determinations

The PMAE has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Taylor Rose Payer, Delima Payer, Tyra Payer, Lynda Johnson, and Betty Hamley are connected to the human remains described in this notice.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. The known lineal descendants connected to the human remains.
2. Any other lineal descendant not identified who shows, by a preponderance of the evidence, that the requestor is a lineal descendant.

Repatriation of the human remains in this notice to a requestor may occur on or after August 29, 2024. If competing requests for repatriation are received, the PMAE must determine the most appropriate requestor prior to repatriation. The PMAE is responsible for sending a copy of this notice to the lineal descendant and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 17, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-16713 Filed 7-29-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038355; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: University of Florida, Florida Museum of Natural History, Gainesville, FL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Florida-Florida Museum of Natural History (FLMNH) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 29, 2024.

ADDRESSES: Michelle LeFebvre, University of Florida, Florida Museum of Natural History, 1659 Museum Road, Gainesville, FL 32611, telephone (352) 273-1917, email mlefebvre@floridamuseum.ufl.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the FLMNH, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual have been identified. The 605 associated funerary objects are invertebrate specimens, vertebrate specimens, pottery sherds, and a lithic point. The human remains and associated funerary objects were removed from the Calusa Island site (8LL45) located on Calusa Island in Lee County, FL, between February 10-14, 2020, by an archaeological investigation led by the FLMNH. The project included the excavation of a 1x2 m test unit along a heavily eroded edge of the coastal midden on the north shoreline of the island. The test unit was not completed during the 2020 field season and was backfilled for completion later that same year. The excavated

assemblage was securely stored at the FLMNH Randell Research Center on Pine Island, near Calusa Island. The onset of the COVID-19 pandemic in March 2020, followed by Hurricane Ian destruction in September 2022, delayed the completion of the test unit. Following the hurricane, the excavated assemblage on Pine Island was moved to the FLMNH research and collections facility in Gainesville, FL, at the University of Florida. Analysis of the excavated assemblage commenced in January 2023 and led to the identification of human remains. Upon their identification, on January 27, 2024, the human remains were reported to the Florida Bureau of Archaeological Research and the State Archaeologist assumed jurisdiction of the human remains in compliance with Florida State Statute 872.05. All other handling of the associated test unit archaeological assemblage ceased. Through consultation, on March 26, 2024, the 872.05 process and state jurisdiction of the assemblage ended at the request of the Seminole Tribe of Florida and the FLMNH initiated NAGPRA compliance for the repatriation of the human remains and associated funerary objects. During NAGPRA consultation, it was determined the human remains are culturally affiliated with the Seminole Tribe of Florida and the associated funerary objects include all excavated finds from the test unit. No hazardous substances were used to treat any of the human remains or associated funerary objects.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The University of Florida-Florida Museum of Natural History has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The 605 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Seminole Tribe of Florida.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 29, 2024. If competing requests for repatriation are received, the University of Florida-Florida Museum of Natural History must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The University of Florida-Florida Museum of Natural History is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 17, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-16711 Filed 7-29-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038357; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: McClure Archives and University Museum, University of Central Missouri, Warrensburg, MO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the McClure Archives and University Museum, University of Central Missouri has completed an inventory of human remains and associated funerary objects and has determined that there is a

cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 29, 2024.

ADDRESSES: Amber R. Clifford, McClure Archives and University Museum, Kirkpatrick Library 1470, University of Central Missouri, Warrensburg, MO 64093, telephone (660) 543-4649, email clifford@ucmo.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the McClure Archives and University Museum, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Site No 23JO14, Missouri

Human remains representing, at least, six individuals. Incomplete skeletal human remains of six individuals; four adults, one juvenile approximately five years old, and one infant approximately one year old, and 91 isolated human teeth. Accession #: N/A, the items were never given accession numbers originally. Catalogue #: Human Remains—121-302.4, Misc. 1-5, Uncatalogued 1-2, Uncategorized 1-6 Isolated Human Teeth—T4-263. The 960 associated funerary objects are: one piece of hematite, 79 stone bifaces, 314 sherds, 244 animal bones, animal teeth, and turtle shell pieces, 127 stone flakes, two pieces of iron, 13 pieces of sandstone, 23 pieces of limestone, five pieces of copper, 22 pieces of charcoal, two animal fossils, 10 antler pieces, 22 pieces of wood, three pieces of brick or baked earth, 33 mollusk shells, three pieces of siltstone, seven shell fragments, one piece of ochre, 13 unifaces, seven pieces of chert, two clumps of soil, one piece of daub, one piece of quartzite, one snail shell, 20 pieces of shale, and four core fragments. Accession #: N/A, the items were never given accession numbers originally. Catalogue #: 102-302, many AFOs were catalogued as groups of items rather than individual items.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the

geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The McClure Archives and University Museum has determined that:

- The human remains described in this notice represent the physical remains of six individuals of Native American ancestry.
- The 960 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and Geographical affiliation is consistent with the traditional territory of The Osage Nation and Otoe-Missouria Tribe of Indians, Oklahoma with overlap from the Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; and the Kickapoo Tribe of Oklahoma. Archaeological evidence shows cultural descent from the Woodland culture to The Osage Nation; Otoe-Missouria Tribe of Indians, Oklahoma; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; and the Kickapoo Tribe of Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 29, 2024. If competing requests for repatriation are received, the McClure Archives and University Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The McClure

Archives and University Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: July 17, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-16712 Filed 7-29-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF JUSTICE

[OMB Number 1105-0110]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement With Change of a Previously Approved Collection; Vulnerability Assessment Request

AGENCY: U.S. Marshals Service, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The U.S. Marshals Service, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until September 30, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact please contact Benjamin Cho/ Management Support Division, U.S. Marshals Service Headquarters, 1215 S Clark St., Ste. 10022B, Arlington, VA 22202-4837, by telephone at 240-401-0008 or by email at benjamin.cho@usdoj.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Abstract: This form should be completed by state, local and tribal government agencies to request a vulnerability assessment of a government facility by the United States Marshals Service.

Overview of This Information Collection

1. Type of Information Collection: Reinstatement with change of a previously approved collection.
2. The Title of the Form/Collection: Vulnerability Assessment Request.
3. The agency form number, if any, and the applicable component of the Department sponsoring the collection: USM-649.
4. Affected public who will be asked or required to respond, as well as the obligation to respond:
 - Affected Public: State, local, and tribal organizations.
 - The obligation to respond is voluntary.
5. An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:

An estimated 28 respondents will utilize the form, and it will take each respondent approximately 30 minutes to complete the form.
6. An estimate of the total annual burden (in hours) associated with the collection: The estimated annual public burden associated with this collection is 14 hours, which is equal to 28 (total # of annual responses) * 0.5 (30 mins).
7. An estimate of the total annual cost burden associated with the collection, if applicable:

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response	Total annual burden (hours)
Ex: Survey (individuals or households).	28	1/annually	28	30 min	14 hrs.
<i>Unduplicated Totals</i>	28	.....	28	.....	14 hrs.

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC.

Dated: July 25, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024-16693 Filed 7-29-24; 8:45 am]

BILLING CODE 4410-04-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA-2024-048]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: We have submitted a request to the Office of Management and Budget (OMB) for approval to continue to collect information used by registrants or other authorized individuals to request information from or copies of Selective Service System (SSS) records. We invite you to comment on this proposed information collection.

DATES: OMB must receive written comments on or before August 29, 2024.

ADDRESSES: Send any comments and recommendations on the proposed information collection in writing to www.reginfo.gov/public/do/PRAMain. You can find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Tamee Fechhelm, Paperwork Reduction Act Officer, by email at tamee.fechhelm@nara.gov or by telephone at 301.837.1694 with any requests for additional information.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995

(Public Law 104-13), we invite the general public and other Federal agencies to comment on proposed information collections. We published a notice of proposed collection for this information collection on May 16, 2024 (89 FR 42903) and we received one comment. The commenter stated, “The Selective Service System would like to share a comment on the above-captioned matter submitted by NARA to the **Federal Register** regarding NARA’s Form NA13172. The Agency recommends that NARA add, as a required field, the social security numbers as a field within the form to ensure the correct information is pulled when answering public inquires for information.”

We have considered this comment and provided this response “Social Security Numbers (SSNs) are a rarity on the Selective Service System Registration Cards and Classification Ledgers in our holdings. Adding a required SSN field is unnecessarily restrictive as it will not assist in verifying the correct record has been pulled in most instances. We verify the correct record has been pulled by comparing the Registrant’s full name, date of birth, and home address at the time of registration, as listed on each NA Form 13172 received, to the information on the document(s) requested.”

This comment does not change the purpose of the information collection or change the information we collect from researchers who are requesting access to archival records. We have therefore submitted the described information collection to OMB for approval. We will continue requesting as much record-identifying information from researchers as possible, pursuant to this information collection, to aid us in finding the documents researchers seek, including the SSS records this researcher mentions.

If you have comments or suggestions, they should address one or more of the following points: (a) whether the proposed information collection is necessary for NARA to properly perform its functions; (b) our estimate of the burden of the proposed information

collection and its accuracy; (c) ways we could enhance the quality, utility, and clarity of the information we collect; (d) ways we could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether this collection affects small businesses.

In this notice, we solicit comments concerning the following information collection:

Title: Selective Service System Record Request.

OMB number: 3095-0071.

Agency form numbers: NA Form 13172.

Type of review: Regular.

Affected public: Individuals or households.

Estimated number of respondents: 1,737.

Estimated time per response: 2 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 58.

Abstract: The National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) administers the Selective Service System (SSS) records. The SSS records contain both classification records and registration cards of registrants born before January 1, 1960. When registrants or other authorized individuals request information from or copies of SSS records they must provide on forms or letters certain information about the registrant and the nature of the request. Requesters use NA Form 13172, Selective Service Record Request to obtain information from SSS records stored at NARA facilities.

Sheena Burrell,

Executive for Information Services/CIO.

[FR Doc. 2024-16683 Filed 7-29-24; 8:45 am]

BILLING CODE 7515-01-P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This notice provides the consolidated list of all agency-specific excepted authorities, approved by the Office of Personnel Management (OPM), under Schedules A, B, and C, as of June 30, 2022, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Julia Alford, Senior Executive Resources Services, Senior Executive Service and Performance Management, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: Civil Service Rule VI (5 CFR 6.1) requires OPM to publish notice of exceptions granted under Schedules A, B, and C. Under 5 CFR 213.103(a), all Schedules A, B, and C appointing authorities available for use by all agencies must be published as regulations in the **Federal Register** (FR) and the Code of Federal Regulations (CFR). Excepted appointing authorities established solely for use by one specific agency do not meet the standard of general applicability prescribed by the Federal Register Act for regulations published in either the FR or the CFR. Therefore, 5 CFR 213.103(b) requires monthly publication, in the Notices section of the **Federal Register**, of any Schedule A, B, and C appointing authorities applicable to a single agency. Under 5 CFR 213.103(c), a consolidated listing of all Schedule A, B, and C authorities, current as of June 30 of each year, must be published annually in the Notices section of the **Federal Register**. This notice complies with that requirement and provides the consolidated list below. Governmentwide authorities codified in the CFR are not printed in this notice.

When making appointments under an agency-specific authority, agencies should first list the appropriate Schedule A, B, or C, followed by the applicable number, for example: Schedule A, 213.3104(x)(x). Agencies are reminded that all excepted authorities are subject to the provisions of 5 CFR part 302 unless specifically exempted by OPM at the time of approval. OPM maintains current information on the status of all Schedule A, B, and C appointing authorities. Interested parties needing information about specific authorities during the year may obtain information by writing to the Senior Executive Resource Services, Office of Personnel Management, 1900 E Street NW, Room 7412, Washington, DC 20415, or by calling (202) 606–2246.

The following exceptions are current as of June 30, 2022.

Schedule A*03. Executive Office of the President (Sch. A, 213.3103)*

- (a) Office of Administration—
 - (1) Not to exceed 75 positions to provide administrative services and support to the White House Office.
- (b) Office of Management and Budget—
 - (1) Not to exceed 20 positions at grades GS–5/15.
 - (2) Not to Exceed 34 positions that require unique technical skills needed for the re-designing and re-building of digital interfaces between citizens, businesses, and government as a part of Smarter Information Technology Delivery Initiative. This authority may be used to make permanent, time-limited and temporary appointments to Digital Services Expert positions (GS–301) directly related to the implementation of the Smarter Information Technology Delivery Initiative at the GS–14 to 15 level. No new appointments may be made under this authority after September 30, 2017.

(c) Council on Environmental Quality—

- (1) Professional and technical positions in grades GS–9 through 15 on the staff of the Council.
- (d)–(f) (Reserved)
- (g) National Security Council—
 - (1) All positions on the staff of the Council.

(h) Office of Science and Technology Policy—

- (1) Thirty positions of Senior Policy Analyst, GS–15; Policy Analyst, GS–11/14; and Policy Research Assistant, GS–9, for employment of anyone not to exceed 5 years on projects of a high priority nature.

(i) Office of National Drug Control Policy—

- (1) Not to exceed 18 positions, GS–15 and below, of senior policy analysts and other personnel with expertise in drug-related issues and/or technical knowledge to aid in anti-drug abuse efforts.

04. Department of State (Sch. A, 213.3104)

- (a) Office of the Secretary—
 - (1) All positions, GS–15 and below, on the staff of the Family Liaison Office, Director General of the Foreign Service and the Director of Personnel, Office of the Under Secretary for Management.
- (2) (Reserved)
- (b)–(f) (Reserved)
- (g) Bureau of Population, Refugees, and Migration—
 - (1) Not to exceed 20 positions at grades GS–5 through 11 on the staff of the Bureau.

- (h) Bureau of Administration—
 - (1) (Reserved)
 - (2) One position of the Director, Art in Embassies Program, GM–1001–15.
 - (3) (Reserved)

05. Department of the Treasury (Sch. A, 213.3105)

- (a) Office of the Secretary—
 - (1) Not to exceed 20 positions at the equivalent of GS–13 through GS–15 or Senior Level (SL) to supplement permanent staff in the study of complex problems relating to international financial, economic, trade, and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

- (2) Covering no more than 100 positions supplementing permanent staff studying domestic economic and financial policy, with employment not to exceed 4 years.

- (3) Not to exceed 100 positions in the Office of the Under Secretary for Terrorism and Financial Intelligence.

- (4) Up to 35 temporary or time-limited positions at the GS–9 through 15 grade levels to support the organization, design, and stand-up activities for the Consumer Financial Protection Bureau (CFPB), as mandated by Public Law 111–203. This authority may be used for the following series: GS–201, GS–501, GS–560, GS–1035, GS–1102, GS–1150, GS–1720, GS–1801, and GS–2210. No new appointments may be made under this authority after July 21, 2011, the designated transfer date of the CFPB.

- (b)–(d) (Reserved)
- (e) Internal Revenue Service—
 - (1) Twenty positions of investigator for special assignments.

- (f) (Reserved)
- (g) (Reserved, moved to DOJ)
- (h) Office of Financial Stability—
 - (1) Positions needed to perform investment, risk, financial, compliance, and asset management requiring unique qualifications currently not established by OPM. Positions will be in the Office of Financial Stability and the General Schedule (GS) grade levels 12–15 or Senior Level (SL), for initial employment not to exceed 4 years. No new appointments may be made under this authority after December 31, 2012.

- (i) Office of the Special Inspector General for Pandemic Recovery—
 - Temporary or time-limited positions at the GS level in the Office of the Special Inspector General for Pandemic Recovery. This authority may be used for the following occupational series: GS–1811 Special Agent, GS–18100 Investigator, GS–1805 Investigative

Research/Analyst, GS-1801 Inspection/Investigative Analyst, GS-511 Auditor, GS-510 Accounting, GS-201 Human Resource Specialist, GS-343 Management Analyst, GS-301 Miscellaneous Administrative and Program, GS-2210 Information Technology, GS-1102 Contracting, GS-560 Budget Analyst, GS-1035 Public Affairs at the GS-9 through GS-15 levels. No new appointments may be made under this authority after December 14, 2025 or the termination of the SIGPR, whichever occurs first.

06. Department of Defense (Sch. A, 213.3106)

(a) Office of the Secretary—
(1)–(5) (Reserved)

(6) One Executive Secretary, US-USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force)—

(1) Dependent School Systems overseas—Professional positions in Military Dependent School systems overseas.

(2) Positions in Attaché 1 systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the staffs of the chaplains in the military services.

(5) Positions under the program for utilization of alien scientists, approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense, when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the DOD when filled by dependents of military or civilian employees of the U.S. Government residing in the area. Employment under this authority may not extend longer than 2 months following the transfer from the area or separation of a dependent's sponsor: Provided that

(i) A school employee may be permitted to complete the school year; and

(ii) An employee other than a school employee may be permitted to serve up to 1 additional year when the military department concerned finds that the

additional employment is in the interest of management.

(7) Twenty secretarial and staff support positions at GS-12 or below on the White House Support Group.

(8) Positions in DOD research and development activities occupied by participants in the DOD Science and Engineering Apprenticeship Program for High School Students. Persons employed under this authority shall be bona fide high school students, at least 14 years old, pursuing courses related to the position occupied and limited to 1,040 working hours a year. Children of DOD employees may be appointed to these positions, notwithstanding the sons and daughters restriction, if the positions are in field activities at remote locations. Appointments under this authority may be made only to positions for which qualification standards established under 5 CFR part 302 are consistent with the education and experience standards established for comparable positions in the competitive service. Appointments under this authority may not be used to extend the service limits contained in any other appointing authority.

(9) (Reserved)

(10) Temporary or time-limited positions in direct support of U.S. Government efforts to rebuild and create an independent, free and secure Iraq and Afghanistan, when no other appropriate appointing authority applies. Positions will generally be located in Iraq or Afghanistan, but may be in other locations, including the United States, when directly supporting operations in Iraq or in Afghanistan. No new appointments may be made under this authority after September 30, 2014.

(11) Not to exceed 3,000 positions that require unique cyber security skills and knowledge to perform cyber risk and strategic analysis, incident handling and malware/vulnerability analysis, program management, distributed control systems security, cyber incident response, cyber exercise facilitation and management, cyber vulnerability detection and assessment, network and systems engineering, enterprise architecture, investigation, investigative analysis and cyber-related infrastructure inter-dependency analysis. This authority may be used to make permanent, time-limited and temporary appointments in the following occupational series: Security (GS-0080), computer engineers (GS-0854), electronic engineers (GS-0855), computer scientists (GS-1550), operations research (GS-1515), criminal investigators (GS-1811), telecommunications (GS-0391), and IT specialists (GS-2210). Within the scope

of this authority, the U.S. Cyber Command is also authorized to hire miscellaneous administrative and program (GS-0301) series when those positions require unique cyber security skills and knowledge. All positions will be at the General Schedule (GS) grade levels 09–15 or equivalent. No new appointments may be made under this authority after December 31, 2017

(c) (Reserved)

(d) General—

(1) Positions concerned with advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of OPM, it is impracticable to examine. This authority does not apply to positions assigned to cryptologic and communications intelligence activities/functions.

(2) Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, opsimilar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical, or technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information or in the planning, programming, and management of intelligence resources.

(e) Uniformed Services University of the Health Sciences—

(1) Positions of President, Vice Presidents, Assistant Vice Presidents, Deans, Deputy Deans, Associate Deans, Assistant Deans, Assistants to the President, Assistants to the Vice Presidents, Assistants to the Deans, Professors, Associate Professors, Assistant Professors, Instructors, Visiting Scientists, Research Associates, Senior Research Associates, and Postdoctoral Fellows.

(2) Positions established to perform work on projects funded from grants.

(f) National Defense University—
(1) Not to exceed 16 positions of senior policy analyst, GS-15, at the Strategic Concepts Development Center.

Initial appointments to these positions may not exceed 6 years, but may be extended thereafter in 1-, 2-, or 3-year increments, indefinitely.

(g) Defense Communications

Agency—

(1) Not to exceed 10 positions at grades GS-10/15 to staff and support the Crisis Management Center at the White House.

(h) Defense Acquisition University—

(1) The Provost and professors.

(i) George C. Marshall European Center for Security Studies, Garmisch, Germany—

(1) The Director, Deputy Director, and positions of professor, instructor, and lecturer at the George C. Marshall European Center for Security Studies, Garmisch, Germany, for initial employment not to exceed 3 years, which may be renewed in increments from 1 to 2 years thereafter.

(j) Asia-Pacific Center for Security Studies, Honolulu, Hawaii—

(1) The Director, Deputy Director, Dean of Academics, Director of College, deputy department chairs, and senior positions of professor, associate professor, and research fellow within the Asia Pacific Center. Appointments may be made not to exceed 3 years and may be extended for periods not to exceed 3 years.

(k) Business Transformation Agency—

(1) Fifty temporary or time-limited (not to exceed four years) positions, at grades GS-11 through GS-15. The authority will be used to appoint persons in the following series: Management and Program Analysis, GS-343; Logistics Management, GS-346; Financial Management Programs, GS-501; Accounting, GS-510; Computer Engineering, GS-854; Business and Industry, GS-1101; Operations Research, GS-1515; Computer Science, GS-1550; General Supply, GS-2001; Supply Program Management, GS-2003; Inventory Management, GS-2010; and Information Technology, GS-2210.

(l) Special Inspector General for Afghanistan—

(1) Positions needed to establish the Special Inspector General for Afghanistan Reconstruction. These positions provide for the independent and objective conduct and supervision of audits and investigations relating to the programs and operations funded with amounts appropriated and otherwise made available for the reconstruction of Afghanistan. These positions are established at General Schedule (GS) grade levels for initial employment not to exceed 3 years and may, with prior approval of OPM, be extended for an additional period of 2 years. No new appointments may be

made under this authority after January 31, 2011.

07. Department of the Army (Sch. A, 213.3107)

(a)–(c) (Reserved)

(d) U.S. Military Academy, West Point, New York—

(1) Civilian professors, instructors, teachers (except teachers at the Children's School), Cadet Social Activities Coordinator, Chapel Organist and Choir-Master, Director of Intercollegiate Athletics, Associate Director of Intercollegiate Athletics, Coaches, Facility Manager, Building Manager, three Physical Therapists (Athletic Trainers), Associate Director of Admissions for Plans and Programs, Deputy Director of Alumni Affairs; and Librarian when filled by an officer of the Regular Army retired from active service, and the Military Secretary to the Superintendent when filled by a U.S. Military Academy graduate retired as a regular commissioned officer for disability.

(e)–(f) (Reserved)

(g) Defense Language Institute—

(1) All positions (professors, instructors, lecturers) which require proficiency in a foreign language or knowledge of foreign language teaching methods.

(h) Army War College, Carlisle Barracks, PA—

(1) Positions of professor, instructor, or lecturer associated with courses of instruction of at least 10 months duration for employment not to exceed 5 years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

(i) (Reserved)

(j) U.S. Military Academy Preparatory School, West Point, New York—

(1) Positions of Academic Director, Department Head, and Instructor.

(k) U.S. Army Command and General Staff College, Fort Leavenworth, Kansas—

(1) Positions of professor, associate professor, assistant professor, and instructor associated with courses of instruction of at least 10 months duration, for employment not to exceed up to 5 years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

08. Department of the Navy (Sch. A, 213.3108)

(a) General—

(1)–(14) (Reserved)

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(16) All positions necessary for the administration and maintenance of the official residence of the Vice President.

(b) Naval Academy, Naval Postgraduate School, and Naval War College—

(1) Professors, Instructors, and Teachers; the Director of Academic Planning, Naval Postgraduate School; and the Librarian, Organist-Choirmaster, Registrar, the Dean of Admissions, and Social Counselors at the Naval Academy.

(c) Chief of Naval Operations—

(1) One position at grade GS-12 or above that will provide technical, managerial, or administrative support on highly classified functions to the Deputy Chief of Naval Operations (Plans, Policy, and Operations).

(d) Military Sealift Command

(1) All positions on vessels operated by the Military Sealift Command.

(e)–(f) (Reserved)

(g) Office of Naval Research—

(1) Scientific and technical positions, GS-13/15, in the Office of Naval Research International Field Office which covers satellite offices within the Far East, Africa, Europe, Latin America, and the South Pacific. Positions are to be filled by personnel having specialized experience in scientific and/or technical disciplines of current interest to the Department of the Navy.

09. Department of the Air Force (Sch. A, 213.3109)

(a) Office of the Secretary—

(1) One Special Assistant in the Office of the Secretary of the Air Force. This position has advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

(b) General—

(1) Professional, technical, managerial and administrative positions supporting space activities, when approved by the Secretary of the Air Force.

(2) Two hundred positions, serviced by Hill Air Force Base, Utah, engaged in interdepartmental activities in support of national defense projects involving scientific and technical evaluations.

(c) Norton and McClellan Air Force Bases, California—

(1) Not to exceed 20 professional positions, GS-11 through GS-15, in Detachments 6 and 51, SM-ALC, Norton and McClellan Air Force Bases, California, which will provide logistic support management to specialized research and development projects.

(d) U.S. Air Force Academy, Colorado—

(1) (Reserved)

(2) Positions of Professor, Associate Professor, Assistant Professor, and

Instructor, in the Dean of Faculty, Commandant of Cadets, Director of Athletics, and Preparatory School of the United States Air Force Academy.

(e) (Reserved)

(f) Air Force Office of Special

Investigations—

(1) Positions of Criminal

Investigators/Intelligence Research Specialists, GS–5 through GS–15, in the Air Force Office of Special Investigations.

(g) Wright-Patterson Air Force Base, Ohio—

(1) Not to exceed eight positions, GS–12 through 15, in Headquarters Air Force Logistics Command, DCS Material Management, Office of Special Activities, Wright-Patterson Air Force Base, Ohio, which will provide logistic support management staff guidance to classified research and development projects.

(h) Air University, Maxwell Air Force Base, Alabama—

(1) Positions of Professor, Instructor, or Lecturer.

(i) Air Force Institute of Technology, Wright-Patterson Air Force Base, Ohio—

(1) Civilian deans and professors.

(j) Air Force Logistics Command—

(1) One Supervisory Logistics Management Specialist, GM–346–14, in Detachment 2, 2762 Logistics Management Squadron (Special), Greenville, Texas.

(k) Wright-Patterson AFB, Ohio—

(1) One position of Supervisory Logistics Management Specialist, GS–346–15, in the 2762nd Logistics Squadron (Special), at Wright-Patterson Air Force Base, Ohio.

(l) Air National Guard Readiness Center—

(1) One position of Commander, Air National Guard Readiness Center, Andrews Air Force Base, Maryland.

10. Department of Justice (Sch. A, 213.3110)

(a) General—

(1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2) Positions at GS–15 and below on the staff of an office of a special counsel.

(3)–(5) (Reserved)

(6) Positions of Program Manager and Assistant Program Manager supporting the International Criminal Investigative Training Assistance Program in foreign countries. Initial appointments under this authority may not exceed 2 years, but may be extended in 1-year increments for the duration of the in-country program.

(7) Positions necessary throughout DOJ, for the excepted service transfer of NDIC employees hired under Schedule

A, 213.3110(d). Authority expires September 30, 2012.

(b) (Reserved)

(c) Drug Enforcement

Administration—

(1) (Reserved)

(2) Four hundred positions of

Intelligence Research Agent and/or Intelligence Operation Specialist in the GS–132 series, grades GS–9 through GS–15.

(3) Not to exceed 200 positions of Criminal Investigator (Special Agent). New appointments may be made under this authority only at grades GS–7/11.

(d) (Reserved, moved to Justice)

(e) Bureau of Alcohol, Tobacco, and Firearms—

(1) One hundred positions of Criminal Investigator for special assignments.

(2) One non-permanent Senior Level (SL) Criminal Investigator to serve as a senior advisor to the Assistant Director (Firearms, Explosives, and Arson).

11. Department of Homeland Security (Sch. A, 213.3111)

(a) (Revoked 11/19/2009)

(b) Law Enforcement Policy—

(1) Ten positions for oversight policy and direction of sensitive law enforcement activities.

(c) Homeland Security Labor Relations Board/Homeland Security Mandatory Removal Board—

(1) Up to 15 Senior Level and General Schedule (or equivalent) positions.

(d) General—

(1) Not to exceed 800 positions to perform cyber risk and strategic analysis, incident handling and malware/vulnerability analysis, program management, distributed control systems security, cyber incident response, cyber exercise facilitation and management, cyber vulnerability detection and assessment, network and systems engineering, enterprise architecture, intelligence analysis, investigation, investigative analysis and cyber-related infrastructure interdependency analysis requiring unique qualifications currently not established by OPM. Positions will be in the following occupations: security (series 0080), intelligence analysis (series 0132), investigative analyst (series 1805), investigator (series 1810), and criminal investigator (series 1811) at the GS–9 through GS–15 grade levels. No new appointments may be made under this authority after January 5, 2022 or the effective date of the completion of regulations implementing the Border Patrol Agency Pay Reform Act of 2014, whichever comes first.

(e) Papago Indian Agency—Not to exceed 25 positions of Immigration and Customs Enforcement (ICE) Tactical

Officers (Shadow Wolves) in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood. (Formerly 213.3105(b)(9))

(f) U.S. Citizenship and Immigration Services—

(1) Reserved. (Formerly 213.3110(b)(1))

(2) Not to exceed 500 positions of interpreters and language specialists, GS–1040–5/9. (Formerly 213.3110(b)(2))

(3) Reserved. (Formerly 213.3110(b)(3))

(g) U.S. Immigration and Customs Enforcement—

(1) Not to exceed 200 staff positions, GS–15 and below for an emergency staff to provide health related services to foreign entrants. (Formerly 213.3116(b)(16))

(h) Federal Emergency Management Agency—

(1) Field positions at grades GS–15 and below, or equivalent, which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency. Persons may not be employed under this authority for long-term duties or for work not directly necessitated by the emergency response effort. (Formerly 213.3195(a))

(2) Not to exceed 30 positions at grades GS–15 and below in the Offices of Executive Administration, General Counsel, Inspector General, Comptroller, Public Affairs, Personnel, Acquisition Management, and the State and Local Program and Support Directorate which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency, or for long-term duties or work not directly necessitated by the emergency response effort. No one may be reappointed under this authority for service in connection with a different emergency unless at least 6 months have elapsed since the individual's latest appointment under this authority. (Formerly 213.3195(b))

(3) Not to exceed 350 professional and technical positions at grades GS–5 through GS–15, or equivalent, in Mobile Emergency Response Support Detachments (MERS). (Formerly 213.3195(c))

(i) U.S. Coast Guard—

(1) Reserved. (Formerly 213.3194(a))

(2) Lamplighters. (Formerly 213.3194(b))

(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Connecticut. (Formerly 213.3194(c))

12. *Department of the Interior (Sch. A, 213.3112)*

(a) General—

(1) Technical, maintenance, and clerical positions at or below grades GS-7, WG-10, or equivalent, in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of OPM.

(4) Temporary, intermittent, or seasonal field assistants at GS-7, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority may not exceed 180 working days a year.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 180 working days a year: Provided, that an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary

of the Interior is responsible for defining the term “Indian.”

(8) Temporary, intermittent, or seasonal positions at GS-7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators, and samplers. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(9) Temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators, and tradesmen on construction, repair, or maintenance work not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(11) Temporary staff positions in the Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this authority shall not exceed 11 weeks a year except with prior approval of OPM.

(12) Positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum wage rate. Employment under this authority may not exceed 10 weeks.

(b) (Reserved)

(c) Indian Arts and Crafts Board—

(1) The Executive Director

(d) (Reserved)

(e) Office of the Assistant Secretary, Territorial and International Affairs—

(1) (Reserved)

(2) Not to exceed four positions of Territorial Management Interns, grades GS-5, GS-7, or GS-9, when filled by territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. trusteeship. Employment under this authority may not exceed 6 months.

(3) (Reserved)

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his or her immediate staff.

(f) National Park Service—

(1) (Reserved)

(2) Positions established for the administration of Kalaupapa National Historic Park, Molokai, Hawaii, when filled by appointment of qualified patients and Native Hawaiians, as provided by Public Law 95-565.

(3) Seven full-time permanent and 31 temporary, part-time, or intermittent positions in the Redwood National Park, California, which are needed for rehabilitation of the park, as provided by Public Law 95-250.

(4) One Special Representative of the Director.

(5) All positions in the Grand Portage National Monument, Minnesota, when filled by the appointment of recognized members of the Minnesota Chippewa Tribe.

(g) Bureau of Reclamation—

(1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values on conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: Provided, that such employment may, with prior approval of OPM, be extended for not to exceed an additional 50 working days in any single year.

(h) Office of the Deputy Assistant Secretary for Territorial Affairs—

(1) Positions of Territorial Management Interns, GS-5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

13. *Department of Agriculture (Sch. A, 213.3113)*

(a) General—

(1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service or the National Agricultural Statistics Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural commodity grader (grain) and (meat), (poultry), and (dairy), agricultural commodity aid (grain), and tobacco inspection positions.

(2)–(4) (Reserved)

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS-7 and WG-10 in the following types of positions: Field assistants for sub professional services; agricultural helpers, helper-leaders, and workers in the Agricultural Research Service and the Animal and Plant

Health Inspection Service; and subject to prior OPM approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: Provided, that an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraph (i) of Sec. 213.3102 or positions within the Forest Service.

(6)–(7) (Reserved)

(b)–(c) (Reserved)

(d) Farm Service Agency—

(1) (Reserved)

(2) Members of State Committees:

Provided, that employment under this authority shall be limited to temporary intermittent (WAE) positions whose principal duties involve administering farm programs within the State consistent with legislative and Departmental requirements and reviewing national procedures and policies for adaptation at State and local levels within established parameters. Individual appointments under this authority are for 1 year and may be extended only by the Secretary of Agriculture or his designee. Members of State Committees serve at the pleasure of the Secretary.

(e) Rural Development—

(1) (Reserved)

(2) County committeemen to consider, recommend, and advise with respect to the Rural Development program.

(3)–(5) (Reserved)

(6) Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

(f) Agricultural Marketing Service—

(1) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–9 and below in the tobacco, dairy, and poultry commodities; Meat Acceptance Specialists, GS–11 and below; Clerks, Office Automation Clerks, and Computer Clerks at GS–5 and below; Clerk-Typists at grades GS–4 and below; and Laborers under the Wage System. Employment under this authority is limited to either 1,280 hours or 180 days in a service year.

(2) Positions of Agricultural Commodity Graders, Agricultural

Commodity Technicians, and Agricultural Commodity Aids at grades GS–11 and below in the cotton, raisin, peanut, and processed and fresh fruit and vegetable commodities and the following positions in support of these commodities: Clerks, Office Automation Clerks, and Computer Clerks and Operators at GS–5 and below; Clerk-Typists at grades GS–4 and below; and, under the Federal Wage System, High Volume Instrumentation (HVI) Operators and HVI Operator Leaders at WG/WL–2 and below, respectively, Instrument Mechanics/Workers/Helpers at WG–10 and below, and Laborers. Employment under this authority may not exceed 180 days in a service year. In unforeseen situations such as bad weather or crop conditions, unanticipated plant demands, or increased imports, employees may work up to 240 days in a service year. Cotton Agricultural Commodity Graders, GS–5, may be employed as trainees for the first appointment for an initial period of 6 months for training without regard to the service year limitation.

(3) Milk Market Administrators

(4) All positions on the staffs of the Milk Market Administrators.

(g)–(k) (Reserved)

(l) Food Safety and Inspection Service—

(1)–(2) (Reserved)

(3) Positions of Meat and Poultry Inspectors (Veterinarians at GS–11 and below and non-Veterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(m) Grain Inspection, Packers and Stockyards Administration—

(1) One hundred and fifty positions of Agricultural Commodity Aid (Grain), GS–2/4; 100 positions of Agricultural Commodity Technician (Grain), GS–4/7; and 60 positions of Agricultural Commodity Grader (Grain), GS–5/9, for temporary employment on a part-time, intermittent, or seasonal basis not to exceed 1,280 hours in a service year.

(n) Alternative Agricultural Research and Commercialization Corporation—

(1) Executive Director

14. Department of Commerce (Sch. A, 213.3114)

(a) General—

(1)–(2) (Reserved)

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in the continental United States for periods of orientation, training, analysis of data, and report writing.

(b)–(c) (Reserved)

(d) Bureau of the Census—

(1) Positions in support of decennial operations (including decennial pre-tests). Appointments may be made on a time limited basis that lasts the duration of decennial operations but may not exceed 7 years. Extensions beyond 7 years may be requested on a case-by-case basis

(2) Positions of clerk, field representative, field leader, and field supervisor in support of data collection operations (non-decennial operations). Appointments may be made on a permanent or a time-limited basis. Appointments made on a time limited basis may not exceed 4 years. Extensions beyond 4 years may be requested on a case-by-case basis.

(e)–(h) (Reserved)

(i) Office of the Under Secretary for International Trade—

(1) Fifteen positions at GS–12 and above in specialized fields relating to international trade or commerce in units under the jurisdiction of the Under Secretary for International Trade. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for an individual appointee.

(2) (Reserved)

(3) Not to exceed 15 positions in grades GS–12 through GS–15, to be filled by persons qualified as industrial or marketing specialists; who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit procedures applicable to one or more of the current segments of U.S. industry served by the Under Secretary for International Trade, and the subordinate components of his organization which are involved in Domestic Business matters.

Appointments under this authority may be made for a period not to exceed 2 years and may, with prior OPM approval, be extended for an additional 2 years.

(j) National Oceanic and Atmospheric Administration—

(1)–(2) (Reserved)

(3) All civilian positions on vessels operated by the National Ocean Service.

(4) Temporary positions required in connection with the surveying operations of the field service of the National Ocean Service. Appointment to

such positions shall not exceed 8 months in any 1 calendar year.

(k) (Reserved)

(l) National Telecommunication and Information Administration—

(1) Not to exceed 91 professional positions in grades GS–13 through GS–15.

(m) First Responder Network (FirstNet) Authority—

(1) Not exceed 12 FirstNet Board Member positions. Employment and compensation must be in accordance with 47 U.S.C. 1424. Appointments are time-limited for up to 3 years and FirstNet may reappoint an individual hired under this authority to a second 3-year term. An appointment may be extended beyond the 3-year limit until a successor member has taken office, or until the end of the calendar year in which an appointment expires, whichever is earlier.

15. *Department of Labor (Sch. A, 213.3115)*

(a) Office of the Secretary—

(1) Chairman and five members, Employees' Compensation Appeals Board.

(2) Chairman and eight members, Benefits Review Board.

(b)–(c) (Reserved)

(d) Employment and Training Administration—

(1) Not to exceed 10 positions of Supervisory Manpower Development Specialist and Manpower Development Specialist, GS–7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

16. *Department of Health and Human Services (Sch. A, 213.3116)*

(a) General—

(1) Intermittent positions, at GS–15 and below and WG–10 and below, on teams under the National Disaster Medical System including Disaster Medical Assistance Teams and specialty teams, to respond to disasters, emergencies, and incidents/events involving medical, mortuary and public health needs.

(b) Public Health Service—

(1) (Reserved)

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) (Reserved)

(4) Positions concerned with problems in preventive medicine financed or participated in by the

Department of Health and Human Services and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the participating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5)–(6) (Reserved)

(7) Not to exceed 50 positions associated with health screening programs for refugees.

(8) All positions in the Public Health Service and other positions in the Department of Health and Human Services directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health and Human Services is responsible for defining the term “Indian.”

(9) (Reserved)

(10) Health care positions of the National Health Service Corps for employment of any one individual not to exceed 4 years of service in health manpower shortage areas.

(11)–(15) (Reserved)

(c)–(e) (Reserved)

(f) Reserved

17. *Department of Education (Sch. A, 213.3117)*

(a) Positions concerned with problems in education financed and participated in by the Department of Education and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

18. *Environmental Protection Agency (sch. A, 213.3118)*

24. *Board of Governors, Federal Reserve System (Sch. A, 213.3124)*

(a) All positions

27. *Department of Veterans Affairs (Sch. A, 213.3127)*

(a) Construction Division—

(1) Temporary construction workers paid from “purchase and hire” funds and appointed for not to exceed the duration of a construction project.

(b) Alcoholism Treatment Units and Drug Dependence Treatment Centers—

(1) Not to exceed 400 positions of rehabilitation counselors, GS–3 through GS–11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients.

(c) Board of Veterans' Appeals—

(1) Positions, GS–15, when filled by a member of the Board. Except as provided by section 201(d) of Public Law 100–687, appointments under this authority shall be for a term of 9 years, and may be renewed.

(2) Positions, GS–15, when filled by a non-member of the Board who is awaiting Presidential approval for appointment as a Board member.

(d) Vietnam Era Veterans Readjustment Counseling Service—

(1) Not to exceed 600 positions at grades GS–3 through GS–11, involved in the Department's Vietnam Era Veterans Readjustment Counseling Service.

(e) Not to Exceed 75 positions that require unique technical skills needed for the re-designing and re-building of digital interfaces between citizens, businesses, and government as a part of Smarter Information Technology Delivery Initiative. This authority may be used to make permanent, time-limited and temporary appointments to non-supervisory Digital Services Expert positions (GS–301) directly related to the implementation of the Smarter Information Technology Delivery Initiative at the GS–15 level. No new appointments may be made under this authority after September 30, 2017.

32. *Small Business Administration (Sch. A, 213.3132)*

(a) When the President under 42 U.S.C. 5170–5189, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in the area under the Small Business Act, as amended. Service under this authority may not exceed 7 years. Exception to this time limit may only be made with prior U.S. Office of Personnel Management approval. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(b) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. No one may serve under this authority for more than an aggregate of 2 years without a break in service of at least 6 months. Persons who have had more than 2 years of service under paragraph (a) of this section must have a break in service of at least 8 months following such service before

appointment under this authority. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

33. Federal Deposit Insurance Corporation (Sch. A, 213.3133)

(a)–(b) (Reserved)

(c) Temporary or time-limited positions that are directly related with resolving failing insured depository institutions; financial companies; or brokers and dealers; covered by the Dodd-Frank Wall Street Reform and Consumer Protection Act, including but not limited to, the marketing and sale of institutions and any associated assets; paying insured depositors; and managing receivership estates and all associated receivership management activities, up to termination. Time limited appointments under this authority may not exceed 7 years.

36. U.S. Soldiers' and Airmen's Home (Sch. A, 213.3136)

(a) (Reserved)

(b) Positions when filled by member-residents of the Home.

37. General Services Administration (Sch. A, 213.3137)

(a) Not to Exceed 203 positions that require unique technical skills needed for the re-designing and re-building of digital interfaces between citizens, businesses, and government as a part of Smarter Information Technology Delivery Initiative. This authority may be used nationwide to make permanent, time-limited and temporary appointments to Digital Services Expert positions (GS–301) directly related to the implementation of the Smarter Information Technology Delivery Initiative at the GS–11 to 15 level. No new appointments may be made under this authority after September 30, 2017.

46. Selective Service System (Sch. A, 213.3146)

(a) State Directors

48. National Aeronautics and Space Administration (Sch. A, 213.3148)

(a) One hundred and fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

55. Social Security Administration (Sch. A, 213.3155)

(a) Arizona District Offices—

(1) Six positions of Social Insurance Representative in the district offices of

the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(b) New Mexico—

(1) Seven positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.

(c) Alaska—

(1) Two positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointments of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

62. The President's Crime Prevention Council (Sch. A, 213.3162)

(a) (Reserved)

65. Chemical Safety and Hazard Investigation Board (Sch. A, 213.3165)

(a) (Reserved)

(b) (Reserved)

66. Court Services and Offender Supervision Agency of the District of Columbia (Sch. A, 213.3166)

(a) (Reserved, expired 3/31/2004)

70. Millennium Challenge Corporation (MCC) (Sch. A, 213.3170)

(a) (Reserved, expired 9/30/2007)

(b)

(1) Positions of Resident Country Director and Deputy Resident Country Director, Threshold Director and Deputy Threshold Director. The length of appointments will correspond to the length or term of the compact agreements made between the MCC and the country in which the MCC will work, plus one additional year to cover pre- and post-compact agreement related activities.

74. Smithsonian Institution (Sch. A, 213.3174)

(a) (Reserved)

(b) Smithsonian Tropical Research Institute—All positions located in Panama which are part of or which support the Smithsonian Tropical Research Institute.

(c) National Museum of the American Indian—Positions at GS–15 and below requiring knowledge of, and experience in, tribal customs and culture. Such positions comprise approximately 10 percent of the Museum's positions and, generally, do not include secretarial, clerical, administrative, or program support positions.

75. Woodrow Wilson International Center for Scholars (Sch. A, 213.3175)

(a) One Asian Studies Program Administrator, one Global European Studies Program Administrator, one Latin American Program Administrator, one Russian Studies Program Administrator, four Social Science Program Administrators, one Middle East Studies Program Administrator, one African Studies Program Administrator, one Polar Studies Program Administrator, one Canadian Studies Program Administrator; one China Studies Program Administrator, one Science, Technology and Innovation Program Administrator, and one Mexico Studies Program Administrator.

78. Community Development Financial Institutions Fund (Sch. A, 213.3178)

(a) (Reserved, expired 9/23/1998)

80. Utah Reclamation and Conservation Commission (Sch. A, 213.3180)

(a) Executive Director

82. National Foundation on the Arts and the Humanities (Sch. A, 213.3182)

(a) National Endowment for the Arts—

(1) Artistic and related positions at grades GS–13 through GS–15 engaged in the review, evaluation and administration of applications and grants supporting the arts, related research and assessment, policy and program development, arts education, access programs and advocacy, or evaluation of critical arts projects and outreach programs. Duties require artistic stature, in-depth knowledge of arts disciplines and/or artistic-related leadership qualities.

90. African Development Foundation (Sch. A, 213.3190)

(a) One Enterprise Development Fund Manager. Appointment is limited to four years unless extended by OPM.

91. Office of Personnel Management (Sch. A, 213.3191)

(a)–(c) (Reserved)

(d) Part-time and intermittent positions of test examiners at grades GS–8 and below.

94. Department of Transportation (Sch. A, 213.3194)

(a)–(d) (Reserved)

(e) Maritime Administration—

(1)–(2) (Reserved)

(3) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(4)–(5) (Reserved)

(6) U.S. Merchant Marine Academy, positions of: Professors, Instructors, and Teachers, including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Assistant Commandant of Midshipmen; Director of Music; three Battalion Officers; three Regimental Affairs Officers; and one Training Administrator.

(7) U.S. Merchant Marine Academy positions of: Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; three Academy Training Representatives; and one Education Program Assistant.

(f) Up to 40 positions at the GS–13 through 15 grade levels and within authorized SL allocations necessary to support the following credit agency programs of the Department: the Federal Highway Administration's Transportation Infrastructure Finance and Innovation Act Program, the Federal Railroad Administration's Railroad Rehabilitation and Improvement Financing Program, the Federal Maritime Administration's Title XI Program, and the Office of the Secretary's Office of Budget and Programs Credit Staff. This authority may be used to make temporary, time-limited, or permanent appointments, as the DOT deems appropriate, in the following occupational series: Director or Deputy Director SL–301/340, Origination Team Lead SL–301, Deputy Director/Senior Financial Analyst GS–1160, Origination Financial Policy Advisor GS–301, Credit Budgeting Team Lead GS–1160, Credit Budgeting Financial Analysts GS–1160, Portfolio Monitoring Lead SL–1160, Portfolio Monitoring Financial Analyst GS–1160, Financial Analyst GS–1160. No new appointments may be made under this authority after December 31, 2014.

95. (Reserved)

Schedule B

03. Executive Office of the President (Sch. B, 213.3203)

(a) (Reserved)

(b) Office of the Special Representative for Trade Negotiations—

(1) Seventeen positions of economist at grades GS–12 through GS–15.

04. Department of State (Sch. B, 213.3204)

(a) (1) One non-permanent senior level position to serve as Science and Technology Advisor to the Secretary.

(b)–(c) (Reserved)

(d) Seventeen positions on the household staff of the President's Guest House (Blair and Blair-Lee Houses).

(e) (Reserved)

(f) Scientific, professional, and technical positions at grades GS–12 to GS–15 when filled by persons having special qualifications in foreign policy matters. Total employment under this authority may not exceed 4 years.

(g) Not to exceed 100 positions in the Bureau of Intelligence and Research (INR) at the GS–5 through GS–15 levels in the following occupational series GS–0080 Security Administration, GS–0110 Economics, GS–0130 Foreign Affairs, GS–0132 Intelligence, GS–0150 Geography, GS–0343 Management and Program Analysis, GS–1083 Technical Writing and Editing, GS–1370 Cartography, and GS–1530 Statistics. This authority may be used to make time-limited appointments of up to 48 months. No new appointments may be made after March 31, 2023 or when INR transitions to appointments under 50 U.S.C. 3024(v) whichever comes first.

05. Department of the Treasury (Sch. B, 213.3205)

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.

(b)–(c) (Reserved)

(d) (Reserved) Transferred to 213.3211(b)

(e) (Reserved) Transferred to 213.3210(f)

(f) (Reserved)

(g) (Reserved, moved to DOJ)

(h) Office of Financial Stability—

(1) Positions needed to perform investment, risk, financial, compliance, and asset management requiring unique qualifications currently not established by OPM. Positions will be in the Office of Financial Stability and the General Schedule (GS) grade levels 12–15 or Senior Level (SL), for initial employment not to exceed 4 years. No new appointments may be made under this authority after December 31, 2012.

(i) Office of the Special Inspector General for Pandemic Recovery

Temporary or time-limited positions at the GS level in the Office of the Special Inspector General for Pandemic Recovery. This authority may be used for the following occupational series: GS–1811 Special Agent, GS–18100 Investigator, GS–1805 Investigative Research/Analyst, GS–1801 Inspection/Investigative Analyst, GS–511 Auditor, GS–510 Accounting, GS–201 Human Resource Specialist, GS–343 Management Analyst, GS–301 Miscellaneous Administrative and Program, GS–2210 Information Technology, GS–1102 Contracting, GS–560 Budget Analyst, GS–1035 Public Affairs at the GS–9 through GS–15 levels. No new appointments may be made under this authority after December 14, 2025 or the termination of the SIGPR, whichever occurs first.

06. Department of Defense (Sch. B, 213.3206)

(a) Office of the Secretary—

(1) (Reserved)

(2) Professional positions at GS–11 through GS–15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

(3)–(4) (Reserved)

(5) Four Net Assessment Analysts.

(b) Interdepartmental activities—

(1) Seven positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.

(2) Eight positions, GS–15 or below, in the White House Military Office, providing support for airlift operations, special events, security, and/or administrative services to the Office of the President.

(c) National Defense University—

(1) Sixty-one positions of Professor, GS–13/15, for employment of any one individual on an initial appointment not to exceed 3 years, which may be renewed in any increment from 1 to 6 years indefinitely thereafter.

(d) General—

(1) One position of Law Enforcement Liaison Officer (Drugs), GS–301–15, U.S. European Command.

(2) Acquisition positions at grades GS–5 through GS–11, whose incumbents have successfully completed the required course of education as participants in the Department of Defense scholarship

program authorized under 10 U.S.C. 1744.

(e) Office of the Inspector General—
(1) Positions of Criminal Investigator, GS–1811–5/15.

(f) Department of Defense Polygraph Institute, Fort McClellan, Alabama—

(1) One Director, GM–15.

(g) Defense Security Assistance Agency—

All faculty members with instructor and research duties at the Defense Institute of Security Assistance Management, Wright Patterson Air Force Base, Dayton, Ohio. Individual appointments under this authority will be for an initial 3-year period, which may be followed by an appointment of indefinite duration.

07. Department of the Army (Sch. B, 213.3207)

(a) U.S. Army Command and General Staff College—

(1) Seven positions of professors, instructors, and education specialists. Total employment of any individual under this authority may not exceed 4 years.

08. Department of the Navy (Sch. B, 213.3208)

(a) Naval Underwater Systems Center, New London, Connecticut—

(1) One position of Oceanographer, grade GS–14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

(b) Armed Forces Staff College, Norfolk, Virginia—All civilian faculty positions of professors, instructors, and teachers on the staff of the Armed Forces Staff College, Norfolk, Virginia.

(c) Defense Personnel Security Research and Education Center—One Director and four Research Psychologists at the professor or GS–15 level.

(d) Marine Corps Command and Staff College—All civilian professor positions.

(e) Executive Dining facilities at the Pentagon—One position of Staff Assistant, GS–301, whose incumbent will manage the Navy's Executive Dining facilities at the Pentagon.

(f) (Reserved)

09. Department of the Air Force (Sch. B, 213.3209)

(a) Air Research Institute at the Air University, Maxwell Air Force Base, Alabama—Not to exceed four interdisciplinary positions for the Air Research Institute at the Air University, Maxwell Air Force Base, Alabama, for employment to complete studies proposed by candidates and acceptable

to the Air Force. Initial appointments are made not to exceed 3 years, with an option to renew or extend the appointments in increments of 1-, 2-, or 3- years indefinitely thereafter.

(b)–(c) (Reserved)

(d) Air University—Positions of Instructor or professional academic staff at the Air University associated with courses of instruction of varying durations, for employment not to exceed 3 years, which may be renewed for an indefinite period thereafter.

(e) U.S. Air Force Academy, Colorado—One position of Director of Development and Alumni Programs, GS–301–13.

10. Department of Justice (Sch. B, 213.3210)

(a) Drug Enforcement Administration—

Criminal Investigator (Special Agent) positions in the Drug Enforcement Administration. New appointments may be made under this authority only at grades GS–5 through 11. Service under the authority may not exceed 4 years. Appointments made under this authority may be converted to career or career-conditional appointments under the provisions of Executive Order 12230, subject to conditions agreed upon between the Department and OPM.

(b) (Reserved)

(c) Not to exceed 400 positions at grades GS–5 through 15 assigned to regional task forces established to conduct special investigations to combat drug trafficking and organized crime.

(d) (Reserved)

(e) United States Trustees—Positions, other than secretarial, GS–6 through GS–15, requiring knowledge of the bankruptcy process, on the staff of the offices of United States Trustees or the Executive Office for U.S. Trustees.

(f) Bureau of Alcohol, Tobacco, and Firearms—

(1) Positions, grades GS–5 through GS–12 (or equivalent), of Criminal Investigator. Service under this authority may not exceed 3 years and 120 days.

11. Department of Homeland Security (Sch. B, 213.3211)

(a) Coast Guard—

(1) (Reserved)

(b) Secret Service—Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by OPM. Service under this authority may not exceed:

(1) a total of 4 years; or
(2) 120 days following completion of the service required for conversion under Executive Order 11203.

13. Department of Agriculture (Sch. B, 213.3213)

(a) Foreign Agricultural Service—

(1) Positions of a project nature involved in international technical assistance activities. Service under this authority may not exceed 5 years on a single project for any individual unless delayed completion of a project justifies an extension up to but not exceeding 2 years.

(b) General—

(1) Temporary positions of professional Research Scientists, GS–15 or below, in the Agricultural Research Service, Economic Research Service, and the Forest Service, when such positions are established to support the Research Associateship Program and are filled by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and the agency. Appointments are limited to proposals approved by the appropriate Administrator. Appointments may be made for initial periods not to exceed 2 years and may be extended for up to 2 additional years. Extensions beyond 4 years, up to a maximum of 2 additional years, may be granted, but only in very rare and unusual circumstances, as determined by the Human Resources Officer for the Research, Education, and Economics Mission Area, or the Human Resources Officer, Forest Service.

(2) Not to exceed 55 Executive Director positions, GM–301–14/15, with the State Rural Development Councils in support of the Presidential Rural Development Initiative.

14. Department of Commerce (Sch. B, 213.3214)

(a) Bureau of the Census—

(1) (Reserved)

(2) Not to exceed 50 Community Services Specialist positions at the equivalent of GS–5 through 12.

(b)–(c) (Reserved)

(d) National Telecommunications and Information Administration—

(1) Not to exceed 27 positions of GS–0850 Electrical Engineer, GS–0855 Electronics Engineer, or GS–0854 Computer Engineer in grades GS–11 through GS–15, or positions that require subject-matter expertise with telecommunications policy, 911 communication programs, environmental specialists, and spectrum policy and related programs. Employment under this authority may not exceed 2 years.

15. Department of Labor (Sch. B, 213.3215)

(a) Administrative Review Board—Chair and a maximum of four additional Members.

(b) (Reserved)

(c) Bureau of International Labor Affairs—

(1) Positions in the Office of Foreign Relations, which are paid by outside funding sources under contracts for specific international labor market technical assistance projects. Appointments under this authority may not be extended beyond the expiration date of the project.

17. Department of Education (Sch. B, 213.3217)

(a) Seventy-five positions, not to exceed GS–13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in mid-career development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

(b) Fifty positions, GS–7 through GS–11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the prior approval of the Office of Personnel Management, be extended for an additional period of 1 year.

27. Department of Veterans Affairs (Sch. B, 213.3227)

(a) Not to exceed 800 principal investigatory, scientific, professional, and technical positions at grades GS–11 and above in the medical research program.

(b) Not to exceed 25 Criminal Investigator (Undercover) positions, GS–

1811, in grades 5 through 12, conducting undercover investigations in the Veterans Health Administration (VA) supervised by the VA, Office of Inspector General. Initial appointments shall be greater than 1 year, but not to exceed 4 years and may be extended indefinitely in 1-year increments.

28. Broadcasting Board of Governors (Sch. B, 213.3228)

(a) International Broadcasting Bureau—

(1) Not to exceed 200 positions at grades GS–15 and below in the Office of Cuba Broadcasting. Appointments may not be made under this authority to administrative, clerical, and technical support positions.

36. U.S. Soldiers' and Airmen's Home (Sch. B, 213.3236)

(a) (Reserved)

(b) Director, Health Care Services; Director, Member Services; Director, Logistics; and Director, Plans and Programs.

40. National Archives and Records Administration (Sch. B, 213.3240)

(a) Executive Director, National Historical Publications and Records Commission.

48. National Aeronautics and Space Administration (Sch. B, 213.3248)

(a) Not to exceed 40 positions of Astronaut Candidates at grades GS–11 through 15. Employment under this authority may not exceed 3 years.

50. Consumer Financial Protection Bureau (Sch. B, 213.3250)

(a) One position of Deputy Director; and one position of Associate Director of the Division of Supervision, Enforcement, and Fair Lending.

55. Social Security Administration (Sch. B, 213.3255)

(a) (Reserved)

74. Smithsonian Institution (Sch. B, 213.3274)

(a) (Reserved)

(b) Freer Gallery of Art—

(1) Not to exceed four Oriental Art Restoration Specialists at grades GS–9 through GS–15.

76. Appalachian Regional Commission (Sch. B, 213.3276)

(a) Two Program Coordinators.

78. Armed Forces Retirement Home (Sch. B, 213.3278)

(a) Naval Home, Gulfport, Mississippi—

(1) One Resource Management Officer position and one Public Works Officer position, GS/GM–15 and below.

82. National Foundation on the Arts and the Humanities (Sch. B, 213.3282)

(a) (Reserved)

(b) National Endowment for the Humanities—

(1) Professional positions at grades GS–11 through GS–15 engaged in the review, evaluation, and administration of grants supporting scholarship, education, and public programs in the humanities, the duties of which require in-depth knowledge of a discipline of the humanities.

91. Office of Personnel Management (Sch. B, 213.3291)

(a) Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS–13 and GS–14. Appointments may be made for any period up to 3 years and may be extended without prior approval for any individual. Not more than half of the authorized faculty positions at any one Executive Seminar Center may be filled under this authority.

(b) Center for Leadership Development—No more than 72 positions of faculty members at grades GS–13 through GS–15. Initial appointments under this authority may be made for any period up to 3 years and may be extended in 1, 2, or 3 year increments.

Schedule C

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF AGRICULTURE	Office of the Under Secretary for Food Safety.	Confidential Assistant	DA210125	07/08/2021
	Agricultural Marketing Service	Senior Advisor for Organics and Emerging Markets.	DA210150	09/16/2021
	Appalachian Regional Commission	Senior Policy Advisor	AP220001	01/01/2022
		Confidential Assistant	DA220016	11/05/2021
	Farm Service Agency	Policy Advisor (2)	DA220007	10/21/2021
			DA220012	10/24/2021
		State Executive Director—Alabama	DA220020	11/18/2021
		State Executive Director—Alaska ..	DA220091	02/25/2022

Agency name	Organization name	Position title	Authorization No.	Effective date
		State Executive Director—Arkansas.	DA220038	01/01/2022
		State Executive Director—California.	DA220047	01/14/2022
		State Executive Director—Colorado	DA220023	11/29/2021
		State Executive Director—Connecticut.	DA220127	05/16/2022
		State Executive Director—Delaware.	DA220022	11/18/2021
		State Executive Director—Florida ..	DA220072	02/11/2022
		State Executive Director—Georgia	DA210143	09/16/2021
		State Executive Director—Hawaii ..	DA220136	06/21/2022
		State Executive Director—Illinois ...	DA220035	12/27/2021
		State Executive Director—Indiana	DA220114	04/08/2022
		State Executive Director—Iowa	DA220014	11/18/2021
		State Executive Director—Kansas	DA220073	02/11/2022
		State Executive Director—Kentucky.	DA220042	01/03/2022
		State Executive Director—Maine ...	DA220032	12/27/2021
		State Executive Director—Maryland.	DA220065	01/31/2022
		State Executive Director—Massachusetts.	DA220063	01/31/2022
		State Executive Director—Michigan	DA210153	09/16/2021
		State Executive Director—Minnesota.	DA220052	01/14/2022
		State Executive Director—Mississippi.	DA220010	10/29/2021
		State Executive Director—Missouri	DA220024	01/03/2022
		State Executive Director—Nebraska.	DA220049	01/14/2022
		State Executive Director—Nevada	DA220089	02/25/2022
		State Executive Director—New Hampshire.	DA220105	03/27/2022
		State Executive Director—New Jersey.	DA220080	02/11/2022
		State Executive Director—New York.	DA220019	12/09/2021
		State Executive Director—North Dakota.	DA220092	02/26/2022
		State Executive Director—Ohio	DA220118	04/22/2022
		State Executive Director—Oklahoma.	DA220079	02/11/2022
		State Executive Director—Pennsylvania.	DA220064	01/31/2022
		State Executive Director—Rhode Island.	DA220120	04/22/2022
		State Executive Director—South Dakota.	DA220113	04/08/2022
		State Executive Director—Tennessee.	DA220070	01/31/2022
		State Executive Director—Texas ...	DA220039	01/01/2022
		State Executive Director—Texas ...	DA220123	05/09/2022
		State Executive Director—Vermont	DA220077	02/11/2022
		State Executive Director—Virginia	DA220051	01/14/2022
		State Executive Director—Washington.	DA220074	02/11/2022
		State Executive Director—West Virginia.	DA220021	12/09/2021
		State Executive Director—Wisconsin.	DA210158	09/30/2021
		State Executive Director—New Mexico.	DA210144	09/16/2021
		State Executive Director—Oregon	DA220111	04/08/2022
		State Executive Director—South Carolina.	DA210145	09/16/2021
		State Executive Director, Idaho	DA220048	01/14/2022
		State Executive Director, North Carolina.	DA210139	09/16/2021
	Food and Nutrition Service	Senior Policy Advisor	DA220106	03/27/2022
		Senior Advisor for External Engagement.	DA220108	03/27/2022

Agency name	Organization name	Position title	Authorization No.	Effective date
	National Institute of Food and Agriculture.	Senior Advisor	DA220018	11/05/2021
	Natural Resources Conservation Service.	Confidential Assistant	DA220069	01/31/2022
	Office of Communications	Deputy Press Secretary	DA220001	10/21/2021
		Press Assistant	DA210133	08/26/2021
		Press Secretary	DA220109	03/28/2022
	Office of the Assistant Secretary for Congressional Relations.	Confidential Assistant	DA220107	03/27/2022
		Deputy Director for Intergovernmental Affairs.	DA210129	07/08/2021
		Legislative Advisor	DA210134	08/26/2021
			DA220121	04/22/2022
		Legislative Analyst	DA210155	09/24/2021
	Office of the Deputy Secretary	Special Assistant	DA220067	01/31/2022
	Office of the General Counsel	Confidential Assistant	DA220027	11/30/2021
		Senior Counselor	DA220115	04/08/2022
	Office of the Secretary	Advance Associate	DA220068	01/31/2022
		Confidential Assistant (2)	DA210131	07/22/2021
			DA210137	08/26/2021
		Director of Scheduling and Advance.	DA220116	04/08/2022
		Scheduler	DA220110	03/27/2022
		Senior Advisor	DA210151	09/08/2021
		Senior Advisor for Climate	DA210135	08/26/2021
		Chief of Staff	DA220093	02/25/2022
	Office of the Under Secretary for Food, Nutrition and Consumer Services.			
	Office of the Under Secretary for Marketing and Regulatory Programs.	Confidential Assistant	DA220094	02/25/2022
	Office of the Under Secretary for Research, Education, and Economics.	Special Assistant	DA220011	10/21/2021
	Office of the Under Secretary for Trade and Foreign Agricultural Affairs.	Chief of Staff	DA210127	07/08/2021
	Office of Under Secretary for Natural Resources and Environment.	Confidential Assistant	DA220015	11/05/2021
		Chief of Staff	DA220056	01/14/2022
	Risk Management Agency	Chief of Staff	DA220128	05/20/2022
	Rural Business Service	Confidential Assistant	DA210136	08/26/2021
	Office of Rural Development	State Director—Colorado	DA220009	10/29/2021
		State Director—Alabama	DA210152	09/17/2021
		State Director—Alaska	DA220095	02/26/2022
		State Director—Arizona	DA220003	10/29/2021
		State Director—Arkansas	DA220122	05/09/2022
		State Director—California	DA220132	06/03/2022
		State Director—Delaware, MD	DA220031	12/27/2021
		State Director—Florida	DA220053	01/14/2022
		State Director—Hawaii	DA220071	02/26/2022
		State Director—Idaho	DA220054	01/14/2022
		State Director—Illinois	DA220029	12/27/2021
		State Director—Indiana	DA220084	02/25/2022
		State Director—Iowa	DA220013	11/18/2021
		State Director—Kentucky	DA220119	04/22/2022
		State Director—Louisiana	DA220101	03/27/2022
		State Director—Maine	DA220026	12/09/2021
		State Director—Massachusetts	DA220090	02/25/2022
		State Director—Michigan	DA210159	09/30/2021
		State Director—Minnesota	DA220086	02/25/2022
		State Director—Mississippi	DA220087	02/25/2022
		State Director—Missouri	DA220025	12/09/2021
		State Director—Montana	DA220041	01/03/2022
		State Director—Nebraska	DA220030	12/30/2021
		State Director—Nevada	DA220099	03/27/2022
		State Director—New Jersey	DA220083	02/25/2022
		State Director—New Mexico	DA210148	09/16/2021
		State Director—New York	DA220028	01/01/2022
		State Director—North Carolina	DA210146	09/16/2021
		State Director—North Dakota	DA220102	03/27/2022
		State Director—Oklahoma	DA220088	03/11/2022
		State Director—Oregon	DA220066	01/31/2022
		State Director—Pennsylvania	DA210157	09/30/2021
		State Director—South Carolina	DA210140	09/16/2021

Agency name	Organization name	Position title	Authorization No.	Effective date		
APPALACHIAN REGIONAL COMMISSION.	Rural Utilities Service	State Director—South Dakota	DA220100	03/27/2022		
		State Director—Tennessee	DA220037	01/01/2022		
		State Director—Utah	DA220104	03/27/2022		
		State Director—Virginia	DA220098	03/10/2022		
		State Director—Washington	DA220040	01/03/2022		
		State Director—West Virginia	DA220103	03/27/2022		
		State Director—Wisconsin	DA220004	10/29/2021		
		State Director—Wyoming	DA220075	02/11/2022		
		State Director—Georgia	DA210147	09/16/2021		
		State Director—Vermont, NH	DA220043	01/03/2022		
ARCTIC RESEARCH COMMISSION.	Arctic Research Commission	Chief of Staff	DA210132	07/22/2021		
		Confidential Assistant	AW220002	01/28/2022		
DEPARTMENT OF COMMERCE ...	Office of the Assistant Secretary for Industry and Analysis.	Director, Office of Industry Engagement.	DC210176	08/16/2021		
		Office of the Assistant Secretary Legislative and Intergovernmental Affairs.	Legislative Affairs Specialist	DC220068	02/10/2022	
			Bureau of Industry and Security	Congressional Affairs Specialist	DC220011	11/05/2021
Bureau of Industry and Security	Director of Congressional and Public Affairs.	DC220006		10/07/2021		
	Bureau of Industry and Security	Senior Advisor for Export Controls	DC220106	05/06/2022		
Bureau of Industry and Security		Special Assistant	DC220047	01/18/2022		
	Bureau of the Census	Chief of Congressional Affairs	DC220009	11/05/2021		
Director General of the United States and Foreign Commercial Service and Assistant Secretary for Global Markets.		Senior Advisor	DC210173	08/16/2021		
	International Trade Administration	Director General of the United States and Foreign Commercial Service and Assistant Secretary for Global Markets.	Director, Office of Legislative Affairs.	DC210188	09/10/2021	
Press Secretary			DC220015	10/25/2021		
Scheduler and Special Assistant ...			DC220079	03/10/2022		
Senior Advisor			DC220071	02/15/2022		
Special Advisor			DC220131	06/17/2022		
Special Assistant			DC210198	09/24/2021		
Minority Business Development Agency.			Minority Business Development Agency.	Senior Advisor (2)	DC220017	10/22/2021
				Senior Advisor (2)	DC220052	01/18/2022
National Oceanic and Atmospheric Administration.			National Oceanic and Atmospheric Administration.	Senior Advisor (2)	DC220049	01/18/2022
				Senior Advisor and Speechwriter ...	DC220083	02/25/2022
National Telecommunications and Information Administration.	National Telecommunications and Information Administration.	Special Assistant	DC220058	01/27/2022		
		Advisor for Intergovernmental Affairs.	DC210123	11/05/2021		
National Telecommunications and Information Administration.	National Telecommunications and Information Administration.	Advisor for Intergovernmental Affairs.	DC220080	04/08/2022		
		Chief of Staff for National Telecommunications and Information Administration.	DC210156	07/22/2021		
National Telecommunications and Information Administration.	National Telecommunications and Information Administration.	Deputy Director of Congressional Affairs.	DC220134	06/17/2022		
		Director of Congressional Affairs ...	DC220122	06/03/2022		
National Telecommunications and Information Administration.	National Telecommunications and Information Administration.	Director of Intergovernmental Affairs.	DC220077	03/10/2022		
		Director of Public Affairs	DC220110	05/06/2022		
National Telecommunications and Information Administration.	National Telecommunications and Information Administration.	Director of Public Engagement	DC220093	03/25/2022		
		Project Management Specialist	DC220103	04/08/2022		
National Telecommunications and Information Administration.	National Telecommunications and Information Administration.	Public Engagement Advisor	DC220104	04/08/2022		
		Senior Advisor (3)	DC220010	11/05/2021		
National Telecommunications and Information Administration.	National Telecommunications and Information Administration.	Senior Advisor	DC220098	03/28/2022		
		Special Advisor	DC220022	12/07/2021		
National Telecommunications and Information Administration.	National Telecommunications and Information Administration.	Special Policy Advisor	DC220125	06/03/2022		
		Special Assistant	DC220061	01/27/2022		
Office of Advance, Scheduling and Protocol.	Office of Advance, Scheduling and Protocol.	Special Assistant	DC210168	08/06/2021		
		Chief Protocol Officer and Senior Advisor.	DC210181	08/26/2021		
Office of Advance, Scheduling and Protocol.	Office of Advance, Scheduling and Protocol.	Scheduler	DC220130	06/17/2022		
		Director, of Faith Based and Neighborhood Partnerships.	DC220092	03/25/2022		
Office of Business Liaison	Office of Business Liaison	Deputy Director, Office of Public Engagement.	DC220116	05/20/2022		
		Deputy Director (2)	DC220108	05/06/2022		
Office of Executive Secretariat	Office of Executive Secretariat	Deputy Director (2)	DC220014	10/22/2021		

Agency name	Organization name	Position title	Authorization No.	Effective date
		Special Assistant (3)	DC210167 DC220048 DC220121 DC210202	08/05/2021 01/18/2022 06/03/2022 09/24/2021
	Office of Legislative and Intergovernmental Affairs.	Director of Legislative Affairs Special Assistant	DC210202	09/24/2021
	Office of Policy and Strategic Planning.	Director for Oversight	DC220013 DC220008	10/22/2021 11/05/2021
	Office of Public Affairs	Policy Advisor	DC210159	07/06/2021
	Office of the Assistant Secretary for Economic Development.	Senior Policy Advisor Counselor to the Secretary Deputy Director of Public Affairs and Director of Speechwriting. Deputy Director of Public Affairs and Press Secretary. Deputy Press Secretary Deputy Speechwriter Press Assistant	DC220007 DC220085 DC220025 DC220032 DC210164 DC220024 DC220067 DC220100	11/05/2021 03/28/2022 11/18/2021 12/06/2021 08/05/2021 12/06/2021 02/10/2022 04/08/2022
	Office of the Chief Financial Officer and Assistant Secretary for Administration.	Director of Strategic Partnerships .. Senior Advisor Special Assistant Special Policy Advisor to the Assistant Secretary.	DC210203 DC210163 DC220066 DC220088	09/29/2021 07/16/2021 02/10/2022 03/14/2022
	Office of the Chief of Staff	Chief of Staff to the Chief Financial Officer and Assistant Secretary for Administration. Special Assistant	DC220076 DC220084 DC220038	03/10/2022 03/25/2022 12/16/2021
	Office of the Deputy Secretary	Director of Scheduling and Advance. Senior Advisor	DC220046 DC220050	01/18/2022 01/18/2022
	Office of the General Counsel	Counselor to the Deputy Secretary Special Assistant	DC220096 DC210187 DC210194	03/25/2022 09/09/2021 09/26/2021
	Office of the Secretary	Counsel (2)	DC220002 DC220064	10/10/2021 02/10/2022
	Office of the Under Secretary	Special Assistant (2)	DC220087 DC220089 DC220091 DC220023 DC210199	03/14/2022 03/17/2022 03/18/2022 11/18/2021 09/24/2021
	Office of the White House Liaison	Special Assistant to the Secretary Policy Advisor (2)	DC220087 DC220089 DC220091 DC220023 DC210199	03/14/2022 03/17/2022 03/18/2022 11/18/2021 09/24/2021
	Federal Permitting Improvement Steering Council.	Speechwriter and Policy Advisor ... Special Assistant	DC220040 DC220133 DC220136	01/03/2022 06/17/2022 06/17/2022
FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL.	Office of Public Affairs	Deputy White House Liaison	DC220136	06/17/2022
COMMODITY FUTURES TRADING COMMISSION.	Office of the Chairperson	Associate Director for Public Engagement.	FF220001	01/24/2022
CONSUMER FINANCIAL PROTECTION BUREAU.	Office of the Director	Director	CT220001	12/09/2021
	Office of the Assistant Secretary of Defense (Legislative Affairs).	Senior Advisor	CT220002	05/06/2022
	Office of the Assistant Secretary of Defense (Readiness).	Executive Secretary and Senior Advisor to the Director.	FP210024	08/26/2021
	Office of the Assistant Secretary of Defense (Strategy, Plans and Capabilities).	Senior Advisor to the Director (Communications).	FP220005	06/27/2022
	Office of the Assistant to the Secretary of Defense (Public Affairs).	Senior Advisor (Policy and Strategic Planning).	FP220006	06/27/2022
DEPARTMENT OF DEFENSE	Office of the Assistant Secretary of Defense (Legislative Affairs).	Special Assistant (8)	DD210261 DD210264 DD210269 DD220015 DD220021 DD220096 DD220153 DD220149 DD220125	08/19/2021 09/08/2021 09/14/2021 11/15/2021 12/01/2021 02/16/2022 06/30/2022 06/15/2022 04/07/2022
	Office of the Assistant Secretary of Defense (Strategy, Plans and Capabilities).	Special Assistant	DD220019 DD220084 DD220138 DD220143	12/01/2021 02/02/2022 05/16/2022 06/01/2022

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of the Director (Cost Assessment and Program Evaluation). Office of the Secretary of Defense Office of the Under Secretary of Defense (Acquisition and Sustainment). Office of the Under Secretary of Defense (Comptroller). Office of the Under Secretary of Defense (Intelligence and Security). Office of the Under Secretary of Defense (Personnel and Readiness). Office of the Under Secretary of Defense (Policy). Office of the Under Secretary of Defense (Research and Engineering). Washington Headquarters Services	Director, Integrated Campaigns	DD220114	03/14/2022
		Research Assistant	DD220133	05/06/2022
		Senior Research Special Assistant	DD210271	09/28/2021
		Speechwriter	DD220097	02/24/2022
		Special Assistant	DD220017	11/17/2021
		Advance Officer (3)	DD210246	07/06/2021
			DD210258	08/05/2021
			DD220128	04/19/2022
		Deputy White House Liaison (2)	DD220087	02/25/2022
			DD220148	06/15/2022
		Protocol Officer	DD210267	09/09/2021
		Special Assistant	DD220150	06/17/2022
		Special Assistant	DD220077	01/26/2022
		Special Assistant (2)	DD210248	07/29/2021
			DD220089	02/03/2022
		Senior Intelligence Assistant	DD220092	02/08/2022
		Special Advisor	DD220142	06/01/2022
		Special Assistant (2)	DD210247	07/20/2021
			DD220036	01/06/2022
		Director, Homeland Defense and Security.	DD210259	08/06/2021
	Special Assistant (2)	DD210252	07/29/2021	
		DD220098	02/24/2022	
	Special Assistant (2)	DD210245	07/06/2021	
		DD210253	08/04/2021	
	Special Advisor	DD220027	12/02/2021	
	Defense Fellow (10)	DD220013	11/11/2021	
		DD220011	11/17/2021	
		DD220014	11/17/2021	
		DD220016	11/17/2021	
		DD220020	12/01/2021	
		DD220024	12/02/2021	
		DD220025	12/15/2021	
		DD220033	12/21/2021	
		DD220035	01/18/2022	
		DD220134	05/10/2022	
		DD220152	06/23/2022	
DEPARTMENT OF THE AIR FORCE.	Office of Assistant Secretary Air Force for Financial Management and Comptroller.	Special Assistant	DF220003	11/19/2021
	Office of Assistant Secretary Air Force for Acquisition.	Special Assistant (2)	DF220006	12/28/2021
		DF220009	03/02/2022	
	Office of Assistant Secretary of the Air Force for Manpower and Reserve Affairs.	Special Assistant	DF220014	06/02/2022
DEPARTMENT OF THE ARMY	Office Assistant Secretary Army (Acquisition, Logistics and Technology).	Special Assistant to the Assistant Secretary of the Army (Acquisition, Logistics and Technology).	DW210033	09/22/2021
	Office Assistant Secretary Army (Installations, Energy and Environment).	Special Assistant to the Assistant Secretary of the Army (Installation, Energy and Environment).	DW220017	01/07/2022
	Office Assistant Secretary Army (Manpower and Reserve Affairs).	Special Assistant to the Assistant Secretary of the Army (Manpower and Reserve Affairs).	DW220028	04/21/2022
	Office of the Secretary	Special Assistant to the Secretary of the Army for Diversity, Equity and Inclusion.	DW210019	07/08/2021
DEPARTMENT OF THE NAVY	Office of the Assistant Secretary of Navy (Energy, Installations and Environment).	Confidential Assistant	DW210029	08/12/2021
		Senior Advisor to the Secretary of the Navy (Climate).	DN210025	07/19/2021
	Office of the Assistant Secretary of Navy (Manpower and Reserve Affairs).	Attorney-Advisor (General)	DN210024	07/22/2021

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF EDUCATION ...	Office for Civil Rights	Deputy Assistant Secretary for Legal Affairs.	DB220002	11/11/2021
	Office of Career Technical and Adult Education.	Confidential Assistant	DB220011	01/06/2022
		Confidential Assistant	DB210120	08/04/2021
	Office of Communications and Outreach.	Deputy Assistant Secretary	DB220060	06/29/2022
		Senior Advisor	DB210140	10/18/2021
		Special Assistant	DB210132	09/01/2021
		Confidential Assistant	DB220037	03/04/2022
	Office of Elementary and Secondary Education.	Deputy Press Secretary	DB210143	10/18/2021
		Senior Advisor (2)	DB220017	01/19/2022
		Special Assistant (2)	DB220022	02/02/2022
		Special Assistant (2)	DB210142	09/28/2021
	Office of Legislation and Congressional Affairs.	Traveling Digital Director	DB220021	02/02/2022
		Confidential Assistant (2)	DB220051	05/04/2022
	Office of Planning, Evaluation and Policy Development.	Confidential Assistant (2)	DB210115	07/26/2021
		Confidential Assistant	DB220035	03/10/2022
	Office of Postsecondary Education	Confidential Assistant	DB210117	07/26/2021
		Deputy Assistant Secretary	DB210138	09/16/2021
	Office of the General Counsel	Special Assistant	DB210133	08/27/2021
		Deputy Director, Office of Educational Technology.	DB210139	09/16/2021
	Office of the Secretary	Confidential Assistant	DB220016	01/06/2022
		Special Assistant (2)	DB220019	01/27/2022
	Office of the Under Secretary	Special Assistant (2)	DB220020	02/02/2022
		Senior Advisor	DB220028	02/02/2022
	Office of the Under Secretary	Confidential Assistant (2)	DB210118	07/26/2021
		Special Assistant	DB210122	08/04/2021
	Office of the Under Secretary	Senior Counsel	DB210127	08/18/2021
		Confidential Assistant	DB220036	03/04/2022
	Office of the Under Secretary	Confidential Assistant	DB220047	04/26/2022
		Chief of Staff	DB210134	09/08/2021
	Office of the Under Secretary	Confidential Assistant (4)	DB210116	07/31/2021
		Confidential Assistant	DB210121	08/04/2021
	Office of the Under Secretary	Confidential Assistant	DB220034	02/14/2022
		Confidential Assistant	DB220040	03/15/2022
Office of the Under Secretary	Deputy Director of Advance	DB210131	08/19/2021	
	Director of Advance	DB210129	08/18/2021	
Office of the Under Secretary	Director, Strategic Partnerships	DB220003	11/09/2021	
	Director, White House Liaison	DB220033	02/09/2022	
Office of the Under Secretary	Executive Director, White House Initiative on Advancing Educational Equity, Excellence, and Economic.	DB220062	06/16/2022	
	Senior Advisor (3)	DB210141	10/18/2021	
Office of the Under Secretary	Senior Advisor	DB220027	02/14/2022	
	Special Assistant (2)	DB220039	03/10/2022	
Office of the Under Secretary	Special Assistant (2)	DB210119	07/26/2021	
	Special Assistant	DB220009	12/16/2021	
Office of the Under Secretary	Advisor for Data Security (2)	DB210130	08/16/2021	
	Confidential Assistant (2)	DB210135	08/27/2021	
Office of the Under Secretary	Confidential Assistant (2)	DB220015	12/30/2021	
	Confidential Assistant	DB220043	04/06/2022	
DEPARTMENT OF ENERGY	Office of the Assistant Secretary for Congressional and Intergovernmental Affairs.	Deputy Assistant Secretary, Public Engagement.	DE220036	04/14/2022
		Legislative Affairs Advisor (House)	DE220026	02/11/2022
		Legislative Affairs Advisor (Senate)	DE220083	06/10/2022
		Regional Intergovernmental and External Affairs for the Northeast.	DE210189	09/20/2021
		Regional Intergovernmental and External Affairs for the South-west.	DE210182	09/20/2021
		Regional Intergovernmental and External Affairs Specialist.	DE210186	09/20/2021
		Regional Intergovernmental and External Affairs Specialist for Appalachia.	DE210184	12/12/2021
Office of the Assistant Secretary for Congressional and Intergovernmental Affairs.	Regional Intergovernmental and External Affairs Specialist.	DE220001	01/03/2022	
	Regional Intergovernmental and External Affairs Specialist for Appalachia.	DE210183	09/20/2021	

Agency name	Organization name	Position title	Authorization No.	Effective date	
ENVIRONMENTAL PROTECTION AGENCY.	Office of the Assistant Secretary for Energy Efficiency and Renewable Energy.	Director of External Affairs	DE210169	08/02/2021	
	Office of the Assistant Secretary for Nuclear Energy.	Senior Advisor	DE220056	06/30/2022	
		Special Assistant	DE210158	07/02/2021	
	Office of National Nuclear Security Administration.	Chief of Staff	DE220051	04/14/2022	
		Director of Public Affairs	DE210175	08/11/2021	
	Office of Economic Impact and Diversity.	Special Assistant	DE210163	07/09/2021	
		Special Advisor for Stakeholder Engagement.	DE220028	02/18/2022	
	Office of General Counsel	Attorney-Advisor (General)	DE220023	02/18/2022	
	Office of Management	Director of Advance	DE220003	11/05/2021	
		Director of Scheduling	DE210181	09/07/2021	
	Office of Manufacturing and Energy Supply Chains.	Special Assistant	DE210166	07/09/2021	
		Special Assistant for Advance (2) ..	DE220034	02/18/2022	
			DE220085	06/10/2022	
		Special Assistant	DE220078	05/05/2022	
		Office of Policy	Chief of Staff	DE220005	11/05/2021
			Office of Public Affairs	Deputy Press Secretary (3)	DE210170	07/17/2021
		Office of Science		DE210157	08/16/2021
	DE210198		09/22/2021		
	Digital Content Manager		DE210162	07/09/2021	
	Special Assistant		DE210201	09/29/2021	
	Writer-Editor Speechwriter		DE220080	05/11/2022	
	Special Assistant		DE210188	09/29/2021	
	Special Advisor		DE210173	08/04/2021	
	Chief of Staff		DE210161	07/02/2021	
	Deputy Chief of Staff		DE220042	04/04/2022	
	Office of the Secretary		Special Assistant (2)	DE220035	02/18/2022
		DE210155	08/16/2021		
	Office of the State and Community Energy Programs.	Chief of Staff	DE220092	06/30/2022	
		Chief of Staff	DE220079	05/11/2022	
	Office of the Under Secretary of Energy.	Office of Public Affairs	Deputy Associate Administrator for Public Affairs.	EP210103	08/18/2021
			Senior Advisor for Digital Strategies and Content Development.	EP220007	10/27/2021
		Office of Public Engagement and Environmental Education.	Writer-Editor (Speechwriter)	EP220025	01/20/2022
			Senior Advisor for Environmental Education.	EP220044	05/04/2022
	Office of the Administrator	Public Engagement Specialist	EP220062	06/27/2022	
		Attorney-Advisor (General)	EP220039	03/11/2022	
		Deputy White House Liaison (3)	EP210100	08/17/2021	
			EP220043	04/26/2022	
			EP220047	05/04/2022	
		Scheduler	EP220037	03/08/2022	
			White House Liaison	EP220049	05/16/2022
	Office of the Assistant Administrator for Mission Support.	Deputy Assistant Administrator for Mission Support.	EP210104	09/07/2021	
	Office of the Assistant Administrator for Water.	Senior Advisor for Technical Assistance and Community Outreach.	EP220021	01/12/2022	
		Senior Advisor for Implementation	EP220038	03/11/2022	
Office of the Associate Administrator for Congressional and Intergovernmental Relations.	Deputy Associate Administrator for Congressional Affairs (House Relations).	EP210099	08/02/2021		
	Special Advisor for Intergovernmental Affairs.	EP220046	05/03/2022		
	Special Assistant (2)	EP210097	08/02/2021		
		EP220048	05/06/2022		
Office of the Associate Administrator for Policy.	Special Assistant	EP220056	06/07/2022		
	Special Advisor for Implementation	EP220024	01/19/2022		
Office of the Chief Financial Officer Region II—New York, New York	Special Advisor for Implementation	EP220055	06/07/2022		
	Executive Staff Assistant	EE210011	07/27/2021		
Equal Employment Opportunity Commission.	Office of the Chair	Policy Analyst	EE210010	07/19/2021	
		Writer-Editor (Speeches)	EE220001	10/15/2021	
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.					

Agency name	Organization name	Position title	Authorization No.	Effective date
FEDERAL ENERGY REGULATORY COMMISSION. FEDERAL HOUSING FINANCE AGENCY. FEDERAL MEDIATION AND CONCILIATION SERVICE. FEDERAL TRADE COMMISSION .. GENERAL SERVICES ADMINISTRATION.	Office of the Commissioner	Economic Advisor	DR220001	12/21/2021
	Office of Director	Director, Office of Congressional Affairs and Communication.	HA210004	08/19/2021
	Office of the Director	Management and Program Analyst	FM210001	10/20/2021
	Office of the Chair	Confidential Assistant	FT220002	02/04/2022
	Federal Acquisition Service	Program Director, Presidential Innovation Fellows.	GS220011	01/27/2022
	Office of Congressional and Intergovernmental Affairs.	Deputy Associate Administrator for Policy (3).	GS210044	08/30/2021
		GS220004	11/15/2021	
		GS220005	11/18/2021	
	Office of General Counsel	Counsel to the General Counsel	GS220001	10/10/2021
	Office of Strategic Communication	Deputy Associate Administrator for Media Affairs.	GS210038	07/12/2021
		Speechwriter	GS210042	08/12/2021
	Office of the Administrator	Director of Public Engagement	GS220010	01/31/2022
		Director of Advance	GS210045	09/09/2021
		Executive Assistant	GS210037	07/12/2021
		Senior Advisor to the Administrator (Climate).	GS220015	06/30/2022
Senior Advisor to the Administrator (State, Local, Tribal and Territorial).		GS210041	08/12/2021	
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of Administration for Children and Families.	Special Assistant	GS220002	10/12/2021
		Director of Communications	DH210243	09/28/2021
	Office of Administration for Children and Families.	Senior Advisor (2)	DH210250	10/01/2021
		DH220010	10/21/2021	
		Senior Advisor for Early Childhood Development.	DH220029	12/22/2021
	Office of Administration for Children and Families.	Special Assistant (2)	DH220022	11/15/2021
		DH220101	06/23/2022	
	Office of Administration for Community Living.	Special Assistant	DH220122	06/30/2022
	Center for Medicaid and CHIP Services.	Policy Advisor (2)	DH220005	10/15/2021
	Center for Medicare	Policy Advisor	DH210228	08/11/2021
		DH220078	04/28/2022	
	Office for Civil Rights	Policy Advisor	DH220077	04/28/2022
		Deputy Director, White House Initiative on Asian Americans, Native Hawaiians, and Pacific Islanders.	DH220026	12/02/2021
	Office of Global Affairs	Senior Advisor	DH220067	04/07/2022
		Chief of Staff	DH210237	09/07/2021
	Office of Intergovernmental and External Affairs.	Director, Center for Faith-Based and Neighborhood Partnerships.	DH220021	11/15/2021
		External Affairs Specialist	DH220041	02/03/2022
		Regional Director Philadelphia Region III.	DH220072	04/13/2022
		Regional Director, Atlanta, Georgia, Region IV.	DH220052	03/24/2022
		Regional Director, Boston, Massachusetts, Region I.	DH220119	06/30/2022
		Regional Director, Chicago, Illinois-Region V.	DH220058	04/04/2022
		Regional Director, Dallas, Texas, Region VI.	DH220004	10/26/2021
		Regional Director, Denver, Colorado, Region VIII.	DH210233	09/08/2021
		Regional Director, Kansas City, Missouri, Region VII.	DH220083	05/03/2022
		Regional Director, New York, New York, Region II.	DH220016	11/15/2021
Regional Director, San Francisco, California, Region IX.		DH220012	11/01/2021	
Regional Director, Seattle, Washington, Region X.		DH220011	11/10/2021	
Special Assistant (2)		DH210227	07/29/2021	
DH220003		10/15/2021		
Office of Refugee Resettlement/Office of the Director.		Special Assistant	DH220043	02/09/2022
	Chief of Staff	DH220049	03/01/2022	

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of the Assistant Secretary for Administration.	Senior Advisor for Strategic Initiatives.	DH220017	11/15/2021
	Office of the Assistant Secretary for Health.	Director of Communications	DH220046	02/25/2022
	Office of the Assistant Secretary for Legislation.	Chief of Staff	DH220050	03/16/2022
		Senior Advisor, Oversight	DH220094	05/31/2022
		Special Assistant (2)	DH210251	09/28/2021
			DH220121	06/30/2022
	Office of the Assistant Secretary for Preparedness and Response.	Senior Advisor	DH210212	07/13/2021
		Advisor	DH220045	02/11/2022
	Office of the Assistant Secretary for Public Affairs.	Advisor, Public Education Campaign.	DH220079	04/28/2022
		Online Communications Director ...	DH220044	02/09/2022
		Press Assistant	DH220006	10/19/2021
		Press Secretary (4)	DH220034	01/10/2022
			DH220036	01/21/2022
			DH220080	04/28/2022
			DH210252	09/29/2021
		Special Assistant	DH220007	10/20/2021
	Office of the Deputy Secretary	Special Assistant (2)	DH210226	07/29/2021
			DH220030	12/13/2021
		Senior Advisor	DH220087	05/12/2022
	Office of the Secretary	Advance Representative	DH220059	03/24/2022
		Policy Advisor (2)	DH210239	09/07/2021
			DH220038	01/26/2022
		Scheduler (2)	DH210222	07/22/2021
			DH220092	05/23/2022
		Senior Advisor, Boards and Commissions.	DH220068	04/07/2022
		Special Assistant (2)	DH210244	10/06/2021
			DH220099	06/01/2022
		Special Assistant and Briefing Book Coordinator.	DH220066	04/04/2022
DEPARTMENT OF HOMELAND SECURITY.	Cybersecurity and Infrastructure Security Agency.	Special Assistant	DM210377	09/14/2021
	Federal Emergency Management Agency.	Senior Advisor	DM220031	12/23/2021
		Counselor to the Administrator	DM220090	03/01/2022
		Deputy Director of Public Affairs	DM220129	04/14/2022
		Director of Intergovernmental Affairs.	DM220205	06/17/2022
		Director of Legislative Affairs	DM210402	07/21/2021
		Director of Public Affairs	DM210397	07/02/2021
		Director, Center for Faith-Based and Neighborhood Partnerships.	DM210404	07/21/2021
		Special Assistant	DM220091	02/16/2022
	Office of Management Directorate	Advisor	DM210407	07/26/2021
	Office for Civil Rights and Civil Liberties.	Special Assistant	DM210422	08/17/2021
		Senior Advisor	DM220032	12/02/2021
		Chief of Staff	DM220135	04/27/2022
Office of Legislative Affairs	Advisor for Strategic Engagement	DM220190	05/31/2022	
		Associate Director	DM220098	02/25/2022
		Chief of Staff (2)	DM210399	07/12/2021
			DM220097	02/25/2022
		Director of Legislative Affairs (2)	DM220156	05/19/2022
			DM220188	06/14/2022
	Office of Partnership and Engagement.	Executive Director, Homeland Security Advisory Council.	DM220198	06/23/2022
		Intergovernmental Affairs Coordinator.	DM210435	08/24/2021
		Partnership and Engagement Specialist (2).	DM220084	02/03/2022
			DM220083	02/08/2022
		Special Assistant	DM220013	10/27/2021
	Office of Public Affairs	Press Assistant	DM220094	02/16/2022
		Researcher	DM220160	05/02/2022
	Office of Strategy, Policy, and Plans.	Counselor to the Under Secretary	DM210468	09/21/2021
		Executive Director for the Department of Homeland Security Disinformation Governance Board.	DM220087	02/17/2022

Agency name	Organization name	Position title	Authorization No.	Effective date		
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.		Managing Director for Strategy Office of Cyber, Infrastructure, Risk, and Resilience.	DM220015	11/26/2021		
		Policy Advisor (2)	DM210471 DM220179 DM210472	09/30/2021 05/19/2022 09/28/2021		
		Senior Counselor to the Under Secretary.	DM210460	09/16/2021		
		Special Assistant	DM220089	03/23/2022		
		Office of the General Counsel	Oversight Counsel (2)	DM220039 DM220138	12/07/2021 04/26/2022	
		Office of the Secretary	Deputy White House Liaison (2)	DM220014 DM220142	10/24/2021 04/20/2022	
			Special Assistant	DM220150	05/20/2022	
			Special Assistant to the Deputy Secretary.	DM210467	09/21/2021	
			Special Assistant, White House Liaison.	DM220189	05/16/2022	
		Privacy Office	Special Assistant	DM220070	01/12/2022	
		Transportation Security Administration.	Senior Advisor	DM220174	06/08/2022	
			Senior Counselor	DM210398	07/23/2021	
		United States Citizenship and Immigration Services.	Special Assistant	DM220145	04/25/2022	
			Speechwriter	DM220182	05/19/2022	
			Deputy Chief of Staff	DM220075	02/08/2022	
		United States Customs and Border Protection.	Senior Advisor (2)	DM220064 DM220184	02/02/2022 05/31/2022	
			Special Assistant to the Director	DM220063	02/01/2022	
			Special Assistant	DM210455	09/14/2021	
		Office of the United States Immigration and Customs Enforcement.	Senior Advisor for Strategic Communication.	DM210465	09/21/2021	
			Advisor to the Commissioner	DM210477	10/20/2021	
			Special Assistant (2)	DM220099 DM220128	02/15/2022 05/05/2022	
		Government National Mortgage Association.	Legislative Correspondent	DM210409	08/17/2021	
			Counselor to the Director	DM220131	04/28/2022	
		Office of Community Planning and Development.	Senior Advisor (2)	DU220026 DU220049	02/05/2022 06/17/2022	
			Policy Advisor	DU220050	06/30/2022	
		Office of Congressional and Intergovernmental Relations.	Senior Advisor	DU220004	10/12/2021	
			Senior Advisor for Disaster Recovery.	DU220047	06/17/2022	
			Special Assistant to the Assistant Secretary.	DU220035	03/22/2022	
		Office of Fair Housing and Equal Opportunity.	Special Assistant	DU210105	09/16/2021	
			Deputy Assistant Secretary for Intergovernmental Relations.	DU220005	10/21/2021	
		Office of Field Policy and Management.	Senior Advisor	DU220015	12/08/2021	
			Special Assistant	DU210103	09/08/2021	
		Office of Housing	Regional Administrator (5)	Regional Administrator (5)	DU220009 DU220008 DU220011 DU220010 DU220012	11/16/2021 11/22/2021 11/24/2021 12/07/2021 12/07/2021
				Regional Administrator (Region I) (2).	DU220028 DU220025	02/09/2022 02/14/2022
				Regional Administrator Region VII	DU220001	10/26/2021
				Regional Administrator Region VIII	DU220002	10/26/2021
				Regional Administrator Region IV	DU220003	12/08/2021
				Senior Advisor (2)	DU220006 DU220039	11/17/2021 04/22/2022
				Senior Advisor	DU210089	07/09/2021
				Special Assistant	DU210088	07/15/2021
				Special Policy Advisor	DU210099	08/26/2021
				Office of Policy Development and Research.		

Agency name	Organization name	Position title	Authorization No.	Effective date	
DEPARTMENT OF THE INTERIOR	Office of Public Affairs	Assistant Press Secretary (2)	DU210095	08/16/2021	
			DU210101	09/02/2021	
		Deputy Press Secretary	DU210087	07/09/2021	
		Digital Strategist	DU210104	09/08/2021	
		Director of Speechwriting	DU220034	03/17/2022	
		Senior Press Secretary	DU220033	03/01/2022	
		Office of the Administration	Advance Coordinator (2)	DU210094	08/18/2021
				DU210096	08/18/2021
		Office of the Chief Information Officer.	Special Assistant	DU220045	06/17/2022
			Special Assistant	DU220017	01/05/2022
	Office of the Deputy Secretary	Policy Advisor—Special Advisor	DU220020	01/13/2022	
			DU220032	02/28/2022	
	Office of the General Counsel	Senior Counsel	DU220007	11/24/2021	
	Office of the Secretary	Director of Domestic Violence	DU210090	07/22/2021	
		Senior Advisor (2)	DU210097	08/16/2021	
			DU220014	12/06/2021	
		Senior Advisor—Puerto Rico	DU210091	07/09/2021	
		Senior Advisor for Disaster Recovery.	DU220029	02/14/2022	
		Special Assistant for Budget Policy and Programs.	DU220027	02/16/2022	
		Office of the Assistant Secretary—Fish and Wildlife and Parks.	Senior Advisor	DI220063	04/26/2022
			Office of the Assistant Secretary—Indian Affairs.	Special Assistant	DI210138	09/14/2021
				Senior Advisor to the Assistant Secretary—Indian Affairs.	DI220052	03/24/2022
		Office of the Assistant Secretary—Water and Science.	Special Assistant to the Assistant Secretary—Water and Science.	DI210126	07/01/2021
	Office of the Solicitor	Advisor to the Solicitor (2)	DI220045	02/25/2022	
			DI220058	04/20/2022	
		Secretary's Immediate Office	Advance Representative	DI220001	11/02/2021
			Advisor	DI210137	08/18/2021
		Advisor to the Director of Intergovernmental and External Affairs.	DI210131	08/06/2021	
		Advisor, Office of Congressional and Legislative Affairs.	DI220038	01/31/2022	
		Alaska Coordinator	DI220056	03/24/2022	
		Deputy Communications Director ..	DI220057	03/25/2022	
		Deputy White House Liaison	DI210124	07/01/2021	
Director, Office of Scheduling and Advance.		DI210142	10/04/2021		
Scheduler	DI220013	01/07/2022			
Senior Advance Representative	DI210136	08/19/2021			
Senior Advisor	DI220007	11/22/2021			
Senior Communications Advisor for Infrastructure.	DI220059	04/19/2022			
DEPARTMENT OF JUSTICE	Office of Antitrust Division	Chief of Staff and Senior Counsel	DJ220077	05/16/2022	
		Counsel	DJ220087	06/02/2022	
		Senior Counsel	DJ220069	04/21/2022	
	Office of Civil Division	Counsel (2)	DJ210166	09/01/2021	
			DJ210169	09/08/2021	
	Office of Civil Rights Division	Chief of Staff and Senior Counsel	DJ210170	09/01/2021	
			Counsel (2)	DJ210154	07/30/2021
			DJ220052	03/23/2022	
		Senior Counsel	DJ220046	03/23/2022	
		Special Assistant	DJ210104	07/02/2021	
	Community Relations Service	Senior Counsel	DJ210181	10/07/2021	
	Office of Environment and Natural Resources Division.	Chief of Staff and Senior Counsel	DJ220019	11/30/2021	
		Office of Justice Programs	Senior Policy Advisor (2)	DJ220013	11/19/2021
			DJ220018	11/30/2021	
	Office of Legal Counsel	Counsel	DJ210157	07/28/2021	
		Senior Counselor	DJ220053	03/23/2022	
	Office of Legal Policy	Senior Counsel (2)	DJ210165	09/01/2021	
			DJ210102	04/13/2022	
		Counsel	DJ220084	06/02/2022	
	Office of Legislative Affairs	Counsel	DJ210179	10/07/2021	
Senior Counsel (2)		DJ220001	10/07/2021		
		DJ220083	05/20/2022		
Office of Public Affairs	Press Assistant	DJ210151	07/15/2021		
	Chief Speechwriter	DJ220006	10/26/2021		

Agency name	Organization name	Position title	Authorization No.	Effective date	
DEPARTMENT OF LABOR	Office of the Associate Attorney General.	Senior Communications Advisor	DJ220023	01/12/2022	
		Deputy Speechwriter	DJ220055	04/21/2022	
		Deputy Associate Attorney General	DJ210176	09/15/2021	
	Office of the Attorney General	Office of the Deputy Attorney General.	Counsel	DJ210174	09/16/2021
			Special Assistant	DJ210167	09/08/2021
			Confidential Assistant	DJ210149	07/28/2021
	Office of Violence Against Women Bureau of International Labor Affairs.	Office of Employment and Training Administration.	Counsel (2)	DJ210150 DJ210103	07/16/2021 04/13/2022
			Senior Counselor	DJ210177	09/15/2021
			Policy Advisor	DJ210178	10/07/2021
	Mine Safety and Health Administration.	Occupational Safety and Health Administration.	Special Assistant	DL210124	09/30/2021
			Senior Policy Advisor (2)	DL220012	12/21/2021
			Senior Policy Advisor (2)	DL220008 DL220038	12/21/2021 03/10/2022
	Office of Congressional and Intergovernmental Affairs.	Office of Disability Employment Policy.	Senior Advisor	DL210112	08/12/2021
			Senior Policy Advisor (2)	DL210108 DL220001	08/20/2021 10/27/2021
			Senior Legislative Officer	DL210107	07/08/2021
	Office of Federal Contract Compliance Programs.	Office of Public Affairs	Legislative Officer (2)	DL220009 DL220020	11/22/2021 12/22/2021
			Tribal Liaison	DL220030	03/10/2022
			Chief of Staff	DL220043	04/13/2022
	Office of the Assistant Secretary for Administration and Management.	Office of the Assistant Secretary for Policy.	Senior Advisor	DL220004	11/22/2021
			Special Assistant	DL210111	08/23/2021
			Deputy Speechwriter	DL220002	10/28/2021
	Office of the Deputy Secretary	Office of the Secretary	Chief of Staff	DL220029	02/25/2022
			Policy Advisor (2)	DL210103 DL210109	07/07/2021 08/07/2021
			Good Jobs Initiative Policy Advisor Deputy Director of the Good Jobs Initiative and Senior Policy Advisor.	DL220044 DL220050	04/13/2022 05/18/2022
	Office of the Solicitor	Office of Workers Compensation Programs.	Senior Advisor	DL220005	10/28/2021
			Advance Associate (2)	DL210113 DL210115	08/12/2021 08/27/2021
			Deputy Advisor for Private Sector Engagement.	DL220063	06/08/2022
	Office of Veterans Employment and Training Service.	Office of Wage and Hour Division	Deputy Advisor for Worker Voice Engagement.	DL220062	06/03/2022
			Deputy White House Liaison	DL220039	03/23/2022
			Policy Advisor	DL220037	03/23/2022
	Office of Women's Bureau	Office of the Board, Vice Chairman	Scheduler	DL210120	09/30/2021
			Senior Advisor for Private Sector Engagement (2).	DL220048 DL220049	05/18/2022 05/18/2022
			Travelling Special Assistant	DL220010	11/09/2021
	Office of the Board, Chairman	Office of the Board, Chairman	White House Liaison	DL220032	03/10/2022
			Counsel	DL220003	10/19/2021
			Senior Counsel	DL220022	01/18/2022
	MERIT SYSTEMS PROTECTION BOARD.	Office of the Board, Chairman	Policy Advisor	DL220047	05/09/2022
			Special Advisor (2)	DL210116 DL220061	09/22/2021 06/03/2022
			Special Assistant	DL210125	10/06/2021
	MERIT SYSTEMS PROTECTION BOARD.	Office of the Board, Chairman	Policy Advisor (2)	DL210102 DL210106	07/07/2021 07/22/2021
			Senior Policy Advisor	DL220023	01/19/2022
			Senior Advisor (2)	DL210104 DL220036	07/08/2021 03/16/2022
	MERIT SYSTEMS PROTECTION BOARD.	Office of the Board, Vice Chairman	Confidential Assistant to the Vice Chairman.	MP220002	06/01/2022
			Office of the Board, Chairman	Confidential Assistant to the Chairman.	MP220003	06/15/2022

Agency name	Organization name	Position title	Authorization No.	Effective date	
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.	Office of Communications	Press Assistant	NN220034	06/03/2022	
		Senior Advisor for Strategic Communications.	NN210073	10/07/2021	
	Office of Legislative and Intergovernmental Affairs. Office of the Administrator	Special Assistant	NN210066	08/30/2021	
		Speechwriter	NN210050	07/12/2021	
		Special Assistant for Legislative and Intergovernmental Affairs.	NN210049	07/12/2021	
		Executive Assistant and Advisor	NN220027	05/26/2022	
		Special Assistant for Engagement	NN210059	08/02/2021	
		Special Assistant for Operations ...	NN210060	08/11/2021	
	NATIONAL CREDIT UNION ADMINISTRATION.	Office of the Chairman	White House Liaison	NN220004	11/10/2021
			Director, Office of External Affairs and Communications.	CU220001	01/21/2022
NATIONAL ENDOWMENT FOR THE ARTS. NATIONAL ENDOWMENT FOR THE HUMANITIES.	Office of the Board	Special Assistant and Advisor	CU220002	03/27/2022	
	National Endowment for the Arts ...	Special Assistant to the Chair	NA220001	02/22/2022	
NATIONAL LABOR RELATIONS BOARD.	Office of the Board Members	Director of Congressional Affairs ...	NH210006	09/20/2021	
		White House Liaison and Senior Advisor to the Chief of Staff.	NH210008	09/20/2021	
NATIONAL TRANSPORTATION SAFETY BOARD.	Office of Board Members	Congressional Liaison Specialist ...	NL210012	09/20/2021	
		Communications Specialist	NL220012	06/08/2022	
		Confidential Assistant	TB220004	03/18/2022	
OFFICE OF MANAGEMENT AND BUDGET.	Office of Board Members	Senior Advisor (2)	TB220002	01/03/2022	
			TB220001	12/09/2021	
			TB210002	09/13/2021	
	Office of Communications	Deputy Associate Director for Communications.	BO220003	10/25/2021	
		Press Assistant	BO220009	03/23/2022	
		Associate Deputy General Counsel	BO210078	09/01/2021	
		Deputy to the Associate Director ...	BO220012	03/31/2022	
		Confidential Assistant	BO220004	12/17/2021	
		Confidential Assistant	BO220007	03/07/2022	
		Senior Advisor for Delivery (United States Digital Service) (3).	BO210079	09/20/2021	
			BO210080	09/24/2021	
			BO220005	01/24/2022	
			BO210081	10/01/2021	
	Office of Information and Regulatory Affairs.	Counselor (2)	BO210083	10/01/2021	
			BO220006	03/07/2022	
OFFICE OF NATIONAL DRUG CONTROL POLICY. OFFICE OF PERSONNEL MANAGEMENT.	Office of the Director	Confidential Assistant	BO220010	03/17/2022	
	Office of State, Local and Tribal Affairs.	Policy Analyst (2)	QQ220002	03/05/2022	
			QQ220003	03/15/2022	
Congressional, Legislative, and Intergovernmental Affairs.	Senior Advisor (2)		PM210065	07/01/2021	
			PM220014	01/12/2022	
	Deputy Director		PM220024	04/05/2022	
		Chief of Staff	PM220008	01/20/2022	
	Office of Communications	Chief Speechwriter and Senior Advisor for Communications.	PM210067	07/16/2021	
		Special Assistant	PM220022	03/09/2022	
		Press Secretary	PM220037	05/13/2022	
	Office of the Chief Information Officer.	Special Assistant	PM210075	09/13/2021	
		Office of the Director	Confidential Assistant	PM220011	01/27/2022
	Presidents Commission on White House Fellowships.	Senior Advisor for Appointee Leadership Development.	PM210072	09/27/2021	
		Senior Advisor for Leadership Development and Equity.	PM220019	02/25/2022	
		Senior Advisor for Strategic Initiatives.	PM220012	01/31/2022	
Special Counsel and Senior Advisor.		PM220017	02/10/2022		
OFFICE OF SCIENCE AND TECHNOLOGY POLICY.	Office of Science and Technology Policy.	Special Assistant	PM210063	07/16/2021	
		Associate Director	PM210066	07/19/2021	
		Deputy Director	PM210069	07/23/2021	
	Special Assistant (2)	TS210006	07/08/2021		
		TS210007	07/08/2021		

Agency name	Organization name	Position title	Authorization No.	Effective date
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.	Office of Congressional Affairs	Special Advisor for Directors Initiatives.	TS210008	09/17/2021
		Director for Legislative Affairs	TS220004	04/27/2022
		Director for Congressional Affairs ..	TN210018	09/28/2021
UNITED STATES INTERNATIONAL DEVELOPMENT FINANCE CORPORATION.	Office of Public and Media Affairs	Deputy Assistant United States Trade Representative for Digital.	TN220009	06/17/2022
		Special Assistant (2)	PQ220001 PQ220002	11/24/2021 11/30/2021
SECURITIES AND EXCHANGE COMMISSION.	Office of Commissioner Crenshaw	Advisor	PQ220004	06/17/2022
		Confidential Assistant	SE210029	08/26/2021
	Office of Commissioner Peirce	Confidential Assistant	SE210010	07/21/2021
		General Counsel	SE220002	10/29/2021
		Legislative Affairs and Intergovernmental Affairs.	SE210025	07/21/2021
	Office of Public Affairs	Legislative Affairs Specialist (2)	SE220006	01/27/2022
			SE220009	03/24/2022
			SE210024	07/21/2021
			SE220007	02/10/2022
	Office of the Chairman	Communications Specialist	SE220008	02/17/2022
SE220010			05/20/2022	
SMALL BUSINESS ADMINISTRATION.	Office of Capital Access	Senior Advisor	SE210030	10/19/2021
		Senior Officer	SE220005	03/04/2022
	Office of Communications and Public Liaison.	Deputy Associate Administrator for Capital Access (2).	SE210023	07/21/2021
		Special Advisor	SB210049	07/22/2021
		Press Secretary	SB210051	07/29/2021
	Office of Disaster Assistance	Senior Advisor	SB210052	08/04/2021
			SB210047	07/16/2021
	Office of Entrepreneurial Development.	Senior Advisor	SB220004	10/24/2021
			Assistant Administrator for Native American Affairs.	SB220018	01/14/2022
		Office of Field Operations	Regional Administrator, Region V ..	SB220019	01/14/2022
Regional Administrator, Region VII			SB220005	10/29/2021
Regional Administrator, Region I ...			SB220001	10/29/2021
Regional Administrator, Region II ..			SB210054	10/29/2021
Regional Administrator, Region III			SB220008	10/29/2021
Regional Administrator, Region IV			SB220003	10/29/2021
Regional Administrator, Region IX (2).			SB220015	12/28/2021
Regional Administrator, Region VI			SB220011	12/08/2021
Regional Administrator, Region VIII	SB220025	03/31/2022		
Office of the Administrator	Regional Administrator, Region X, Seattle, Washington.	SB220002	10/29/2021	
		Confidential Assistant	SB220031	06/21/2022
		Counselor to the Administrator	SB210050	07/23/2021
		Director of Advance	SB220007	10/29/2021
		Senior Advisor	SB220023	03/10/2022
		Special Assistant	SB220030	05/17/2022
		White House Liaison	SB220027	03/31/2022
		Senior Advisor (2)	SZ220003	03/16/2022
		Senior Advisor	SZ220004	04/08/2022
		Senior Advisor	SZ220008	05/05/2022
SOCIAL SECURITY ADMINISTRATION.	Office of the Commissioner	Deputy Coordinator	DS220031	04/05/2022
		Senior Advisor	DS210269	08/19/2021
DEPARTMENT OF STATE	Bureau of Counterterrorism	Senior Advisor	DS210254	07/01/2021
		Deputy Assistant Secretary	DS210261	07/31/2021
	Bureau of Economic and Business Affairs.	Deputy Assistant Secretary	DS210250	08/04/2021
		Senior Advisor	DS210274	08/26/2021
	Bureau of Educational and Cultural Affairs.	Senior Advisor	DS220013	01/04/2022
		Principal Deputy Spokesperson	DS220049	06/03/2022
	Bureau of Global Public Affairs	Staff Assistant	DS210276	09/10/2021
		Senior Advisor (Nominations)	DS220037	05/06/2022
		Senior (Congressional) Advisor	DS220050	06/08/2022
	Bureau of Legislative Affairs	Senior Advisor	DS210277	09/10/2021
Senior Advisor		DS210277	09/10/2021	
Bureau of Oceans and International Environmental and Scientific Affairs.	Senior Advisor	DS210277	09/10/2021	

Agency name	Organization name	Position title	Authorization No.	Effective date	
TRADE AND DEVELOPMENT AGENCY. DEPARTMENT OF TRANSPORTATION.	Bureau of Overseas Buildings Operations.	Special Advisor	DS210289	09/24/2021	
		Supervisory Museum Curator (Arts)	DS220032	04/05/2022	
	Bureau of Population, Refugees and Migration.	Senior Advisor	DS220046	05/20/2022	
	Office of Global Food Security	Special Envoy for Global Food Security.	DS220030	04/05/2022	
	Office of Global Women's Issues ...	Staff Assistant	DS210260	07/31/2021	
	Office of Policy Planning	Senior Advisor (3)	DS210278	09/15/2021	
			DS210281	09/15/2021	
	Office of the Assistant Secretary Bureau of Democracy Human Rights and Labor.	Special Advisor	DS220016	01/28/2022	
			DS210280	09/14/2021	
		Special Advisor (Speechwriter)	DS210288	09/22/2021	
		Special Assistant (Speechwriter) ...	DS210285	09/23/2021	
		Senior Advisor	DS220029	03/25/2022	
		Office of the Chief of Protocol	Assistant Chief of Protocol (Visits)	DS210263	08/11/2021
			Assistant Manager	DS210282	09/22/2021
		Protocol Officer (Ceremonials)	Protocol Officer (Ceremonials)	DS220009	12/06/2021
			Protocol Officer (Diplomatic Partnerships).	DS210287	09/22/2021
		Senior Protocol Officer (Gifts)	Senior Protocol Officer (Gifts)	DS210252	07/01/2021
	Senior Protocol Officer (Major Events).		DS210253	07/01/2021	
	Senior Protocol Officer (Visits)	Senior Protocol Officer (Visits)	DS220015	01/04/2022	
	Office of the Counselor	Senior Advisor	DS210279	09/14/2021	
	Office of the Secretary	Senior Special Assistant	DS210242	07/19/2021	
		Chief of Staff	DS210258	07/29/2021	
	Office of the United States Global Aids Coordinator.	Staff Assistant	DS220045	05/20/2022	
		Senior Advisor	DS210259	07/29/2021	
	Office of the Under Secretary for Arms Control and International Security Affairs.	Senior Advisor	DS220019	02/11/2022	
	Office of the Under Secretary for Civilian Security, Democracy, and Human Rights.	Senior Advisor (2)	DS210257	07/09/2021	
			DS210270	08/20/2021	
	Deputy Special Envoy to Monitor and Combat Anti-Semitism.	Deputy Special Envoy to Monitor and Combat Anti-Semitism.	DS220006	11/16/2021	
		Senior Advisor (2)	DS210262	08/06/2021	
	Office of the Under Secretary for Economic Growth, Energy, and the Environment.	Senior Advisor (2)	DS220008	12/06/2021	
			Special Representative	DS220020	02/11/2022
	Office of the Under Secretary for Political Affairs.	Senior Advisor (Speechwriter)	DS220047	06/03/2022	
	Office of the Under Secretary for Public Diplomacy and Public Affairs.	Senior Advisor (2)	DS210265	08/11/2021	
			DS220002	10/06/2021	
	Office of the Director	Director of Public Engagement	TD210003	10/10/2021	
	Office of the Assistant Secretary for Administration.	Congressional Affairs Director	TD220005	04/14/2022	
		Disability Policy Advisor	DT210107	09/20/2021	
	Office of the Assistant Secretary for Governmental Affairs.	Deputy Assistant Secretary for Congressional Affairs (Senate).	DT220031	02/22/2022	
		Principal Deputy Assistant Secretary for Congressional Affairs (Senate).	DT220074	04/26/2022	
	Advisor for Governmental Affairs ...	Advisor for Governmental Affairs ...	DT220091	06/17/2022	
		Associate Director for Governmental Affairs.	DT220092	06/17/2022	
	Office of the Assistant Secretary for Research and Technology.	Senior Advisor for Research and Technology.	DT210087	07/12/2021	
Office of the Assistant Secretary for Transportation Policy.	Labor Policy Advisor	DT220010	11/29/2021		
	Deputy Director of Public Engagement.	DT220014	12/17/2021		
	Policy Advisor	DT220016	12/16/2021		
	Special Assistant for Policy	DT220024	01/14/2022		
Special Assistant for Public Engagement.	Special Assistant for Public Engagement.	DT220083	05/19/2022		

Agency name	Organization name	Position title	Authorization No.	Effective date	
DEPARTMENT OF THE TREASURY.		Special Assistant for Transportation Policy and Implementation.	DT220022	01/27/2022	
		Strategic Advisor for Technical Assistance and Community Solutions.	DT220065	04/19/2022	
	Office of the Executive Secretariat Federal Railroad Administration	Engagement Program Manager	DT220003	10/29/2021	
		Director of Communications	DT210106	09/20/2021	
	Federal Transit Administration	Senior Advisor (2)	DT210101	08/19/2021	
			DT220082	05/19/2022	
	Immediate Office of the Administrator.	Senior Advisor	DT220015	12/16/2021	
		National Highway Traffic Safety Administration.	Director of Governmental and External Affairs.	DT220001	10/29/2021
	Office of Civil Rights	Special Assistant	DT210110	09/28/2021	
		Office of Public Affairs	Digital Director	DT210105	09/20/2021
	Office of the Deputy Secretary	Deputy Press Secretary	DT220029	02/11/2022	
		Director of Public Affairs	DT220081	05/16/2022	
		Counselor to the Deputy Secretary	DT210108	09/28/2021	
		Chief of Staff to the Deputy Secretary.	DT220028	02/11/2022	
	Office of the General Counsel	Advisor to the Deputy Secretary	DT220070	04/13/2022	
		Special Counsel	DT220069	04/12/2022	
	Office of the Under Secretary of Transportation for Policy.	Associate Director of Bipartisan Infrastructure Law Implementation.	DT220048	03/08/2022	
		Supply Chain Advisor	DT220079	05/16/2022	
	Office of the Secretary	Director of Scheduling	DT220080	05/16/2022	
		Special Assistant for Advance	DT220067	04/07/2022	
		Special Assistant for Scheduling and Advance.	DT220025	01/27/2022	
		Special Projects Manager	DT220090	06/17/2022	
	Office of the Assistant Secretary (Public Affairs).	Press Assistant (2)	DY210089	07/14/2021	
			DY210123	09/30/2021	
		Senior Advisor (2)	DY220128	06/24/2022	
			DY210087	07/19/2021	
		Spokesperson (2)	DY210112	07/15/2021	
			DY210124	09/10/2021	
	Office of the Assistant Secretary for Terrorist Financing.	Special Assistant	DY220006	11/18/2021	
	Comptroller of the Currency	Deputy Chief of Staff	DY220007	12/02/2021	
	Department of the Treasury	Special Advisor	DY220073	03/17/2022	
		Policy Advisor (2)	DY210111	07/12/2021	
	Office of the General Counsel		DY220096	04/12/2022	
		Secretary of the Treasury	Counselor to the Secretary	DY210128	12/27/2021
		Deputy Executive Secretary		DY210110	07/15/2021
			Scheduling and Advance Associate	DY220051	01/28/2022
		Senior Advisor (2)		DY210091	07/19/2021
				DY220071	03/17/2022
		Senior Advisor for Technology and Delivery.	DY210099	07/14/2021	
		Special Advisor	DY220101	04/20/2022	
		Special Assistant (3)		DY210119	09/09/2021
				DY220095	04/12/2022
			DY220097	04/12/2022	
Office of the Under Secretary for Domestic Finance.		Senior Advisor	DY210129	09/30/2021	
	Special Assistant	DY220011	12/08/2021		
Office of the Under Secretary for Terrorism and Financial Intelligence.	Senior Advisor	DY220004	10/25/2021		
DEPARTMENT OF VETERANS AFFAIRS.	Office of the Assistant Secretary for Congressional and Legislative Affairs.	Advisor for Congressional and Legislative Affairs.	DV220033	05/19/2022	
	Office of the Secretary and Deputy	Special Assistant to the Senior Advisor for Policy.	DV210115	10/13/2021	
		Advisor to Chief of Staff	DV220031	03/18/2022	
	Veterans Benefits Administration ...	White House Liaison	DV220051	06/03/2022	
		Special Assistant to the Under Secretary for Benefits.	DV210112	09/29/2021	
	Veterans Experience Office	Advisor to Chief Veterans Experience Officer (2).	DV220030	03/18/2022	
			DV220042	05/19/2022	
		Strategic Advisor to Chief Veterans Experience Officer.	DV220041	05/19/2022	

Agency name	Organization name	Position title	Authorization No.	Effective date
	Veterans Health Administration	Special Assistant to the Under Secretary for Health.	DV220009	12/08/2021

Authority: 5 U.S.C. 3301 and 3302; E.O.10577, 3 CFR, 1954–1958 Comp., p.218.

Office of Personnel Management.

Kayyonne Marston,

Federal Register Liaison.

[FR Doc. 2024–16723 Filed 7–29–24; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This notice provides the consolidated list of all agency-specific excepted authorities, approved by the Office of Personnel Management (OPM), under Schedules A, B, and C, as of June 30, 2023, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Julia Alford, Senior Executive Resources Services, Senior Executive Service and Performance Management, Employee Services, 202–936–3085.

SUPPLEMENTARY INFORMATION: Civil Service Rule VI (5 CFR 6.1) requires OPM to publish notice of exceptions granted under Schedules A, B, and C. Under 5 CFR 213.103(a), all Schedules A, B, and C appointing authorities available for use by all agencies must be published as regulations in the **Federal Register** (FR) and the Code of Federal Regulations (CFR). Excepted appointing authorities established solely for use by one specific agency do not meet the standard of general applicability prescribed by the **Federal Register** Act for regulations published in either the FR or the CFR. Therefore, 5 CFR 213.103(b) requires monthly publication, in the Notices section of the **Federal Register**, of any Schedule A, B, and C appointing authorities applicable to a single agency. Under 5 CFR 213.103(c), a consolidated listing of all Schedules A, B, and C authorities, current as of June 30 of each year, must be published annually in the Notices section of the **Federal Register**. This notice complies with that requirement and provides the consolidated list below. Governmentwide authorities

codified in the CFR are not printed in this notice.

When making appointments under an agency-specific authority, agencies should first list the appropriate Schedule A, B, or C, followed by the applicable number, for example: Schedule A, 213.3104(x)(x). Agencies are reminded that all excepted authorities are subject to the provisions of 5 CFR part 302 unless specifically exempted by OPM at the time of approval.

OPM maintains current information on the status of all Schedules A, B, and C appointing authorities. Interested parties needing information about specific authorities during the year may obtain information by writing to the Senior Executive Resource Services, Office of Personnel Management, 1900 E Street NW, Room 7412, Washington, DC 20415, or by calling (202) 606–2246.

The following exceptions are current as of June 30, 2023.

Schedule A

03. Executive Office of the President (Sch. A, 213.3103)

- (a) Office of Administration—
 - (1) Not to exceed 75 positions to provide administrative services and support to the White House Office.
 - (b) Office of Management and Budget—
 - (1) Not to exceed 20 positions at grades GS–5/15.
 - (2) Not to Exceed 34 positions that require unique technical skills needed for the re-designing and re-building of digital interfaces between citizens, businesses, and government as a part of Smarter Information Technology Delivery Initiative. This authority may be used to make permanent, time-limited and temporary appointments to Digital Services Expert positions (GS–301) directly related to the implementation of the Smarter Information Technology Delivery Initiative at the GS–14 to 15 level. No new appointments may be made under this authority after September 30, 2017.
 - (c) Council on Environmental Quality—
 - (1) Professional and technical positions in grades GS–9 through 15 on the staff of the Council.
 - (d)–(f) (Reserved)
 - (g) National Security Council—
 - (1) All positions on the staff of the Council.

(h) Office of Science and Technology Policy—

(1) Thirty positions of Senior Policy Analyst, GS–15; Policy Analyst, GS–11/14; and Policy Research Assistant, GS–9, for employment of anyone not to exceed 5 years on projects of a high priority nature.

(i) Office of National Drug Control Policy—

(1) Not to exceed 18 positions, GS–15 and below, of senior policy analysts and other personnel with expertise in drug-related issues and/or technical knowledge to aid in anti-drug abuse efforts.

04. Department of State (Sch. A, 213.3104)

- (a) Office of the Secretary—
 - (1) All positions, GS–15 and below, on the staff of the Family Liaison Office, Director General of the Foreign Service and the Director of Personnel, Office of the Under Secretary for Management.
 - (2) (Reserved)
 - (b)–(f) (Reserved)
 - (g) Bureau of Population, Refugees, and Migration—
 - (1) Not to exceed 20 positions at grades GS–5 through 11 on the staff of the Bureau.
 - (h) Bureau of Administration—
 - (1) (Reserved)
 - (2) One position of the Director, Art in Embassies Program, GM–1001–15.
 - (3) (Reserved)

05. Department of the Treasury (Sch. A, 213.3105)

- (a) Office of the Secretary—
 - (1) Not to exceed 20 positions at the equivalent of GS–13 through GS–15 or Senior Level (SL) to supplement permanent staff in the study of complex problems relating to international financial, economic, trade, and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.
 - (2) Covering no more than 100 positions supplementing permanent staff studying domestic economic and financial policy, with employment not to exceed 4 years.
 - (3) Not to exceed 100 positions in the Office of the Under Secretary for Terrorism and Financial Intelligence.
 - (4) Up to 35 temporary or time-limited positions at the GS–9 through 15 grade

levels to support the organization, design, and stand-up activities for the Consumer Financial Protection Bureau (CFPB), as mandated by Public Law 111-203. This authority may be used for the following series: GS-201, GS-501, GS-560, GS-1035, GS-1102, GS-1150, GS-1720, GS-1801, and GS-2210. No new appointments may be made under this authority after July 21, 2011, the designated transfer date of the CFPB.

(b)–(d) (Reserved)

(e) Internal Revenue Service—

(1) Twenty positions of investigator for special assignments.

(f) (Reserved)

(g) (Reserved, moved to DOJ)

(h) Office of Financial Stability—

(1) Positions needed to perform investment, risk, financial, compliance, and asset management requiring unique qualifications currently not established by OPM. Positions will be in the Office of Financial Stability and the General Schedule (GS) grade levels 12–15 or Senior Level (SL), for initial employment not to exceed 4 years. No new appointments may be made under this authority after December 31, 2012.

(i) Office of the Special Inspector General for Pandemic Recovery—Temporary or time-limited positions at the GS level in the Office of the Special Inspector General for Pandemic Recovery. This authority may be used for the following occupational series: GS-1811 Special Agent, GS-18100 Investigator, GS-1805 Investigative Research/Analyst, GS-1801 Inspection/Investigative Analyst, GS-511 Auditor, GS-510 Accounting, GS-201 Human Resource Specialist, GS-343 Management Analyst, GS-301 Miscellaneous Administrative and Program, GS-2210 Information Technology, GS-1102 Contracting, GS-560 Budget Analyst, GS-1035 Public Affairs at the GS-9 through GS-15 levels. No new appointments may be made under this authority after December 14, 2025 or the termination of the SIGPR, whichever occurs first.

06. Department of Defense (Sch. A, 213.3106)

(a) Office of the Secretary—

(1)–(5) (Reserved)

(6) One Executive Secretary, US-USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force)—

(1) Dependent School Systems overseas—Professional positions in

Military Dependent School systems overseas.

(2) Positions in Attaché 1 systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the staffs of the chaplains in the military services.

(5) Positions under the program for utilization of alien scientists, approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense, when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the DOD when filled by dependents of military or civilian employees of the U.S. Government residing in the area. Employment under this authority may not extend longer than 2 months following the transfer from the area or separation of a dependent's sponsor: Provided that

(i) A school employee may be permitted to complete the school year; and

(ii) An employee other than a school employee may be permitted to serve up to 1 additional year when the military department concerned finds that the additional employment is in the interest of management.

(7) Twenty secretarial and staff support positions at GS-12 or below on the White House Support Group.

(8) Positions in DOD research and development activities occupied by participants in the DOD Science and Engineering Apprenticeship Program for High School Students. Persons employed under this authority shall be bona fide high school students, at least 14 years old, pursuing courses related to the position occupied and limited to 1,040 working hours a year. Children of DOD employees may be appointed to these positions, notwithstanding the sons and daughters restriction, if the positions are in field activities at remote locations. Appointments under this authority may be made only to positions for which qualification standards established under 5 CFR part 302 are consistent with the education and experience standards established for comparable positions in the competitive service. Appointments under this authority may not be used to extend the service limits contained in any other appointing authority.

(9) (Reserved)

(10) Temporary or time-limited positions in direct support of U.S. Government efforts to rebuild and create an independent, free and secure Iraq and Afghanistan, when no other appropriate appointing authority applies. Positions will generally be located in Iraq or Afghanistan, but may be in other locations, including the United States, when directly supporting operations in Iraq or in Afghanistan. No new appointments may be made under this authority after September 30, 2014.

(11) Not to exceed 3,000 positions that require unique cyber security skills and knowledge to perform cyber risk and strategic analysis, incident handling and malware/vulnerability analysis, program management, distributed control systems security, cyber incident response, cyber exercise facilitation and management, cyber vulnerability detection and assessment, network and systems engineering, enterprise architecture, investigation, investigative analysis and cyber-related infrastructure inter-dependency analysis. This authority may be used to make permanent, time-limited and temporary appointments in the following occupational series: Security (GS-0080), computer engineers (GS-0854), electronic engineers (GS-0855), computer scientists (GS-1550), operations research (GS-1515), criminal investigators (GS-1811), telecommunications (GS-0391), and IT specialists (GS-2210). Within the scope of this authority, the U.S. Cyber Command is also authorized to hire miscellaneous administrative and program (GS-0301) series when those positions require unique cyber security skills and knowledge. All positions will be at the General Schedule (GS) grade levels 09–15 or equivalent. No new appointments may be made under this authority after December 31, 2017

(c) (Reserved)

(d) General—

(1) Positions concerned with advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of OPM, it is impracticable to examine. This authority does not apply to positions assigned to cryptologic and communications intelligence activities/functions.

(2) Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, and similar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical, or technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information or in the planning, programming, and management of intelligence resources.

(e) Uniformed Services University of the Health Sciences—

(1) Positions of President, Vice Presidents, Assistant Vice Presidents, Deans, Deputy Deans, Associate Deans, Assistant Deans, Assistants to the President, Assistants to the Vice Presidents, Assistants to the Deans, Professors, Associate Professors, Assistant Professors, Instructors, Visiting Scientists, Research Associates, Senior Research Associates, and Postdoctoral Fellows.

(2) Positions established to perform work on projects funded from grants.

(f) National Defense University—

(1) Not to exceed 16 positions of senior policy analyst, GS-15, at the Strategic Concepts Development Center. Initial appointments to these positions may not exceed 6 years, but may be extended thereafter in 1-, 2-, or 3-year increments, indefinitely.

(g) Defense Communications Agency—

(1) Not to exceed 10 positions at grades GS-10/15 to staff and support the Crisis Management Center at the White House.

(h) Defense Acquisition University—

(1) The Provost and professors.

(i) George C. Marshall European Center for Security Studies, Garmisch, Germany—

(1) The Director, Deputy Director, and positions of professor, instructor, and lecturer at the George C. Marshall European Center for Security Studies, Garmisch, Germany, for initial employment not to exceed 3 years, which may be renewed in increments from 1 to 2 years thereafter.

(j) Asia-Pacific Center for Security Studies, Honolulu, Hawaii—

(1) The Director, Deputy Director, Dean of Academics, Director of College, deputy department chairs, and senior positions of professor, associate

professor, and research fellow within the Asia Pacific Center. Appointments may be made not to exceed 3 years and may be extended for periods not to exceed 3 years.

(k) Business Transformation Agency—

(1) Fifty temporary or time-limited (not to exceed four years) positions, at grades GS-11 through GS-15. The authority will be used to appoint persons in the following series: Management and Program Analysis, GS-343; Logistics Management, GS-346; Financial Management Programs, GS-501; Accounting, GS-510; Computer Engineering, GS-854; Business and Industry, GS-1101; Operations Research, GS-1515; Computer Science, GS-1550; General Supply, GS-2001; Supply Program Management, GS-2003; Inventory Management, GS-2010; and Information Technology, GS-2210.

(l) Special Inspector General for Afghanistan—

(1) Positions needed to establish the Special Inspector General for Afghanistan Reconstruction. These positions provide for the independent and objective conduct and supervision of audits and investigations relating to the programs and operations funded with amounts appropriated and otherwise made available for the reconstruction of Afghanistan. These positions are established at General Schedule (GS) grade levels for initial employment not to exceed 3 years and may, with prior approval of OPM, be extended for an additional period of 2 years. No new appointments may be made under this authority after January 31, 2011.

(m) Defense Security Cooperation Agency—

(1) Defense Security Cooperation University—Not to exceed 250 positions of President, Deputy Assistant Director, Supervisory Lecturer, Senior Lecturer, Faculty Senior Associate, Faculty Associate. Initial appointments may not exceed 3 years, and but may be extended thereafter in 1-, 2-, or 3-year increments, indefinitely.

07. Department of the Army (Sch. A, 213.3107)

(a)–(c) (Reserved)

(d) U.S. Military Academy, West Point, New York—

(1) Civilian professors, instructors, teachers (except teachers at the Children's School), Cadet Social Activities Coordinator, Chapel Organist and Choir-Master, Director of Intercollegiate Athletics, Associate Director of Intercollegiate Athletics, Coaches, Facility Manager, Building Manager, three Physical Therapists (Athletic Trainers), Associate Director of

Admissions for Plans and Programs, Deputy Director of Alumni Affairs; and Librarian when filled by an officer of the Regular Army retired from active service, and the Military Secretary to the Superintendent when filled by a U.S. Military Academy graduate retired as a regular commissioned officer for disability.

(e)–(f) (Reserved)

(g) Defense Language Institute—

(1) All positions (professors, instructors, lecturers) which require proficiency in a foreign language or knowledge of foreign language teaching methods.

(h) Army War College, Carlisle Barracks, PA—

(1) Positions of professor, instructor, or lecturer associated with courses of instruction of at least 10 months duration for employment not to exceed 5 years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

(i) (Reserved)

(j) U.S. Military Academy Preparatory School, West Point, New York—

(1) Positions of Academic Director, Department Head, and Instructor.

(k) U.S. Army Command and General Staff College, Fort Leavenworth, Kansas—

(1) Positions of professor, associate professor, assistant professor, and instructor associated with courses of instruction of at least 10 months duration, for employment not to exceed up to 5 years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

08. Department of the Navy (Sch. A, 213.3108)

(a) General—

(1)–(14) (Reserved)

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(16) All positions necessary for the administration and maintenance of the official residence of the Vice President.

(b) Naval Academy, Naval Postgraduate School, and Naval War College—

(1) Professors, Instructors, and Teachers; the Director of Academic Planning, Naval Postgraduate School; and the Librarian, Organist-Choirmaster, Registrar, the Dean of Admissions, and Social Counselors at the Naval Academy.

(c) Chief of Naval Operations—

(1) One position at grade GS-12 or above that will provide technical, managerial, or administrative support on highly classified functions to the Deputy Chief of Naval Operations (Plans, Policy, and Operations).

(d) Military Sealift Command—

(1) All positions on vessels operated by the Military Sealift Command.

(e)–(f) (Reserved)

(g) Office of Naval Research—

(1) Scientific and technical positions, GS–13/15, in the Office of Naval Research International Field Office which covers satellite offices within the Far East, Africa, Europe, Latin America, and the South Pacific. Positions are to be filled by personnel having specialized experience in scientific and/or technical disciplines of current interest to the Department of the Navy.

09. Department of the Air Force (Sch. A, 213.3109)

(a) Office of the Secretary—

(1) One Special Assistant in the Office of the Secretary of the Air Force. This position has advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

(b) General—

(1) Professional, technical, managerial and administrative positions supporting space activities, when approved by the Secretary of the Air Force.

(2) Two hundred positions, serviced by Hill Air Force Base, Utah, engaged in interdepartmental activities in support of national defense projects involving scientific and technical evaluations.

(c) Norton and McClellan Air Force Bases, California—

(1) Not to exceed 20 professional positions, GS–11 through GS–15, in Detachments 6 and 51, SM–ALC, Norton and McClellan Air Force Bases, California, which will provide logistic support management to specialized research and development projects.

(d) U.S. Air Force Academy, Colorado—

(1) (Reserved)

(2) Positions of Professor, Associate Professor, Assistant Professor, and Instructor, in the Dean of Faculty, Commandant of Cadets, Director of Athletics, and Preparatory School of the United States Air Force Academy.

(e) (Reserved)

(f) Air Force Office of Special Investigations—

(1) Positions of Criminal Investigators/Intelligence Research Specialists, GS–5 through GS–15, in the Air Force Office of Special Investigations.

(g) Wright-Patterson Air Force Base, Ohio—

(1) Not to exceed eight positions, GS–12 through 15, in Headquarters Air Force Logistics Command, DCS Material Management, Office of Special Activities, Wright-Patterson Air Force

Base, Ohio, which will provide logistic support management staff guidance to classified research and development projects.

(h) Air University, Maxwell Air Force Base, Alabama—

(1) Positions of Professor, Instructor, or Lecturer.

(i) Air Force Institute of Technology, Wright-Patterson Air Force Base, Ohio—

(1) Civilian deans and professors.

(j) Air Force Logistics Command—

(1) One Supervisory Logistics Management Specialist, GM–346–14, in Detachment 2, 2762 Logistics Management Squadron (Special), Greenville, Texas.

(k) Wright-Patterson AFB, Ohio—

(1) One position of Supervisory Logistics Management Specialist, GS–346–15, in the 2762nd Logistics Squadron (Special), at Wright-Patterson Air Force Base, Ohio.

(l) Air National Guard Readiness Center—

(1) One position of Commander, Air National Guard Readiness Center, Andrews Air Force Base, Maryland.

(m) Joint Special Operations University—

(1) Not to exceed 15 positions of Dean of the College Special Operations Low Intensity Conflict and Professor of Interdisciplinary Studies. Initial appointments may not exceed 3 years but may be extended thereafter in 1 to 5-year increments, indefinitely.

10. Department of Justice (Sch. A, 213.3110)

(a) General—

(1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2) Positions at GS–15 and below on the staff of an office of a special counsel.

(3)–(5) (Reserved)

(6) Positions of Program Manager and Assistant Program Manager supporting the International Criminal Investigative Training Assistance Program in foreign countries. Initial appointments under this authority may not exceed 2 years, but may be extended in 1-year increments for the duration of the in-country program.

(7) Positions necessary throughout DOJ, for the excepted service transfer of NDIC employees hired under Schedule A, 213.3110(d). Authority expires September 30, 2012.

(b) (Reserved)

(c) Drug Enforcement Administration—

(1) (Reserved)

(2) Four hundred positions of Intelligence Research Agent and/or Intelligence Operation Specialist in the GS–132 series, grades GS–9 through GS–15.

(3) Not to exceed 200 positions of Criminal Investigator (Special Agent). New appointments may be made under this authority only at grades GS–7/11.

(d) (Reserved, moved to Justice)

(e) Bureau of Alcohol, Tobacco, and Firearms—

(1) One hundred positions of Criminal Investigator for special assignments.

(2) One non-permanent Senior Level (SL) Criminal Investigator to serve as a senior advisor to the Assistant Director (Firearms, Explosives, and Arson).

11. Department of Homeland Security (Sch. A, 213.3111)

(a) (Revoked 11/19/2009)

(b) Law Enforcement Policy—

(1) Ten positions for oversight policy and direction of sensitive law enforcement activities.

(c) Homeland Security Labor Relations Board/Homeland Security Mandatory Removal Board—

(1) Up to 15 Senior Level and General Schedule (or equivalent) positions.

(d) General—

(1) Not to exceed 800 positions to perform cyber risk and strategic analysis, incident handling and malware/vulnerability analysis, program management, distributed control systems security, cyber incident response, cyber exercise facilitation and management, cyber vulnerability detection and assessment, network and systems engineering, enterprise architecture, intelligence analysis, investigation, investigative analysis and cyber-related infrastructure interdependency analysis requiring unique qualifications currently not established by OPM. Positions will be in the following occupations: security (series 0080), intelligence analysis (series 0132), investigative analyst (series 1805), investigator (series 1810), and criminal investigator (series 1811) at the GS–9 through GS–15 grade levels. No new appointments may be made under this authority after January 5, 2022 or the effective date of the completion of regulations implementing the Border Patrol Agency Pay Reform Act of 2014, whichever comes first.

(e) Papago Indian Agency—Not to exceed 25 positions of Immigration and Customs Enforcement (ICE) Tactical Officers (Shadow Wolves) in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood. (Formerly 213.3105(b)(9))

(f) U.S. Citizenship and Immigration Services—

(1) Reserved. (Formerly 213.3110(b)(1))

(2) Not to exceed 500 positions of interpreters and language specialists, GS–1040–5/9. (Formerly 213.3110(b)(2))

(3) Reserved. (Formerly 213.3110(b)(3))

(g) U.S. Immigration and Customs Enforcement—

(1) Not to exceed 200 staff positions, GS–15 and below for an emergency staff to provide health related services to foreign entrants. (Formerly 213.3116(b)(16))

(h) Federal Emergency Management Agency—

(1) Field positions at grades GS–15 and below, or equivalent, which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency. Persons may not be employed under this authority for long-term duties or for work not directly necessitated by the emergency response effort. (Formerly 213.3195(a))

(2) Not to exceed 30 positions at grades GS–15 and below in the Offices of Executive Administration, General Counsel, Inspector General, Comptroller, Public Affairs, Personnel, Acquisition Management, and the State and Local Program and Support Directorate which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency, or for long-term duties or work not directly necessitated by the emergency response effort. No one may be reappointed under this authority for service in connection with a different emergency unless at least 6 months have elapsed since the individual's latest appointment under this authority. (Formerly 213.3195(b))

(3) Not to exceed 350 professional and technical positions at grades GS–5 through GS–15, or equivalent, in Mobile Emergency Response Support Detachments (MERS). (Formerly 213.3195(c))

(i) U.S. Coast Guard—

(1) Reserved. (Formerly 213.3194(a))

(2) Lamplighters. (Formerly 213.3194(b))

(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Connecticut. (Formerly 213.3194(c))

12. Department of the Interior (Sch. A, 213.3112)

(a) General—

(1) Technical, maintenance, and clerical positions at or below grades GS–7, WG–10, or equivalent, in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of OPM.

(4) Temporary, intermittent, or seasonal field assistants at GS–7, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority may not exceed 180 working days a year.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 180 working days a year: Provided, that an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of the Interior is responsible for defining the term “Indian.”

(8) Temporary, intermittent, or seasonal positions at GS–7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators, and samplers. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area

and there is a shortage of available candidates for the positions.

(9) Temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators, and tradesmen on construction, repair, or maintenance work not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(11) Temporary staff positions in the Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this authority shall not exceed 11 weeks a year except with prior approval of OPM.

(12) Positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum wage rate. Employment under this authority may not exceed 10 weeks.

(b) (Reserved)

(c) Indian Arts and Crafts Board—

(1) The Executive Director

(d) (Reserved)

(e) Office of the Assistant Secretary, Territorial and International Affairs—

(1) (Reserved)

(2) Not to exceed four positions of Territorial Management Interns, grades GS–5, GS–7, or GS–9, when filled by territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. trusteeship. Employment under this authority may not exceed 6 months.

(3) (Reserved)

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his or her immediate staff.

(f) National Park Service—

(1) (Reserved)

(2) Positions established for the administration of Kalaupapa National Historic Park, Molokai, Hawaii, when filled by appointment of qualified patients and Native Hawaiians, as provided by Public Law 95–565.

(3) Seven full-time permanent and 31 temporary, part-time, or intermittent positions in the Redwood National Park, California, which are needed for rehabilitation of the park, as provided by Public Law 95–250.

(4) One Special Representative of the Director.

(5) All positions in the Grand Portage National Monument, Minnesota, when filled by the appointment of recognized members of the Minnesota Chippewa Tribe.

(g) Bureau of Reclamation—

(1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values on conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: Provided, that such employment may, with prior approval of OPM, be extended for not to exceed an additional 50 working days in any single year.

(h) Office of the Deputy Assistant Secretary for Territorial Affairs—

(1) Positions of Territorial Management Interns, GS–5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

13. Department of Agriculture (Sch. A, 213.3113)

(a) General—

(1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service or the National Agricultural Statistics Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural commodity grader (grain) and (meat), (poultry), and (dairy), agricultural commodity aid (grain), and tobacco inspection positions.

(2)–(4) (Reserved)

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS–7 and WG–10 in the following types of positions: Field assistants for sub professional services; agricultural helpers, helper-leaders, and workers in the Agricultural Research Service and the Animal and Plant Health Inspection Service; and subject to prior OPM approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: Provided, that an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm,

or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraph (i) of Sec. 213.3102 or positions within the Forest Service.

(6)–(7) (Reserved)

(b)–(c) (Reserved)

(d) Farm Service Agency—

(1) (Reserved)

(2) Members of State Committees:

Provided, that employment under this authority shall be limited to temporary intermittent (WAE) positions whose principal duties involve administering farm programs within the State consistent with legislative and Departmental requirements and reviewing national procedures and policies for adaptation at State and local levels within established parameters. Individual appointments under this authority are for 1 year and may be extended only by the Secretary of Agriculture or his designee. Members of State Committees serve at the pleasure of the Secretary.

(e) Rural Development—

(1) (Reserved)

(2) County committeemen to consider, recommend, and advise with respect to the Rural Development program.

(3)–(5) (Reserved)

(6) Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

(f) Agricultural Marketing Service—

(1) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–9 and below in the tobacco, dairy, and poultry commodities; Meat Acceptance Specialists, GS–11 and below; Clerks, Office Automation Clerks, and Computer Clerks at GS–5 and below; Clerk-Typists at grades GS–4 and below; and Laborers under the Wage System. Employment under this authority is limited to either 1,280 hours or 180 days in a service year.

(2) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–11 and below in the cotton, raisin, peanut, and processed and fresh fruit and vegetable commodities and the following positions in support of these commodities: Clerks, Office Automation Clerks, and Computer Clerks and Operators at GS–5 and below; Clerk-Typists at grades GS–4 and below; and, under the Federal Wage System, High Volume Instrumentation (HVI) Operators and HVI Operator Leaders at

WG/WL–2 and below, respectively, Instrument Mechanics/Workers/Helpers at WG–10 and below, and Laborers. Employment under this authority may not exceed 180 days in a service year. In unforeseen situations such as bad weather or crop conditions, unanticipated plant demands, or increased imports, employees may work up to 240 days in a service year. Cotton Agricultural Commodity Graders, GS–5, may be employed as trainees for the first appointment for an initial period of 6 months for training without regard to the service year limitation.

(3) Milk Market Administrators

(4) All positions on the staffs of the Milk Market Administrators.

(g)–(k) (Reserved)

(l) Food Safety and Inspection Service—

(1)–(2) (Reserved)

(3) Positions of Meat and Poultry Inspectors (Veterinarians at GS–11 and below and non-Veterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(m) Grain Inspection, Packers and Stockyards Administration—

(1) One hundred and fifty positions of Agricultural Commodity Aid (Grain), GS–2/4; 100 positions of Agricultural Commodity Technician (Grain), GS–4/7; and 60 positions of Agricultural Commodity Grader (Grain), GS–5/9, for temporary employment on a part-time, intermittent, or seasonal basis not to exceed 1,280 hours in a service year.

(n) Alternative Agricultural Research and Commercialization Corporation—

(1) Executive Director

14. Department of Commerce (Sch. A, 213.3114)

(a) General—

(1)–(2) (Reserved)

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in the continental United States for periods of orientation, training, analysis of data, and report writing.

(b)–(c) (Reserved)

(d) Bureau of the Census—

(1) Positions in support of decennial operations (including decennial pre-tests). Appointments may be made on a time limited basis that lasts the duration of decennial operations but may not exceed 7 years. Extensions beyond 7 years may be requested on a case-by-case basis

(2) Positions of clerk, field representative, field leader, and field supervisor in support of data collection

operations (non-decennial operations). Appointments may be made on a permanent or a time-limited basis. Appointments made on a time limited basis may not exceed 4 years.

Extensions beyond 4 years may be requested on a case-by-case basis.

(e)–(h) (Reserved)

(i) Office of the Under Secretary for International Trade—

(1) Fifteen positions at GS–12 and above in specialized fields relating to international trade or commerce in units under the jurisdiction of the Under Secretary for International Trade. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for an individual appointee.

(2) (Reserved)

(3) Not to exceed 15 positions in grades GS–12 through GS–15, to be filled by persons qualified as industrial or marketing specialists; who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit procedures applicable to one or more of the current segments of U.S. industry served by the Under Secretary for International Trade, and the subordinate components of his organization which are involved in Domestic Business matters. Appointments under this authority may be made for a period not to exceed 2 years and may, with prior OPM approval, be extended for an additional 2 years.

(j) National Oceanic and Atmospheric Administration—

(1)–(2) (Reserved)

(3) All civilian positions on vessels operated by the National Ocean Service.

(4) Temporary positions required in connection with the surveying operations of the field service of the National Ocean Service. Appointment to such positions shall not exceed 8 months in any 1 calendar year.

(k) (Reserved)

(l) National Telecommunication and Information Administration—

(1) Not to exceed 139 professional positions in grades GS–13 through GS–15.

(m) First Responder Network (FirstNet) Authority—

(1) Not exceed 12 FirstNet Board Member positions. Employment and compensation must be in accordance with 47 U.S.C. 1424. Appointments are

time-limited for up to 3 years and FirstNet may reappoint an individual hired under this authority to a second 3-year term. An appointment may be extended beyond the 3-year limit until a successor member has taken office, or until the end of the calendar year in which an appointment expires, whichever is earlier.

(n) National Institute of Standards and Technology

(1) Not to exceed 50 positions in support of implementation of the CHIPS Act. Positions will be in the following occupations of Management and Program Analyst (ZA–343 Pay Bands III, IV, V), Program Manager (ZA–340 Pay Bands IV, V), Public Affairs Specialist (ZA–1035 Pay Bands III, IV, V). Permanent, temporary or time limited appointments may be made when using this authority.

15. *Department of Labor (Sch. A, 213.3115)*

(a) Office of the Secretary—

(1) Chairman and five members, Employees' Compensation Appeals Board.

(2) Chairman and eight members, Benefits Review Board.

(b)–(c) (Reserved)

(d) Employment and Training Administration—

(1) Not to exceed 10 positions of Supervisory Manpower Development Specialist and Manpower Development Specialist, GS–7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

16. *Department of Health and Human Services (Sch. A, 213.3116)*

(a) General—

(1) Intermittent positions, at GS–15 and below and WG–10 and below, on teams under the National Disaster Medical System including Disaster Medical Assistance Teams and specialty teams, to respond to disasters, emergencies, and incidents/events involving medical, mortuary and public health needs.

(b) Public Health Service—

(1) (Reserved)

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) (Reserved)

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health and Human

Services and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the participating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5)–(6) (Reserved)

(7) Not to exceed 50 positions associated with health screening programs for refugees.

(8) All positions in the Public Health Service and other positions in the Department of Health and Human Services directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health and Human Services is responsible for defining the term "Indian."

(9) (Reserved)

(10) Health care positions of the National Health Service Corps for employment of any one individual not to exceed 4 years of service in health manpower shortage areas.

(11)–(15) (Reserved)

(c)–(e) (Reserved)

(f) Reserved

17. *Department of Education (Sch. A, 213.3117)*

(a) Positions concerned with problems in education financed and participated in by the Department of Education and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

18. *Environmental Protection Agency (Sch. A, 213.3118)*

24. *Board of Governors, Federal Reserve System (Sch. A, 213.3124)*

(a) All positions

27. *Department of Veterans Affairs (Sch. A, 213.3127)*

(a) Construction Division—

(1) Temporary construction workers paid from "purchase and hire" funds and appointed for not to exceed the duration of a construction project.

(b) Alcoholism Treatment Units and Drug Dependence Treatment Centers—

(1) Not to exceed 400 positions of rehabilitation counselors, GS–3 through GS–11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients.

(c) Board of Veterans' Appeals—

(1) Positions, GS–15, when filled by a member of the Board. Except as

provided by section 201(d) of Public Law 100-687, appointments under this authority shall be for a term of 9 years, and may be renewed.

(2) Positions, GS-15, when filled by a non-member of the Board who is awaiting Presidential approval for appointment as a Board member.

(d) Vietnam Era Veterans Readjustment Counseling Service—

(1) Not to exceed 600 positions at grades GS-3 through GS-11, involved in the Department's Vietnam Era Veterans Readjustment Counseling Service.

(e) Not to Exceed 75 positions that require unique technical skills needed for the re-designing and re-building of digital interfaces between citizens, businesses, and government as a part of Smarter Information Technology Delivery Initiative. This authority may be used to make permanent, time-limited and temporary appointments to non-supervisory Digital Services Expert positions (GS-301) directly related to the implementation of the Smarter Information Technology Delivery Initiative at the GS-15 level. No new appointments may be made under this authority after September 30, 2017.

32. *Small Business Administration (Sch. A, 213.3132)*

(a) When the President under 42 U.S.C. 5170-5189, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in the area under the Small Business Act, as amended. Service under this authority may not exceed 7 years. Exception to this time limit may only be made with prior U.S. Office of Personnel Management approval. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(b) When the President under 42 U.S.C. 1855-1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. No one may serve under this authority for more than an aggregate of 2 years without a break in service of at least 6 months. Persons who have had more than 2 years of service under paragraph (a) of this section must have a break in service of at least 8 months following such service before appointment under this authority. No one may be appointed under this

authority to positions engaged in long-term maintenance of loan portfolios.

33. *Federal Deposit Insurance Corporation (Sch. A, 213.3133)*

(a)-(b) (Reserved)

(c) Temporary or time-limited positions that are directly related with resolving failing insured depository institutions; financial companies; or brokers and dealers; covered by the Dodd-Frank Wall Street Reform and Consumer Protection Act, including but not limited to, the marketing and sale of institutions and any associated assets; paying insured depositors; and managing receivership estates and all associated receivership management activities, up to termination. Time limited appointments under this authority may not exceed 7 years.

36. *U.S. Soldiers' and Airmen's Home (Sch. A, 213.3136)*

(a) (Reserved)

(b) Positions when filled by member-residents of the Home.

37. *General Services Administration (Sch. A, 213.3137)*

(a) Not to Exceed 203 positions that require unique technical skills needed for the re-designing and re-building of digital interfaces between citizens, businesses, and government as a part of Smarter Information Technology Delivery Initiative. This authority may be used nationwide to make permanent, time-limited and temporary appointments to Digital Services Expert positions (GS-301) directly related to the implementation of the Smarter Information Technology Delivery Initiative at the GS-11 to 15 level. No new appointments may be made under this authority after September 30, 2017.

46. *Selective Service System (Sch. A, 213.3146)*

(a) State Directors

48. *National Aeronautics and Space Administration (Sch. A, 213.3148)*

(a) One hundred and fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

55. *Social Security Administration (Sch. A, 213.3155)*

(a) Arizona District Offices—

(1) Six positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Arizona when filled by the

appointment of persons of one-fourth or more Indian blood.

(b) New Mexico—

(1) Seven positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.

(c) Alaska—

(1) Two positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointments of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

62. *The President's Crime Prevention Council (Sch. A, 213.3162)*

(a) (Reserved)

65. *Chemical Safety and Hazard Investigation Board (Sch. A, 213.3165)*

(a) (Reserved)

(b) (Reserved)

66. *Court Services and Offender Supervision Agency of the District of Columbia (Sch. A, 213.3166)*

(a) (Reserved, expired 3/31/2004)

68. *U.S. Agency for International Development (Sch. A, 213.3168)*

(a) Up to 350 positions for Crisis Operations Staffing needed to respond to urgent humanitarian, political, health and/or other crises of significant U.S. foreign policy interest. The authority may be used for temporary or time limited positions at the GS-9 through 15 grade levels for positions in the GS-0130 Foreign Affairs series, GS-089 Emergency Management series, and GS-301 Miscellaneous and Program series or other positions directly related to responding to urgent humanitarian political, health and/or other crises of significant U.S. foreign policy interest.

70. *Millennium Challenge Corporation (MCC) (Sch. A, 213.3170)*

(a) (Reserved, expired 9/30/2007)

(b)

(1) Positions of Resident Country Director and Deputy Resident Country Director, Threshold Director and Deputy Threshold Director. The length of appointments will correspond to the length or term of the compact agreements made between the MCC and the country in which the MCC will work, plus one additional year to cover pre- and post-compact agreement related activities.

74. *Smithsonian Institution (Sch. A, 213.3174)*

(a) (Reserved)

(b) Smithsonian Tropical Research Institute—All positions located in Panama which are part of or which support the Smithsonian Tropical Research Institute.

(c) National Museum of the American Indian—Positions at GS–15 and below requiring knowledge of, and experience in, tribal customs and culture. Such positions comprise approximately 10 percent of the Museum's positions and, generally, do not include secretarial, clerical, administrative, or program support positions.

75. Woodrow Wilson International Center for Scholars (Sch. A, 213.3175)

(a) One Asian Studies Program Administrator, one Global European Studies Program Administrator, one Latin American Program Administrator, one Russian Studies Program Administrator, four Social Science Program Administrators, one Middle East Studies Program Administrator, one African Studies Program Administrator, one Polar Studies Program Administrator, one Canadian Studies Program Administrator; one China Studies Program Administrator, one Science, Technology and Innovation Program Administrator, and one Mexico Studies Program Administrator.

78. Community Development Financial Institutions Fund (Sch. A, 213.3178)

(a) (Reserved, expired 9/23/1998)

80. Utah Reclamation and Conservation Commission (Sch. A, 213.3180)

(a) Executive Director

82. National Foundation on the Arts and the Humanities (Sch. A, 213.3182)

(a) National Endowment for the Arts—

(1) Artistic and related positions at grades GS–13 through GS–15 engaged in the review, evaluation and administration of applications and grants supporting the arts, related research and assessment, policy and program development, arts education, access programs and advocacy, or evaluation of critical arts projects and outreach programs. Duties require artistic stature, in-depth knowledge of arts disciplines and/or artistic-related leadership qualities.

90. African Development Foundation (Sch. A, 213.3190)

(a) One Enterprise Development Fund Manager. Appointment is limited to four years unless extended by OPM.

91. Office of Personnel Management (Sch. A, 213.3191)

(a)–(c) (Reserved)

(d) Part-time and intermittent positions of test examiners at grades GS–8 and below.

94. Department of Transportation (Sch. A, 213.3194)

(a)–(d) (Reserved)

(e) Maritime Administration—

(1)–(2) (Reserved)

(3) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(4)–(5) (Reserved)

(6) U.S. Merchant Marine Academy, positions of: Professors, Instructors, and Teachers, including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Assistant Commandant of Midshipmen; Director of Music; three Battalion Officers; three Regimental Affairs Officers; and one Training Administrator.

(7) U.S. Merchant Marine Academy positions of: Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; three Academy Training Representatives; and one Education Program Assistant.

(f) Up to 40 positions at the GS–13 through 15 grade levels and within authorized SL allocations necessary to support the following credit agency programs of the Department: the Federal Highway Administration's Transportation Infrastructure Finance and Innovation Act Program, the Federal Railroad Administration's Railroad Rehabilitation and Improvement Financing Program, the Federal Maritime Administration's Title XI Program, and the Office of the Secretary's Office of Budget and Programs Credit Staff. This authority may be used to make temporary, time-limited, or permanent appointments, as the DOT deems appropriate, in the following occupational series: Director or Deputy Director SL–301/340, Origination Team Lead SL–301, Deputy Director/Senior Financial Analyst GS–1160, Origination Financial Policy Advisor GS–301, Credit Budgeting Team Lead GS–1160, Credit Budgeting Financial Analysts GS–1160, Portfolio Monitoring Lead SL–1160, Portfolio Monitoring Financial Analyst GS–1160, Financial Analyst GS–1160. No new appointments may be made under this authority after December 31, 2014.

95. (Reserved)

Schedule B

03. Executive Office of the President (Sch. B, 213.3203)

(a) (Reserved)

(b) Office of the Special Representative for Trade Negotiations—
(1) Seventeen positions of economist at grades GS–12 through GS–15.

04. Department of State (Sch. B, 213.3204)

(a) (1) One non-permanent senior level position to serve as Science and Technology Advisor to the Secretary.

(b)–(c) (Reserved)

(d) Seventeen positions on the household staff of the President's Guest House (Blair and Blair-Lee Houses).

(e) (Reserved)

(f) Scientific, professional, and technical positions at grades GS–12 to GS–15 when filled by persons having special qualifications in foreign policy matters. Total employment under this authority may not exceed 4 years.

(g) Not to exceed 100 positions in the Bureau of Intelligence and Research (INR) at the GS–5 through GS–15 levels in the following occupational series GS–0080 Security Administration, GS–0110 Economics, GS–0130 Foreign Affairs, GS–0132 Intelligence, GS–0150 Geography, GS–0343 Management and Program Analysis, GS–1083 Technical Writing and Editing, GS–1370 Cartography, and GS–1530 Statistics. This authority may be used to make time-limited appointments of up to 48 months. No new appointments may be made after March 31, 2023 or when INR transitions to appointments under 50 U.S.C. 3024(v) whichever comes first.

05. Department of the Treasury (Sch. B, 213.3205)

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.

(b)–(c) (Reserved)

(d) (Reserved) Transferred to 213.3211(b)

(e) (Reserved) Transferred to 213.3210(f)

(f) (Reserved)

(g) (Reserved, moved to DOJ)

(h) Office of Financial Stability—

(1) Positions needed to perform investment, risk, financial, compliance, and asset management requiring unique qualifications currently not established by OPM. Positions will be in the Office of Financial Stability and the General Schedule (GS) grade levels 12–15 or Senior Level (SL), for initial employment not to exceed 4 years. No new appointments may be made under this authority after December 31, 2012.

(i) Office of the Special Inspector General for Pandemic Recovery
Temporary or time-limited positions at the GS level in the Office of the Special Inspector General for Pandemic Recovery. This authority may be used for the following occupational series: GS–1811 Special Agent, GS–18100 Investigator, GS–1805 Investigative Research/Analyst, GS–1801 Inspection/Investigative Analyst, GS–511 Auditor, GS–510 Accounting, GS–201 Human Resource Specialist, GS–343 Management Analyst, GS–301 Miscellaneous Administrative and Program, GS–2210 Information Technology, GS–1102 Contracting, GS–560 Budget Analyst, GS–1035 Public Affairs at the GS–9 through GS–15 levels. No new appointments may be made under this authority after December 14, 2025 or the termination of the SIGPR, whichever occurs first.

06. Department of Defense (Sch. B, 213.3206)

(a) Office of the Secretary—
(1) (Reserved)
(2) Professional positions at GS–11 through GS–15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

(3)–(4) (Reserved)
(5) Four Net Assessment Analysts.
(b) Interdepartmental activities—
(1) Seven positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.
(2) Eight positions, GS–15 or below, in the White House Military Office, providing support for airlift operations, special events, security, and/or administrative services to the Office of the President.

(c) National Defense University—
(1) Sixty-one positions of Professor, GS–13/15, for employment of any one individual on an initial appointment not to exceed 3 years, which may be renewed in any increment from 1 to 6 years indefinitely thereafter.

(d) General—

(1) One position of Law Enforcement Liaison Officer (Drugs), GS–301–15, U.S. European Command.

(2) Acquisition positions at grades GS–5 through GS–11, whose incumbents have successfully completed the required course of education as participants in the Department of Defense scholarship program authorized under 10 U.S.C. 1744.

(e) Office of the Inspector General—
(1) Positions of Criminal Investigator, GS–1811–5/15.

(f) Department of Defense Polygraph Institute, Fort McClellan, Alabama—

(1) One Director, GM–15.

(g) Defense Security Assistance Agency—

All faculty members with instructor and research duties at the Defense Institute of Security Assistance Management, Wright Patterson Air Force Base, Dayton, Ohio. Individual appointments under this authority will be for an initial 3-year period, which may be followed by an appointment of indefinite duration.

07. Department of the Army (Sch. B, 213.3207)

(a) U.S. Army Command and General Staff College—

(1) Seven positions of professors, instructors, and education specialists. Total employment of any individual under this authority may not exceed 4 years.

08. Department of the Navy (Sch. B, 213.3208)

(a) Naval Underwater Systems Center, New London, Connecticut—

(1) One position of Oceanographer, grade GS–14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

(b) Armed Forces Staff College, Norfolk, Virginia—All civilian faculty positions of professors, instructors, and teachers on the staff of the Armed Forces Staff College, Norfolk, Virginia.

(c) Defense Personnel Security Research and Education Center—One Director and four Research Psychologists at the professor or GS–15 level.

(d) Marine Corps Command and Staff College—All civilian professor positions.

(e) Executive Dining facilities at the Pentagon—One position of Staff Assistant, GS–301, whose incumbent will manage the Navy's Executive Dining facilities at the Pentagon.

(f) (Reserved)

09. Department of the Air Force (Sch. B, 213.3209)

(a) Air Research Institute at the Air University, Maxwell Air Force Base, Alabama—Not to exceed four interdisciplinary positions for the Air Research Institute at the Air University, Maxwell Air Force Base, Alabama, for employment to complete studies proposed by candidates and acceptable to the Air Force. Initial appointments are made not to exceed 3 years, with an option to renew or extend the appointments in increments of 1-, 2-, or 3- years indefinitely thereafter.

(b)–(c) (Reserved)

(d) Air University—Positions of Instructor or professional academic staff at the Air University associated with courses of instruction of varying durations, for employment not to exceed 3 years, which may be renewed for an indefinite period thereafter.

(e) U.S. Air Force Academy, Colorado—One position of Director of Development and Alumni Programs, GS–301–13.

10. Department of Justice (Sch. B, 213.3210)

(a) Drug Enforcement Administration—

Criminal Investigator (Special Agent) positions in the Drug Enforcement Administration. New appointments may be made under this authority only at grades GS–5 through 11. Service under the authority may not exceed 4 years. Appointments made under this authority may be converted to career or career-conditional appointments under the provisions of Executive Order 12230, subject to conditions agreed upon between the Department and OPM.

(b) (Reserved)

(c) Not to exceed 400 positions at grades GS–5 through 15 assigned to regional task forces established to conduct special investigations to combat drug trafficking and organized crime.

(d) (Reserved)

(e) United States Trustees—Positions, other than secretarial, GS–6 through GS–15, requiring knowledge of the bankruptcy process, on the staff of the offices of United States Trustees or the Executive Office for U.S. Trustees.

(f) Bureau of Alcohol, Tobacco, and Firearms

(1) Positions, grades GS–5 through GS–12 (or equivalent), of Criminal Investigator. Service under this authority may not exceed 3 years and 120 days.

11. Department of Homeland Security (Sch. B, 213.3211)

(a) Coast Guard.

(1) (Reserved)

(b) Secret Service—Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by OPM. Service under this authority may not exceed:

(1) a total of 4 years; or

(2) 120 days following completion of the service required for conversion under Executive Order 11203.

13. Department of Agriculture (Sch. B, 213.3213)

(a) Foreign Agricultural Service—

(1) Positions of a project nature involved in international technical assistance activities. Service under this authority may not exceed 5 years on a single project for any individual unless delayed completion of a project justifies an extension up to but not exceeding 2 years.

(b) General—

(1) Temporary positions of professional Research Scientists, GS–15 or below, in the Agricultural Research Service, Economic Research Service, and the Forest Service, when such positions are established to support the Research Associateship Program and are filled by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and the agency. Appointments are limited to proposals approved by the appropriate Administrator. Appointments may be made for initial periods not to exceed 2 years and may be extended for up to 2 additional years. Extensions beyond 4 years, up to a maximum of 2 additional years, may be granted, but only in very rare and unusual circumstances, as determined by the Human Resources Officer for the Research, Education, and Economics Mission Area, or the Human Resources Officer, Forest Service.

(2) Not to exceed 55 Executive Director positions, GM–301–14/15, with the State Rural Development Councils in support of the Presidential Rural Development Initiative.

14. Department of Commerce (Sch. B, 213.3214)

(a) Bureau of the Census—

(1) (Reserved)

(2) Not to exceed 50 Community Services Specialist positions at the equivalent of GS–5 through 12.

(b)–(c) (Reserved)

(d) National Telecommunications and Information Administration—

(1) Not to exceed 42 positions of GS–0850 Electrical Engineer, GS–0855

Electronics Engineer, or GS–0854 Computer Engineer in grades GS–11 through GS–15, or positions that require subject-matter expertise with telecommunications policy, 911 communication programs, broadband program specialists, environmental specialists, and spectrum policy and related programs. Employment under this authority may not exceed 2 years.

15. Department of Labor (Sch. B, 213.3215)

(a) Administrative Review Board—Chair and a maximum of four additional Members.

(b) (Reserved)

(c) Bureau of International Labor Affairs—

(1) Positions in the Office of Foreign Relations, which are paid by outside funding sources under contracts for specific international labor market technical assistance projects. Appointments under this authority may not be extended beyond the expiration date of the project.

17. Department of Education (Sch. B, 213.3217)

(a) Seventy-five positions, not to exceed GS–13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in mid-career development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

(b) Fifty positions, GS–7 through GS–11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the prior approval of the Office of Personnel Management, be extended for an additional period of 1 year.

27. Department of Veterans Affairs (Sch. B, 213.3227)

(a) Not to exceed 800 principal investigatory, scientific, professional, and technical positions at grades GS–11 and above in the medical research program.

(b) Not to exceed 25 Criminal Investigator (Undercover) positions, GS–1811, in grades 5 through 12, conducting undercover investigations in

the Veterans Health Administration (VA) supervised by the VA, Office of Inspector General. Initial appointments shall be greater than 1 year, but not to exceed 4 years and may be extended indefinitely in 1-year increments.

28. Broadcasting Board of Governors (Sch. B, 213.3228)

(a) International Broadcasting Bureau—

(1) Not to exceed 200 positions at grades GS–15 and below in the Office of Cuba Broadcasting. Appointments may not be made under this authority to administrative, clerical, and technical support positions.

36. U.S. Soldiers' and Airmen's Home (Sch. B, 213.3236)

(a) (Reserved)

(b) Director, Health Care Services; Director, Member Services; Director, Logistics; and Director, Plans and Programs.

40. National Archives and Records Administration (Sch. B, 213.3240)

(a) Executive Director, National Historical Publications and Records Commission.

48. National Aeronautics and Space Administration (Sch. B, 213.3248)

(a) Not to exceed 40 positions of Astronaut Candidates at grades GS–11 through 15. Employment under this authority may not exceed 3 years.

50. Consumer Financial Protection Bureau (Sch. B, 213.3250)

(a) One position of Deputy Director; and one position of Associate Director of the Division of Supervision, Enforcement, and Fair Lending.

55. Social Security Administration (Sch. B, 213.3255)

(a) (Reserved)

74. Smithsonian Institution (Sch. B, 213.3274)

(a) (Reserved)

(b) Freer Gallery of Art—

(1) Not to exceed four Oriental Art Restoration Specialists at grades GS–9 through GS–15.

76. Appalachian Regional Commission (Sch. B, 213.3276)

(a) Two Program Coordinators.

78. Armed Forces Retirement Home (Sch. B, 213.3278)

(a) Naval Home, Gulfport, Mississippi—

(1) One Resource Management Officer position and one Public Works Officer position, GS/GM–15 and below.

82. National Foundation on the Arts and the Humanities (Sch. B, 213.3282)

(a) (Reserved)

(b) National Endowment for the Humanities—

(1) Professional positions at grades GS–11 through GS–15 engaged in the review, evaluation, and administration of grants supporting scholarship, education, and public programs in the humanities, the duties of which require

in-depth knowledge of a discipline of the humanities.

91. Office of Personnel Management (Sch. B, 213.3291)

(a) Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS–13 and GS–14. Appointments may be made for any period up to 3 years and may be extended without prior approval for any individual. Not more than half of the

authorized faculty positions at any one Executive Seminar Center may be filled under this authority.

(b) Center for Leadership Development—No more than 72 positions of faculty members at grades GS–13 through GS–15. Initial appointments under this authority may be made for any period up to 3 years and may be extended in 1, 2, or 3 year increments.

Schedule C

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF AGRICULTURE	Agricultural Marketing Service	Chief of Staff	DA220143	07/15/2022
		Farm Service Agency (9)	DA220156	09/15/2022
	Food and Nutrition Service	Policy Advisor	DA230064	03/13/2023
		Senior Policy Advisor	DA230039	01/13/2023
		Special Assistant	DA230040	01/16/2023
		State Executive Director	DA220142	07/15/2022
		State Executive Director—Arizona	DA220158	09/28/2022
		State Executive Director—Louisiana	DA220140	07/05/2022
		State Executive Director—Utah	DA220139	07/05/2022
		State Executive Director—Wyoming	DA220159	08/26/2022
		Senior Policy Advisor	DA230078	04/04/2023
		Foreign Agricultural Service	Minister Counselor of Agriculture	DA220150	07/29/2022
	Senior Policy Advisor		DA230077	04/04/2023
	Natural Resources Conservation Service.	Assistant Chief	DA230063	03/20/2023
		Senior Advisor (2)	DA230056	02/16/2023
			DA230113	06/01/2023
		Special Advisor	DA230067	03/20/2023
		Special Assistant	DA230066	03/09/2023
	Office of Communications	Assistant Press Secretary (2)	DA230001	10/06/2022
			DA230002	10/06/2022
		Communications Advisor for Speech Writing	DA230009	11/07/2022
		Deputy Director of Advance	DA230031	12/22/2022
		Deputy Director of Communications	DA230082	05/22/2023
		Press Assistant	DA230036	01/06/2023
		Press Secretary (2)	DA220149	07/21/2022
			DA230108	05/22/2023
		Special Advisor	DA230054	03/03/2023
		Confidential Assistant	DA220168	10/07/2022
	Office of the Assistant Secretary for Administration.	Confidential Assistant	DA230048	01/29/2023
	Office of the Assistant Secretary for Civil Rights.	Chief of Staff	DA230112	06/01/2023
	Office of the Assistant Secretary for Congressional Relations.	Director of Oversight	DA230065	03/20/2023
		Lead Legislative Analyst	DA230058	02/10/2023
		Legislative Advisor (3)	DA230023	12/09/2022
			DA230047	01/29/2023
			DA230059	02/27/2023
		Senior Advisor	DA220155	08/12/2022
		Special Assistant	DA230085	05/05/2023
		Chief of Staff	DA230024	12/17/2022
		Special Advisor	DA230120	06/20/2023
		Office of the Chief Financial Officer	Senior Advisor	DA230105	05/22/2023
	Senior Counselor		DA230055	03/09/2023
	Senior Oversight Counselor		DA230061	03/10/2023
Special Assistant	DA230107		05/22/2023	
Office of the Deputy Secretary	Advance Associate		DA230006	10/24/2022
	Confidential Assistant		DA230034	12/30/2022
Office of the General Counsel	Deputy Director of Scheduling (2)		DA230013	11/09/2022
			DA230068	03/09/2023
Office of the Secretary	Deputy White House Liaison (2)		DA220162	09/13/2022
			DA230118	06/20/2023

Agency name	Organization name	Position title	Authorization No.	Effective date
		Director of Scheduling and Advance.	DA230087	05/22/2023
		Scheduler	DA230011	12/01/2022
		Senior Advisor (2)	DA230038	01/13/2023
			DA230046	01/27/2023
		Special Advisor	DA230086	05/04/2023
		Special Assistant (2)	DA230035	01/06/2023
			DA230053	02/10/2023
		White House Liaison (2)	DA220154	08/17/2022
			DA230072	04/14/2023
		Confidential Assistant	DA230062	03/23/2023
	Office of the Under Secretary for Farm Production and Conservation.			
	Office of the Under Secretary for Food, Nutrition and Consumer Services.	Senior Advisor	DA230045	01/29/2023
		Special Assistant	DA230052	02/10/2023
	Office of the Under Secretary for Marketing and Regulatory Programs.	Chief of Staff	DA230051	03/09/2023
	Office of the Under Secretary for Research, Education, and Economics.	Confidential Assistant	DA230016	11/18/2022
	Office of the Under Secretary for Rural Development.	Confidential Assistant	DA230083	05/04/2023
		Senior Advisor for Rural Engagement Delivery and Prosperity.	DA230114	06/01/2023
		Senior Counselor for Rural Energy	DA230025	12/09/2022
		Special Assistant	DA230084	05/04/2023
		Chief of Staff	DA230079	04/25/2023
	Office of the Under Secretary for Trade and Foreign Agricultural Affairs.			
	Office of Under Secretary for Natural Resources and Environment.	Special Assistant	DA230033	12/30/2022
	Rural Business Service	Chief of Staff	DA230015	11/09/2022
		Policy Advisor	DA220141	07/15/2022
		Special Assistant	DA230041	01/20/2023
	Rural Development	Senior Advisor	DA230017	11/18/2022
		State Director—Kansas	DA220138	07/05/2022
		State Director—Puerto Rico	DA230018	11/18/2022
		State Director—Texas	DA220135	07/05/2022
	Rural Housing Service	Chief of Staff	DA230111	06/01/2023
	Rural Utilities Service	Chief of Staff	DA230043	01/29/2023
		Senior Advisor	DA230073	03/28/2023
		Special Assistant	DA230042	01/16/2023
UNITED STATES AGENCY FOR GLOBAL MEDIA.	United States Agency for Global Media.	Senior Communications Advisor ...	IB220001	08/16/2022
		Senior Advisor	IB220003	08/16/2022
DEPARTMENT OF COMMERCE ...	Office of the Assistant Secretary for Industry and Analysis.	Senior Advisor	DC220176	09/09/2022
	Bureau of Industry and Security ...	Deputy Director of Public Affairs	DC220180	09/23/2022
		Deputy Director of Congressional Affairs.	DC230102	03/23/2023
	Office of the Director General of the United States and Foreign Commercial Service and Assistant Secretary for Global Markets.	Director of Communications and Outreach.	DC230142	06/01/2023
	Economic Development Administration.	Chief of Staff	DC230041	12/29/2022
		Director of Public Affairs	DC230077	02/09/2023
		Senior Advisor	DC220160	07/29/2022
	Immediate Office	Special Assistant to the Senior Advisors.	DC220167	08/26/2022
	Office of International Trade Administration.	Communications Specialist	DC230147	06/16/2023
		Director of Outreach	DC220156	07/22/2022
		Director of Public Affairs	DC230044	12/29/2022
		Legislative Specialist	DC230145	06/01/2023
		Senior Advisor (2)	DC220158	07/29/2022
			DC220175	09/09/2022
		Senior Advisor to the Under Secretary.	DC220168	08/26/2022
		Senior Policy Advisor	DC230045	01/12/2023

Agency name	Organization name	Position title	Authorization No.	Effective date
	Minority Business Development Agency.	Director of Legislative Affairs	DC220129	07/01/2022
		Senior Advisor (2)	DC230061	01/27/2023
			DC230131	05/04/2023
		Senior Advisor for Diversity, Equity, Inclusion and Accessibility.	DC230081	02/24/2023
	National Institute of Standards and Technology.	Special Assistant	DC230039	12/29/2022
		Chief of Staff for External and Government Affairs.	DC230070	02/09/2023
		Communications Director	DC230040	12/29/2022
		Director of Legislative Affairs	DC230074	02/09/2023
		Director of Public Engagement	DC230071	02/09/2023
		Press Secretary	DC230117	04/06/2023
		Public Engagement Specialist	DC230107	03/23/2023
		Senior Advisor for Opportunity and Inclusion.	DC230048	01/12/2023
	National Oceanic and Atmospheric Administration.	Legislative Specialist	DC230123	04/20/2023
		Senior Advisor	DC230148	06/16/2023
		Special Advisor (2)	DC230060	01/27/2023
			DC230073	02/09/2023
	National Telecommunications and Information Administration.	Advisor for Intergovernmental Affairs.	DC220148	07/15/2022
		Chief of Staff for National Telecommunications and Information Administration.	DC230014	11/04/2022
		Deputy Director of Congressional Affairs.	DC230144	06/01/2023
		Deputy Director of Public Engagement.	DC220147	07/15/2022
		Press Assistant	DC220166	08/26/2022
		Senior Advisor for Public Affairs	DC230013	11/04/2022
		Special Assistant for External Affairs.	DC230021	11/25/2022
		Special Assistant for Public Engagement.	DC220179	09/23/2022
	Office of Advance, Scheduling and Protocol.	Special Assistant	DC220170	08/26/2022
		Scheduler	DC230056	01/27/2023
	Office of Business Liaison	Deputy Director	DC230129	05/04/2023
		Public Engagement Advisor	DC230043	12/29/2022
		Special Assistant	DC230024	12/01/2022
	Office of Executive Secretariat	Confidential Assistant	DC230057	01/27/2023
		Special Assistant	DC230075	02/09/2023
	Office of Legislative and Intergovernmental Affairs.	Director of Legislative Affairs	DC220141	07/01/2022
		Special Assistant	DC230100	03/23/2023
	Office of Policy and Strategic Planning.	Counselor for Equity	DC230072	02/09/2023
		Senior Policy Advisor	DC230143	06/01/2023
		Special Advisor	DC230133	05/19/2023
		Special Assistant (3)	DC230025	12/01/2022
			DC230104	03/23/2023
			DC230119	04/06/2023
	Office of Public Affairs	Deputy Press Secretary	DC220149	07/15/2022
		Deputy Speechwriter	DC230124	04/20/2023
		Director of Digital Strategy	DC230010	11/04/2022
		Press Secretary	DC230035	12/15/2022
	Office of the Chief Financial Officer and Assistant Secretary for Administration.	Special Assistant	DC230011	11/04/2022
	Office of the Chief of Staff	Advance and Protocol Officer	DC230078	02/09/2023
		Director of Native American Business Development.	DC230006	10/21/2022
		Senior Advisor	DC230112	04/06/2023
		Special Assistant to the Deputy Chief of Staff.	DC220159	07/29/2022
	Office of the Deputy Secretary	Special Assistant to the Deputy Secretary.	DC230087	03/03/2023
	Office of the General Counsel	Senior Counsel	DC230047	01/12/2023
		Counsel	DC230086	03/03/2023
	Office of the Secretary	Special Assistant (2)	DC230084	02/24/2023
			DC230139	05/19/2023

Agency name	Organization name	Position title	Authorization No.	Effective date
COMMISSION ON CIVIL RIGHTS	Office of the Under Secretary	Special Assistant	DC230136	05/19/2023
		Senior Advisor	DC230080	02/24/2023
	Office of White House Liaison	Deputy White House Liaison	DC230085	03/02/2023
	Office of the Commissioners	Special Assistant to the Commissioner (2).	CC220002 CC230001	07/14/2022 03/31/2023
FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL.	Federal Permitting Improvement Steering Council.	Director of Public Engagement	FF220002	09/12/2022
		Associate Director for Public Engagement.	FF220003	11/23/2022
CONSUMER FINANCIAL PROTECTION BUREAU.	Consumer Financial Protection Bureau.	Director of Tribal Affairs	FF230001	12/15/2022
	Office of the Director	Associate Director, Research, Monitoring, and Regulations.	FP230001	12/23/2022
		Chief Technologist and Senior Advisor to the Director.	FP220007	09/09/2022
COUNCIL ON ENVIRONMENTAL QUALITY.	Council on Environmental Quality ..	Management and Program Analyst	FP230002	12/16/2022
		Senior Advisor for Congressional Affairs.	FP230003	02/17/2023
		Director of Legislative Affairs	EQ230003	02/21/2023
		Press Secretary	EQ230001	11/01/2022
		Public Affairs Specialist	EQ220002	10/04/2022
		Scheduler and Communications Assistant.	EQ220001	08/10/2022
		Special Assistant for Environmental Justice.	EQ230002	01/24/2023
		Staff Assistant for Environmental Justice.	EQ230005	05/26/2023
DEPARTMENT OF DEFENSE	Office of the Assistant Secretary of Defense (Indo-Pacific Security Affairs).	Special Assistant	DD220182	09/20/2022
	Office of the Assistant Secretary of Defense (Legislative Affairs).	Special Assistant (4)	DD220160 DD220173 DD230106 DD230150	07/15/2022 08/23/2022 01/26/2023 05/16/2023
		Special Assistant to the Assistant Secretary of Defense for Legislative Affairs (3).	DD230151 DD230011 DD230022	05/31/2023 10/27/2022 11/14/2022
		Special Assistant	DD230004	01/09/2023
		Office of the Assistant Secretary of Defense (Nuclear, Chemical and Biological Defense Programs).	Special Assistant	DD220183	09/20/2022
	Office of the Assistant Secretary of Defense (Space Policy).	Senior Advisor	DD230034	12/23/2022
	Office of the Assistant Secretary of Defense (Special Operations/ Low Intensity Conflict).	Speechwriter	DD220162	07/14/2022
		Speech Writer	DD220174	08/23/2022
	Office of the Assistant to the Secretary of Defense (Public Affairs).	Special Assistant	DD230033	12/21/2022
		Director of Digital Media	DD230127	03/20/2023
		Advance Officer (2)	DD230114 DD230167	02/14/2023 06/21/2023
		Protocol Officer	DD230039	01/13/2023
		Senior Advisor to the Deputy Secretary of Defense for Strategic Engagements.	DD230153	05/19/2023
		Special Assistant	DD230009	10/21/2022
		Special Assistant to the Secretary of Defense (Strategy).	DD230042	01/12/2023
		Staff Assistant to the Deputy Secretary of Defense.	DD220161	07/15/2022
		Special Assistant	DD230130	03/31/2023
		Office of the Under Secretary of Defense (Acquisition and Sustainment).	Special Assistant	DD230123	03/14/2023
	Office of the Under Secretary of Defense (Comptroller).	Special Assistant	DD230141	04/13/2023
	Office of the Under Secretary of Defense (Intelligence and Security).	Special Assistant (2)	DD230035 DD230036	12/21/2022 12/21/2022
Office of the Under Secretary of Defense (Personnel and Readiness).	Director, Strategic Communications	DD230003	10/12/2022	
Office of the Under Secretary of Defense (Research and Engineering).				

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF THE AIR FORCE.	Washington Headquarters Services	Special Assistant	DD220175	08/26/2022
	Office of Assistant Secretary Air Force for Financial Management and Comptroller.	Special Assistant	DF230016	04/17/2023
	Office of Assistant Secretary Air Force, Installations, Environment, and Energy.	Senior Advisor to the Assistant Secretary of the Air Force.	DF220016	09/02/2022
	Office of the Secretary	Deputy Chief of Staff to the Secretary of the Air Force.	DF230002	11/18/2022
DEPARTMENT OF THE ARMY	Office of the Under Secretary	Special Assistant to the Under Secretary of the Army.	DW220035	08/16/2022
		Special Assistant to Deputy Under Secretary of the Army.	DW220040	09/25/2022
	Office Deputy Under Secretary of Army.	Special Assistant to the Assistant Secretary of the Army (Financial Management and Comptroller).	DW230006	01/23/2023
	Office of the Under Secretary	Speechwriter to the Under Secretary of the Army.	DW230021	03/20/2023
	Office of the General Counsel	Attorney Advisor to the Army General Counsel.	DW230022	03/20/2023
	Office Assistant Secretary Army (Manpower and Reserve Affairs).	Special Assistant to the Assistant Secretary of the Army (Manpower and Reserve Affairs).	DW230026	06/09/2023
DEPARTMENT OF THE NAVY	Office of the Secretary of the Navy	Special Assistant (3)	DN220030 DN230003 DN230028 DN230015	08/16/2022 11/08/2022 04/28/2023 02/03/2023
		Special Assistant to the Secretary of the Navy.	DN230021	04/28/2023
	Office of the Assistant Secretary of Navy (Manpower and Reserve Affairs).	Attorney-Advisor (General)	DN230021	04/28/2023
DEPARTMENT OF EDUCATION ...	Office for Civil Rights	Confidential Assistant	DB220080	08/10/2022
		Senior Counsel	DB220090	09/10/2022
		Chief of Staff	DB230019	12/13/2022
	Office of Communications and Outreach.	Chief Speechwriter	DB220070	07/15/2022
		Director, Rural Engagement	DB230050	03/08/2023
		Press Secretary, Higher Education	DB230085	05/15/2023
		Press Secretary, K-12	DB230088	06/01/2023
		Press Secretary, Oversight	DB230013	11/29/2022
		Senior Advisor	DB230021	12/14/2022
		Special Assistant, Family Outreach	DB230016	11/28/2022
	Office of Legislation and Congressional Affairs.	Deputy Assistant Secretary for Higher Education.	DB220083	08/19/2022
		Senior Advisor, Oversight	DB220097	09/09/2022
		Principal Advisor for Legislative Affairs.	DB230093	06/01/2023
	Office of Planning, Evaluation and Policy Development.	Confidential Assistant	DB220102	09/29/2022
		Senior Advisor	DB230014	11/22/2022
	Office of Postsecondary Education	Special Assistant	DB230048	02/09/2023
		Senior Advisor	DB230043	02/17/2023
Confidential Assistant		DB230087	05/18/2023	
Office of Special Education and Rehabilitative Services.	Chief of Staff	DB230071	04/26/2023	
	Confidential Assistant	DB220087	08/26/2022	
Office of the Deputy Secretary	Deputy Chief of Staff	DB230079	05/04/2023	
	Senior Advisor, Innovation	DB220100	09/30/2022	
Office of the General Counsel	Senior Counsel (2)	DB230001 DB230090 DB230006	10/07/2022 06/26/2023 11/08/2022	
	Senior Counsel, Oversight	DB220096	09/09/2022	
	Confidential Assistant (2)	DB230005 DB230002	12/13/2022 10/07/2022	
Office of the Secretary	Confidential Assistant, White House Initiatives.	DB230076	04/20/2023	
	Deputy Director of Scheduling	DB230051	02/23/2023	
	Deputy Director, Center for Faith-Based and Neighborhood Partnerships.			

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF ENERGY	Office of the Under Secretary	Deputy Director, White House Initiative on Advancing Educational Equity, Excellence, and Economic Operations (3).	DB220088 DB230011 DB230026	08/26/2022 11/09/2022 01/04/2023
		Deputy White House Liaison	DB220066	07/01/2022
		Director of Scheduling	DB230053	02/09/2023
		Executive Assistant/Executive Office Manager.	DB230042	01/20/2023
		Executive Director, White House Initiative on Advancing Educational Equity, Excellence, and Economic.	DB230055	02/23/2023
		Senior Advisor	DB230003	10/07/2022
		Senior Advisor, Labor Relations	DB230069	04/06/2023
		Special Advisor to the Chief of Staff.	DB230047	02/09/2023
		Special Assistant	DB230046	02/09/2023
		Special Assistant, Advance	DB230080	04/27/2023
		Confidential Assistant	DB220103	10/07/2022
		Policy Advisor	DB230073	05/15/2023
		Special Assistant	DB230020	12/13/2022
		Senior Advisor	DE230044	04/28/2023
		Advisor, Congressional Affairs	DE230040	01/18/2023
		Deputy Assistant Secretary for House Affairs.	DE230010	11/02/2022
		Oversight Advisor	DE230113	05/24/2023
		Regional Intergovernmental and External Affairs Specialist (3).	DE230034 DE230043 DE230048	01/19/2023 01/27/2023 01/27/2023
		Regional Intergovernmental and External Affairs Specialist—Appalachia.	DE230042	01/27/2023
		Regional Intergovernmental and External Affairs Specialist for the Midwest.	DE230122	06/14/2023
		Regional Intergovernmental and External Affairs Specialist for the Southwest.	DE230035	02/16/2023
		Special Assistant	DE230119	05/26/2023
		Special Assistant	DE230072	03/03/2023
		Advisor	DE230070	02/24/2023
		Special Assistant	DE230121	06/14/2023
		Special Assistant	DE220117	09/02/2022
		Chief of Staff	DE230024	12/13/2022
		Special Assistant	DE230031	01/12/2023
		Chief of Staff	DE230118	05/26/2023
		Director of Public Affairs	DE230099	05/09/2023
		Special Assistant	DE230020	12/05/2022
		Director of Advance	DE230110	05/22/2023
		Director of Scheduling	DE230120	06/14/2023
		Director, Office of Executive Secretariat.	DE230091	03/29/2023
		Director, Scheduling and Advance	DE230029	02/16/2023
		International Trip Lead	DE220140	10/14/2022
		Special Assistant	DE230032	01/04/2023
		Chief of Staff	DE220100	07/05/2022
		Special Assistant	DE230007	10/26/2022
		Special Assistant (2)	DE220139 DE230071	09/27/2022 02/24/2023
Deputy Director	DE220103	07/08/2022		
Deputy Press Secretary (2)	DE220115 DE230074	09/01/2022 03/06/2023		
Office of Advanced Research Projects Agency—Energy.				
Office of the Assistant Secretary for Congressional and Intergovernmental Affairs.				
Office of the Assistant Secretary for Electricity.				
Office of the Assistant Secretary for Energy Efficiency and Renewable Energy.				
Office of the Assistant Secretary for Fossil Energy.				
Office of the Assistant Secretary for Nuclear Energy.				
National Nuclear Security Administration.				
Office of Indian Energy Policy and Programs.				
Office of Management				
Office of Manufacturing and Energy Supply Chains.				
Office of Policy				
Office of Public Affairs				

Agency name	Organization name	Position title	Authorization No.	Effective date	
ENVIRONMENTAL PROTECTION AGENCY.	Office of Scheduling and Advance	Deputy Speechwriter	DE230114	05/24/2023	
		Digital Content Manager (2)	DE230075	03/09/2023	
		Editor-Writer (Deputy Speech-writer).	DE230088	03/22/2023	
		Deputy Director for Scheduling and Advance.	DE230047	01/27/2023	
	Office of Science	Chief of Staff	DE220099	07/05/2022	
		Special Assistant	DE220019	07/21/2022	
	Office of the Secretary	Deputy White House Liaison	DE220122	09/02/2022	
		Special Advisor to the Chief of Staff of the Secretary.	DE220142	10/14/2022	
		Special Assistant to the Chief of Staff.	DE230021	12/12/2022	
		Special Assistant to the Deputy Chief of Staff.	DE230067	02/16/2023	
	Office of State and Community Energy Programs.	White House Liaison	DE220131	09/22/2022	
		Special Assistant	DE220114	08/05/2022	
	Office of Public Affairs	Digital Media Advisor	EP220085	09/22/2022	
		Public Affairs Specialist	EP220082	09/15/2022	
		Senior Advisor for Communications	EP230053	02/03/2023	
		Senior Strategic Communications Advisor.	EP220080	09/13/2022	
		Writer-Editor (Speechwriter) (2)	EP230003	10/24/2022	
		Office of Public Engagement and Environmental Education.	Public Engagement Specialist (3) ..	EP230052	02/03/2023
			Public Engagement Specialist (3) ..	EP220067	07/13/2022
			Public Engagement Specialist (3) ..	EP220079	09/09/2022
			Public Engagement Specialist (3) ..	EP230096	06/01/2023
		Office of the Administrator	Advance Specialist (2)	EP220068	07/21/2022
	Deputy Director of Scheduling		EP230012	12/06/2022	
	Scheduler		EP230105	06/27/2023	
	Senior Advisor for the Greenhouse Gas Reduction Fund.		EP230098	06/08/2023	
	Senior Advisor to the Administrator		EP230022	01/19/2023	
	Special Assistant for the Greenhouse Gas Reduction Fund.		EP220078	09/08/2022	
	Special Assistant to the Chief of Staff.		EP230051	02/03/2023	
	Special Assistant to the Executive Secretariat.		EP230015	12/11/2022	
	Special Assistant to the White House Liaison.		EP230018	12/29/2022	
	Special Assistant to the White House Liaison.		EP230011	11/16/2022	
	Special Advisor for Implementation		EP230004	11/01/2022	
	Senior Advisor		EP230008	11/02/2022	
	Office of the Assistant Administrator for Air and Radiation.	Public Engagement Advisor	EP220070	08/08/2022	
		Senior Advisor for Implementation(2).	EP220073	08/11/2022	
	Office of the Assistant Administrator for Enforcement and Compliance Assurance.	Special Advisor	EP230058	02/16/2023	
		Special Advisor	EP230013	12/05/2022	
	Office of the Assistant Administrator for Water.	Deputy Associate Administrator for House Relations.	EP230073	04/04/2023	
		Senior Advisor for Congressional Affairs.	EP230092	05/25/2023	
	Office of the Associate Administrator for Congressional and Intergovernmental Relations.	Senior Advisor for Implementation	EP230072	04/04/2023	
		Special Advisor for House Relations.	EP230076	04/14/2023	
		Special Advisor for Intergovernmental Affairs.	EP220065	07/11/2022	
Special Assistant		EP230005	10/26/2022		
Office of the Associate Administrator for Policy.	Special Advisor	EP230087	05/22/2023		
	Attorney-Advisor (General) (2)	EP220076	09/01/2022		
Office of the General Counsel	Attorney-Advisor (General) (2)	EP230106	06/27/2023		
	Speechwriter	EB230002	12/01/2022		
EXPORT-IMPORT BANK	Office of Communications	Speechwriter	EB230002	12/01/2022	

Agency name	Organization name	Position title	Authorization No.	Effective date
FEDERAL TRADE COMMISSION ..	Office of Congressional and Intergovernmental Affairs.	Press Secretary	EB230003	12/01/2022
		Deputy Director for Congressional and Intergovernmental Affairs.	EB230010	04/24/2023
	Office of External Engagement	Senior Vice President for External Engagement.	EB230008	03/02/2023
	Office of the Chairman	Confidential Assistant to the Chairman.	EB230001	11/09/2022
		Director of Scheduling	EB230005	02/23/2023
	Office of the Chief of Staff	Executive Secretary	EB220006	08/19/2022
		Senior Advisor to the President and Chair.	EB230007	02/16/2023
	Office of the Chair	Special Assistant and Deputy Scheduler.	EB230006	02/23/2023
		Senior Advisor, National Security ..	EB220007	08/22/2022
	GENERAL SERVICES ADMINISTRATION.	National Capital Region	Compliance and Risk Strategist	FT220006	08/17/2022
Director, Office of Public Affairs			FT220008	09/21/2022
Office of Congressional and Intergovernmental Affairs.		Writer-Editor (Speechwriter) (2)	FT220012	09/21/2022
		Special Advisor to the Chair	FT230001	10/19/2022
Office of Strategic Communication		Special Assistant to the Regional Administrator.	FT230009	03/07/2023
		Policy Advisor (2)	GS230012	01/04/2023
Office of the Administrator		Deputy Associate Administrator for Policy.	GS220019	07/29/2022
		Deputy Associate Administrator for Public Affairs.	GS220025	09/21/2022
Office of the Administrator		Press Secretary (2)	GS230025	01/19/2023
		Deputy Associate Administrator for Public Affairs.	GS220021	08/24/2022
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of the Administrator	Speechwriter	GS220018	07/26/2022
		Chief of Staff	GS230033	05/09/2023
	Office of the Administrator	Deputy Chief of Staff for Operations.	GS230005	11/14/2022
		Director of Scheduling and Advance.	GS230027	02/24/2023
	Office of the Administrator	Scheduler	GS220020	08/24/2022
		Senior Advisor to the Administrator (Delivery).	GS230008	12/16/2022
	Office of the Administrator	Special Assistant (2)	GS230004	11/10/2022
		White House Liaison and Director of National Outreach.	GS220026	10/07/2022
	Office of the General Counsel	Special Assistant (2)	GS230007	12/14/2022
		Chief of Staff	GS230013	12/21/2022
Office of Administration for Children and Families.	Advisor	GS230006	12/08/2022	
	Director of Communications	GS230024	01/19/2023	
Office of Administration for Community Living.	Advisor	DH230156	02/23/2023	
	Senior Advisor (2)	DH230189	05/04/2023	
Agency for Healthcare Research and Quality.	Senior Advisor	DH220137	08/25/2022	
	Senior Advisor, Oversight	DH230051	12/29/2022	
Center for Medicaid and Chip Services.	Special Advisor (2)	DH230036	12/08/2022	
	Advisor	DH230134	01/27/2023	
Centers for Medicare and Medicaid Services.	Senior Advisor (2)	DH230134	01/27/2023	
	Advisor	DH230174	03/17/2023	
Office of Health Resources and Services Administration.	Senior Advisor	DH230157	03/09/2023	
	Senior Advisor	DH230173	03/08/2023	
Office of Health Resources and Services Administration.	Advisor for External Affairs	DH230043	12/29/2022	
	Senior Advisor and Press Secretary.	DH230132	01/27/2023	
Office of Health Resources and Services Administration.	Chief of Staff	DH230136	01/27/2023	
	Director of Strategic Communications.	DH230021	11/14/2022	
Indian Health Service	Senior Advisor	DH230055	01/13/2023	
	Senior Advisor to the Director	DH230175	03/17/2023	
National Cancer Institute	Assistant Director, Cancer Moonshot Engagement.	DH230056	01/12/2023	
	Special Advisor	DH230057	01/13/2023	
Office for Civil Rights	Senior Advisor	DH230190	05/04/2023	
	Special Assistant	DH230035	12/01/2022	
Office of Global Affairs	Special Assistant	DH230035	12/01/2022	

Agency name	Organization name	Position title	Authorization No.	Effective date	
DEPARTMENT OF HOMELAND SECURITY.	Office of Intergovernmental and External Affairs.	Director of External Affairs	DH230010	11/04/2022	
		Regional Director, Chicago, Illinois-Region V.	DH230135	01/27/2023	
		Regional Director, San Francisco, California, Region IX.	DH220160	09/29/2022	
		Senior Advisor	DH230169	03/09/2023	
		Special Assistant (3)	DH230025	11/30/2022	
			DH230037	12/13/2022	
			DH230144	02/23/2023	
			DH230201	06/02/2023	
		Office of Refugee Resettlement/Office of the Director.	Senior Advisor	DH230158	03/09/2023
		Office of the Assistant Secretary for Financial Resources.	Senior Advisor	DH230158	03/09/2023
	Office of the Assistant Secretary for Health.	Special Assistant	DH230171	03/10/2023	
		Senior Advisor, Environmental Justice.	DH220139	08/25/2022	
		Senior Advisor, LGBTQ Health	DH220143	09/10/2022	
	Office of the Assistant Secretary for Health.	Senior Advisor, Environmental Justice.	DH220158	09/30/2022	
		Special Assistant	DH230017	11/22/2022	
	Office of the Assistant Secretary for Legislation.	Special Assistant	DH230017	11/22/2022	
		Senior Advisor and Congressional Liaison.	DH230180	04/06/2023	
	Office of the Assistant Secretary for Preparedness and Response.	Senior Advisor (2)	DH220159	09/23/2022	
		Strategic Advisor for Communications.	DH230211	06/28/2023	
			DH230212	06/28/2023	
	Office of the Assistant Secretary for Public Affairs.	Assistant Speechwriter	DH230061	01/12/2023	
		Director of Speechwriting	DH230038	12/08/2022	
		National Press Secretary	DH220134	08/12/2022	
		Online Communications Director	DH230178	03/22/2023	
		Press Assistant	DH230143	02/09/2023	
		Press Secretary (Human Services)	DH230032	12/01/2022	
		Principal Deputy Speechwriter	DH230034	12/01/2022	
		Senior Advisor (2)	DH230131	01/24/2023	
			DH230208	06/01/2023	
			DH230033	12/01/2022	
	Office of the Deputy Secretary	Senior Advisor for Broadcast and Specialty Media.	DH230183	04/06/2023	
		Special Assistant	DH230040	12/15/2022	
		Special Assistant	DH230040	12/15/2022	
	Office of the Deputy Secretary	Advisor (2)	DH230166	03/02/2023	
			DH230168	03/02/2023	
	Office of the General Counsel	Senior Counsel, Oversight (2)	DH230008	10/24/2022	
			DH230009	11/04/2022	
	Office of the Secretary	Deputy Director of Advance	DH220125	07/17/2022	
		Deputy White House Liaison	DH230161	03/08/2023	
		Policy Advisor (2)	DH230039	11/30/2022	
		DH230063	01/12/2023		
Scheduler (2)		DH230130	01/20/2023		
		DH230179	03/23/2023		
Senior Advisor		DH220081	07/28/2022		
Senior Policy Advisor (2)		DH230041	12/13/2022		
		DH230214	06/28/2023		
Special Advisor		DH230019	11/04/2022		
Special Assistant (4)		DH230060	01/12/2023		
		DH230062	01/12/2023		
		DH230164	03/01/2023		
		DH230159	03/02/2023		
		DH230129	01/20/2023		
Cybersecurity and Infrastructure Security Agency.		Special Assistant for Scheduling and Advance.	DH230129	01/20/2023	
	External Affairs Specialist	DM220217	09/19/2022		
Cybersecurity and Infrastructure Security Agency.	Senior Advisor for Public Affairs	DM230010	12/23/2022		
	Senior Advisor	DM230188	03/20/2023		
Federal Emergency Management Agency.	Senior Tribal National Advisor	DM220275	09/19/2022		
	Director of Legislative Affairs	DM230075	01/25/2023		
Management Directorate	Special Assistant	DM230213	05/18/2023		
	Director of Legislative Affairs	DM230255	06/01/2023		
	Senior Advisor	DM220271	08/19/2022		

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of Legislative Affairs	Director of Legislative Affairs, Oversight.	DM230008	12/01/2022
	Office of Partnership and Engagement.	Partnership and Engagement Specialist.	DM230207	04/25/2023
	Office of Public Affairs	Assistant Press Secretary (2)	DM230145	02/21/2023
			DM230144	02/24/2023
		Director of Strategic Communications and Speechwriting.	DM230236	05/18/2023
		Press Assistant	DM230156	03/03/2023
		Press Secretary for Oversight	DM230033	01/05/2023
		Social Media Director	DM220240	07/28/2022
		Social Media Specialist	DM230178	03/20/2023
	Office of Strategy, Policy, and Plans.	Policy Advisor	DM220253	09/08/2022
		Special Advisor	DM230016	11/22/2022
	Office of the General Counsel	Oversight Counsel	DM230147	02/21/2023
		Special Assistant	DM230180	03/31/2023
	Office of the Secretary	Writer-Editor	DM220213	07/28/2022
		White House Liaison	DM220248	07/28/2022
		Briefing Book Coordinator	DM220228	08/04/2022
		Special Assistant to the Chief of Staff.	DM220255	08/04/2022
		Special Assistant to the Secretary	DM220291	09/19/2022
		Senior Advance Officer	DM230054	01/23/2023
		Briefing Book Coordinator (Deputy Secretary).	DM230183	03/24/2023
		Director of Scheduling and Advance.	DM230232	04/28/2023
		Scheduler to the Secretary	DM230265	06/01/2023
	Transportation Security Administration.	Advisor to the Executive Director for Strategy Policy Coordination and Innovation.	DM230196	04/24/2023
	United States Citizenship and Immigration Services.	Senior Advisor for Customer Experience.	DM220249	07/28/2022
		Senior Advisor	DM230220	04/25/2023
	United States Customs and Border Protection.	Deputy Chief of Staff	DM230214	05/18/2023
	United States Immigration and Customs Enforcement.	Deputy Chief of Staff	DM220295	10/06/2022
		Deputy Assistant Director of Public Affairs.	DM230009	12/07/2022
	Government National Mortgage Association.	Special Advisor	DU230043	03/08/2023
	Office of Community Planning and Development.	Special Assistant	DU230030	01/20/2023
	Office of Congressional and Intergovernmental Relations.	Congressional Relations Specialist	DU220063	09/02/2022
		Deputy Assistant Secretary for Congressional and Intergovernmental Relations.	DU220068	09/28/2022
		Senior Advisor	DU230016	01/11/2023
		Special Advisor (2)	DU230009	11/18/2022
			DU230037	02/10/2023
			DU230003	11/04/2022
	Office of Fair Housing and Equal Opportunity.	Policy Advisor	DU230003	11/04/2022
	Office of Field Policy and Management.	Special Advisor	DU230058	06/29/2023
	Office of Housing	Special Policy Advisor (3)	DU220059	08/22/2022
			DU220060	08/22/2022
	Policy Advisor	DU230047	04/21/2023	
	Special Assistant	DU230053	05/04/2023	
Office of Policy Development and Research.	Senior Advisor	DU230048	04/17/2023	
	Special Advisor	DU230050	04/26/2023	
Office of Public Affairs	Assistant Press Secretary	DU230001	10/17/2022	
	Associate Director for Public Engagement.	DU230042	04/10/2023	
	Deputy Assistant Secretary, Public Engagement.	DU230039	02/16/2023	
	Deputy Assistant Secretary for Public Affairs.	DU230046	04/06/2023	
	Deputy Press Secretary	DU220058	08/26/2022	
	Digital Strategist	DU220061	08/22/2022	
	Director, Strategic Communications	DU230008	11/14/2022	

Agency name	Organization name	Position title	Authorization No.	Effective date	
DEPARTMENT OF THE INTERIOR	Office of Public and Indian Housing Office of the Administration	Press Secretary	DU220064	09/02/2022	
		Senior Advisor	DU220070	09/28/2022	
	Office of the Deputy Secretary	Advance Coordinator (2)	DU230007	11/11/2022	
		.....	DU230012	12/15/2022
		Senior Advisor	DU230041	03/02/2023	
		Special Assistant	DU230054	04/28/2023	
		Senior Policy Advisor	DU230049	04/17/2023	
		Special Advisor	DU230064	06/20/2023	
		Senior Counsel for Oversight	DU230011	12/15/2022	
		Deputy White House Liaison (2)	DU220053	07/13/2022	
		.....	DU230063	06/20/2023
		.....	DU230056	05/02/2023
	Office of the General Counsel .....	.....	DU230035	02/10/2023
		.....	DU230036	02/10/2023
		.....	DU220057	08/12/2022
		Special Assistant and Briefing Book Coordinator.	DU230033	01/27/2023
		Special Assistant and Policy Coor- dinator.	DU230034	01/27/2023
		White House Liaison	DI230064	03/20/2023	
		Senior Advisor	DI220081	08/25/2022	
		Advisor to the Assistant Sec- retary—Land and Minerals Man- agement.	DI220093	10/17/2022
		Special Assistant	DI220084	09/02/2022	
		.....	DI230054	03/01/2023
	Office of the Assistant Secretary— Policy, Management and Budget.	.....	DI230052	02/02/2023
		Advisor	DI230048	01/25/2023	
		Office of the Assistant Secretary— Water and Science.	DI230068	04/19/2023
		Bureau of Land Management	DI220091	09/21/2022	
		Bureau of Reclamation	DI230005	11/30/2022	
		.....	DI220076	08/15/2022
		Bureau of Safety and Environ- mental Enforcement.	DI230038	02/02/2023
		National Park Service	DI230072	05/25/2023	
		Office of Congressional and Legis- lative Affairs.	DI220089	09/21/2022
		Office of Surface Mining	DI230069	04/21/2023	
Office of the Solicitor .....	.....	DI220079	08/12/2022	
	Secretary's Immediate Office	DI220082	08/24/2022		
	.....	DI230003	11/15/2022	
	.....	DI230071	05/25/2023	
	.....	DI230051	02/02/2023	
	.....	DI230055	03/01/2023	
	.....	DI230073	06/09/2023	
	.....	DI230004	11/14/2022	
	.....	DI220074	07/14/2022	
	.....	DI220092	10/17/2022	
United States Fish and Wildlife Service.	.....	DI230070	05/25/2023	
	.....	DI220069	07/14/2022	
	Office of Civil Rights Division	Counsel (2)	DJ230036	12/23/2022	
		.....	DJ230035	12/28/2022
	Community Relations Service	Senior Counsel (2)	DJ230037	01/06/2023	
		.....	DJ220125	07/28/2022
		Chief of Staff and Senior Advisor ..	DJ230055	02/03/2023	
		Policy Advisor	DJ230058	02/09/2023	
	Department of Justice .....	.....	DJ230094	06/20/2023
		.....	DJ230026	01/27/2023
.....		DJ220134	09/10/2022		
.....		DJ230009	11/21/2022		
Environment and Natural Re- sources Division.	.....	DJ230011	11/28/2022	
	.....	DJ230011	11/28/2022	
Executive Office for United States Attorneys.	.....	DJ230009	11/21/2022	
	.....	DJ230011	11/28/2022	

DEPARTMENT OF JUSTIICE

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of Deputy Assistant Attorney General I.	Counsel	DJ230041	01/10/2023
	Office of Justice Programs	Policy Advisor	DJ230091	05/05/2023
	Office of Legal Policy	Senior Counsel	DJ230039	12/27/2022
		Counsel	DJ230042	12/27/2022
		Counsel and Advisor to the Assistant Attorney General.	DJ230097	06/20/2023
	Office of Legislative Affairs	Advisor	DJ230117	06/29/2023
		Attorney Advisor	DJ230014	11/18/2022
		Chief of Staff and Senior Counsel	DJ230018	11/16/2022
		Counsel (2)	DJ230093	05/12/2023
			DJ230096	06/29/2023
		Senior Counsel	DJ230005	11/16/2022
	Office of Public Affairs	Deputy Director for Public Engagement.	DJ220092	08/25/2022
		Press Secretary	DJ230043	01/09/2023
		Senior Communications Advisor	DJ230063	03/10/2023
		Special Assistant to the Director	DJ220136	09/22/2022
	Office of the Associate Attorney General.	Confidential Assistant	DJ230065	03/01/2023
		Deputy Chief of Staff and Senior Counsel.	DJ230102	06/20/2023
	Office of the Deputy Attorney General.	Senior Counsel	DJ220108	07/08/2022
		Counsel	DJ230068	03/22/2023
		Senior Counsel (3)	DJ230013	10/26/2022
			DJ230022	11/17/2022
			DJ230072	03/23/2023
		Special Assistant (2)	DJ230107	06/29/2023
			DJ230108	06/29/2023
DEPARTMENT OF LABOR	Department of Labor	Advisor	DL230067	05/30/2023
		Chief of Staff	DL230072	05/26/2023
		Press Secretary and Communications Advisor.	DL230076	06/15/2023
	Office of Employee Benefits Security Administration.	Special Assistant	DL230059	03/13/2023
	Office of Employment and Training Administration.	Deputy Advisor	DL220083	09/08/2022
		Senior Policy Advisor	DL220082	09/15/2022
		Policy Advisor	DL230054	03/01/2023
	Mine Safety and Health Administration.	Senior Policy Advisor	DL230019	01/20/2023
	Occupational Safety and Health Administration.	Policy Advisor	DL220086	10/07/2022
		Special Assistant (2)	DL230005	11/18/2022
			DL230017	01/12/2023
	Office of Congressional and Intergovernmental Affairs.	Deputy Director, Intergovernmental Affairs.	DL220075	09/09/2022
		Legislative Officer	DL230050	02/10/2023
		Oversight Counsel	DL230018	01/31/2023
		Senior Legislative Assistant (2)	DL220092	10/12/2022
			DL230003	11/18/2022
		Senior Legislative Officer	DL230041	02/09/2023
	Office of Federal Contract Compliance Programs.	Senior Advisor	DL230011	12/29/2022
		Chief of Staff	DL230013	12/29/2022
	Office of Public Affairs	Press Secretary	DL220072	08/05/2022
		Digital Content Manager	DL230055	03/10/2023
	Office of the Assistant Secretary for Administration and Management.	Special Assistant	DL230068	05/30/2023
	Office of the Assistant Secretary for Policy.	Chief of Staff	DL220084	09/15/2022
		Policy Advisor	DL230014	01/19/2023
	Office of the Secretary	Advance Associate	DL220067	07/01/2022
		Advisor for Infrastructure and Climate Engagement.	DL220064	07/21/2022
		Chief of Staff	DL230074	06/02/2023
		Director of Advance	DL230006	11/30/2022
		Event Director	DL230008	11/30/2022
		Executive Director of Scheduling and Advance.	DL230007	11/30/2022
		Scheduler	DL230070	05/30/2023

Agency name	Organization name	Position title	Authorization No.	Effective date		
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.	Office of the Solicitor	Senior Counselor to the Secretary	DL230010	12/29/2022		
		Counsel	DL230002	10/31/2022		
	Office of Workers Compensation Programs.	Senior Counsel	DL230049	02/17/2023		
		Chief of Staff	DL230064	05/25/2023		
	Veterans Employment and Training Service.	Chief of Staff	DL230063	05/30/2023		
	Office of Wage and Hour Division	Policy Advisor (2)	DL220091	10/12/2022		
			DL230062	04/26/2023		
	Office of Communications	Communications Manager	NN230015	01/11/2023		
			Digital Content Strategist	NN230017	01/18/2023	
			Director of Speechwriting	NN230020	02/24/2023	
			Press Secretary and Advisor	NN230013	01/13/2023	
			Senior Advisor for Strategic Communications and Guest Operations.	NN230014	01/13/2023	
			Office of Legislative and Intergovernmental Affairs.	Legislative Assistant and Strategic Outreach Advisor.	NN230016	01/11/2023
			Office of the Administrator	Administrative Director and Advisor	NN230019	01/31/2023
					Counselor for Interagency and International Operations.	NN230028	03/13/2023
Projects and Initiatives Manager			Special Assistant for Engagement	NN230021	02/24/2023	
				NN230022	02/24/2023	
	Special Assistant to the Chief of Staff.	NN230018		01/18/2023		
		Patent and Trademark Office		Chief Communications Officer	DC220164	08/12/2022
UNITED STATES PATENT AND TRADEMARK OFFICE.	Deputy Chief Communications Officer.	DC230038	12/29/2022			
		Senior Advisor (2)	DC220161	07/29/2022		
		DC230026	12/01/2022			
		Special Advisor	DC230027	12/01/2022		
		Administrative Assistant to the Chief of Staff.	NA220004	09/08/2022		
NATIONAL ENDOWMENT FOR THE ARTS.	National Endowment for the Arts ...	Senior Advisor and Envoy for Cultural Exchange.	NA230002	01/18/2023		
		Special Projects Manager and Assistant to the Senior Deputy Chair.	NA230004	06/28/2023		
		National Endowment for the Humanities.	Special Assistant to the Office of the Chair.	NH230001	02/03/2023	
NATIONAL ENDOWMENT FOR THE HUMANITIES.	White House Liaison	NH230006	05/25/2023			
		National Mediation Board	Confidential Assistant	NM220003	08/08/2022	
NATIONAL MEDIATION BOARD ... OFFICE OF MANAGEMENT AND BUDGET.	Office of Communications	Deputy Associate Director for Communications (2).	BO220021	07/25/2022		
		Confidential Assistant	BO230033	06/23/2023		
	Office of Education, Income Maintenance and Labor Programs.	Confidential Assistant	BO220030	09/21/2022		
	Office of Legislative Affairs	Legislative Analyst	BO220031	09/21/2022		
			Deputy Associate Director for Legislative Affairs.	BO220034	10/07/2022	
	Office of E-Government and Information Technology.	Confidential Assistant	BO230003	12/01/2022		
	Office of Information and Regulatory Affairs.	Senior Counselor	BO230019	03/22/2023		
			Counselor	BO230036	06/13/2023	
	Office of the Director	Tribal Advisor	BO220029	09/10/2022		
			Confidential Assistant (2)	BO230018	03/10/2023	
		Advisor	BO230023	04/06/2023		
			BO230024	06/01/2023		
		Staff Offices	Confidential Assistant (2)	BO230005	12/13/2022	
				BO230020	03/23/2023	
		BO230002	11/18/2022			
OFFICE OF NATIONAL DRUG CONTROL POLICY.	Office of Transportation, Homeland, Justice and Services Division.	Confidential Assistant	BO230002	11/18/2022		
		Office of External and Legislative Affairs.	Legislative Analyst	QQ230008	05/15/2023	
	Public Affairs Specialist (Press Secretary).	QQ230009	05/15/2023			
Office of National Drug Control Policy.	Confidential Assistant	QQ230006	02/09/2023			
		Legislative Analyst	QQ230007	03/22/2023		

Agency name	Organization name	Position title	Authorization No.	Effective date
OFFICE OF PERSONNEL MANAGEMENT.	Office of Congressional, Legislative, and Intergovernmental Affairs. Office of Communications	Public Affairs Specialist (Deputy Press Secretary).	QQ230010	06/01/2023
		Deputy Director, Congressional, Legislative and Intergovernmental Affairs.	PM230007	11/29/2022
		Press Secretary	PM220046	08/25/2022
		Deputy Director, Office of Communications.	PM220051	09/30/2022
		Public Affairs Specialist (Deputy Press Secretary).	PM230046	06/13/2023
		Confidential Assistant (2)	PM230021	01/12/2023
			PM230038	04/07/2023
			PM230041	05/12/2023
			PM220048	09/09/2022
			PM220045	08/19/2022
OFFICE OF SCIENCE AND TECHNOLOGY POLICY.	Office of Science and Technology Policy.	Deputy Chief of Staff	PM230044	06/13/2023
		Executive Assistant to the Chief of Staff.	PM230037	03/29/2023
		Executive Assistant to the Director (2).	PM230008	12/15/2022
		Senior Advisor for Special Projects Associate Director	PM230008	12/15/2022
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.	Office of Public and Media Affairs	Communication Planning and Outreach Lead.	TS220005	09/09/2022
		Director for Legislative Affairs	TS230004	04/19/2023
		Deputy Director for Industrial Innovation.	TS230005	04/19/2023
UNITED STATES INTERNATIONAL DEVELOPMENT CORPORATION.	Office of Intergovernmental Affairs and Public Engagement.	Writer-Editor (Speech)	TN230004	10/26/2022
		Assistant United States Trade Representative for Intergovernmental Affairs and Public Engagement.	TN230003	11/02/2022
		Director of Scheduling and Advance Coordinator.	TN230007	12/08/2022
SECURITIES AND EXCHANGE COMMISSION.	Office of Commissioner Peirce	Congressional Affairs Specialist	TN230008	01/20/2023
		Confidential Assistant	PQ220006	07/29/2022
		Advisor, Office the Chief Executive Special Assistant	PQ220008	09/25/2022
		Confidential Assistant	PQ230002	01/10/2023
		Confidential Assistant	SE230005	03/23/2023
		Confidential Assistant (2)	SE220015	09/21/2022
			SE230006	03/23/2023
		Legislative Affairs Specialist	SE230001	11/17/2022
		Digital Media Communication Specialist.	SE220012	07/15/2022
		Senior Advisor to the Chair (Director of Speechwriting).	SE230004	03/15/2023
SMALL BUSINESS ADMINISTRATION.	Office of the Chairman	Chief of Staff	SE230002	12/07/2022
		Confidential Assistant (2)	SE220011	07/15/2022
			SE220013	08/05/2022
		Program Specialist	SE220014	09/21/2022
		Senior Advisor	SE230003	01/27/2023
		Senior Advisor	SB230015	02/21/2023
		Digital Director	SB230026	05/11/2023
		Press Assistant	SB230022	03/21/2023
		Press Secretary	SB230030	06/08/2023
		Senior Advisor	SB230025	05/01/2023
OFFICE OF CONGRESSIONAL AND LEGISLATIVE AFFAIRS.	Office of Communications and Public Liaison.	Speechwriter (2)	SB220038	08/03/2022
			SB230023	03/21/2023
			SB220044	09/07/2022
		Deputy Associate Administrator, Congressional Legislative Affairs (Senate).		
		Legislative Policy Advisor	SB230021	03/23/2023
		Senior Advisor	SB230004	11/29/2022
		Regional Administrator, Region VII	SB230019	03/22/2023
		Deputy Chief of Staff	SB220039	08/12/2022
		Deputy Director of Scheduling and Advance.	SB230027	04/28/2023
		Director of Advance	SB230032	06/30/2023

Agency name	Organization name	Position title	Authorization No.	Effective date			
SOCIAL SECURITY ADMINISTRATION.	Office of the Commissioner	Director of Public Engagement	SB220041	08/11/2022			
		Director of Scheduling and Advancement.	SB220043	08/26/2022			
		Public Engagement Coordinator	SB230020	03/15/2023			
		Senior Advisor	SB220032	07/26/2022			
		Senior Advisor for Public Engagement (4).	SB230016	03/03/2023			
			SB230003	11/22/2022			
			SB220045	10/19/2022			
			SB230028	05/02/2022			
			SZ220019	09/30/2022			
		DEPARTMENT OF STATE	Office of Legislative Development and Operations.	Senior Technical Advisor	SZ230008	02/24/2023	
				Bureau of African Affairs	DS230087	02/09/2023	
				Bureau of Conflict and Stabilization Operations.	DS220067	08/22/2022	
				Bureau of Cyberspace and Digital Policy.	DS230099	02/24/2023	
				Bureau of Democracy, Human Rights and Labor.	DS230097	02/24/2023	
				Bureau of Educational and Cultural Affairs.	DS230114	04/07/2023	
					DS230007	11/01/2022	
				Bureau of European and Eurasian Affairs.	DS230104	03/06/2023	
				Bureau of Global Public Affairs	Chief Content Strategist	DS230155	06/01/2023
					Deputy Assistant Secretary	DS230090	03/03/2023
	Senior Advisor			DS230078	01/27/2023		
	Senior Advisor (Strategic Communications and Outreach).			DS230130	05/04/2023		
	Special Advisor			DS220082	10/06/2022		
	Supervisory Public Affairs Specialist.			DS220069	08/24/2022		
Bureau of Intelligence and Research.	Senior Advisor (Speechwriter)			DS230116	03/29/2023		
Bureau of International Narcotics and Law Enforcement Affairs.	Supervisory Foreign Affairs Officer			DS220053	07/01/2022		
Bureau of Legislative Affairs	Deputy Assistant Secretary (House).			DS230076	01/19/2023		
	Legislative Establishment Management Officer (House).			DS230120	04/17/2023		
	Legislative Management Officer (Senate).			DS230121	04/17/2023		
Bureau of Near Eastern Affairs	Senior Advisor (Congressional)	DS220059	07/25/2022				
Bureau of South and Central Asian Affairs.	Deputy Assistant Secretary	DS230018	12/02/2022				
	Deputy Assistant Secretary	DS220064	08/10/2022				
Bureau of Western Hemisphere Affairs.	Deputy Assistant Secretary	DS230153	05/18/2023				
Office of International Organizations.	Deputy Assistant Secretary	DS230129	05/04/2023				
Office of Global Criminal Justice	Senior Advisor	DS220071	09/09/2022				
Office of Global Women's Issues	Special Assistant	DS220079	09/29/2022				
	Staff Assistant	DS230088	02/09/2023				
Office of Policy Planning	Senior Advisor (Speechwriter)	DS230006	11/01/2022				
	Special Advisor (Speechwriter)	DS230131	05/04/2023				
	Special Assistant	DS230089	02/09/2023				
	Special Advisor	DS230139	06/09/2023				
Office of the Chief of Protocol	Assistant Chief of Protocol (Diplomatic Partnerships).	DS230138	06/29/2023				
	Assistant Chief of Protocol (Visits)	DS230152	05/18/2023				
	Protocol Officer	DS230107	03/09/2023				
	Protocol Officer (Gifts)	DS230004	10/21/2022				
	Protocol Officer (Visits) (2)	DS220054	07/11/2022				
		DS230098	03/06/2023				
	Special Advisor	DS230143	06/13/2023				
Office of the Deputy Secretary	Senior Advisor (Speechwriter)	DS230010	11/04/2022				
Office of the Deputy Secretary for Management and Resources.	Staff Assistant	DS230112	03/24/2023				
Office of the Secretary	Chief of Staff	DS230126	04/21/2023				
	Global Health Coordinator	DS230024	12/29/2022				

Agency name	Organization name	Position title	Authorization No.	Effective date	
DEPARTMENT OF TRANSPORTATION.		Senior Advisor (3)	DS230002	10/21/2022	
			DS230100	02/24/2023	
			DS230115	03/24/2023	
		Special Advisor (Speechwriter)	DS230122	04/17/2023	
		Speechwriter	DS230026	12/23/2022	
		Staff Assistant (2)	DS220074	09/21/2022	
			DS230092	02/09/2023	
			DS220066	08/26/2022	
		Office of the United States Global Aids Coordinator.	Senior Advisor	DS220057	07/14/2022
		Office of the Under Secretary for Arms Control and International Security Affairs.	Deputy Special Representative	DS220068	08/22/2022
		Office of the Under Secretary for Civilian Security, Democracy, and Human Rights.	Deputy Chief Economist	DS220072	09/09/2022
		Office of the Under Secretary for Economic Growth, Energy, and the Environment.		DS230028	12/23/2022
			Senior Advisor (2)	DS230011	11/17/2022
				DS230017	12/02/2022
		Office of the Under Secretary for Management.	Senior Advisor	DS230086	02/09/2023
			Staff Assistant (2)	DS230025	12/16/2022
				DS230141	06/01/2023
		Office of the Under Secretary for Political Affairs.	Senior Advisor	DS220070	08/24/2022
			Foreign Affairs Officer	DS230019	12/02/2022
		Office of the Under Secretary for Public Diplomacy and Public Affairs.	Senior Advisor	DS230101	02/24/2023
			Special Assistant	DS230108	03/09/2023
		Office of the Assistant Secretary for Administration.	Deputy Assistant Secretary for Administration.	DT230005	10/24/2022
		Office of the Assistant Secretary for Governmental Affairs.	Deputy Assistant Secretary for Congressional Affairs (House).	DT220096	07/14/2022
			Special Assistant for Governmental Affairs.	DT230006	10/19/2022
			Deputy Assistant Secretary for Congressional Affairs (Senate).	DT230099	06/09/2023
		Office of the Assistant Secretary for Transportation Policy.	Special Advisor for Environmental Justice.	DT230058	02/21/2023
		Office of the Executive Secretariat	Associate Director	DT220100	08/12/2022
			Director, Executive Secretariat	DT220110	09/30/2022
		Immediate Office of the Administrator.	Director of Governmental, International and Public Affairs.	DT230011	11/03/2022
			Senior Advisor to the Administrator	DT230059	02/13/2023
			Director of Governmental Affairs	DT230085	04/26/2023
		Office of Maritime Administration ...	Advisor to the Administrator	DT230016	11/16/2022
		National Highway Traffic Safety Administration.	Director of Communications	DT220093	07/14/2022
		Office of Civil Rights	Senior Advisor	DT220095	08/24/2022
			Special Assistant for Civil Rights ...	DT230090	05/18/2023
		Office of Public Affairs and Public Engagement.	Deputy Press Secretary	DT230003	10/17/2022
			Digital Communications Manager ..	DT220098	07/28/2022
			Digital Director	DT230007	10/26/2022
			Press Secretary	DT230014	11/16/2022
			Senior Speechwriter (2)	DT230020	01/25/2023
				DT230021	01/25/2023
		Office of the Deputy Secretary	Deputy Director for Operations	DT230092	06/02/2023
Office of the General Counsel	Associate General Counsel	DT230084	04/26/2023		
	Special Counsel for Oversight	DT230096	06/12/2023		
Office of the Under Secretary of Transportation for Policy.	Special Advisor	DT220101	08/17/2022		
	Advisor to the Under Secretary of Transportation for Policy.	DT230076	04/11/2023		
Office of Pipeline and Hazardous Materials Safety Administration.	Strategic Advisor to the Administrator.	DT230015	11/16/2022		
Office of the Secretary	Deputy Director for Operations	DT230062	02/23/2023		
	Deputy Director of Advance (2)	DT220097	07/15/2022		
		DT230089	05/18/2023		
	Deputy White House Liaison	DT230072	03/08/2023		

Agency name	Organization name	Position title	Authorization No.	Effective date	
DEPARTMENT OF THE TREASURY.	Office of the Assistant Secretary (Economic Policy).	Director of Scheduling and Advance.	DT230002	10/17/2022	
		Special Assistant for Advance (2) ..	DT230106	06/27/2023	
		Special Assistant for Scheduling	DT230108	06/27/2023	
		Special Assistant to the Secretary of Transportation.	DT230009	11/02/2022	
		White House Liaison	DT230061	03/08/2023	
		Senior Advisor for Russia/Ukraine	DT220109	09/30/2022	
		Special Assistant Russia/Ukraine ..	DY220133	07/25/2022	
		Special Advisor (2)	DY230015	11/04/2022	
		Office of the Assistant Secretary (Legislative Affairs).	Special Assistant (2)	DY220126	07/25/2022
		Office of the Assistant Secretary (Public Affairs).	Press Assistant (3)	DY230044	12/30/2022
	Office of the Assistant Secretary (Tax Policy).	Senior Digital Strategy Specialist ...	DY220127	07/25/2022	
	Department of the Treasury	Senior Spokesperson (3)	DY220147	09/30/2022	
	Secretary of the Treasury	Spokesperson	DY220149	09/30/2022	
	Office of the Under Secretary for Domestic Finance.	Senior Advisor for Climate Implementation.	DY230016	12/09/2022	
	Office of the Under Secretary for International Affairs.	Special Assistant	DY230123	06/15/2023	
	Office of the Under Secretary for Terrorism and Financial Intelligence.	Deputy Executive Secretary	DY230049	01/27/2023	
	UNITED STATES ELECTION ASSISTANCE COMMISSION.	United States Election Assistance Commission.	Senior Spokesperson (3)	DY230003	10/07/2022
			Special Assistant (4)	DY230004	12/30/2022
			Special Assistant (2)	DY230046	01/13/2023
			Special Assistant (2)	DY230018	11/10/2022
			Special Assistant (2)	DY220146	09/30/2022
			Special Assistant (2)	DY230007	10/17/2022
			Special Assistant (2)	DY230058	02/12/2023
			Special Assistant (2)	DY230056	02/24/2023
			Special Assistant (2)	DY230098	04/19/2023
			Special Assistant (2)	DY230105	05/04/2023
			Special Assistant (2)	DY230102	04/28/2023
			Special Assistant (2)	DY230065	03/09/2023
			Special Assistant (2)	DY230061	03/09/2023
			Special Assistant (2)	DY230057	02/10/2023
			Special Assistant (2)	DY230060	03/09/2023
			Special Assistant (2)	DY230096	04/19/2023
			Special Assistant (2)	DY230097	05/04/2023
			Special Assistant (2)	DY230079	04/04/2023
			Special Assistant (2)	DY230107	05/22/2023
			Special Assistant (2)	DY230029	12/02/2022
			Special Assistant (2)	DY230050	01/27/2023
			Special Assistant (2)	DY230037	12/21/2022
			Special Assistant (2)	DY230129	06/15/2023
			Special Assistant (2)	DY230038	12/30/2022
			Special Assistant (2)	DY230121	06/09/2023
			Special Assistant (2)	DY230036	12/30/2022
			Special Assistant (2)	DY220148	09/30/2022
			Special Assistant (2)	DY230118	06/20/2023
			Special Assistant (2)	DY220139	08/15/2022
		Special Assistant (2)	DY230043	12/30/2022	
		Special Assistant (2)	DY230047	01/26/2023	
		Special Assistant (2)	DY220138	08/15/2022	
		Special Assistant (2)	DY230051	01/27/2023	
		Special Assistant (2)	DY220125	07/05/2022	
		Special Assistant (2)	DY230027	11/22/2022	
		Special Assistant (2)	DY220150	10/06/2022	
		Special Assistant (2)	DY230013	11/02/2022	
		Special Assistant (2)	DY230039	12/30/2022	
		Confidential Assistant (2)	EA230001	11/08/2022	
		Confidential Assistant (2)	EA230002	01/05/2023	

Agency name	Organization name	Position title	Authorization No.	Effective date
UNITED STATES INTERNATIONAL TRADE COMMISSION.	Office of Commissioner Johanson	Confidential Assistant	TC220003	08/09/2022
DEPARTMENT OF VETERANS AFFAIRS.	Office of Commissioner Kearns	Staff Assistant (Economist)	TC230001	06/02/2023
	Office of the Assistant Secretary for Enterprise Integration.	Strategic Advisor	DV220072	08/31/2022
	Office of the Secretary and Deputy Veterans Experience Office	Chief Speechwriter	DV230004	12/08/2022
		Policy Advisor	DV230011	12/21/2022
		Strategic Advisor to Chief Veterans Experience Officer.	DV230061	06/01/2023

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p.218.

Office of Personnel Management.

Kayyonne Marston,

Federal Register Liaison.

[FR Doc. 2024–16724 Filed 7–29–24; 8:45 am]

BILLING CODE 6325–39–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2024–443 and CP2024–450; MC2024–444 and CP2024–451; MC2024–445 and CP2024–452; MC2024–447 and CP2024–454; MC2024–449 and CP2024–456]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission’s consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 31, 2024.

ADDRESSES: Submit comments electronically via the Commission’s Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The

request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request’s acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service’s request(s) can be accessed via the Commission’s website (<http://www.prc.gov>). Non-public portions of the Postal Service’s request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

The Commission invites comments on whether the Postal Service’s request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

¹ See Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

II. Docketed Proceeding(s)

1. *Docket No(s):* MC2024–443 and CP2024–450; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 174 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Gregory S. Stanton; *Comments Due:* July 31, 2024.

2. *Docket No(s):* MC2024–444 and CP2024–451; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 175 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Gregory S. Stanton; *Comments Due:* July 31, 2024.

3. *Docket No(s):* MC2024–445 and CP2024–452; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 176 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Alireza Motameni; *Comments Due:* July 31, 2024.

4. *Docket No(s):* MC2024–447 and CP2024–454; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 288 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Alain Brou; *Comments Due:* July 31, 2024.

5. *Docket No(s):* MC2024–449 and CP2024–456; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 178 to Competitive Product List and Notice of Filing Materials

Under Seal; *Filing Acceptance Date*: July 23, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Alain Brou; *Comments Due*: July 31, 2024.

This Notice will be published in the **Federal Register**.

Jennie L. Jbara,

Primary Certifying Official.

[FR Doc. 2024-16663 Filed 7-29-24; 8:45 am]

BILLING CODE 7710-FW-P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2024-379; MC2024-446 and CP2024-453; MC2024-451 and CP2024-458; MC2024-452 and CP2024-459]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 1, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

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Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal

Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s)*: CP2024-379; *Filing Title*: USPS Notice of Amendment to Priority Mail Express & USPS Ground Advantage Contract 1, Filed Under Seal; *Filing Acceptance Date*: July 24, 2024; *Filing Authority*: 39 CFR 3035.105; *Public Representative*: Kenneth R. Moeller; *Comments Due*: August 1, 2024.

2. *Docket No(s)*: MC2024-446 and CP2024-453; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 177 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: July 24, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Almaroof Agoro; *Comments Due*: August 1, 2024.

3. *Docket No(s)*: MC2024-451 and CP2024-458; *Filing Title*: USPS Request to Add Priority Mail & USPS Ground Advantage Contract 290 to Competitive Product List and Notice of Filing

¹ See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

Materials Under Seal; *Filing Acceptance Date*: July 24, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Almaroof Agoro; *Comments Due*: August 1, 2024.

4. *Docket No(s)*: MC2024-452 and CP2024-459; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 180 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: July 24, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Kenneth R. Moeller; *Comments Due*: August 1, 2024.

This Notice will be published in the **Federal Register**.

Jennie L. Jbara,

Primary Certifying Official.

[FR Doc. 2024-16725 Filed 7-29-24; 8:45 am]

BILLING CODE 7710-FW-P

POSTAL SERVICE

Sunshine Act Meetings

TIME AND DATE: Thursday, August 8, 2024, at 9:00 a.m.; Thursday, August 8, 2024, at 4:30 p.m.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza SW, in the Benjamin Franklin Room.

STATUS: Thursday, August 8, 2024, at 9:00 a.m.—Closed. Thursday, August 8, 2024, at 4:30 p.m.—Open.

MATTERS TO BE CONSIDERED: Meeting of the Board of Governors

Thursday, August 8, 2024, at 9:00 a.m. (Closed)

1. Strategic Issues.
2. Financial and Operational Matters.
3. Compensation Matters.
4. Executive Session.
5. Administrative Items.

Thursday, August 8, 2024, at 4:30 p.m. (Open)

1. Remarks of the Chairman of the Board of Governors.
2. Remarks of the Postmaster General and CEO.
3. Approval of the Minutes.
4. Committee Reports.
5. Quarterly Financial Report.
6. Quarterly Service Performance Report.
7. Approval of Tentative Agenda for November 14 Meeting.

CONTACT PERSON FOR MORE INFORMATION: Michael J. Elston, Secretary of the Board of Governors, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC

20260–1000. Telephone: (202) 268–4800.

Michael J. Elston,
Secretary.

[FR Doc. 2024–16847 Filed 7–26–24; 4:15 pm]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., August 7, 2024.

PLACE: Members of the public wishing to attend the meeting must submit a written request at least 24 hours prior to the meeting to receive dial-in information. All requests must be sent to SecretarytotheBoard@rrb.gov.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: Office of Legislative Affairs Update.

CONTACT PERSON FOR MORE INFORMATION: Stephanie Hillyard, Secretary to the Board, (312) 751–4920.

(Authority 5 U.S.C. 552b)

Dated: July 26, 2024.

Stephanie Hillyard,
Secretary to the Board.

[FR Doc. 2024–16835 Filed 7–26–24; 4:15 pm]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100585; File No. SR–NYSE–2024–21]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To Amend Section 802.01D of the NYSE Listed Company Manual Concerning the Suspension and Delisting of a Listed Company That Has Changed Its Primary Business Focus

July 24, 2024.

I. Introduction

On April 4, 2024, New York Stock Exchange LLC (“NYSE” or the “Exchange”) 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

permit the suspension and delisting of a listed company that has changed its primary business focus. On April 17, 2024, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed.³ The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on April 25, 2024.⁴ On June 6, 2024, the Commission designated a longer period for Commission action on the proposed rule change.⁵ On July 17, 2024, the Exchange filed Amendment No. 2 to the proposed rule change, which amended and superseded the original filing, as modified Amendment No. 1, in its entirety.⁶ The Commission has received no comment letters on the proposal. The Commission is publishing this notice to solicit comments on Amendment No. 2 from interested persons and is approving the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

II. The Exchange’s Description of the Proposed Rule Change, as Modified by Amendment No. 2⁷

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

³ The full text of Amendment No. 1 is available on the Commission’s website at: <https://www.sec.gov/comments/sr-nyse-2024-21/srnyse202421.htm>.

⁴ See Securities Exchange Act Release No. 99992 (April 19, 2024), 89 FR 31783 (“Notice”).

⁵ See Securities Exchange Act Release No. 100293 (June 6, 2024), 89 FR 49926 (June 12, 2024) (extending the time period for Commission action to July 24, 2024).

⁶ In Amendment No. 2, the Exchange revised the proposal to: (i) include a requirement that any company that undertakes a change in its primary business focus must promptly provide notice of such change in writing to the Exchange; (ii) amend the proposed rule text in relation to the additional factors the Exchange will consider to delete the phrase indicating that the Exchange will consider those additional factors “where appropriate”; (iii) provide an explanation of why the Exchange will consider such additional factors; (iv) state that the Exchange will undertake its continued listing analysis regardless of whether the listed company provides the required notification to the Exchange; and (v) conform Form 19b–4 to the changes being made to the proposed rule text. Amendment No. 2 is available at <https://www.sec.gov/comments/sr-nyse-2024-21/srnyse202421.htm>.

⁷ This Section II reproduces Amendment No. 2, as filed by the Exchange.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

SR–NYSE–2024–21 was originally filed on April 4, 2024. On April 17, 2024, the Exchange filed Amendment No. 1 to the proposed rule change, 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 April 25, 2024.⁸ This Amendment No. 2 to SR–NYSE–2024–21 replaces and supersedes the original filing as modified by Amendment No. 1 in its entirety.⁹ Amendment No. 2 amends Amendment No. 1 to: (i) amend the proposed rule text to include a requirement that any company that undertakes a change in its primary business focus must promptly provide notice of such change in writing to the Exchange; (ii) amend the proposed rule text in relation to the additional factors the Exchange will consider to delete the phrase indicating that the Exchange will consider those additional factors “where appropriate”; (iii) amend the Purpose section of the filing to provide an explanation of why the Exchange will consider such additional factors; (iv) amend the Purpose section to note that the Exchange will undertake its continued listing analysis regardless of whether the listed company provides the required notification to the Exchange; and (v) amend the Purpose section to conform it to the changes being made to the proposed rule text.

It has been the Exchange’s experience that listed companies occasionally change the focus of their operations from the business they were engaged in at the time of initial listing to a business line that is completely unrelated or that was not material at the time of its original listing. The Exchange is concerned that, in such circumstances, investors who acquired the company’s stock prior to this change in operations (including, in many cases, in connection with the company’s initial public offering) may have made their investment decision based on the company’s disclosure about its original business and might not have made their investment if they had been aware of how the company would change. In addition, a wholesale change in business operations may give rise to a concern about the suitability for listing

⁸ See Securities Exchange Act Release No. 99992 (April 19, 2024), 89 FR 31783.

⁹ See SR–NYSE–2024–21 (April 4, 2024).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

of the company had it been in engaged in that line of business at the time of its application for listing. The Exchange notes that, in some circumstances, there has been significant downward price movement subsequent to such a change in business focus, which resulted in significant investor losses and an inability to meet exchange continued listing standards.¹⁰

In light of the foregoing, the Exchange proposes to amend Section 802.01D of the Manual (“Other Criteria”) to include a new paragraph (“Change in Primary Business Focus”) providing that the Exchange may in its sole discretion subject a listed company to immediate suspension and delisting in accordance with the procedures set forth in Section 804.00 of the Manual if that listed company has changed its primary business focus to a new area of business that it was not engaged in at the time of its original listing or which was immaterial to its operations at the time of its original listing. The proposed rule text provides that any company that undertakes a change in its primary business focus must promptly provide notice of such change in writing to the Exchange. The Exchange will undertake the continued listing analysis and potentially take delisting action under the proposed provision regardless of whether the listed company complies with its obligation to provide written notification to the Exchange.

Upon becoming aware of such a change in the company’s primary business focus, by notification from the listed company or otherwise, the Exchange’s Staff would conduct a thorough assessment of the company’s suitability for continued listing in light of such change. The Exchange would focus its analysis on whether it would have accepted the listed company for initial listing if it had been engaged in its modified business at the time of original listing. The Exchange notes that this analysis will focus on the qualitative aspects of the company’s suitability for listing and will not entail an application of the quantitative standards for initial listing. In conducting this analysis, the Exchange would take into consideration other changes that may have occurred in connection with the change in the company’s primary business focus,

¹⁰ For example, Bit Brother, a company listed on Nasdaq, initially focused on selling tea products but ultimately changed its business line to crypto. After three reverse splits, one of which was quite large (1000:1), the company was still unable to regain sustained compliance with listing standards. The stock was delisted from Nasdaq in February 2024. See <https://www.wsj.com/finance/stocks/as-trading-frenzies-grip-penny-stocks-criticism-of-nasdaq-grows-8bd4118b> (Feb 23, 2024).

including in all cases, but not limited to, any changes in the management, board of directors, voting power, ownership, and financial structure of the company. The Exchange notes that the additional factors enumerated in the proposed rule text are consistent with areas that would be part of any initial listing review and are therefore a necessary part of any consideration of whether the company would have been suitable for initial listing in the form it took after its change of primary business focus.

The Exchange acknowledges that seeking to suspend and delist a company’s stock under this revised rule would be an extraordinary action. The Exchange therefore anticipates seldom relying on this new discretionary authority, and only after thorough analysis of all relevant facts and circumstances.

The lead-in to Section 802.01D provides that if any of the factors set forth in 802.01D apply to a listed company, the Exchange may in its sole discretion subject the company to the procedures outlined in Paras. 802.02 and 802.03, which provide noncompliant companies with an opportunity to cure their deficiencies. The Exchange proposes to add a parenthetical to this lead-in language to specify that, instead of applying the procedures outlined in Paras. 802.02 and 802.03, the Exchange will instead commence immediate suspension and delisting procedures if the individual paragraph of Section 802.01D so specifies). This proposed parenthetical provision in the lead-in to Section 802.01D will make the lead-in consistent with the Exchange’s proposal to include a provision in the proposed new paragraph of that rule providing that any listed company that is deemed to be unsuitable for continued listing because of a change of business operations will be subject to immediate suspension and delisting procedures.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹¹ in general, and furthers the objectives of Section 6(b)(5) of the Act¹² in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market

system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes it is consistent with the protection of investors to amend Section 802.01D to provide the Exchange with the discretion to immediately commence suspension and delisting procedures in accordance with Section 804.00 of the Manual with respect to a listed company that has changed its primary business focus to a new area of business that it was not engaged in at the time of its original listing or which was immaterial to its operations at the time of its original listing. The Exchange notes that investors who acquired the company’s stock prior to this change in operations (including, in many cases, in connection with the company’s initial public offering) may have made their investment decision based on the company’s disclosure about its original business and might not have made their investment if they had been aware of how the company would change. In addition, the Exchange is concerned that a listed company may change its business operations to a line of business that would have given rise to a concern about the suitability for listing of the company had it been in engaged in that line of business at the time of its application for listing. The Exchange notes that taking delisting action in such cases would be discretionary and that the Exchange would undertake such action only after a careful analysis of the company’s suitability for continued listing, taking into account all relevant factors, including, but not limited to, changes in the management, board of directors, voting power, ownership, and financial structure of the company. In making these determinations, the Exchange would focus its analysis on whether it would have accepted the listed company for initial listing if it had been engaged in its modified business at the time of original listing. The Exchange notes that this analysis will focus on the qualitative aspects of the company’s suitability for listing and will not entail an application of the quantitative standards for initial listing. The Exchange believes that the proposed requirement that any listed company that undertakes a change in its primary business focus must promptly provide notice of such change in writing to the Exchange will enable the Exchange to more systematically identify circumstances where it is necessary to consider the

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

appropriateness for continued listing of such companies.

The proposed inclusion of new parenthetical language in the lead-in to Section 802.01D makes that lead-in consistent with the proposed new paragraph with respect to a company's change in business, as it provides that the Exchange can immediately suspend and delist a company under Section 802.01D where the applicable paragraph of the rule so provides, as is the case with the proposed new provision with respect to changes in business operations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that there are several listing venues and that any company that the Exchange deemed unsuitable for continued listing under the proposed rule could apply for listing on one or more other exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹³ In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Act,¹⁴ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to

¹³ 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁴ 15 U.S.C. 78f(b)(5).

permit unfair discrimination between customers, issuers, brokers, or dealers. In addition, the Commission finds that the proposed rule change is consistent with Section 6(b)(7) of the Act,¹⁵ which requires, among other things, that the rules of a national securities exchange provide a fair procedure for the prohibition or limitation by the exchange of any person with respect to access to services offered by the exchange.

The development and enforcement of meaningful listing standards for a national securities exchange is of critical importance to financial markets and the investing public.¹⁶ Meaningful listing standards are especially important given investor expectations regarding the nature of companies that have achieved an exchange listing for their securities, and the role of an exchange in overseeing its market and ensuring compliance with its listing standards.¹⁷

As described above, the Exchange proposes to amend Section 802.01D to be able to immediately commence suspension and delisting procedures in accordance with Section 804.00 of the Manual with respect to a listed company that it determines to be unsuitable for continued listing due to a change in its primary business focus to a new area of business that is substantially different from the business it was engaged in at the time of its original listing or which was immaterial to its operations at the time of its original listing. According to the Exchange, it is concerned that some investors may have made their investment decision in a listed company based on the company's disclosures about its original business and might not have made their investment if they had been aware of how the company

¹⁵ 15 U.S.C. 78f(b)(7).

¹⁶ See e.g., Securities Exchange Act Release Nos. 99238 (Dec. 26, 2023), 89 FR 113, 116 (Jan. 2, 2024) (SR-NYSE-2023-34) and 81856, (Oct. 11, 2017), 82 FR 48296, 48298 (October 17, 2017) (SR-NYSE-2017-31). Among other things, the Commission has stated that listing standards provide the means for an exchange to screen issuers that seek to become listed, and to provide listed status only to those that are bona fide companies and that have or will have sufficient public float, investor base, and trading interest likely to generate depth and liquidity sufficient to promote fair and orderly markets. See e.g., Securities Exchange Act Release No. 93256 (Oct. 4, 2021), 86 FR 56338, 56342 (Oct. 8, 2021) ("SR-NASDAQ-2021-007 Approval Order").

¹⁷ See SR-NASDAQ-2021-007 Approval Order at *id.* The Commission has also stated that adequate listing standards, by promoting fair and orderly markets, are consistent with Section 6(b)(5) of the Act, in that they are, among other things, designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and protect investors and the public interest. See SR-NASDAQ-2021-007 Approval Order, *id.* at 56342 note 59.

would change its business focus.¹⁸ The Exchange further states in support of its proposal that changes in a company's primary business focus can raise concerns about the company's suitability for continued listing because it may not have approved initial listing of the company's security based on the changed business focus had it been in place at the time of application for initial listing.¹⁹ The Commission believes that the Exchange's proposal will help to address these concerns and further the protection of investors and the public interest, consistent with Section 6(b)(5) of the Act, by ensuring that a listed company that has substantially changed its primary business focus from when it was originally listed will be reviewed for continued listing under the new standard.

The Commission also believes that the proposed notice requirement for any company that has changed its primary business focus to a new area of business that is substantially different from the business it was engaged in at the time of its original listing or which was immaterial to its operations at the time of its original listing will allow the Exchange to more efficiently identify for review those companies that may no longer be suitable for continued listing. While the Commission expects listed companies to comply with the written notification requirement,²⁰ if the Exchange becomes aware of a change in a company's primary business focus by means other than a company's written notification, the Commission would expect the Exchange to do a review of a company under the new rule irrespective of how the change came to its attention. In this regard, the Exchange stated that it would conduct a thorough assessment of a company's suitability for continued listing upon becoming aware of a change in the company's primary business focus by notification or otherwise.²¹

The Commission also believes that the Exchange's discretion to initiate

¹⁸ See Notice, *supra* note 4 at 31784. The Exchange notes that, in some circumstances, there has been significant downward price movement subsequent to a company's change in business focus, which resulted in significant investor losses and an inability to meet exchange continued listing standards. *Id.* See also, *supra* note 10 and accompanying text. As a result, primary business focus changes of a listed company can potentially impact the Exchanges ability to maintain fair and orderly markets.

¹⁹ See Notice, *supra* note 4 at 31784.

²⁰ Listed companies who would meet the requirements to provide written notification to the Exchange under the new provision but do not do so would be considered non-compliant with the notification requirement.

²¹ See Notice, *supra* note 4 at 31784.

suspension and delisting procedures for a company that has substantially changed its primary business focus has been reasonably tailored to allow the Exchange to be able to distinguish the more significant instances of business purpose change that would raise concerns about continued listing and which could, depending on the circumstances, negatively impact the company's financial strength and outlook.²² In particular, the proposed rule states that the Exchange will focus its analysis of the company's suitability for continued listing on whether it would have accepted the listed company for initial listing if it had been engaged in its modified business at the time of original listing.²³ In conducting this analysis, the proposed rule also specifies certain criteria that the Exchange will consider in assessing a company's suitability for continued listing, such as changes in the management, board of directors, voting power, ownership, and financial structure of the company.²⁴ The Exchange notes that these additional factors are consistent with areas that would be part of any initial listing review and that changes in these areas may have occurred in connection with changes in a company's primary business focus that should be considered by the Exchange.²⁵ Moreover, the Exchange acknowledges that seeking to suspend and delist a company's stock under this revised rule would be an extraordinary action.²⁶ The Commission expects that the Exchange will therefore carefully utilize this new authority, and, as the Exchange states, only after a thorough analysis of all relevant facts and circumstances.²⁷

Finally, the Commission also notes that a company that is subject to suspension and delisting under this new provision would be entitled to a review of the delisting determination under the procedures set forth in Section 804.00 of the Manual. The Commission believes that this will provide, consistent with Section 6(b)(7) of the Act, a fair procedure for review of a suspension and delisting of a company under the new provision.

²² See *id.*

²³ See *id.* As discussed above, the review of a company under the new standard is based on the Exchange's assessment of the company's suitability for continued listing given the change in its primary business focus. Continued listing quantitative standards will continue to apply to a company that is being reviewed under the new standard just as with any company already listed on the Exchange. See *id.*

²⁴ See proposed Section 801.01D.

²⁵ See Amendment No. 2, *supra* note 6 at 5.

²⁶ See Notice, *supra* note 4 at 31784.

²⁷ See *id.*

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 2, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSE-2024-21 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-NYSE-2024-21. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSE-2024-21 and should be submitted on or before August 20, 2024.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2

The Commission finds good cause, pursuant to Section 19(b)(2) of the

Act,²⁸ to approve the proposed rule change, as modified by Amendment No. 2, prior to the 30th day after the date of publication of Amendment No. 2 in the **Federal Register**. As discussed above, in Amendment No. 2, the Exchange revised the proposal to: (i) include a requirement that any company that undertakes a change in its primary business focus must promptly provide notice of such change in writing to the Exchange; (ii) amend the proposed rule text in relation to the additional factors the Exchange will consider to delete the phrase indicating that the Exchange will consider those additional factors "where appropriate"; (iii) provide an explanation of why the Exchange will consider such additional factors; (iv) state that the Exchange will undertake its continued listing analysis regardless of whether the listed company provides the required notification to the Exchange; and (v) amend the Form 19b-4 to conform it to the changes being made to the proposed rule text. The Commission believes that these revisions strengthen the proposal and provide greater clarity on the application of the proposal and its scope, and the Exchange's review of a company that has changed its primary business focus to a new area of business that is substantially different from the business it was engaged in at the time of its original listing or which was immaterial to its operations at the time of its original listing. The additional explanation in support of the proposal as well as the amended rule language in Amendment No. 2 assist the Commission in evaluating the Exchange's proposal and in determining that it is consistent with the Act.

Accordingly, the Commission finds good cause for approving the proposed rule change, as modified by Amendment No. 2, on an accelerated basis, pursuant to Section 19(b)(2) of the Act.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act²⁹ that the proposed rule change (SR-NYSE-2024-21), as modified by Amendment No. 2, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁰

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-16659 Filed 7-29-24; 8:45 am]

BILLING CODE 8011-01-P

²⁸ 15 U.S.C. 78f(b)(2).

²⁹ *Id.*

³⁰ 17 CFR 200.30-3(a)(12).

**SECURITIES AND EXCHANGE
COMMISSION**[SEC File No. 270–205, OMB Control No.
3235–0194]**Submission for OMB Review;
Comment Request; Extension: Rule
24b–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 (“PRA”) (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) has submitted to the Office of Management and Budget (“OMB”) a request for approval of extension of the previously approved collection of information provided for in Rule 24b–1 (17 CFR 240.24b–1) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 24b–1 requires a national securities exchange to keep and make available for public inspection a copy of its registration statement and exhibits filed with the Commission, including any amendments thereto.

There are 24 national securities exchanges that spend approximately one-half hour each per year complying with this rule, for an aggregate total time burden of approximately 12 hours per year. The staff estimates that the average cost per respondent is approximately \$82.45 per year (\$17.67 for copying plus \$64.78 for storage), resulting in a total cost burden for all respondents of approximately \$1,979 per year.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

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 by August 29, 2024 to (i) www.reginfo.gov/public/do/PRAMain 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 24, 2024.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024–16668 Filed 7–29–24; 8:45 am]

BILLING CODE 8011–01–P

**SECURITIES AND EXCHANGE
COMMISSION**[Release No. 34–100584; File No. SR–OCC–
2024–009]**Self-Regulatory Organizations; The
Options Clearing Corporation; Notice
of Filing of Proposed Rule Change by
The Options Clearing Corporation
Regarding Its Backtesting Framework
and To Establish a Resource
Backtesting Margin Charge**

July 24, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on July 11, 2024, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Clearing Agency’s Statement of the
Terms of Substance of the Proposed
Rule Change**

This proposed rule change would (i) amend OCC’s Margin Policy to more comprehensively describe OCC’s approach to backtesting, including how OCC establishes and reviews assumptions underlying OCC’s backtesting and criteria for escalating backtesting results; (ii) provide for a new category of backtesting designed to evaluate whether OCC maintains sufficient margin resources to cover its credit exposure to the liquidation portfolio of each Clearing Member from the last margin collection until the end of the liquidation horizon following the default of that Clearing Member with a high degree of confidence (as defined below, “Resource Backtesting”); (iii) implement a Resource Backtesting Margin Charge that OCC would collect from Clearing Members who experience Resource Backtesting deficiencies that bring their margin coverage rates below a 99% coverage target; and (iv) make certain conforming changes to other

¹ 15 U.S.C. 78s(b)(1).² 17 CFR 240.19b–4.

OCC rules to reflect these proposed changes.

Proposed changes to OCC’s Rules are contained in Exhibit 5A to File No. SR–OCC–2024–009. Proposed changes to OCC’s Margin Policy, Model Risk Management Policy and STANS Methodology Description are contained in confidential Exhibits 5B, 5C, and 5D to File No. SR–OCC–2024–009, respectively. Material proposed to be added is marked by underlining and material proposed to be deleted is marked with strikethrough text. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.³

**II. Clearing Agency’s Statement of the
Purpose of, and Statutory Basis for, the
Proposed Rule Change**

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

*(A) Clearing Agency’s Statement of the
Purpose of, and Statutory Basis for, the
Proposed Rule Change*

OCC is the sole clearing agency for standardized equity options listed on national securities exchanges registered with the Commission. OCC also clears certain stock loan and futures transactions. In its role as a clearing agency, OCC is the guarantor for all contracts cleared through OCC; that is, OCC becomes the buyer to every seller or the seller to every buyer (or the lender to every borrower and the borrower to every lender, in the case of stock loans). As a central counterparty, OCC is exposed to credit risk in the event of the failure of one its members because OCC is obligated to perform on the contracts it clears even when one of its members defaults.

OCC manages this credit risk through various safeguards to ensure that it has sufficient financial resources in the event of a Clearing Member failure. For example, OCC periodically collects margin collateral from its Clearing Members, which is used to cover the credit exposures they individually present to OCC. OCC has established a proprietary system, the System for

³ OCC’s By-Laws and Rules can be found on OCC’s public website: <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

Theoretical Analysis and Numerical Simulation (“STANS”), that runs various models used to calculate margin requirements, as described in the STANS Methodology Description.

To monitor whether margin requirements calculated by STANS are adequate, OCC compares the margin derived from its use of the STANS margin models against the amount it could have lost if a Clearing Member had failed (“backtesting”). OCC relies on backtesting to evaluate the accuracy of its margin models by comparing the calculated margin coverage for each margin account against the actual profit and loss on the margined portfolios. OCC performs backtesting at least once each day using standard predetermined parameters and assumptions. While backtesting does not directly establish Clearing Members’ margin requirements, OCC maintains broad authority under its rules to collect additional margin if OCC identifies issues with its margin coverage.⁴ In addition, backtesting may reveal opportunities to enhance OCC’s credit risk management and margin methodology or to adjust model parameters.

This proposed rule change would make three enhancements to OCC’s backtesting framework. First, OCC proposes to amend its rule-filed Margin Policy to comprehensively describe material aspects of its backtesting framework. As a self-regulatory organization, OCC is subject to requirements to submit filings with its regulators in connection with changes to its rules, which include material aspects of the facilities of OCC. OCC has filed as rules certain frameworks and policies that describe OCC’s approach for credit risk management, including OCC’s Margin Policy. Specifically, the Margin Policy establishes a process for ongoing monitoring, review, testing and verification of OCC’s risk-based margin system, including by requiring OCC to conduct daily backtesting, conduct analysis of exceedances, and report results at least monthly through OCC’s

⁴ See OCC Rule 601(c) (“Notwithstanding any other provision of this Rule 601, [OCC] may fix the margin requirement for an account or any class of cleared contracts at such amount as it deems necessary or appropriate under the circumstances to protect the respective interests of Clearing Members, [OCC], and the public.”); OCC Rule 609(a) (providing OCC’s authority to issue intra-day margin calls to protect OCC, other Clearing Members and the general public, among other reasons); see also OCC Rule 307C (authorizing OCC to impose protective measures, including to “adjust the amount or composition of margin” when, under Rule 307, a Clearing Member “presents increased credit or liquidity risk to OCC,” among other reasons).

governance process,⁵ as required by SEC Rule 17Ad–22(e)(6)(vi).⁶ However, the Margin Policy does not currently provide detail concerning (i) how OCC establishes and modifies its assumptions for backtesting; or (ii) how OCC establishes and reviews criteria and thresholds for escalating backtesting results and reviews of backtesting assumptions to appropriate decisionmakers. This proposal would amend the Margin Policy to provide further detail about those aspects of OCC’s backtesting framework, as well as a more comprehensive description of the different types of backtesting OCC performs and their respective purposes.

Second, OCC is proposing to add another category of backtesting to its backtesting framework. OCC’s current backtesting assesses whether OCC’s margin model achieves a 99% coverage rate for each marginable account, which is the level at which OCC’s models calculate margin requirements.⁷ However, under OCC’s By-Laws and Rules,⁸ each Clearing Member may have multiple marginable accounts on which OCC maintains different liens designed to facilitate Clearing Members’ compliance with the SEC’s customer protection regime.⁹ Accordingly, in order to conduct backtesting at the level of each Clearing Member Organization, OCC proposes to amend the Margin Policy to add Resource Backtesting, as defined below, as a separate category of backtesting within OCC’s backtesting framework to assess the adequacy of OCC’s margin resources to cover its credit exposure at the Clearing Member level. OCC has designed its Resource Backtesting to assess whether OCC maintains sufficient margin resources, among other prefunded financial resources,¹⁰ to cover its credit exposure

⁵ See Exchange Act Release No. 82658 (Feb. 7, 2018), 83 FR 6646, 6649 (Feb. 14, 2018) (SR–OCC–2017–007) (Commission order approving OCC’s Margin Policy, inclusive of its provision for backtesting of each margin account).

⁶ 17 CFR 240.17Ad–22(e)(6)(vi).

⁷ See Exchange Act Release No. 82658, *supra* note 5, 83 FR at 6647.

⁸ See OCC By-Laws, Art. VI, Sec. 3 (providing for the various accounts and their respective lien structures).

⁹ See, e.g., 17 CFR 240.15c3–3(e) (providing for the reserve formula used in calculating the amounts of funds a clearing member is required to deposit in a special reserve bank account for the exclusive benefit of customers, including a debit for “[m]argin required and on deposit with [OCC] for all option contracts written or purchased in customer accounts”).

¹⁰ Such other prefunded financial resources include, in order of contribution within OCC’s default waterfall: (i) the Clearing Fund deposit of the defaulting Clearing Member, which would be at least \$500,000; (ii) OCC’s skin-in-the-game in the form of OCC’s Minimum Corporate Contribution and its liquid net assets funded by equity in excess

to each participant fully with a high degree of confidence, consistent with SEC Rule 17Ad–22(e)(4)(i).¹¹ Specifically, Resource Backtesting would test whether the liquidation portfolio of each Clearing Member from the last margin collection until the end of the liquidation horizon following the Clearing Member’s default achieves a 99% coverage rate, in line with the coverage standard for the current backtesting of OCC’s margin models.

Third, OCC proposes to amend its rules to establish a margin add-on that OCC would charge a Clearing Member if Resource Backtesting coverage for that Clearing Member falls below 99% (“Resource Backtesting Margin Charge”). Accordingly, OCC’s new backtesting framework would impact the total margin collected from certain Clearing Members depending on the performance of OCC’s margin models and the activity those members clear through OCC. As discussed further below, OCC believes that the Resource Backtesting Margin Charge would help OCC ensure it collects margin sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default, consistent with SEC Rule 17Ad–22(e)(6)(iii).¹²

In connection with these three backtesting enhancements, OCC would also make certain conforming changes to the Model Risk Management Policy and STANS Methodology Description to reflect changes in defined terms associated with backtesting and changes to the underlying procedures.

(1) Purpose

Background

Backtesting Procedures

STANS is OCC’s proprietary risk management system for calculating Clearing Member margin requirements.¹³ The STANS

of 110% of its Target Capital Requirement (which, as of December 31, 2023, was more than \$130 million); and (iii) the Clearing Fund deposits of non-defaulting Clearing Members (as of December 31, 2023, the Clearing Fund was more than \$16.7 billion) and the EDCP Unvested Balance (*i.e.*, the unvested funds held in respect of OCC’s Executive Deferred Compensation Plan Trust that OCC would be charged on a proportionate basis with the Clearing Fund deposits of non-defaulting Clearing Members).

¹¹ 17 CFR 240.17Ad–22(e)(4)(i).

¹² 17 CFR 240.17Ad–22(e)(6)(iii).

¹³ See Exchange Act Release No. 91079 (Feb. 8, 2021), 86 FR 9410 (Feb. 12, 2021) (File No. SR–OCC–2020–016). OCC makes its STANS Methodology Description available to Clearing Members. An overview of the STANS methodology is on OCC’s public website: <https://www.theocc.com/Risk-Management/Margin-Methodology>.

methodology utilizes large-scale Monte Carlo simulations to forecast price and volatility movements in determining a Clearing Member's margin requirement.¹⁴ OCC has conducted daily backtesting of margin accounts subject to STANS margining since 2006.

In 2014, OCC filed proposed changes to its backtesting procedures.¹⁵ Among other things, the changes included: (1) the addition of certain industry-standard statistical tests, including the Kupiec Test¹⁶ and Christoffersen Independence Test;¹⁷ (2) backtesting of hypothetical portfolios (which OCC currently refers to as "Model Backtesting"), in addition to actual portfolios (which OCC currently refers to as "Business Backtesting"), to provide more comprehensive insight into the adequacy of the underlying model assumptions under market conditions prevailing in the backtesting observation periods, as well as stressed market conditions; (3) adjustments to the forecasted horizon used for backtesting to better reflect the two-day liquidation period (OCC's margin period of risk or "MPOR") used in margin calculations and to provide OCC with a more accurate view of the sufficiency of its margin methodology; and (4) system changes to give OCC's backtesting staff additional tools to help identify the root cause of backtesting exceedances. The Commission issued a notice of no objection with respect to those proposed changes.¹⁸

OCC currently maintains its Model Backtesting and Business Backtesting procedures in internal OCC procedures and technical documents. Among other things, those procedures address data acquisition, application of statistical tests, analyses initiated to address root causes of exceedances, reporting of results, annual methodology reviews, and issue escalation. The technical documents are similar in nature to the

margin model whitepapers that support OCC's STANS methodology.¹⁹

Backtesting Framework

In addition to the procedural documents noted above, OCC considers its backtesting framework to include its Margin Policy, among other rule-filed documents established after OCC last filed changes to its backtesting procedures.²⁰ The Margin Policy provides that OCC's Financial Risk Management Department ("FRM") continually evaluates the effectiveness of its margin models through daily backtesting of each margin account as provided in the Business Backtesting Procedure, analyzing in detail all accounts exhibiting losses in excess of calculated margin requirements.²¹ The Margin Policy further directs OCC's Quantitative Risk Management business unit ("QRM") to design backtests to focus on: (i) satisfying OCC's regulatory obligations; (ii) identifying potential opportunities to improve the margin methodology; and (iii) identifying trends in exceedances that may be indicative of behavioral changes by market participants. In addition, the Margin Policy directs QRM to design backtests to find potential opportunities to improve OCC's risk-assessment processes, noting that problems may arise from both technical and model-related issues. With respect to the former, the Margin Policy notes that technical issues may arise from corporate actions and special dividends, for example. The Margin Policy provides that FRM performs Business Backtesting to measure whether the losses observed for a constant set of positions over OCC's MPOR were in

excess of the total risk charges (*i.e.*, aggregate of expected shortfall, stress test charges and add-on charges) required for the account. The Margin Policy directs FRM to classify any observation in which losses are in excess as an exceedance.

While the Margin Policy contemplates that backtesting results and analyses of backtesting assumptions may require escalation, it does not provide for established escalation criteria or thresholds. The absence of specific guidance, thresholds or criteria for escalation could lead to inconsistencies in the escalation of similar backtesting exceedances. For example, the Margin Policy currently directs QRM to report identified problems and overall performance to FRM and the Model Risk Working Group ("MRWG"),²² and that the MRWG determines "whether the results require escalation" to the Management Committee. The Margin Policy further provides that QRM presents MRWG monthly reporting, or more frequently when determined by MRWG, and quarterly reporting that accumulate daily backtesting results and detailed descriptions of the accounts that have incurred exceedances, trends and causes of the exceedances. As with the escalation of identified problems and overall performance, the Margin Policy directs QRM to provide notable results from these reviews to the Chief Financial Risk Officer (*i.e.*, the head of FRM) and MRWG, and that MRWG determines whether "escalation is warranted" to the Management Committee, which may determine what remedial actions may be taken.²³ In addition, the Margin Policy provides for a monthly review of the parameters and assumptions for Business Backtesting, the results of which are reported to the MRWG to discuss and escalate issues "as necessary."²⁴

¹⁹ As described in the rule filing establishing the STANS Methodology Description, the whitepapers describe how the various quantitative components of STANS were developed and operate, including the various parameters and assumptions contained within those components and the mathematical theories underlying the selection of those quantitative methods. See Exchange Act Release No. 91079, *supra* note 13, 80 FR at 9410 n.5 and accompanying text. The model whitepapers are not filed as rules of OCC.

²⁰ For example, the rule-filed STANS Methodology Description describes ongoing model performance monitoring and backtesting in that document's executive summary, noting that further detail on such model monitoring activity is found in the Margin Policy and the Model Risk Management Policy. See Exchange Act Release No. 90763 (Dec. 21, 2020), 85 FR 85788, 85790 n. 18 and accompanying text (Dec. 29, 2020) (SR-OCC-2020-016). In addition, the Model Risk Management Policy provides that margin models will be monitored "according to the Model Backtesting Procedure [and] Business Backtesting Procedure," among other procedures. See Exchange Act Release No. 82473 (Jan. 9, 2018), 83 FR 2271, 2273 (Jan. 16, 2018) (SR-OCC-2017-011).

²¹ See Exchange Act Release No. 82658, *supra* note 5, 83 FR at 6648.

²² The MRWG is a cross-functional group responsible for assisting OCC's management in overseeing OCC's model-related risk comprised of representatives from relevant OCC business units including Quantitative Risk Management, Model Risk Management, and Corporate Risk Management.

²³ Remedial actions could take various forms including, but not limited to, margin add-on charges to account for risk that may not be captured appropriately by OCC's margin models, adjustments to model parameters, or other changes to OCC's margin models or margin methodology, subject to any necessary approvals by OCC's Risk Committee, Board of Directors, and regulators.

²⁴ See Exchange Act Release No. 82658, *supra* note 5, 83 FR at 6647 (discussing how the backtesting results are "reported to [the MRWG] and may be escalated to OCC's Management Committee").

¹⁴ See OCC Rule 601.

¹⁵ See Exchange Act Release No. 73749 (Dec. 5, 2014), 79 FR 73673 (Dec. 11, 2014) (SR-OCC-2014-810).

¹⁶ The Kupiec Test is a proportion of failures test that compares the actual number of exceedances with the number that would be expected in light of the confidence level associated with the calculation of margin. See Kupiec, P. "Techniques for Verifying the Accuracy of Risk Management Models," *Journal of Derivatives*, v3, P73-84. (1995).

¹⁷ The Christoffersen Independence Test measures the extent to which exceedances are independent of each other. See Christoffersen, P. "Evaluating Interval Forecasts." *International Economic Review*, 39 (4), 841-862 (1998).

¹⁸ See Exchange Act Release No. 75290 (June 24, 2015), 80 FR 37323 (June 30, 2015) (SR-OCC-2014-810).

Proposed Changes

(i) Backtesting Framework

OCC is proposing amendments to its Margin Policy to describe more comprehensively its approach to backtesting, including OCC's:

- backtesting framework, which includes (i) the purpose and scope of the backtesting OCC performs and (ii) the assumptions underlying OCC's backtesting and the process for reviewing and modifying those assumptions; and
- backtesting reporting, including how OCC establishes and reviews criteria for escalating exceedances.

Specifically, OCC would replace the first two paragraphs of the section of the Margin Policy that concerns margin monitoring, which currently address OCC's Business Backtesting, and a subsection that concerns backtesting reporting, with two new subsections: one that more comprehensively describes OCC's backtesting framework and another that describes backtesting reporting, as described below. The current third paragraph of that section, which concerns the monthly review of margin model parameters and sensitivity analyses of the margin model, would be relocated to its own subsection below the new subsection on backtesting reporting with certain edits discussed below related to the review of backtesting assumptions and the conditions for more frequent review.

Purpose and Scope of Model Backtesting

With respect to OCC's current backtesting processes, the new backtesting framework subsection in the Margin Policy would provide that FRM will continue to conduct daily backtesting of actual and hypothetical portfolios to evaluate the performance of its margin methodology, as it does today. OCC would refer to such backtesting as "Model Backtesting," which would distinguish such backtesting from the proposed Resource Backtesting discussed below. As such, Model Backtesting under the proposed amendments would encompass what OCC currently refers to as "Business Backtesting" (*i.e.*, backtesting of its margin model performance using actual portfolios) and "Model Backtesting" (*i.e.*, backtesting of its margin model performance using hypothetical portfolios). With respect to the latter, the Margin Policy would explain that FRM conducts Model Backtesting of hypothetical portfolios to target specific aspects of the models that may be masked by the backtesting of actual portfolios because margin accounts may

have thousands of positions in many diverse products. With respect to the former, the Margin Policy would explain that OCC conducts Model Backtesting of actual portfolios to determine whether the losses observed for a constant set of positions over OCC's liquidation horizon were in excess of margin requirements forecasted by OCC's margin methodology for each margin account. This description aligns with OCC's current Business Backtesting practices. Accordingly, OCC would continue to conduct Model Backtesting at the level of each marginable account, which is the level at which OCC calculates margin requirements. As the Margin Policy would explain, OCC conducts Model Backtesting at this level because Model Backtesting exceedances potentially indicate issues that could be actively impacting OCC's margin requirements for the margin accounts. In addition, backtesting at this level is consistent with OCC's obligations in its capacity as a derivatives clearing organization ("DCO") registered with the Commodity Futures Trading Commission.²⁵

The Margin Policy would further provide that FRM conducts Model Backtesting, as it does today, to evaluate whether margin requirements forecasted by OCC's margin methodology are sufficient to cover the realized loss of a portfolio at the maximum exposure estimated to occur at the end of the liquidation period with an established single-tailed confidence level of at least 99 percent with respect to the estimated distribution of future exposure—the coverage standard identified in SEC Rule 17Ad-22(e)(6)(iii).²⁶ This is the regulatory standard that OCC's current Business Backtesting was designed to evaluate. The Margin Policy would also provide that FRM will classify as an "exceedance" a daily outcome in which the loss in portfolio value over the applicable time horizon is larger in magnitude than what the STANS model predicted. In addition, the Margin Policy would explain that Model Backtesting is limited to those components of margin requirements that capture changes in market risk factors when assessing OCC's compliance with SEC Rule 17Ad-22(e)(6)(iii).²⁷

OCC would continue to exclude collateral from Model Backtesting that is not modeled by STANS (commonly referred to as "non-Collateral in

Margin" or "non-CiM" collateral),²⁸ or that does not capture changes in market risk factors. OCC's current backtesting analyses are not designed to assess the sufficiency of non-CiM collateral, which OCC values instead using the more traditional method of fixed collateral haircuts.²⁹ This limitation reflects that backtesting's purpose is to assess the performance of OCC's margin models in calculating margin requirements,³⁰ as opposed to the performance of other aspects of OCC's credit risk management. As such, Model Backtesting would continue to exclude collateral that is valued using collateral haircuts outside of the STANS margin methodology. In addition, the particular Model Backtesting analysis used to assess OCC's compliance with SEC Rule 17Ad-22(e)(6)(iii)³¹ would exclude certain add-on charges that are not tied to changes in market risk factors.³² However, as discussed below, Resource Backtesting would take into account non-CiM collateral and the margin collected through add-on charges not related to market risk when assessing the sufficiency of the financial resources OCC collects from each Clearing Member. In addition, as discussed below, OCC may maintain variations of Model Backtesting for diagnostic or informational purposes that include such add-ons.

Backtesting Assumptions

The proposed backtesting framework subsection to the Margin Policy would

²⁸ Following the implementation of STANS in 2006, OCC filed and the Commission approved a proposed rule change to include equity securities deposited by Clearing Members to satisfy margin requirements in STANS margin calculations, referred to as "Collateral in Margin" or "CiM." See Exchange Act Release No. 58158 (July 15, 2008), 73 FR 42646, 42646-47 (SR-OCC-2007-020). OCC implemented CiM, in part, to incentivize Clearing Members to deposit risk reducing assets and to better risk manage collateral deposits using the more sophisticated STANS treatment versus a fixed haircut rate.

²⁹ See, e.g., Exchange Act Release No. 98101 (Aug. 10, 2023), 88 FR 55775 (Aug. 16, 2023) (SR-OCC-2022-012) (approving OCC's procedures-based approach for setting and adjusting fixed haircuts for Government securities and GSE debt securities deposited by Clearing Members).

³⁰ See Standards for Covered Clearing Agencies, Exchange Act Release No. 78961 (Sept. 28, 2016), 81 FR 70786, 70819 (Oct. 13, 2016) (S7-03-14) ("[B]acktests are conducted with respect to the margin model and not the margin resources themselves."); 17 CFR 240.17Ad-22(a) "Backtesting" ("Backtesting means an ex-post comparison of actual outcomes with expected outcomes derived from the use of margin models.")

³¹ 17 CFR 240.17Ad-22(e)(6)(iii).

³² For example, OCC may collect additional margin from a Clearing Member as a protective measure under Rule 307 when OCC determines that the Clearing Member's operational or financial condition presents elevated risk to OCC, other Clearing Members, and the public.

²⁵ See 17 CFR 39.13(g)(7)(i)(C) (requiring a DCO to conduct daily backtests for "each account" held by a clearing member at the DCO).

²⁶ 17 CFR 240.17Ad-22(e)(6)(iii).

²⁷ *Id.*

also provide that FRM maintains assumptions used in backtesting in its internal procedures. The existence of backtesting assumptions may be inferred from OCC's existing Margin Policy, which provides for their review. However, the Margin Policy does not currently identify the categories of relevant assumptions, provide for how they are established or modified, or explain how assumptions may differ across different types of backtesting depending on the purpose of those backtesting variants. The amended Margin Policy would provide that the assumptions include, but are not limited to, the timing of default, liquidation horizon, available resources, lookback period, backtesting portfolio, and the confidence level of the tests used to evaluate the statistical significance of an exceedance rate.³³

In addition, the Margin Policy would explain that OCC may provide for backtesting variations for reporting, diagnostic and informational purposes, each of which may have different assumptions based on the purpose of the backtesting variant. For example, OCC plans to report Model Backtesting results for actual portfolios in connection with OCC's quantitative disclosures under the Principles for Financial Market Infrastructures ("PFMI")—which OCC discloses in compliance with SEC Rule 17Ad-22(e)(23)—because such Model Backtesting at the margin account level aligns with the guidance for such disclosures.³⁴

The Margin Policy would further provide that changes to these backtesting assumptions would require escalation by MRWG and OCC's Management Committee, with ultimate approval by the Risk Committee. These assumptions relate to foundational aspects of OCC's margin methodology that may be tied to specific regulatory requirements³⁵ or modification of

which may require proposed rule changes.³⁶ Accordingly, Board-level approval by the Risk Committee would be required to approve any necessary regulatory filing to modify OCC's margin methodology. The Margin Policy would further require that FRM would prepare and present to MRWG a review of the backtesting assumptions more frequently than monthly in the event of triggers related to high market volatility, low market liquidity, and significant increases or decreases in position size or concentration risk (as has been proposed to be defined in the Margin Policy, "CCA Monitoring Thresholds"),³⁷ as contemplated by regulation.³⁸

The Margin Policy would further provide that FRM's written procedures may include other triggers for evaluation of backtesting assumptions. OCC expects that one of the triggers it would establish under this rule would be the implementation of changes to OCC's margin methodology that may affect backtesting assumptions. For example, if MRWG were to approve a change to OCC's margin methodology in the form of a new margin add-on charge that was implemented following approval by the Risk Committee and any necessary regulatory filing, MRWG would review the backtesting assumptions and associated triggers to determine whether that add-on charge should be included in the portfolio composition assumption across OCC's backtesting variants, depending on their respective purposes.

The Margin Policy would further provide that changes to the triggers for backtesting assumption reviews must be

single-tailed confidence level of at least 99 percent with respect to the estimated distribution of future exposure. See 17 CFR 240.17Ad-22(a) "Potential future exposure", (e)(6)(iii).

³⁶ For example, OCC's rule-filed Margin Policy codifies OCC's two-day MPOR assumption. See Exchange Act Release No. 82658, *supra* note 5, 83 FR at 6647-6648 (describing the Margin Policy discussion of OCC's two-day risk horizon).

³⁷ See Exchange Act Release No. 99393 (Jan. 19, 2024), 89 FR 5062, 5066 (Jan. 25, 2024) (SR-OCC-2024-001). These thresholds are currently provided in procedures under OCC's Clearing Fund Methodology Policy with respect to the stress testing analyses that breaches of those thresholds would trigger. See Exchange Act Release No. 83406 (June 11, 2018), 83 FR 28018, 28026 (June 15, 2018) (SR-OCC-2018-008) ("The [Clearing Fund Methodology] Policy would require that OCC maintain procedures for determining whether, and in what circumstances, such intra-month reviews shall be conducted, and would indicate the persons responsible for making the determination."). Pursuant to those procedures, OCC's Stress Test and Liquidity Risk Management ("STLRM") business unit currently monitors market activity against these thresholds, which are approved by OCC's Stress Test Working Group ("STWG") and the MRWG.

³⁸ See 17 CFR 240.17Ad-22(e)(6)(vi)(C).

approved by MRWG. This is already true with respect to the CCA Monitoring Thresholds that trigger backtesting assumption reviews, changes to which must be approved by the MRWG and the STWG.³⁹ In addition, MRWG approval would be required to change any other thresholds MRWG believes would be appropriate for triggering a review of backtesting assumptions. In the case of other triggers for backtesting assumptions, OCC believes that MRWG is the appropriate governing body to establish triggers that go beyond those prescribed by regulation because as between MRWG and STWG, MRWG is the internal governing body tasked with of its oversight of model risk related to margin models.

Backtesting Reporting

As discussed above, the purpose of the proposed Model Backtesting is to provide OCC decisionmakers with timely information about OCC's margin coverage and potential opportunities to enhance OCC's credit risk management or margin methodology, or to adjust model parameters. Currently, the Margin Policy provides for monthly reviews to MRWG. In addition, the Margin Policy directs QRM to identify and report problems and overall performance to MRWG, which then in turn determines whether to escalate the issue to the Management Committee. OCC proposes to replace the current subsection that addresses reporting of backtesting results with a new subsection that more clearly provides that OCC maintains criteria for escalating backtesting results to relevant decisionmakers.

Specifically, the new subsection would provide that FRM will maintain escalation criteria for backtesting exceedances according to which FRM will, if met, escalate exceedance information to the MRWG, Management Committee, or Risk Committee, as applicable. Accordingly, the procedures may provide for escalations to different governing bodies depending on the nature of the exceedances or issues such exceedances may evidence.⁴⁰ The Margin Policy would provide that such required escalation criteria would include, but are not limited to: (i) thresholds related to the size and number of exceedances for Model Backtesting of actual portfolios, (ii) thresholds related to statistical tests

³⁹ See *supra* note 37.

⁴⁰ While the proposed change contemplates and allows for a tiered escalation approach, OCC anticipates that the escalation criteria it would initially implement would require escalation to each of the MRWG, Management Committee and Risk Committee when the criteria are met.

³³ As addressed in OCC's prior advance notice, OCC employs the Kupiec Test and the Christoffersen Independence Test to evaluate whether the exceedance rate is larger than the expected value. See *supra* notes 16-17 and accompanying text.

³⁴ See Committee on Payments and Market Infrastructures & Board of the International Organization of Securities Commissions ("CPMI-IOSCO"), *Public quantitative disclosure standards for central counterparties*, at 7 (Feb. 2015), available at <https://www.bis.org/cpmi/publ/d125.pdf> (providing guidance on disclosure 6.5 with respect to initial margin backtesting results for margin accounts).

³⁵ For example, with respect to the confidence interval, SEC Rules require that OCC's risk-based margin system must be designed to calculate margin sufficient to cover the maximum exposure estimated to occur in the interval between the last margin collection and the close out of positions following a participant default with an established

applicable to Model Backtesting of hypothetical portfolios; and (iii) thresholds related to the size of an individual Clearing Member's Resource Backtesting deficiency and the coverage rate across all Clearing Members in the aggregate. For example, OCC anticipates that such escalation criteria for Model Backtesting of actual portfolios would include an exceedance that is equal to or larger than 50% of the applicable Clearing Member's Clearing Fund contribution.⁴¹ With respect to Model Backtesting of hypothetical portfolios, escalation criteria would include criteria for escalation of results based on the Kupiec Test and Christoffersen Tests (e.g., for the Kupiec Test, when the coverage rate of instruments in a category of instruments falls below 99% with statistical significance of 90%⁴²).

Outside of the escalation of backtesting exceedances that meet the escalation criteria, the Margin Policy would continue to provide for a review of all backtesting exceedances or deficiencies on an at-least monthly basis. Specifically, the subsection on backtesting reporting would provide that at least monthly, FRM will provide the MRWG a detailed analysis of any Model Backtesting exceedances or Resource Backtesting deficiencies, and a review of the backtesting assumptions. In addition, the Margin Policy would provide that FRM will prepare a review of assumptions for backtesting more frequently than monthly when the CCA Monitoring Thresholds, as discussed above, are breached. In addition to the CCA Monitoring Thresholds, the Margin Policy would provide that the Backtesting Procedure may identify other triggers that, if met, would require FRM to prepare and present to MRWG a review of assumptions for backtesting, including, but not limited to, implementation of rule changes to OCC's margin methodology that may affect backtesting assumptions. Changes to the triggers for review of backtesting assumptions must be approved by MRWG.

The Margin Policy would also provide that QRM conducts an annual review of OCC's backtesting framework, including QRM's recommendations regarding whether OCC should change any of the

backtesting assumptions and exceedance escalation criteria. With respect to the escalation criteria, the Margin Policy would provide that changes to the escalation criteria must be approved by the governing body to which the escalation must be made. For example, changes to the criteria for escalating exceedances to the Risk Committee must be approved by the Risk Committee.⁴³ With respect to any proposed changes to the backtesting assumptions, the Margin Policy would provide that the MRWG would evaluate the results of the annual review and escalate any recommended changes to the backtesting framework, including any recommended changes to the backtesting assumptions, to the Management Committee for consideration. The Management Committee, in turn, would report the results of the annual review to the Risk Committee, including any changes it believes should be made to OCC's backtesting assumptions, which the Risk Committee would be authorized to approve for implementation. As part of this annual review process, MRWG, the Management Committee and the Risk Committee would also be authorized to approve changes to the escalation criteria applicable to each governing body, as discussed above. OCC believes these changes would provide greater clarity concerning the escalation of backtesting exceedances to appropriate OCC decisionmakers.

(ii) Resource Backtesting

In addition to formalizing its Model Backtesting in the Margin Policy, OCC proposes to enhance its backtesting framework by establishing Resource Backtesting designed to evaluate whether OCC maintains sufficient financial resources to cover its credit exposure to the liquidation portfolio of each Clearing Member following the default of that Clearing Member until the end of the liquidation horizon with a high degree of confidence. OCC would conduct Resource Backtesting using actual portfolios at the Clearing Member level. Accordingly, while Model Backtesting is conducted at the account

level at which margin requirements are calculated under the STANS methodology, Resource Backtesting would consider OCC's credit exposure to a Clearing Member across that member's marginable accounts.

Backtesting at the Clearing Member level would not be as simple as aggregating profit and loss ("P&L") and margin resources across each marginable account maintained by a Clearing Member because OCC's By-Laws and Rules provide OCC with different types of liens over different types of accounts. For example, a surplus in a securities customer account, for which OCC maintains a restricted lien, may not be used to offset a loss in the member's firm account.⁴⁴ In contrast, a surplus in the member's firm account, for which OCC maintains a general lien, could be used to offset losses in any of the member's other accounts.⁴⁵ OCC would consider the liens on a particular account when netting deficits and surpluses across account types to ensure that surpluses in an account over which OCC maintains a restricted lien do not offset losses in another account for purposes of assessing the sufficiency of OCC's financial resources to cover the default of a Clearing Member.

Resource Backtesting would also take into account the value of other margin resources collected from a Clearing Member available to address default losses, including non-CIM margin collateral and certain margin add-ons. Conversely, OCC would exclude the Clearing Fund deposit of the applicable Clearing Member as a prefunded financial resource of that Clearing Member under Resource Backtesting.⁴⁶

⁴⁴ See By-Law Art. VI § 3(e).

⁴⁵ See, e.g., OCC Rule 1104(e) (clarifying, for the avoidance of doubt, that margin assets in a firm lien account may be applied to cover losses in a segregated futures account).

⁴⁶ OCC considered including, but ultimately determined not to include a Clearing Member's Clearing Fund deposit as a financial resource for that Clearing Member in Resource Backtesting. The Clearing Fund deposit of a defaulting Clearing Member is a prefunded financial resource that OCC would use to cover any loss prior to charging other resources in the default waterfall, including OCC's skin-in-the-game or the mutualized Clearing Fund deposits of non-defaulting Clearing Members. See OCC Rule 1006(b). Each Clearing Member's Clearing Fund deposit is comprised of a \$500,000 minimum deposit and a variable component that is currently allocated to each Clearing Member based predominately on each Clearing Member's margin requirement. See OCC Rule 1003. Based on 2023 historic data, each Clearing Member would be above the 99% coverage target if the Clearing Fund deposit of that Clearing Member was included as a resource for Resource Backtesting. However, concerns were raised about including such resources in Resource Backtesting because the Clearing Fund, in the aggregate, is sized using stressed exposures. Accordingly, OCC is proposing to limit Resource Backtesting to margin resources.

⁴¹ OCC does not intend this example to be a statement that establishes or changes any standard, limit or guideline with respect to the rights, obligations, or privileges of specified persons or the meaning, administration, or enforcement of an existing rule.

⁴² OCC does not intend this example to be a statement that establishes or changes any standard, limit or guideline with respect to the rights, obligations, or privileges of specified persons or the meaning, administration, or enforcement of an existing rule.

⁴³ Because OCC anticipates that the initial escalation criteria it would adopt under this proposal would require escalation to each of the MRWG, Management Committee and Risk Committee, all such escalation criteria will require Risk Committee approval to change. See *supra* note 40. Should the MRWG or Management Committee adopt more sensitive escalation criteria for themselves, any change to the criteria for escalating to the Risk Committee would continue to require Risk Committee approval while the escalation criteria for the MRWG and Management Committee would be subject to approval by the MRWG or Management Committee, respectively.

In addition, such margin resources would be limited to required resources, and would therefore exclude any margin collateral held by OCC in excess of a Clearing Member's required margin.⁴⁷ As discussed above, these details about the composition of the Resource Backtesting portfolios would be backtesting assumptions that the Margin Policy would require FRM to document in its procedures.

In addition, while Model Backtesting assesses the performance of OCC's margin models in calculating margin requirements by evaluating P&L for a constant portfolio, Resource Backtesting would be designed to determine whether the liquidating value of a Clearing Member's portfolios was positive or negative at the end of OCC's liquidation horizon. Accordingly, Resource Backtesting would take into account observed intraday position changes from the time of the last good margin collection until the assumed point of default.

OCC would assess Resource Backtesting with the expectation that exceedances of financial resources would be no more than one percent in the lookback period for each Clearing Member (*i.e.*, 99% coverage). To distinguish between Model Resource exceedances, OCC would use the term "deficiency" with respect to Resource Backtesting, which would result when the prefunded financial resources collected from the Clearing Member Organization ("CMO") would have been insufficient to cover the potential loss if the CMO had defaulted. That is, OCC would classify a result as a Resource Backtesting deficiency when the liquidating value of the CMO's portfolios is negative.

OCC would integrate Resource Backtesting into the Margin Policy's discussion of the backtesting framework and backtesting reporting. The purpose and scope of Resource Backtesting, as described above, would be added to the backtesting framework subsection. In addition, the Margin Policy would provide that FRM will maintain requirements with respect to backtesting assumptions, monthly backtesting reviews, and escalation criteria for Resource Backtesting deficiencies, and the same governance relating to review and changes to assumptions and escalation criteria for Model Backtesting would apply to Resource Backtesting. With respect to escalation criteria for Resource Backtesting deficiencies, the

Margin Policy would provide that FRM will maintain written procedures that establish criteria including, but not limited to, thresholds related to the size of a Resource Backtesting deficiency and the coverage rate across all Clearing Members in the aggregate. For example, OCC anticipates establishing criteria under this rule to escalate when the aggregate cover rate across all Clearing Members (including any Resource Backtesting Margin Charges then in effect as a resource) falls below 99%.⁴⁸ As another example, OCC anticipates establishing a threshold for any verified Resource Backtesting deficiency that exceeds the lesser of (i) 50% of the Clearing Member's individual Clearing Fund contribution, or, (ii) in the case of Clearing Members whose Clearing Fund contributions are in excess of \$200 million, \$100 million.⁴⁹

(iii) Resource Backtesting Margin Charge

Based on OCC's analysis of Resource Backtesting results using the proposed methodology described above, OCC has observed that the Resource Backtesting for some Clearing Members falls below a 99% coverage threshold⁵⁰ (*i.e.*, greater than two Resource Backtesting deficiency days in a rolling 12-month period).⁵¹ Specifically, based on 2023 historical data, approximately 25% of Clearing Members would have fallen below the Resource Backtesting coverage target.⁵² The size of the third-largest deficiencies ranged from a few hundred dollars to an outlier of \$35 million, with the majority below \$100,000 and all but a few below \$1 million. Collectively, the amounts represent less than 0.1% on average of the aggregate margin OCC collects. In order to ensure that OCC's margin resources, among other prefunded financial resources,⁵³ are sufficient to cover the 99% coverage target, OCC proposes to establish a Resource Backtesting Margin Charge. OCC notes that other covered clearing agencies

under the SEC's jurisdiction have, with SEC approval, established similar charges designed to collect additional resources when a Clearing Member's margin coverage falls below the agencies' coverage target.⁵⁴

The thresholds for applying a Resource Backtesting Margin Charge, the method for calculating the charge, and the proposed rule changes proposed to reflect this new charge are discussed below.

Thresholds for Applying the Resource Backtesting Margin Charge

The Resource Backtesting Margin Charge would only apply to those Clearing Members whose 12-month trailing Resource Backtesting falls below 99% coverage based on confirmed Resource Backtesting deficiencies (*i.e.*, three or more confirmed Resource Backtesting deficiencies over the last 12 months). On an at-least monthly basis, OCC would review and determine which Clearing Members may be subject to the Resource Backtesting Margin Charge, or whose Resource Backtesting Margin Charge amount is subject to change, based on each Clearing Member's trailing 12-month Resource Backtesting coverage. Resource Backtesting Margin Charges would be applied on a daily basis for the applicable accounts of the Clearing Member that contributed to the deficiencies. If in a subsequent month an affected Clearing Member's trailing 12-month backtesting coverage rises above 99%, the Resource Backtesting Margin Charge would be removed.

In conducting this analysis for purposes of identifying Clearing Members who should be subject to the Resource Backtesting Margin Charge and for determining the amount of the third-largest Resource Backtesting deficiency for purposes of calculating the charge, OCC would not take into account Resource Backtesting Margin Charges already in effect, but would take into account the number and size of deficiencies subsequent to the Resource Backtesting Margin Charge already applied. For example, if a Clearing Member subject to a Resource Backtesting Margin Charge experienced subsequent Resource Backtesting deficiencies that were smaller in size than a Resource Backtesting Margin Charge currently in effect, such deficiencies would continue to count towards the overall deficiency count, even if they are covered by an existing Resource Backtesting Margin Charge. This approach ensures that Clearing

⁴⁷ Because a Clearing Member is entitled to withdraw excess collateral, limiting Resource Backtesting to required resources addresses concerns that a Clearing Member may withdraw any excess collateral just prior to its default.

⁴⁸ OCC does not intend this example to be a statement that establishes or changes any standard, limit or guideline with respect to the rights, obligations, or privileges of specified persons or the meaning, administration, or enforcement of an existing rule.

⁴⁹ OCC does not intend this example to be a statement that establishes or changes any standard, limit or guideline with respect to the rights, obligations, or privileges of specified persons or the meaning, administration, or enforcement of an existing rule.

⁵⁰ OCC has included 2023 results of the proposed Resource Backtesting in confidential Exhibit 3A to File No. SR-OCC-2024-009.

⁵¹ Based on 250 observation days per year, each observed Resource Backtesting deficiency reduces the coverage by 0.4%.

⁵² See *supra* note 50.

⁵³ See *supra* note 46.

⁵⁴ See Exchange Act Release No. 79167 (Oct. 26, 2016), 81 FR 75883, 75884 (Nov. 1, 2016) (SR-FICC-2016-006; SR-NSCC-2016-004).

Members will continue to be subject to a Resource Backtesting Margin Charge while three or more deficiencies remain in the look-back period. If, in that example, the third-largest deficiency driving the Resource Backtesting Margin Charge fell out of the 12-month look-back period, the Resource Backtesting Margin Charge would then be reduced to the third largest of the remaining deficiencies, subject to OCC authority to adjust the amount as discussed further below. In addition, if a Clearing Member subject to the charge were to experience additional Resource Backtesting deficiencies that were greater in magnitude than the deficiency that had been driving the Resource Backtesting Margin Charge, OCC would increase the Resource Backtesting Margin Charge as necessary to achieve a 99% coverage target within the rolling 12-month lookback based on the methodology for sizing the Resource Backtesting Margin Charge discussed below.

Calculating the Resource Backtesting Margin Charge

The Resource Backtesting Margin Charge would generally be equal to the third-largest Resource Backtesting deficiency in the rolling 12-month lookback period rounded up to the nearest \$1,000, subject to adjustments as further described below. Setting the Resource Backtesting Margin Charge to cover the third-largest deficiency would bring the Clearing Member's margin coverage back in line with OCC's 99% coverage target on a lookback basis. The Resource Backtesting Margin Charge would generally be allocated proportionally to the Clearing Member's accounts contributing to the third-largest Resource Backtesting deficiency.

For Clearing Members with more than three deficiencies, however, such additional financial resources as allocated based on the accounts driving the third-largest deficiency may not necessarily cover Resource Backtesting deficiencies that are lower in dollar amount, but with a different allocation of accounts contributing to the remaining deficiencies. For example, if a customer account contributed more to the third-largest Resource Backtesting deficiency and the Clearing Member's firm account (or another account) contributed more to any lesser Resource Backtesting deficiency, then a charge allocated proportionally to accounts based on the third-largest deficiency may not cover the lesser Resource Backtesting deficiencies on a look-back basis because funds allocated to a customer account cannot be used to

offset losses in any other account.⁵⁵ In circumstances when applying and allocating the Resource Backtesting Margin Charge based on the third-largest deficiency would not bring the Clearing Member above OCC's coverage target on a look-back basis, OCC would have authority to increase the charge for a particular account in an amount necessary to meet the coverage target pursuant to establish procedures, as discussed below.

Consistent with Commission-approved rules of other clearing agencies,⁵⁶ OCC would also retain discretion to adjust the Resource Backtesting Margin Charge based on other circumstances (*i.e.*, in addition to account for differences in the accounts contributing to a Clearing Member's Resource Backtesting deficiencies) that may impact the likelihood or estimated size of potential future backtesting deficiencies, consistent with achieving OCC's 99% Resource Backtesting coverage target. Such other circumstances may include, but are not limited to, differences in magnitude of the deficiencies observed over the last 12-month period, variability in the Clearing Member's activity since the observed deficiencies, cyclicalities of observed deficiencies, and/or market volatility. MRWG approval would be required to approve such other adjustments.

Establishing the Resource Backtesting Margin Charge in OCC's Rules

To implement the Resource Backtesting Margin Charge, OCC proposes to add OCC Rule 601(h) and amend the Margin Policy. Proposed Rule 601(h)(1) would provide that OCC may require a Clearing Member to deposit additional margin assets to mitigate exposures to OCC that may not otherwise be covered by the margin requirements calculated in accordance with Rule 601 and OCC's policies and procedures. Rule 601(h)(1) would further provide that OCC may assess the charge as part of the Clearing Member's daily margin requirement, as needed, to enable OCC to achieve its Resource

⁵⁵ In contrast, if the firm account, over which OCC maintains a general lien, was the driver of the third-largest deficiency, the charge allocated to the firm account can be used to cover a Resource Backtesting deficiency with a proportionally greater shortfall driven by any other account.

⁵⁶ See Exchange Act Release No. 79167, *supra* note 54, 81 FR at 75884 ("Although the third largest historical backtesting deficiency for a Member is used as the Backtesting Charge in most cases, [NSCC and FICC] retain[] discretion to adjust the charge amount based on other circumstances that may be relevant for assessing whether an impacted Member is likely to experience future backtesting deficiencies and the estimated size of such deficiencies.").

Backtesting coverage target. Specifically, Rules 601(h)(1) would provide that the Resource Backtesting Margin Charge may apply when a Clearing Member has a 12-month trailing Resource Backtesting coverage below the 99 percent backtesting coverage target.

With respect to calculation of the charge, Rule 601(h)(2) would provide that the Resource Backtesting Margin Charge generally will be equal to the third-largest Resource Backtesting deficiency during the previous 12 months, rounded up to the nearest \$1,000. Like the Commission-approved rules of other clearing agencies,⁵⁷ Rule 601(h)(2) would also provide that OCC may, in its discretion, adjust such charge if OCC determines that circumstances particular to a Clearing Member's clearance and settlement activity and/or market volatility warrant a different approach to determining or applying such charge in a manner consistent with achieving OCC's backtesting coverage target. As discussed below, the governance concerning exercise of such discretion and the factors that may inform it would be addressed in the Margin Policy.

Rule 601(h)(3) would provide that in calculating a Clearing Member's Resource Backtesting coverage for purposes of the Resource Backtesting Margin Charge and in calculating the third-largest Resource Backtesting deficiency, OCC would not include amounts already collected as a Resource Backtesting Margin Charge from that Clearing Member. As discussed above, OCC would continue to count future Resource Backtesting deficiencies for the purpose of determining whether a Clearing Member should remain subject to the charge by reviewing whether the Clearing Member would have had Resource Backtesting deficiencies had no Resource Backtesting Margin Charge been in effect. In addition, OCC would, as part of the at-least monthly review, determine the third-largest Resource Backtesting deficiency for purposes of increasing or decreasing a charge already in effect without including the existing Resource Backtesting Margin Charge as a resource. This provision mirrors the rules of other clearing agencies filed with the Commission.⁵⁸ However, OCC would, in accordance with established procedures, test the sufficiency of the Resource Backtesting Margin Charge against a Resource Backtesting variant that includes that charge as a financial resource for

⁵⁷ See *supra* note 54 and accompanying text.

⁵⁸ See Exchange Act Release No. 93678 (Nov. 30, 2021), 86 FR 69109, 69110 (Dec. 6, 2021) (SR-NSCC-2021-014).

purposes of: (i) confirming that the charge, as allocated proportionally to the accounts contributing to the third-largest Resource Backtesting deficiency, would be sufficient to achieve the 99% coverage target, and (ii) increasing the Resource Backtesting Margin Charge for a particular account that may be contributing a proportionally greater amount to other Resource Backtesting deficiencies if the coverage target is not met.

Rule 601(h)(4) would further provide a definition of “Resource Backtesting,” which is not a term otherwise found in the By-Laws and Rules. Specifically, Rule 601(h)(4) would provide that for purposes of that Rule, “Resource Backtesting” means backtesting pursuant to OCC’s policies and procedures designed to evaluate whether OCC maintains sufficient financial resources to cover its credit exposure to the liquidation portfolio of each Clearing Member from the last margin collection until the end of the liquidation horizon following the Clearing Member’s default with a high degree of confidence.

OCC would also amend the section of the Margin Policy that addresses margin add-ons to reflect and reference the Resource Backtesting Margin Charge provisions of proposed OCC Rule 601(h). The Margin Policy would identify the governance processes related to the at-least monthly review of Resource Backtesting deficiencies for purposes of imposing or adjusting a Resource Backtesting Margin Charge. Specifically, the Margin Policy would provide that FRM would review Resource Backtesting results for the purposes of determining whether a Clearing Member should be assessed a Resource Backtesting Margin Charge and, if so, the amount to be charged. While the review and determination would be conducted at-least monthly, a Resource Backtesting Margin Charge could be applied on an intramonth basis based on the daily backtesting results reviewed by FRM.

The Margin Policy would further provide for the governance with respect to applying a Resource Backtesting Margin Charge. Specifically, based on the at-least monthly review of the Resource Backtesting deficiencies, an FRM Officer⁵⁹ would be authorized to

⁵⁹ Officers are identified in OCC’s By-Laws. See OCC By-Law Art. IV. In this context, an FRM Officer would include any member of FRM appointed by the Chief Executive Officer or Chief Operating Officer, including a Managing Director, Executive Director or Executive Principal. *Id.* § 9.

approve⁶⁰ a Resource Backtesting Margin Charge equal to the third-largest Resource Backtesting deficiency rounded up to the nearest \$1,000, excluding any Resource Backtesting Margin Charge currently in effect. The Margin Policy would further provide that the Resource Backtesting Margin Charge generally would be allocated proportionally to the Clearing Member’s accounts contribution to the third-largest Resource Backtesting deficiency.

To account for the circumstances when a charge allocated based on the third-largest Resource Backtesting deficiency may be insufficient to increase a Clearing Member’s Resource Backtesting to OCC’s 99% coverage target due to differences in the accounts contributing to Resource Backtesting deficiencies, the Margin Policy would identify such circumstances as one in which OCC may adjust the Resource Backtesting Margin Charge, consistent with proposed Rule 601(h)(2). In addition, the Margin Policy would provide that an FRM Officer would be authorized, in accordance with established procedures, to approve an additional amount for a particular account necessary to achieve OCC’s 99% coverage target at the Clearing Member level. These established procedures would utilize a Resource Backtesting variant that includes the Resource Backtesting Margin Charge as a financial resource to test whether, after applying the charge, the coverage for that Clearing Member would be above OCC’s 99% coverage target on a look-back basis. If not, FRM would increase the charge for the accounts contributing to the third largest of the remaining Resource Backtesting deficiencies until the 99% coverage target has been achieved. The FRM Officer’s authority to approve an adjustment to the Resource Backtesting Margin Charge would be limited to such increases. Any other adjustments, including any reduction other than a reduction due to a change in the third-largest Resource Backtesting deficiency in the rolling 12-month lookback period, would require MRWG approval.

The Margin Policy would further provide that other adjustments to the Resource Backtesting Margin Charge may be made with approval of the MRWG. As provided in proposed Rule 601(h)(2), such adjustments must be consistent with achieving OCC’s Resource Backtesting coverage target. The Margin Policy would provide that circumstances in which MRWG may

⁶⁰ This type of FRM Officer approval is designed as a control to avoid imposing a charge based on erroneous information.

approve such other adjustments include, but are not limited to, differences in magnitude of the deficiencies observed over the last 12-month period, variability in the Clearing Member’s activity since the observed deficiencies, cyclicity of observed deficiencies and/or market volatility.⁶¹

The Margin Policy would further provide that to the extent OCC implements changes to its margin methodology that affect Clearing Members’ margin requirements, OCC would reevaluate Resource Backtesting coverage within the 12-month lookback period based on the margin resources it would have collected under the revised methodology to determine whether a Resource Backtesting Margin Charge for a particular Clearing Member is warranted and, if so, in what amount. For example, if OCC were to begin requiring the collection of additional margin resources through another add-on charge designed to capture some aspect of market risk not adequately captured under OCC’s current models (other than the Resource Backtesting Margin Charge itself), the additional resources that OCC would have collected through that add-on may, if charged at the time, have covered observed Resource Backtesting deficiencies within the look-back period, either in whole or in part. In such circumstances, OCC would recalculate the Resource Backtesting Margin Charge based on the deficiencies that would have remained had the additional resources been collected at the time of the deficiencies. As such, OCC believes the Margin Policy would be designed to avoid double-margining Clearing Members when OCC begins collecting additional margin resources following changes to its margin methodology implemented within the 12-month lookback period.

(iv) Conforming Changes

In connection with the consolidation of OCC’s current Business Backtesting and Model Backtesting, as well as the addition of Resource Backtesting, OCC proposes to consolidate its internal procedures for all backtesting into a

⁶¹ These circumstances are consistent with those identified by the Commission in approving authority of other clearing agencies to adjust similar backtesting margin charges. See Exchange Act Release No. 79167, *supra* note 54, 81 FR at 75884 (“Examples of relevant circumstances that would be considered in calculating the final, applicable Backtesting charge amount include material differences in the three largest backtesting deficiencies observed over the prior 12-month period, variability in the net settlement activity after the collection of the Member’s Required Deposit, seasonality in observed backtesting deficiencies and observed market price volatility in excess of the member’s historical VaR charge.”).

Backtesting Procedure and associated technical document.⁶² Accordingly, OCC would amend its Margin Policy and Model Risk Management Policy to refer to the new Backtesting Procedure, rather than the current Business Backtesting Procedure and Model Backtesting Procedure. In addition, OCC would update the description of ongoing model performance monitoring in the STANS Methodology Description to reflect OCC's Model Backtesting as provided in the Margin Policy and supporting procedure and technical document. OCC would also insert headings into the section of the Margin Policy that addresses add-on charges, including the proposed Resource Backtesting Margin Charge, to separate the discussion of add-on charges for which the Margin Policy already provides specific treatment, such as the add-on to address specific wrong-way risk ("SWWR"), (*i.e.*, the risk that the value of a Clearing Member's positions is positively correlated with the creditworthiness of the Clearing Member).⁶³

Implementation Timeframe

OCC will implement the proposed changes within sixty (60) days after the date that OCC receives all necessary regulatory approvals for the proposed changes. OCC will announce the implementation date of the proposed change by an Information Memorandum posted to its public website at least two (2) weeks prior to implementing the Resource Backtesting Margin Charge.

(2) Statutory Basis

OCC believes the proposed changes are consistent with Section 17A of the Exchange Act⁶⁴ and the rules and regulations thereunder applicable to OCC. Section 17A(b)(3)(F) of the Act⁶⁵ requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and in general, to protect investors and the public interest. If a Clearing Member defaults on its obligations to OCC, OCC would use the margin collateral deposited by that Clearing Member, among other prefunded financial

resources from that Clearing Member, to mitigate OCC's credit exposure. If OCC's margin models calculated margin requirements insufficient to address default losses, then OCC may need to utilize the mutualized funds deposited in OCC's Clearing Fund.⁶⁶ The proposed changes are intended to enhance OCC's process for monitoring its margin coverage and the performance of its margin models, which would help OCC maintain sufficient financial resources to mitigate its credit exposure. To the extent that OCC identifies Resource Backtesting deficiencies that bring a Clearing Member's margin coverage below the target coverage level, the proposed Resource Backtesting Margin Charge would require the impacted Clearing Member to deposit additional margin resources to absorb a potential loss that OCC's margin system may not otherwise capture. Collecting sufficient margin resources to cover potential losses would help to ensure that OCC may manage the default of a Clearing Member without disruption to its clearance and settlement services and avoid loss mutualization that could impose unanticipated costs on other Clearing Members and their customers. Accordingly, OCC believes the proposed changes are reasonably designed to promote the prompt and accurate clearance and settlement of securities transactions, and in general, to protect investors and the public interest, in accordance with Section 17A(b)(3)(F) of the Act.⁶⁷

OCC also believes the proposed changes described above are consistent with SEC Rules under the Act for the following reasons.

(i) Backtesting Framework

Paragraph (vi) of Rule 17Ad-22(e)(6)⁶⁸ requires OCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, is monitored by OCC's management on an ongoing basis and is regularly reviewed, tested, and verified by, in relevant part: (A) conducting backtests of its margin model at least once each day using standard predetermined parameters and

assumptions; (B) conducting a review of its assumptions for backtesting on at least a monthly basis, and considering modifications to ensure the backtesting practices are appropriate for determining the adequacy of OCC's margin resources; (C) conducting a review of its assumptions for backtesting more frequently than monthly during periods of time when the products cleared or markets served display high volatility or become less liquid, or when the size or concentration of positions held by OCC's participants increases or decreases significantly; and (D) reporting the results of these analyses to appropriate OCC decisionmakers, including but not limited to, its Risk Committee or Board of Directors, and using these results to evaluate the adequacy of its margin methodology, model parameters, and any other relevant aspect of its credit risk management framework. As explained by the Commission, such backtesting "is a technique used to compare the potential losses forecasted by a model with the actual losses that participants incurred" that is "intended to reveal the accuracy of models."⁶⁹ Accordingly, the Commission promulgated Rule 17Ad-22(e)(6)⁷⁰ to require covered clearing agencies to establish and maintain "policies and procedures that provide for backtesting the margin models . . . to help uncover and address possible errors in model design, misapplication of models, or errors in the inputs to, and assumptions underlying, margin models."⁷¹

The proposed Margin Policy would describe how OCC conducts backtesting of its margin models at least once each day, as required by Rule 17Ad-22(e)(6)(vi)(A).⁷² OCC believes that the proposed Model Backtesting is reasonably designed to assess the performance of OCC's margin models in order to provide decisionmakers with information about potential issues with or enhancements to those models. The proposed enhancements would provide greater clarity and transparency about how OCC establishes, reviews and adjusts the assumptions for backtesting, including the role of the MRWG, Management Committee and Risk Committee in approving changes thereto, as contemplated by paragraphs (B) and (C) of Rule 17Ad-22(e)(6)(vi).⁷³

⁶² OCC has included anticipated drafts of these documents in confidential Exhibit 3B and 3C to File No. SR-OCC-2024-009, respectively. OCC has also included in confidential Exhibit 3D to File No. SR-OCC-2024-009 a numerical example of how Resource Backtesting results are calculated using data for certain Clearing Members from an actual activity date.

⁶³ See Exchange Act Release No. 87718 (Dec. 11, 2019), 84 FR 68992 (Dec. 17, 2019) (SR-OCC-2019-010) (approving OCC's SWWR Add-On).

⁶⁴ See 15 U.S.C. 78q-1.

⁶⁵ 15 U.S.C. 78q-1(b)(3)(F).

⁶⁶ Prior to charging the Clearing Fund deposits of non-defaulting Clearing Members, OCC would first contribute OCC's Minimum Corporate Contribution and its liquid net assets funded by equity in excess of 110% of OCC's Target Capital Requirement. See Exchange Act Release No. 92038 (May 27, 2021), 86 FR 29861 (June 3, 2021), 29862 n.15 and accompanying text (SR-OCC-2021-003).

⁶⁷ 15 U.S.C. 78q-1(b)(3)(F).

⁶⁸ 17 CFR 240.17Ad-22(e)(6)(vi).

⁶⁹ Exchange Act Release No. 71699 (Mar. 12, 2014), 79 FR 29508, 29530 (May 22, 2014) (File No. S7-03-14).

⁷⁰ 17 CFR 240.17Ad-22(e)(6).

⁷¹ Exchange Act Release No. 71699, *supra* note 69, 79 FR at 29530.

⁷² 17 CFR 240.17Ad-22(e)(6)(vi)(A).

⁷³ 17 CFR 240.17Ad-22(e)(6)(vi)(B), (C).

Such reviews would occur on at least a monthly basis, but would occur more frequently when the CCA Monitoring Thresholds are breached, consistent with paragraph (C) of Rule 17Ad–22(e)(6)(vi).⁷⁴ In addition, the enhancements would also provide greater clarity about the escalation of backtesting exceedances to appropriate OCC decisionmakers, including that OCC maintains thresholds for such escalations that are periodically reviewed and approved by the governing body to which the escalation must be made, including to OCC’s Risk Committee, consistent with Rule 17Ad–22(e)(6)(vi)(D).⁷⁵ Accordingly, OCC believes its proposed backtesting framework is reasonably designed in a manner consistent with Rule 17Ad–22(e)(6)(vi).⁷⁶

(ii) Resource Backtesting

OCC believes that the proposed expansion of backtesting to include Resource Backtesting is consistent with Rule 17Ad–22(e)(4)(i),⁷⁷ which requires OCC to maintain sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. OCC proposes to expand its backtesting analyses to include Resource Backtesting in order to ensure that OCC maintains sufficient margin resources collected from a Clearing Member, among other prefunded financial resources, to cover its credit exposures to that Clearing Member fully with a high degree of confidence. Such Resource Backtesting would take into account other resources collected from a Clearing Member, including non-CiM resources that are subject to fixed collateral haircuts rather than valued through OCC’s margin models. In addition, Resource Backtesting would be done at the Clearing Member level, taking into consideration netting rules based on the types of liens OCC has on specific margin accounts. Accordingly, OCC believes that such Resource Backtesting is designed to assess the sufficiency of the margin resources collected from each Clearing Member, among other prefunded resources, available to cover the default of that Clearing Member at the Clearing Member level, consistent with Rule 17Ad–22(e)(4)(i).⁷⁸

(iii) Resource Backtesting Margin Charge

OCC believes the proposed Resource Backtesting Margin Charge and the

changes to OCC’s Rules and Margin Policy to effect it would be consistent with Rule 17Ad–22(e)(6)(iii), which requires OCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by, at a minimum, establishing a risk-based margin system that calculates margin sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default.⁷⁹ Rule 17Ad–22(a)(13), in turn, defines “potential future exposure” to mean the maximum exposure estimated to occur at a future point in time with an established single-tailed confidence level of at least 99% with respect to the estimated distribution of future exposures.⁸⁰ The Resource Backtesting Margin Charge is designed to require additional margin resources when OCC identifies Resource Backtesting deficiencies that bring a Clearing Member’s margin coverage below 99%. The Resource Backtesting Margin Charge applied generally would be equal to the third-largest Resource Backtesting deficiency during the lookback period in order to achieve OCC’s Resource Backtesting coverage target, rounded up to the nearest \$1,000. OCC would also retain discretion to adjust the Resource Backtesting Margin Charge based on facts and circumstances that would lead it to conclude that a different amount was appropriate and consistent with achieving its 99% coverage target. Accordingly, OCC believes that the Resource Backtesting Margin Charge is consistent with Rule 17Ad–22(e)(6)(iii).⁸¹

(iv) Conforming Changes

OCC also believes that the proposed changes are consistent with SEC Rule 17Ad–22(e)(2),⁸² which provides in relevant part that OCC must establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility.⁸³ OCC would make conforming changes to the Margin Policy and Model Risk Management Policy that would reflect the consolidated backtesting procedures governed by those policies, thereby

ensuring that cross-references in those rule-filed policies remain accurate. In addition, OCC believes the proposed rule change would provide greater clarity about OCC’s backtesting framework, including OCC’s governance arrangements for reviewing backtesting assumptions and escalating backtesting exceedances to appropriate decisionmakers within OCC. While OCC’s current rule-filed policies provide for escalation of exceedances “as necessary,” for example, the proposed changes would provide greater clarity about governance processes currently maintained in OCC’s internal procedures by providing that OCC will maintain thresholds for escalation that FRM will adhere to if the criteria are met. As discussed above, the Margin Policy would provide that such escalation criteria would include, but not be limited to: (i) thresholds related to the size and number of exceedances for Model Backtesting of actual portfolios, (ii) thresholds related to statistical tests applicable to Model Backtesting of hypothetical portfolios, and (iii) thresholds related to the size of Resource Backtesting deficiency and the coverage rate across all Clearing Members in the aggregate. The changes would also provide greater clarity about the lines of responsibility with respect to the MRWG’s, Management Committee’s and Risk Committee’s roles in approving changes to the backtesting assumptions and escalation criteria. Accordingly, OCC believes the proposed changes are consistent with SEC Rule 17Ad–22(e)(2).⁸⁴

For the above reasons, OCC believes that this proposed rule change is consistent with Section 17A of the Exchange Act⁸⁵ and the rules and regulations thereunder applicable to OCC.

(B) Clearing Agency’s Statement on Burden on Competition

Section 17A(b)(3)(I) of the Exchange Act⁸⁶ requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. With respect to the proposed changes to OCC’s backtesting framework and the addition of Resource Backtesting, OCC does not believe that the proposed rule change would impact or impose any burden on competition. The proposed changes would provide greater clarity concerning OCC’s backtesting framework, including how OCC monitors the performance of

⁷⁴ 17 CFR 240.17Ad–22(e)(6)(vi)(C).

⁷⁵ 17 CFR 240.17Ad–22(e)(6)(vi)(D).

⁷⁶ 17 CFR 240.17Ad–22(e)(6)(vi).

⁷⁷ 17 CFR 240.17Ad–22(e)(4)(i).

⁷⁸ *Id.*

⁷⁹ 17 CFR 240.17Ad–22(e)(6)(iii).

⁸⁰ 17 CFR 240.17Ad–22(a) “Potential future exposure”.

⁸¹ 17 CFR 240.17Ad–22(e)(6)(iii).

⁸² 17 CFR 240.17Ad–22(e)(2).

⁸³ 17 CFR 240.17Ad–22(e)(2)(i), (v).

⁸⁴ 17 CFR 240.17Ad–22(e)(2).

⁸⁵ 15 U.S.C. 78q–1.

⁸⁶ 15 U.S.C. 78q–1(b)(3)(I).

margin models used to calculate margin requirements for each Clearing Member account and how OCC monitors the sufficiency of the margin collateral it collects to cover losses that may arise from the default of a Clearing Member. OCC does not believe that these changes would unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user.

With respect to the proposed Resource Backtesting Margin Charge, whether a particular Clearing Member would be charged and the amount it would be charged would depend on the Clearing Member's activity and the performance of OCC's margin models. OCC has designed the Resource Backtesting Margin Charge to ensure its compliance with regulations that require OCC to calculate margin resources sufficient to cover each Clearing Member's maximum exposure estimated to occur at a future point in time with an established single-tailed confidence level of at least 99 percent with respect to the estimated distribution of future exposure in the interval between the last margin collection and the close out of positions following a participant default.⁸⁷ To the extent a Clearing Member's margin coverage falls below OCC's coverage target, a Resource Backtesting Margin Charge would be applied. Accordingly, OCC believes that the proposed rule change would not impose any burden on competition not necessary or appropriate in furtherance of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-OCC-2024-009 on the subject line.

Paper Comments

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-OCC-2024-009. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is

obscene or subject to copyright protection.

All submissions should refer to file number SR-OCC-2024-009 and should be submitted on or before August 20, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸⁸

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-16661 Filed 7-29-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-560, OMB Control No. 3235-0622]

Submission for OMB Review; Comment Request; Extension: Interagency Statement on Sound Practices

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in the Interagency Statement on Sound Practices Concerning Elevated Risk Complex Structured Finance Activities ("Statement") under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) and the Investment Advisers Act of 1940 (15 U.S.C. 80b *et seq.*).

The Statement was issued by the Commission, together with the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision (together, the "Agencies"), in May 2006. The Statement describes the types of internal controls and risk management procedures that the Agencies believe are particularly effective in assisting financial institutions to identify and address the reputational, legal, and other risks associated with elevated risk complex structured finance transactions.

The primary purpose of the Statement is to ensure that these transactions receive enhanced scrutiny by the

⁸⁷ See *supra* notes 79-81 and accompanying text.

⁸⁸ 17 CFR 200.30-3(a)(12).

institution and to ensure that the institution does not participate in illegal or inappropriate transactions.

The Commission estimates that approximately 5 registered broker-dealers or investment advisers will spend an average of approximately 25 hours per year complying with the Statement. Thus, the total time burden is estimated to be approximately 125 hours per year.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

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 by August 29, 2024 to (i) www.reginfo.gov/public/do/PRAMain 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 24, 2024.

Sherry R. Haywood

Assistant Secretary.

[FR Doc. 2024-16666 Filed 7-29-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35285; File No. 812-15486]

Axonc Alternative Income Fund, et al.

July 25, 2024.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice.

Notice of application for an order ("Order") under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the "Act") and rule 17d-1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d-1 under the Act.

Summary of Application: Applicants request an order to permit certain business development companies ("BDCs") and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

Applicants: Axonic Alternative Income Fund, Axonic Credit Opportunities Master Fund LP, Axonic Residential Mortgage Fund LP, Axonic Special Opportunities SBL Master Fund, LP, Axonic Commercial Real Estate Fund II, LP, Axonic Commercial Real Estate Debt Master Fund, LP, Axonic Structured Opportunities Master Fund, LP, Axonic Multifamily Bridge Master Fund, LP, Axonic Multifamily Bridge Fund, LP, Axonic Private Credit Master Fund I, LP, Axonic International Fund, LP, and Axonic Capital LLC.

Filing Dates: The application was filed on July 17, 2023, and amended on December 28, 2023, and April 8, 2024.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at Secretarys-Office@sec.gov and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on August 19, 2024, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at Secretarys-Office@sec.gov.

ADDRESSES: The Commission: Secretarys-Office@sec.gov. Applicants: Jeffrey Skinner, Esq., Kilpatrick Townsend & Stockton LLP, at jkskinner@ktslaw.com; with copies to Jess Saypoff, General Counsel, Axonic Capital LLC, at jsaypoff@axoniccapp.com, Kate McCurry, Esq., Kilpatrick Townsend & Stockton LLP, at kmccurry@ktslaw.com, and Josh Breen, Esq., Kilpatrick Townsend & Stockton LLP, at jbreen@ktslaw.com.

FOR FURTHER INFORMATION CONTACT: Neil Lombardo, Senior Special Counsel, or Lisa Reid Ragen, Branch Chief, at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' second amended and restated application, dated April 8, 2024, which may be obtained via the Commission's website by searching for

the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system.

The SEC's EDGAR system may be searched at, <https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html>. You may also call the SEC's Public Reference Room at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-16748 Filed 7-29-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35286; File No. 812-15515]

Overland Advantage, et al.

July 25, 2024.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice.

Notice of application for an order ("Order") under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the "Act") and rule 17d-1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d-1 under the Act.

Summary of Application: Applicants request an order to permit certain business development companies and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

Applicants: Overland Advantage, Overland Advisors, LLC, Centerbridge Partners, L.P., Centerbridge Advisors IV, LLC, Centerbridge Advisors V, LLC, Centerbridge Credit Advisors, L.L.C., Centerbridge Credit Funding Advisors, LLC, Centerbridge Flex Advisors, L.L.C., Centerbridge Martello Advisors, L.L.C., Centerbridge Partners Real Estate Advisors II, LLC, CB NC Co-Invest GP, L.P., CB LDV GP, L.P., Centerbridge Special Credit Advisors IV, L.L.C., Overland Advantage Fund Advisor, LLC, CB LDV Co-Invest, L.P., CB NC Co-Invest, L.P., CCP Credit Acquisition Holdings, L.L.C., CCP IV AIV I, L.P., CCP IV AIV III, L.P., Centerbridge Capital Partners IV, L.P., Centerbridge Capital Partners IV (Cayman), L.P., Centerbridge Capital Partners SBS IV (Cayman), L.P., Centerbridge Capital Partners SBS IV, L.P., Centerbridge

Capital Partners V, L.P., Centerbridge Credit CS, L.P., Centerbridge Credit Funding 1, Ltd., Centerbridge Credit Funding II, Ltd., Centerbridge Credit Partners Master CapSol AIV, L.P., Centerbridge Credit Partners Master, L.P., Centerbridge Credit Partners Offshore, Ltd., Centerbridge Credit Partners TE, L.P., Centerbridge Credit Partners, L.P., Centerbridge Flex Partners Cayman, L.P., Centerbridge Flex Partners, L.P., Centerbridge Flex Partners Master, L.P., Centerbridge FP Co-Invest Master Fund, L.P., Centerbridge FP Co-Invest Fund, L.P., Centerbridge Partners Real Estate Fund II, L.P., Centerbridge Partners Real Estate Fund SBS II, L.P., Centerbridge Special Credit Partners IV—I Co-Invest, L.P., Centerbridge Special Credit Partners IV Cayman, L.P., Centerbridge Special Credit Partners IV Master CapSol AIV, L.P., Centerbridge Special Credit Partners IV Master, L.P., Centerbridge Special Credit Partners IV, L.P., CPREF II AIV I, L.P., CPREF II AIV II—A, L.P., CPREF II AIV II—B, L.P., CPREF II AIV III, L.P., CPREF II AIV IV, L.P., CPREF II Cayman, L.P., Credit and SCIII General Partner, L.L.C., CSCP IV CapSol AIV—A, L.P., CSCP IV CapSol AIV—B, L.P., Park Blue CLO 2022—I, Ltd., Park Blue CLO 2022—II, Ltd., Park Blue CLO 2023—III, Ltd., Park Blue CLO 2023—IV, Ltd., Overland Advantage Feeder Fund, L.P., Overland Advantage SBS, L.P., and Overland Advisors Holdings, LLC.

Filing Dates: The application was filed on October 16, 2023 and amended on March 4, 2024.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at Secretaries-Office@sec.gov and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on August 19, 2024, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at Secretaries-Office@sec.gov.

ADDRESSES: The Commission: Secretaries-Office@sec.gov. Applicants: Susanne V. Clark, sclark@centerbridge.com; Kenneth E. Young, Esq., Ken.young@dechert.com; William J. Bielefeld, Esq., William.bielefeld@dechert.com.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, or Lisa Reid Ragen, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' first amended and restated application, dated March 4, 2024, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched, at <https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html>. You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024–16747 Filed 7–29–24; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 12473]

Notice of Determinations; Culturally Significant Objects Being Re-imported or Imported for Exhibition— Determinations: “Saints, Sinners, Lovers, and Fools: 300 Years of Flemish Masterworks” Exhibition

SUMMARY: On September 6, 2022, notice was published in the **Federal Register** of determinations pertaining to certain objects to be included in an exhibition entitled “Saints, Sinners, Lovers, and Fools: 300 Years of Flemish Masterworks.” Notice is hereby given of the following determinations: I hereby determine that certain of those objects being re-imported from abroad, and certain additional objects being imported from abroad, pursuant to an agreement with their foreign owner or custodian for temporary display in the aforesaid exhibition at the Peabody Essex Museum, Salem, Massachusetts, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display

within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PPD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021. The notice of determinations published on September 6, 2022, appears at 87 FR 54587.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2024–16698 Filed 7–29–24; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12476]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Storm Cloud: Picturing the Origins of Our Climate Crisis” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “Storm Cloud: Picturing the Origins of Our Climate Crisis” at The Huntington Library, Art Museum, and Botanical Gardens, San Marino, California, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2024–16699 Filed 7–29–24; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice:12465]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Elizabeth Catlett: A Black Revolutionary Artist and All That It Implies” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “Elizabeth Catlett: A Black Revolutionary Artist and All That It Implies” at the Brooklyn Museum, Brooklyn, New York; the National Gallery of Art, Washington, District of Columbia; The Art Institute of Chicago, in Chicago, Illinois; and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov).

state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2024–16687 Filed 7–29–24; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2024–0063]

Commercial Driver’s License: Covenant Transport Inc. and Landair Transport Inc. Jointly d/b/a Covenant Logistics; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant Covenant Transport Inc. and Landair Transport Inc., jointly doing business as Covenant Logistics, an exemption from the requirement for a commercial learner’s permit (CLP) holder, while operating a commercial motor vehicle (CMV), to be accompanied by a commercial driver’s license (CDL) holder with the proper CDL class and endorsements seated in the front seat of the CMV. The exemption allows a CLP holder, who has passed the skills test but not yet received their CDL document, to drive a Covenant Logistics’ CMV while accompanied by a CDL holder who is not in the passenger seat, provided the driver has documentation of passing the skills test. FMCSA has analyzed the exemption application and public comments and determined that the exemption, subject to the terms and conditions imposed, will maintain a

level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

DATES: The exemption is effective July 30, 2024 through July 30, 2026.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA; (202) 366–4225; or pearlie.robinson@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:**I. Public Participation***Viewing Comments and Documents*

To view comments, go to www.regulations.gov, insert the docket number “FMCSA–2024–0063” in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, and click “View Related Comments.”

To view documents mentioned in this notice as being available in the docket, go to www.regulations.gov, insert the docket number “FMCSA–2024–0063” in the search box, click “Search,” and choose the document to review.

If you do not have access to the internet, you may view the docket by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant’s safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely maintain a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305(a)). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from

which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

FMCSA's CDL regulations establish minimum requirements for a CLP to be considered a valid CDL during behind-the-wheel training of a CLP holder on public roads or highways. Under 49 CFR 383.25(a)(1), a CLP holder, when operating a CMV, must be accompanied by a CDL holder with the proper CDL class and endorsements necessary to operate the CMV. Also at all times, the CDL holder must be physically present in the front seat of the CMV next to the CLP holder or, in a passenger vehicle, directly behind or in the front row behind the driver and must have the CLP holder under observation and direct supervision.

Applicant's Request

Covenant Transport Inc. and Landair Transport Inc., jointly doing business as Covenant Logistics, requested an exemption from 49 CFR 383.25(a)(1) to allow CLP holders who have successfully passed a CDL skills test and are thus eligible to receive a CDL, to drive a CMV without a CDL holder present in the front passenger seat. This exemption allows Covenant Logistics to employ a driver to transport freight immediately after the driver passes their CDL skills test and while their CDL documentation is being processed by their State of domicile. The applicant requests relief from the provision of 49 CFR 383.25(a)(1) for two years.

IV. Method to Ensure an Equivalent or Greater Level of Safety

Covenant Logistics asserts that the exemption will result in a level of safety that is greater than the level of safety without the exemption. Covenant states that a CLP holder affected by this exemption will have already completed all the necessary steps to qualify for a CDL, including passing the CDL skills test with the remaining requirement being the administrative function of obtaining the actual CDL from their home State Driver's Licensing Agency (SDLA). By granting the exemption, CLP holders who have passed a CDL skills test can begin immediate and productive on-the-job training. According to Covenant, this will allow CLP holders to improve their recently

acquired driving skill set and put them to work immediately at an income that meets or exceeds industry standards. Covenant Logistics said that under the proposed exemption it would ensure that a CDL driver remains in the CMV while the CLP holder is driving, but not necessarily in the front passenger seat.

V. Public Comments

On May 23, 2024, FMCSA published notice of Covenant Logistics' application for exemption and requested public comment (89 FR 45732). On May 30, 2024, the Agency published a correction of that notice of two errors regarding the approximate number of drivers hired and the number of drivers covered by the proposed exemption (89 FR 46987). The Agency received a total of 27 comments; two comments were in favor of granting the exemption and the remaining 25 comments opposed granting the exemption. The 25 opposing comments included: a submission by the Owner-Operator Independent Driver's Association (OOIDA); joint comments filed by the Truck Safety Coalition (TSC), Citizens for Reliable and Safe Highways, and Parents Against Tired Truckers; and comments from individuals.

OOIDA wrote, "The regulations requiring an experienced driver in the front seat with a permit holder were implemented with safety in mind. Because Covenant has not sufficiently demonstrated that this exemption would achieve a level of safety equivalent or greater than the safety level under the current regulations, a waiver should not be granted."

TSC said, "Requiring CLP holders to receive physically direct CDL holder supervision and observation reduces the likelihood that mistakes will occur in the first place. TSC calls on FMCSA to demonstrate its unwavering commitment to safety and to deny this inadequately justified exemption application for renewal."

Laurel Tucker, an individual opposing the exemption commented, "Please don't allow truck-driver trainees to drive without licensed drivers in the seat next to them. Our highways are already much more hazardous than they've been in the past several decades."

Dwight Harvey, another individual opposing the exemption wrote, "I do not agree with allowing individuals with a training permit to drive commercial vehicles alone. This is a safety concern."

The two commenters supporting the proposed exemption were submitted by the American Trucking Associations

(ATA) and AWM Associates, LLC (AWM).

ATA stated, "ATA supports Covenant Logistics' exemption request allowing the company to employ drivers to transport freight immediately after the driver passes their CDL skills test and while their CDL documentation is being processed by their state of domicile—eliminating situations in which Covenant must send newly credentialed drivers home in an unproductive, non-driving capacity or delays in driver productivity due to long waiting periods for drivers to receive their CDL documentation."

AWM wrote, "The FMCSA has exemptions in place for Werner, CR England, [Wilson] Logistics New PRIME, CRST, and Steven's Transport allowing thousands of drivers to use their CLP to drive after passing their skills tests." The commentor continued their argument, implying a need to change Part 383 to promote equality and stated, "Regulations are designed to level the field, not allow special consideration to one over the other. It's time the FMCSA modified Part 383 to deal with the reality that they're not treating all concerned equally."

VI. FMCSA Safety Analysis and Decision

FMCSA has evaluated Covenant Logistics' application for an exemption and the public comments and believes Covenant Logistics will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption. The premise of comments opposing the exemption is that CLP holders lack experience and are safer drivers when directly observed by a CDL holder who is on duty and in the front seat of the vehicle. However, CLP holders who have passed the CDL skills test are eligible to obtain a CDL without further training. If these CLP holders had obtained their training and CLPs in their State of domicile, they could immediately obtain their CDL at the in-State SDLA and begin driving a CMV without any on-board supervision. Because these drivers have passed the CDL skills test, the only necessary step to obtain the CDL is to visit the SDLA in their State of domicile. Furthermore, the CDL holder will be in the CMV while the CLP holder is operating the CMV.

In addition, as recently as December 2022, FMCSA granted this same exemption to Stevens Transport, Inc. (87 FR 79931), and has granted five-year renewals for the following five motor carriers: CRST The Transportation Solution, C.R. England, Inc.; New Prime, Inc.; Werner Enterprises; and Wilson

Logistics [87 FR 79931; 88 FR 52241; 87 FR 36360; 87 FR 38449; 87 FR 18855; 86 FR 11050]. To date, the Agency does not have record of any of the companies operating under the 49 CFR 383.25(a)(1) exemption experiencing any deterioration of their safety records or involvement in crashes.

The requested exemption is restricted to Covenant Logistics' CLP holders who have documentation that they have passed the CDL skills test. The exemption will enable these drivers to operate a CMV as a team driver without the accompanying CDL holder to be in the front seat.

VII. Terms and Conditions

When operating under this exemption, Covenant Logistics and its drivers are subject to the following terms and conditions:

(1) Covenant Logistics and its drivers must comply with all other applicable Federal Motor Carrier Safety Regulations (49 CFR parts 350–399);

(2) The drivers must be in possession of a valid State driver's license, a CLP with the required endorsements, and documentation from the testing State that they have passed the CDL skills test;

(3) A CDL holder with the proper CDL class and endorsements must be in the operated CMV;

(4) The drivers must not be subject to any out-of-service order or suspension of driving privileges; and

(5) The drivers must be able to provide this exemption document to enforcement officials.

Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Notification to FMCSA

Covenant Logistics must notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5) involving any of its drivers operating under the terms of this exemption. The notification must include the following information:

- (a) Name of the exemption: "Covenant Logistics"
- (b) Date of the accident
- (c) City or town, and State, in which the accident occurred, or closest to the accident scene

(d) Driver's name and license number

(e) Vehicle number and State license number

(f) Number of individuals suffering physical injury

(g) Number of fatalities

(h) The police-reported cause of the accident

(i) Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations

(j) The driver's total driving time and total on-duty time prior to the accident.

Reports filed under this provision shall be emailed to MCPSD@DOT.GOV.

Termination

FMCSA does not believe the drivers covered by this exemption will experience any deterioration of their safety records. The exemption will be rescinded if: (1) Covenant Logistics and drivers operating under the exemption fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objects of 49 U.S.C. 31136(e) and 31315(b). FMCSA further reserves the right to terminate this exemption in the event it is no longer necessary due to revised regulatory requirements.

Sue Lawless,

Acting Deputy Administrator.

[FR Doc. 2024–16692 Filed 7–29–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2010–0064]

Consolidated Rail Corp.'s Request To Amend Its Positive Train Control System

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that, on July 19, 2024, the Consolidated Rail Corp. (Conrail) submitted a request for amendment (RFA) to its FRA-certified positive train control (PTC) system. FRA is publishing this notice and inviting public comment on the railroad's RFA to its PTC system.

DATES: FRA will consider comments received by August 19, 2024. FRA may

consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

ADDRESSES:

Comments: Comments may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA–2010–0064. For convenience, all active PTC dockets are hyperlinked on FRA's website at <https://railroads.dot.gov/research-development/program-areas/train-control/ptc/railroads-ptc-dockets>. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information.

FOR FURTHER INFORMATION CONTACT:

Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: Gabe.Neal@dot.gov.

SUPPLEMENTARY INFORMATION: In general, Title 49 United States Code (U.S.C.) Section 20157(h) requires FRA to certify that a host railroad's PTC system complies with Title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTC Safety Plan (PTCSP), a host railroad must submit, and obtain FRA's approval of, an RFA to its PTC system or PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal or train control system. Accordingly, this notice informs the public that, on July 19, 2024, Conrail submitted an RFA to its Interoperable Electronic Train Management System (I–ETMS), which seeks FRA's approval of Conrail's request to temporarily disable I–ETMS for a maximum period of four hours while Conrail performs an upgrade of its Back Office Subsystem. That RFA is available in Docket No. FRA–2010–0064.

Interested parties are invited to comment on Conrail's RFA by submitting written comments or data. During FRA's review of this railroad's RFA, FRA will consider any comments

or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. *See* 49 CFR 236.1021; *see also* 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA at FRA's sole discretion.

Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to <https://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. *See* <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](https://www.regulations.gov). To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

Carolyn R. Hayward-Williams,

Director, Office of Railroad Systems and Technology.

[FR Doc. 2024-16751 Filed 7-29-24; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-2024-0011]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Request (ICR) summarized below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the information collection and its expected burden. On May 28, 2024, FRA published a notice providing a 60-day period for public comment on the ICR.

FRA received no comments in response to the notice.

DATES: Interested persons are invited to submit comments on or before August 29, 2024.

ADDRESSES: Written comments and recommendations for the proposed ICR should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find the particular ICR by selecting "Currently under Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Ms. Arlette Mussington, Information Collection Clearance Officer, at email: arlette.mussington@dot.gov or telephone: (571) 609-1285 or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: joanne.swafford@dot.gov or telephone: (757) 897-9908.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501-3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On May 28, 2024, FRA published a 60-day notice in the **Federal Register** soliciting public comment on the ICR for which it is now seeking OMB approval. *See* 89 FR 46296. FRA has received no comments related to the proposed collection of information.

Before OMB decides whether to approve this proposed collection of information, it must provide 30 days' notice for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)-(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. The 30-day notice informs the regulated community of their opportunity to file relevant comments and affords the agency adequate time to consider public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

Comments are invited on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the

methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: Occupational Noise Exposure for Railroad Operating Employees.

OMB Control Number: 2130-0571.

Abstract: Title 49 CFR part 227 contains requirements for occupational noise exposure. FRA uses the collection of information to ensure that railroads covered by this rule establish and implement noise monitoring, hearing conservation, and audiometric testing programs to protect their employees against the harmful effects of excessive noise in the workplace.

Additionally, railroads must maintain testing and training records on noise and hearing conservation. Railroads must also make exposure measurement records for specific locations available to regional or national labor representatives upon request.

Type of Request: Extension without change (with changes in estimates) of a currently approved information collection.

Affected Public: Businesses (Railroads, railroad equipment manufacturers).

Form(s): N/A.

Respondent Universe: 531 railroads.

Frequency of Submission: On occasion.

Total Estimated Annual Responses: 159,925.

Total Estimated Annual Burden: 3,974 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: \$350,627.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

Authority: 44 U.S.C. 3501-3520.

Christopher S. Van Nostrand,

Deputy Chief Counsel.

[FR Doc. 2024-16690 Filed 7-29-24; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration**

[Docket No. FRA–2010–0039, –2010–0045, –2010–0051, –2010–0056, and –2010–0060]

Railroads' Joint Request To Amend Their Positive Train Control Safety Plans and Positive Train Control Systems

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that on July 11, 2024, five host railroads submitted a joint request for amendment (RFA) to their FRA-approved Positive Train Control Safety Plans (PTCSP). As this joint RFA may involve requests for FRA's approval of proposed material modifications to FRA-certified positive train control (PTC) systems, FRA is publishing this notice and inviting public comment on railroads' joint RFA to their PTCSPs.

DATES: FRA will consider comments received by August 19, 2024. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to PTC systems.

ADDRESSES:

Comments: Comments may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and the applicable docket number. The relevant PTC docket numbers for the host railroads that filed a joint RFA to their PTCSPs are cited above and in the Supplementary Information section of this notice. For convenience, all active PTC dockets are hyperlinked on FRA's website at <https://railroads.dot.gov/research-development/program-areas/train-control/ptc/railroads-ptc-dockets>. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information.

FOR FURTHER INFORMATION CONTACT:

Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: Gabe.Neal@dot.gov.

SUPPLEMENTARY INFORMATION: In general, Title 49 United States Code (U.S.C.) Section 20157(h) requires FRA to certify that a host railroad's PTC system complies with Title 49 Code of Federal

Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTCSP, a host railroad must submit, and obtain FRA's approval of, an RFA to its PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal or train control system. Accordingly, this notice informs the public that the five host railroads listed below recently filed a joint RFA to their PTCSPs, which is available in their respective public PTC dockets, and this notice provides an opportunity for public comment.

Specifically, on July 11, 2024, the following five host railroads jointly submitted an RFA to their respective PTCSPs for their Interoperable Electronic Train Management Systems (I–ETMS): BNSF Railway, Caltrain, New Mexico Rail Runner Express, Norfolk Southern Railway Company, and South Florida Regional Transportation Authority. This RFA includes a proposed process for emergencies that would affect a significant portion or the entire fleet of these railroads' PTC-equipped trains. Their joint RFA is available in Docket Numbers FRA–2010–0039, –2010–0045, –2010–0051, –2010–0056, and –2010–0060. Interested parties are invited to comment on this RFA by submitting written comments or data. During FRA's review of these railroads' joint RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to PTC systems. See 49 CFR 236.1021; see also 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny these railroads' joint RFA to their PTCSPs at FRA's sole discretion.

Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to <https://www.regulations.gov>, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See <https://www.regulations.gov/privacy-notice> for the privacy notice of

regulations.gov. To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

Carolyn R. Hayward-Williams,
Director, Office of Railroad Systems and Technology.

[FR Doc. 2024–16750 Filed 7–29–24; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration**

[Docket No. FRA–2024–0026]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA seeks approval of the Information Collection Request (ICR) summarized below. Before submitting this ICR to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified in the ICR.

DATES: Interested persons are invited to submit comments on or before September 30, 2024.

ADDRESSES: Written comments and recommendations for the proposed ICR should be submitted on *regulations.gov* to the docket, Docket No. FRA–2024–0026. All comments received will be posted without change to the docket, including any personal information provided. Please refer to the assigned OMB control number (2130–New) in any correspondence submitted. FRA will summarize comments received in a subsequent 30-day notice and include them in its information collection submission to OMB.

FOR FURTHER INFORMATION CONTACT: Ms. Arlette Mussington, Information Collection Clearance Officer, at email: arlette.mussington@dot.gov or telephone: (571) 609–1285 or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: joanne.swafford@dot.gov or telephone: (757) 897–9908.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days’ notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. See 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. Specifically, FRA invites interested parties to comment on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA’s estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. See 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, comments received will advance three objectives: (1) reduce reporting burdens; (2) organize information collection requirements in a “user-friendly” format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. See 44 U.S.C. 3501.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: Uniform Report of Small Business (SB) Commitments/Awards and Payments.

OMB Control Number: 2130–New.

Abstract: The Disadvantaged Business Enterprise (DBE) program is statutorily mandated and intended to assist small businesses owned and controlled by socially and economically disadvantaged individuals compete fairly in the Department’s transportation funding programs for certain highway, transit, and aviation programs. The DBE program is implemented by recipients of DOT financial assistance. The DOT DBE does not include rail assistance programs and FRA does not have a mandated DBE program. Rather, FRA issues and manages rail assistance programs in compliance with the DOT regulations for implementing Title VI of the Civil Rights Act of 1964 found at 49 CFR part 21 and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards found at 2 CFR part 200. Specifically, 2 CFR 200.321 (a) through (b)(6) provides affirmative steps a non-Federal entity must take to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.

In 2015, Congress instructed the Secretary of Transportation to conduct a nationwide disparity and availability study on the availability and use of small businesses owned and controlled by socially and economically disadvantaged individuals and veteran-owned small businesses in publicly funded intercity rail passenger transportation projects.

The report for the study was provided to Congress in 2022. The report noted a gap in data available for analysis to determine if there is any disparity in rail transportation grant awards. To address the data gap identified in the report, FRA is proposing to add new form, FRA F 6180.281 titled, Small Business (SB) Commitments/Awards and Payments. The proposed data collection will address this gap and aid future considerations of the application of the DBE program.

The purpose of FRA F 6180.281 is to collect data from grant recipients to determine the amount of dollars from FRA grants and contracts that flow to small, women-owned and Disadvantaged Business Enterprises (DBE). This would identify all prime contractors, sub-contractors, consultants, and vendors that FRA grant recipients worked with and on which they spent grant funds. Additionally, the proposed new form, FRA F 6180.281 “SB Commitments/Awards and Payments” would be used by FRA to carry out its oversight responsibilities of non-Federal entities receiving grant funds.

This collection of information aligns with DOT’s Strategic Goal of Equity as it supports establishing economic equity for small businesses owned by disadvantaged individuals and promoting development opportunities.

Type of Request: Approval of a new collection of information.

Affected Public: Generally, includes States and local governments and railroads.

Form(s): FRA F 6180.281.

Respondent Universe: 140 grant recipients.

Frequency of Submission: Annually.

REPORTING BURDEN

Form name	Form No.	Total annual responses	Average time per response	Total annual burden hours	Wage rate	Total cost equivalent in U.S. dollars
		(A)	(B)	(C = A * B)	(E) ¹	(D = C * E)
	FRA F 281	140	357 hours	49,980	\$45.81	\$2,289,584
Total	140	140 responses	N/A	49,980	N/A	2,289,584

¹ The dollar equivalent cost is derived from the May 2022 Department of Labor, Bureau of Labor

Statistics (BLS), using the median hourly wage rate for a Management Analyst 13–1111 of \$45.81.

Total Estimated Annual Responses: 140.

Total Estimated Annual Burden: 49,980 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: \$2,289,584.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Christopher S. Van Nostrand,
Deputy Chief Counsel.

[FR Doc. 2024–16732 Filed 7–29–24; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2024–0009]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Request (ICR) summarized below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the information collection and its expected burden. On May 28, 2024, FRA published a notice providing a 60-day period for public comment on the ICR. FRA received no comments in response to the notice.

DATES: Interested persons are invited to submit comments on or before August 29, 2024.

ADDRESSES: Written comments and recommendations for the proposed ICR should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find the particular ICR by selecting “Currently under Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Ms. Arlette Mussington, Information Collection Clearance Officer, at email: arlette.mussington@dot.gov or telephone: (571) 609–1285 or Ms. Joanne Swafford, Information Collection Clearance Officer, at email:

joanne.swafford@dot.gov or telephone: (757) 897–9908.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. See 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On May 28, 2024, FRA published a 60-day notice in the **Federal Register** soliciting public comment on the ICR for which it is now seeking OMB approval. See 89 FR 46302. FRA has received no comments related to the proposed collection of information.

Before OMB decides whether to approve this proposed collection of information, it must provide 30 days’ notice for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995. The 30-day notice informs the regulated community of their opportunity to file relevant comments and affords the agency adequate time to consider public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

Comments are invited on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA’s estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: Federal Railroad Administration Alleged Violation and Inquiry Form.

OMB Control Number: 2130–0590.

Abstract: The FRA Alleged Violation and Inquiry Form is a response to section 307(b) of the Rail Safety Improvement Act of 2008, which requires FRA to “provide a mechanism for the public to submit written reports

of potential violations of Federal railroad safety and hazardous materials transportation laws, regulations, and orders to the Federal Railroad Administration.” The FRA Alleged Violation and Inquiry Form allows the public to submit alleged violations, complaints, or inquiries directly to FRA.

The form allows FRA to collect information necessary to investigate the alleged violation, complaint, or inquiry, and to follow up with the submitting party. FRA may share the information collected with partnering States under its State Rail Safety Participation Program and with law enforcement agencies.

Type of Request: Extension without change (with changes in estimates) of a currently approved information collection.

Affected Public: Public.

Form(s): FRA F 6180.151

Respondent Universe: Public.

Frequency of Submission: On occasion.

Total Estimated Annual Responses: 1000.

Total Estimated Annual Burden: 120 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: \$5,173.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Christopher S. Van Nostrand,
Deputy Chief Counsel.

[FR Doc. 2024–16731 Filed 7–29–24; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2024–0010]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Request (ICR) summarized below to the Office of Management and Budget (OMB) for review and comment. The ICR describes

the information collection and its expected burden. On May 28, 2024, FRA published a notice providing a 60-day period for public comment on the ICR. FRA received no comments in response to the notice.

DATES: Interested persons are invited to submit comments on or before August 29, 2024.

ADDRESSES: Written comments and recommendations for the proposed ICR should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find the particular ICR by selecting "Currently under Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Ms. Arlette Mussington, Information Collection Clearance Officer, at email: arlette.mussington@dot.gov or telephone: (571) 609-1285; or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: joanne.swafford@dot.gov or telephone: (757) 897-9908.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. See 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On May 28, 2024, FRA published a 60-day notice in the **Federal Register** soliciting public comment on the ICR for which it is now seeking OMB approval. See 89 FR 46298. FRA has received no comments related to the proposed collection of information.

Before OMB decides whether to approve this proposed collection of information, it must provide 30 days' notice for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995. The 30-day notice informs the regulated community of their opportunity to file relevant comments and affords the agency adequate time to consider public comments before it renders a decision. 60 FR 44983, (Aug. 29, 1995). Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

Comments are invited on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility;

(2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: Conductor Certification.

OMB Control Number: 2130–0596.

Abstract: FRA's conductor certification regulation (49 CFR part 242) requires railroads to have a formal program for certifying conductors. As part of that program, railroads are required to have a process for determining competency to serve as a conductor through training, testing, and qualifying prospective and existing conductors before issuing each person certification or recertification. The regulation is intended to ensure that only those persons who meet minimum Federal safety standards serve as conductors.

FRA collects information to ensure that railroads and their employees fully comply with all the requirements of part 242, including a conductor certification/recertification program, fitness requirements, initial and periodic testing, and territorial qualifications.

Type of Request: Extension without change (with changes in estimates) of a currently approved collection.

Affected Public: Businesses (railroads).

Form(s):

Respondent Universe: 784.

Frequency of Submission: On occasion.

Total Estimated Annual Responses: 219,123.¹

Total Estimated Annual Burden: 46,608 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: \$4,265,843.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

¹FRA has updated the Total Estimated Annual Responses (from 220,123 to 219,123 responses) and the Total Estimated Annual Burden (from 46,858 to 46,608 hours) to correct an arithmetic error.

Authority: 44 U.S.C. 3501–3520.

Christopher S. Van Nostrand,

Deputy Chief Counsel.

[FR Doc. 2024–16691 Filed 7–29–24; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2011–0104]

Central Florida Rail Corridor's Request To Amend Its Positive Train Control Safety Plan and Positive Train Control System

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that, on July 19, 2024, Central Florida Rail Corridor (CFRC) submitted a request for amendment (RFA) to its FRA-approved Positive Train Control Safety Plan (PTCSP). As this RFA involves a request for FRA's approval of proposed material modifications to an FRA-certified positive train control (PTC) system, FRA is publishing this notice and inviting public comment on the railroad's RFA to its PTCSP.

DATES: FRA will consider comments received by August 19, 2024. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

ADDRESSES:

Comments: Comments may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA–2011–0104. For convenience, all active PTC dockets are hyperlinked on FRA's website at <https://railroads.dot.gov/research-development/program-areas/train-control/ptc/railroads-ptc-dockets>. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information.

FOR FURTHER INFORMATION CONTACT:

Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: Gabe.Neal@dot.gov.

SUPPLEMENTARY INFORMATION: In general, Title 49 United States Code (U.S.C.) Section 20157(h) requires FRA to certify that a host railroad's PTC system complies with Title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTCSP, a host railroad must submit, and obtain FRA's approval of, an RFA to its PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal or train control system. Accordingly, this notice informs the public that, on July 19, 2024, CFRC submitted an RFA to its PTCSP for its Interoperable Electronic Train Management System (I-ETMS), which seeks FRA's approval of CFRC's proposed upgrade of its I-ETMS onboard software. The software upgrade includes functional changes to enhance operational effectiveness. That RFA is available in Docket No. FRA-2011-0104.

Interested parties are invited to comment on CFRC's RFA to its PTCSP by submitting written comments or data. During FRA's review of this railroad's RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. See 49 CFR 236.1021; see also 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA to its PTCSP at FRA's sole discretion.

Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to <https://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](https://www.regulations.gov). To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information,

please contact FRA for alternate submission instructions.

Issued in Washington, DC.

Carolyn R. Hayward-Williams,

Director, Office of Railroad Systems and Technology.

[FR Doc. 2024-16755 Filed 7-29-24; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number MARAD-2024-0102]

Notice of Availability for the Camden County Programmatic Agreement the National Historic Preservation Act

AGENCY: Maritime Administration, Department of Transportation

ACTION: Notice of availability and request for comment.

SUMMARY: The Maritime Administration (MARAD) is funding the Camden County Port of Camden Access and Infrastructure Resiliency Project (Project) which will reconstruct and improve several roadways within the City of Camden Port District to increase access between the Port of Camden and nearby interstates, while also improving infrastructure resiliency within a historically disadvantaged community. In accordance with the National Historic Preservation Act (NHPA) and its implementing regulations, MARAD has determined that a Programmatic Agreement (Agreement) must be prepared in accordance with the requirements of the NHPA in conjunction with the Project and invites public comments on the Agreement.

DATES: All comments on the Agreement are due on or before September 13, 2024. MARAD will consider comments filed after this date to the extent practicable.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit all comments by only one of the following ways:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>, insert the docket number (MARAD-2024-0102) in the keyword box and click "Search." Select the "Docket" tab, locate the Notice, and click on "comment" to begin the comment submission process. Follow the online instructions.

- *Mail:* Dockets Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery:* W12-l40 of the Department of Transportation, 1200

New Jersey Avenue SE, Washington, DC 20590 between 9:00 a.m. and 5:00 p.m. E.T., Monday through Friday, except Federal Holidays. The telephone number is 202-366-9329.

- *Instructions:* To properly identify your comments, please include the agency name and the docket number at the beginning of your comments. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

Wendy Coble, (202) 366-5088 or via email at marad.history@dot.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during business hours. The FIRS is available twenty-four hours a day, seven days a week, to leave a message or question. You will receive a reply during normal business hours. You may send mail to the Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Department of Transportation (DOT) awarded funds to Camden County under the Fiscal Year 2022 Port Infrastructure Development Program for roadway improvements and reconstruction. The project is located in the City of Camden, Camden County, New Jersey.

The project proposes to reconstruct and improve several roadways within the City of Camden Port District including Atlantic Avenue between 1-676 and Ferry Avenue (0.7 miles), Broadway (County Route 551) from Atlantic Avenue to the railroad overpass (between Chelton Avenue and Morgan St) (0.9 miles), Ferry Avenue (County Route 603) from Broadway to Atlantic Avenue (0.6 miles), and South 2nd Street from Clinton Avenue to Atlantic Avenue (0.8 miles). These improvements will consist of the following:

- New pavement, milling, and resurfacing which will improve roadway conditions and reduce the need for additional maintenance;
- New sidewalks, ADA-compliant curb ramps, curb extensions, pedestrian countdown timers and push buttons which will improve pedestrian safety and accessibility;
- Adjusted curb radii and intersection markings which will discourage trucks from accessing residential streets and

encourage them to more safely access truck routes; reduced turn radii will improve safety;

- Additional wayfinding signage and dynamic messaging signs which will improve traffic flow and better direct motorists, pedestrians, and cyclists to their destinations;
- New and upgraded street lighting which will improve safety and comfort;
- New drainage lines utilizing existing outfalls, and repairing existing damaged sewer which will capitalize on existing infrastructure to improve sewage; and
- Green infrastructure which will improve drainage and create a more appealing pedestrian environment.

MARAD has defined the Undertaking's area of potential effects (APE) as the boundary of the property of South 2nd Steet, Atlantic Avenue, Ferry Avenue and Broadway, which encompasses approximately three roadway miles.

Identification of Historic Properties

The analysis conducted for this project included revisiting previously collected archaeological data, additional research, and site investigations. This work included the completion of a Phase 1A Cultural Resource Reconnaissance Survey Report specifically done for this project. The report, and consultations with the New Jersey State Historic Preservation Office (NJSHPO), concluded that the project will likely have adverse impacts on one historic resource that is listed on the National Register of Historic Places (NRHP), the South Camden Historic District, and historic resources, the 1907 Line Ditch timber sewer system and nineteenth century brick sewers, that will be evaluated for eligibility on the NRHP during the course of the project. It was also determined that the project's APE overlaps with the New York Shipbuilding Historic District, Bergen Square Historic District, and West Jersey & Seashore Lines Historic District, but these resources will not be adversely impacted by the project. The New York Shipbuilding Historic District has previously been determined eligible for the NRHP, while the Bergen Square Historic District and West Jersey & Seashore Lines Historic District have not yet been reviewed for eligibility on the NRHP.

Affected Historic Properties

The South Camden Historic District's period of significance is 1815–1930 and consist of numerous contributing elements, such as standing historic buildings. Cobblestone pavers within the Historic District are most directly

linked to this project and currently lie beneath asphalt roadways within the district's boundaries.

The 1907 Line Ditch timber sewer system and nineteenth century brick sewers contributed to the early development of the City of Camden. The method of construction associated with these resources is common in other nearby cities, thus making the entire City of Camden sewer system likely ineligible for the NRHP as a historic district. However, this does not preclude portions of the sewer system from being contributing elements to historic districts. Additionally, some elements may be individually eligible. This includes the 1907 Line Ditch timber sewer system due to its ties to locally significant persons such as Aaron Ward and unique construction during a period in which sewer construction methodologies were becoming standardized.

Project Impacts on Historic Properties

The South Camden Historic District may be affected due to the proposed removal of cobblestone pavers, which currently lie underneath asphalt paving on the roadways within the district. The 1907 Line Ditch timber sewer system and nineteenth century brick sewers may be adversely impacted by the project because the project proposes to repair and/or replace some of the sewers for improved drainage and stormwater management.

Adverse Effects, Avoidance, Minimization and Mitigation

MARAD, in coordination with NJSHPO, determined that this project would require the development of a Programmatic Agreement to address the potential for adverse effects. As of this public notice, MARAD, SHPO, and Camden County have all agreed to be signatories to the Agreement; The Delaware Tribe of Indians and Camden City Historic Preservation Commission will be concurring parties. The Agreement is available for review at (insert docket posting here).

To mitigate the potential for the project to cause adverse effects, the Agreement will require Camden County to complete the following mitigation measures:

- Prepare and install signage detailing the history and significance of the New York Shipbuilding and South Camden Historic Districts;
- Document any unearthened cobblestone to Level III equivalent standards of the Historic American Engineering Record (HAER);

- Recover and securely store cobblestones for later use within the historic district;

- Conduct a documentation-and-video-based survey (Phase 1B/II) of any affected below ground sewer systems; and

- Based on the Phase 1B/II survey, recommend and implement a work plan for the evaluation, monitoring, documentation, protection, and/or treatment of any historic properties within the project's APE that may be adversely impacted by the project.

Public Participation

MARAD may provide additional information and documents concerning the project. This information, along with any comments received, can be found at the above docket number. Please check the notice specific docket for this information. It is requested that all public comments be submitted for consideration within 45 calendar days from the posting of this notice.

If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online as described in the **ADDRESSES** section above. MARAD recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that MARAD can contact you if there are questions regarding your submission.

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov. As described in the system of records notice DOT/ALL 14 (Federal Docket Management System), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>, the comments are searchable by the name of the submitter. Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.81 and 1.93; 36 CFR part 800; 5 U.S.C. 552b.)

By Order of the Maritime Administrator.
T. Mitchell Hudson, Jr.
Secretary, Maritime Administration.
 [FR Doc. 2024-16767 Filed 7-29-24; 8:45 am]
BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for New Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that

the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before August 29, 2024.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH-13, 1200 New Jersey Avenue Southeast, Washington, DC 20590-0001, (202) 366-4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH-13, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on July 17, 2024.

Donald P. Burger,
Chief, General Approvals and Permits Branch.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21764-N	NPROXX B.V	173.302(a)	To authorize the manufacture, mark, sale, and use of a non-DOT specification, fully wrapped, fiber reinforced composite gas cylinder with a non-load sharing plastic liner for the purpose of transporting certain non-liquefied compressed gases in commerce. (mode 1).
21771-N	Berlin Packaging LLC	173.158(e)	To authorize the manufacture, mark, sale and use of UN specification packagings for the transport of nitric acid of less than 90% concentration where the glass inner packagings are not packed in tightly-closed, intermediate packagings and cushioned with absorbent material. (mode 1).
21772-N	Enervenue, Inc	172.102(c)(1)	To authorize the transportation in commerce of UN3548, articles containing miscellaneous dangerous goods, n.o.s. (modes 1, 2, 3).
21776-N	Aggregate Resource Drilling, LLC.	173.212(b), 173.62(c)	To authorize the transportation in commerce of certain hazardous materials in non-DOT specification multi-wall plastic-lined paper bags. (mode 1).
21779-N	Zhejiang Dongcheng Printing Industry Co., Ltd.	173.304a(a)(1), 173.304a(d)(3)(ii).	To authorize the manufacture, mark, sale, and use of a non-DOT specification non-refillable inside container conforming with all regulations applicable to a DOT specification 2P inner non-refillable metal receptacle except for size, testing requirements, and marking. (modes 1, 2, 3, 4).
21782-N	Zhejiang Dongcheng Printing Industry Co., Ltd.	173.304(d)	To authorize the manufacture, mark, sale, and use of a non-DOT specification non-refillable inside container similar to a DOT specification 2Q inside container. (modes 1, 2, 3, 4).
21783-N	J & M Alaska Air Tours, Inc ...	172.101(j), 175.310(c)	To authorize the transportation in commerce of certain class 3 fuels in non-DOT specification bulk packaging aboard cargo-only aircraft to remote areas of Alaska. (mode 4).
21788-N	Zhejiang Dongcheng Printing Industry Co., Ltd.	173.304a(a)(1), 173.304a(d)(3)(ii).	To authorize the manufacture, mark, sale, and use of a non-DOT specification non-refillable inside container conforming with all regulations applicable to a DOT specification 2P inner non-refillable metal receptacle except for size, testing requirements, and marking as specified herein, for the transportation in commerce of butane. (modes 1, 2, 3).
21789-N	Interco Trading Inc	173.185(b), 173.185(f)	To authorize the transportation in commerce of damaged lithium batteries for disposal where more than one cell and/or battery will be contained in a package. (modes 1, 2, 3).

SPECIAL PERMITS DATA—Continued

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21790-N	Seattle Children's Hospital	173.196	To authorize the transportation in commerce of live animals infected with Category A infectious substances as part of a facility move. (mode 1).
21791-N	Resonac America, Inc	171.23(a), 171.23(a)(3), 178.35	To authorize the transportation in commerce of non-DOT specification cylinders manufactured to a foreign specification that contain Dichlorosilane. (modes 1, 3).
21796-N	Diversey, Inc	173.158(f)(3)	To authorize the transportation in commerce of nitric acid with inner packagings that exceed the quantities authorized in the Hazardous Materials Regulations. (modes 1, 2, 3).
21799-N	Nebraska Central Railroad Company.	172.203(a), 174.24(a), 174.24(b), 174.26(a), 174.26(b).	To authorize the use of electronic means to maintain and communicate train consist information in lieu of paper documentation when hazardous materials are transported by rail. (mode 2).
21800-N	Greif, Inc.	178.509(b)(1), 178.522(b)(1), 178.707(c)(3)(iii).	To authorize the manufacture, mark, sale, and use of 1H1 and 1H2 plastic drums, 31HA1 intermediate bulk containers, 3H1 jerricans, 3H2 jerricans, and 6HA1 composite drums that have been manufactured using recycled resin. (modes 1, 2, 3, 4, 5).
21801-N	Rikutec America, Inc	172.102(c)(4), 173.158(f)(1)	To authorize the manufacture, mark, sale, and use of UN 6HH1 composite packagings for the transport of nitric acid solutions (<70% nitric acid) using a high-density polyethylene inner receptacle and UN 31HH1 IBCs with a permitted used beyond two years for solutions with more than 55% nitric acid. (modes 1, 2, 3).
21802-N	Technologies Mindcore Inc. ...	172.301(c), 173.304a(a)(1)	To authorize the transportation in commerce of sulfur hexafluoride in a non-DOT specification pressure vessel which is a component of an electric utility circuit interrupter unit. (modes 1, 2, 3, 4).
21806-N	Iteology Inc.	173.185(a)(1)	To authorize the transportation in commerce of prototype lithium cells via cargo-only aircraft. (mode 4).
21807-N	Lippert Components, Inc	177.834(h), 178.705(d)	To authorize the manufacture, mark, sale, and use of non-specification IBCs having a capacity less than 119 gallons which may be discharged prior to unloading. (mode 1).
21808-N	Albedo Space Corp	173.301(f)(1)	To authorize the transportation in commerce of spacecraft containing specification cylinders that are not equipped with pressure relief devices. (mode 1).
21809-N	Bhiwadi Cylinders Private Limited.	173.304a(a)(1)	To authorize the manufacture, mark, sale, and use of non-specification inner containers similar to specification DOT 2Q inner containers. (modes 3, 4).
21811-N	CMB Aerosols (UK) Plc	173.306(a)(3), 178.33-7, 178.33a-7.	To authorize the manufacture, mark, sale, and use of non-DOT specification containers conforming to 2P or 2Q inner receptacles, except for wall thickness, for the transportation in commerce of certain Division 2.1 and 2.2 aerosols. (modes 1, 2, 3).

[FR Doc. 2024-16650 Filed 7-29-24; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Modification to Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special

permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before August 14, 2024.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of

Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH-13, 1200 New Jersey Avenue Southeast, Washington, DC 20590-0001, (202) 366-4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH-13, 1200

New Jersey Avenue Southeast,
Washington DC or at [http://
regulations.gov](http://regulations.gov).

This notice of receipt of applications
for special permit is published in

accordance with part 107 of the Federal
hazardous materials transportation law
(49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on July 17,
2024.

Donald P. Burger,
Chief, General Approvals and Permits
Branch.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
7694-M	Applied Pressure Vessels, Inc	173.301a, 175.3	To modify the special permit to authorize compressed oxygen. (modes 1, 2, 4).
10232-M	Illinois Tool Works Inc	173.304(d), 173.167, 173.306(i)	To modify the special permit to authorize an additional hazardous material and the removal of a hazardous material. (modes 1, 2, 3, 4, 5).
12102-M	Veolia ES Technical Solutions LLC.	173.56(i), 173.56(b)	To modify the special permit to authorize an additional hazardous material. (modes 1, 3).
14154-M	Mission Systems Orchard Park Inc.	180.205, 173.302a(a)(1), 173.304a(a)(1).	To modify the special permit to authorize additional Division 2.2 gases. (modes 1, 2, 3, 4, 5).
14832-M	Trinity Industries, Inc	172.203(a), 173.31(e)(2)(iii), 179.100-12(c).	To modify the special permit to update the stencil specifications and to remove the 20-year life limitation. (mode 2).
14940-M	Crown Cork & Seal USA, Inc	173.306(a)(3), 178.33-1(a), 178.33-2, 178.33-3(a), 178.33-4(a), 178.33-5(a), 178.33-6, 178.33-7, 178.33-8, 178.33-9, 178.33a-1, 178.33a-2, 178.33a-3, 178.33a-4, 178.33a-5, 178.33a-6, 178.33a-7, 178.33a-8, 178.33a-9.	To modify the special permit to authorize cargo-only aircraft as a mode of transportation. (mode 4).
21063-M	Mission Systems Orchard Park Inc.	173.302(a)(1)	To modify the special permit to update the maximum service pressure and minimum test pressure from 10,300 psig to 9,125 psig and from 12875 psig to 11,407 psig. (modes 1, 2, 3, 4).
21297-M	Luxfer Canada Limited	173.301(i), 178.75	To modify the special permit to authorize different methods of requalification, an increase in the maximum service use, and alternative bonfire acceptance criteria. (modes 1, 2, 3, 4).
21377-M	Proterra Inc	172.101(j)	To modify the special permit to authorize additional lithium ion batteries. (mode 4).
21513-M	The Chemours Company FC LLC.	173.301(f)(2), 177.840(a)(1)	To modify the special permit to authorize the return of cylinders for refilling and to authorize a package QR code in lieu of retaining a copy of the special permit at each location of use. (mode 1).
21551-M	Bolloré Logistics Germany GmbH.	172.300, 172.400, 172.101(j), 173.301(f), 173.302a(a)(1), 173.185(a)(1), 172.101(j)(1), 173.220.	To modify the special permit to authorize additional departure airports. (modes 1, 3, 4).
21663-M	Orbion Space Technology, Inc.	172.203(a), 172.301(c), 173.301(f)(1), 173.302(a)(1).	To modify the special permit to authorize an additional packaging, additional modes, and an additional hazardous material. (mode 1).
21678-M	Moxion Power Co.	172.102(c)(1)	To modify the special permit to authorize international transportation aboard aircraft. (mode 4).
21708-M	Loft Orbital Solutions Inc	173.27(b)(2), 173.301(f), 173.302a, 173.304a, 171.23(a)(2)(iv).	To modify the special permit to authorize additional outer packagings. (modes 1, 2, 3, 4).

[FR Doc. 2024-16651 Filed 7-29-24; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Actions on Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before August 29, 2024.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline

and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH-13, 1200 New Jersey Avenue Southeast, Washington, DC 20590-0001, (202) 366-4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH-13, 1200 New Jersey Avenue Southeast, Washington DC. This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal

hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).
 Issued in Washington, DC, on July 17, 2024.
Donald P. Burger,
Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
Special Permits Data—Granted			
11107-M	Pacific Scientific Energetic Materials Company (California).	173.56(e)(3), 173.56(e)(4)	To modify the special permit to remove names of specific authorized carriers and to update the length of the tray.
11194-M	Mission Systems Orchard Park Inc.	172.203(a), 172.301(c), 173.302(a)(1), 173.304(a).	To modify the special permit to authorize additional hazardous materials.
11380-M	Baker Hughes Oilfield Operations LLC.	173.302(a)(1), 178.37(h)(3)	To modify the special permit to authorize an additional cylinder.
14651-M	Versum Materials US, LLC	173.40(e)	To authorize the transportation of Silicon tetrafluoride, a hazard zone B toxic by inhalation gas in manifolded DOT specification 3A and 3AA cylinders.
15537-M	Orica USA Inc	172.101(j)	To modify the permit to authorize an additional hazardous material.
15583-M	Northern Air Cargo, LLC	172.101(j), 172.301(c), 173.62(c)	To modify the special permit to authorize an additional hazardous material.
15882-M	Ryan Air, Inc	172.101(j), 173.27, 173.243	To modify the special permit to authorize an additional packaging.
20301-M	Tesla, Inc	172.101(j), 173.185(a)(1), 173.185(b)(3)(i), 173.185(b)(3)(ii).	To modify the special permit to authorize an additional cell type.
20952-M	Capella Space Corp	173.185(a)(1)	To modify the special permit to increase the weight restriction as limited by ICAO-TI Special Provision A88.
20977-M	Rocket Lab USA, Inc	173.185(a)(1), 173.185(b)(3)(iii), 173.185(b)(4).	To modify the special permit to authorize additional lithium ion batteries.
21212-M	The Boeing Company	173.241	To modify the special permit by adding two hydraulic carts.
21561-N	Xtracan GmbH	173.306(a)(3), 178.33a-1	To authorize the manufacture, mark, sale, and use of a non-DOT specification container that conforms to all regulations applicable to the DOT-2Q container, except for wall thickness, for the transportation in commerce of the hazardous materials in paragraph 6.
21607-M	Amazon.com, Inc	172.200(b)(3), 172.315(a)(2)	To modify the special permit to remove ferry vessel distance limitations.
21623-N	Evergreen Goodwill of Northwest Washington.	172.600, 172.201, 172.300, 172.702, 172.400, 172.500.	To authorize the transportation in commerce of hazardous materials intermingled with non hazardous materials that have been donated by community at remote donation sites.
21648-N	Bentley Motors Limited	172.101(j)	To authorize the transportation in commerce of lithium ion batteries exceeding 35 kg by cargo-only aircraft.
21638-M	BAE Systems Controls Inc	172.101(j),	To modify the special permit to authorize a lithium battery with a higher weight.
21678-N	Moxion Power Co	172.102(c)(1)	To authorize the transportation in commerce of lithium ion batteries installed in cargo transport units by cargo-only aircraft.
21711-N	Maserati Spa	172.101(j)	To authorize the transportation in commerce of lithium ion batteries exceeding 35 kg by cargo-only aircraft.
21713-N	Lockheed Martin Corporation	173.301(f)(1), 173.302(a)(1)	To authorize the transportation in commerce of non-DOT specification cylinders containing compressed neon installed in a spacecraft or components of spacecraft.
21716-N	Kraken Robotics US Inc	172.101(j), 172.101(j), 173.185(a)(1), 173.185(a)(1).	To authorize the transportation in commerce of prototype and low production lithium ion batteries that have not passed the criteria in Part III, subsection 38.3 of the UN Manual of Tests and Criteria and exceed 35 kg net weight aboard cargo-only aircraft.
21718-N	UFP Packaging, LLC	178.935(c)(1), 178.935(c)(1)	To authorize the manufacture, mark, sale, and use of UN 50D Large Packagings that have a volumetric capacity greater than 3,000 liters.
21721-N	WAE Technologies Limited	172.101(j)	To authorize the transportation in commerce of lithium batteries exceeding 35 kg by cargo-only aircraft.
21742-N	Seattle Children's Hospital	173.196(a), 173.196(a)	To authorize the transportation in commerce of certain Division 6.2 infectious substances in alternative packaging (freezers).

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21753-N	American Promotional Events, I.	173.56, 173.62	To authorize the one-time, one-way transportation in commerce of unapproved and non-compliant packages of fireworks that have been confiscated by the Hawaiian authorities.
21758-N	Bolllore Logistics Germany GmbH.	172.400, 172.300, 173.185(a)(1), 173.301, 173.302a(a)(1), 173.304a(a)(2).	To authorize the transportation in commerce of certain non-DOT specification containers containing certain Division 2.2 compressed gases and other hazardous materials identified in paragraph 6 of this special permit for use in specialty propulsion applications for satellites and a lithium prototype batter which has not been tested in accordance with Part III of Section UN 38.3 of the UN Manual of Tests and Criteria.
21759-N	Department of Defense US Army Military Surface Deployment & Distribution Command.	172.400(a), 172.500(a), 172.101(j)(1), 173.211(a).	To authorize the transportation in commerce of certain cesium devices in specified packaging.
21784-N	Daicel Safety Systems (jiangsu) Co., Ltd.	173.301(a)(1), 178.65(b), 178.65(c)(3), 178.65(e)(1), 178.65(f)(1), 178.65(g), 178.65(i).	To authorize the manufacture, mark, sale, and use of non-DOT specification cylinders (pressure vessels) for use as components of automobile vehicle safety systems.

Special Permits Data—Denied

16318-M	Technical Chemical Company	173.304(d), 173.167(a), 173.302(a), 173.306(i).	To modify the special permit to authorize an additional hazardous material.
21283-N	Gas Innovations Inc	173.315	To authorize the transportation in commerce of cryogenic ethane in tank cars via rail freight.
21417-N	SodaStream USA, Inc	178.70(e)	To authorize the manufacture, mark, sale, and use of UN specification cylinders for which an Independent Inspection Agency has not witnessed all tests and inspections.
21459-M	Hopkins Holdings LLC	173.306(a)(1), 172.301(c)	To modify the special permit to waive the special permit marking on the package.

Special Permits Data—Withdrawn

21760-N	Creotech Instruments S.A	173.185	To authorize the transportation in commerce aboard cargo-only aircraft of battery-powered vehicles containing lithium ion batteries not proven to meet the criteria in Part III, subsection 38.3 of the UN Manual of Tests and Criteria.
21777-N	Aggregate Resource Drilling, LLC.	172.301(c), 177.835(g)	To authorize the transportation in commerce of detonators, detonator assemblies, detonating fuzes, and igniting fuzes on the same motor vehicle with any other Class 1 explosives when conforming to the terms of this special permit. This special permit provides no relief from the Hazardous Materials Regulations (HMR) other than specifically stated herein.

[FR Doc. 2024-16652 Filed 7-29-24; 8:45 am]

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Part II

Federal Communications Commission

47 CFR Subchapter A

Cybersecurity Labeling for Internet of Things; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Subchapter A

[PSHSB: PS Docket No. 23–239; FR ID 210726]

Cybersecurity Labeling for Internet of Things

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) establishes a voluntary cybersecurity labeling program for wireless consumer Internet of Things, or IoT, products. The program will provide consumers with an easy-to-understand and quickly recognizable FCC IoT Label that includes the U.S. Cyber Trust Mark and a QR code linked to a dynamic, decentralized, publicly available registry of more detailed cybersecurity information. This program will help consumers make safer purchasing decisions, raise consumer confidence regarding the cybersecurity of the IoT products they buy, and encourage manufacturers to develop IoT products with security-by-design principles in mind.

DATES:

Effective date: This rule is effective August 29, 2024.

Incorporation by reference: The incorporation by reference of certain material listed in the rule is approved by the Director of the Federal Register as of August 29, 2024.

Compliance date: Compliance with 47 CFR 8.208, 8.209, 8.212, 8.214, 8.215, 8.217, 8.218, 8.219, 8.220, 8.221, and 8.222 will not be required until the Office of Management and Budget has completed review under the Paperwork Reduction Act. The Commission will publish a document in the **Federal Register** announcing that compliance date.

FOR FURTHER INFORMATION CONTACT: Zoe Li, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau, (202) 418–2490, or by email to Zoe.Li@fcc.gov.

For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Nicole Ongele, Office of Managing Director, Performance and Program Management, 202–418–2991, or by email to PRA@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s Report

and Order, PS Docket No. 23–239, adopted March 14, 2024, and released March 15, 2024. The full text of this document is available by downloading the text from the Commission’s website at: <https://docs.fcc.gov/public/attachments/FCC-24-26A1.pdf>. When the FCC Headquarters reopens to the public, the full text of this document will also be available for public inspection and copying during regular business hours in the FCC Reference Center, 45 L Street NE, Washington, DC 20554. To request this document in accessible formats for people with disabilities (e.g., Braille, large print, electronica files, audio format, etc.) or to request reasonable accommodations (e.g., accessible format documents, sign language interpreters, CART, etc.), send an email to FCC504@fcc.gov or call the FCC’s Consumer and Government Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Congressional Review Act: The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Synopsis

1. With the Report and Order (Order), the Commission takes prompt and decisive measures to strengthen the nation’s cybersecurity posture by adopting a voluntary cybersecurity labeling program for wireless IoT products. The Commission’s IoT Labeling Program will provide consumers with an easy-to-understand and quickly recognizable FCC IoT Label that includes the U.S. Government certification mark (referred to as the U.S. Cyber Trust Mark) that provides assurances regarding the baseline cybersecurity of an IoT product, together with a QR code that directs consumers to a registry with specific information about the product. Consumers who purchase an IoT product that bears the FCC IoT Label can be assured that their product meets the minimum cybersecurity standards of the IoT Labeling Program, which in turn will strengthen the chain of connected IoT products in their own homes and as part of a larger national IoT ecosystem. The Order will help consumers make better purchasing decisions, raise consumer confidence with regard to the cybersecurity of the IoT products they buy to use in their homes and their lives, and encourage manufacturers of

IoT products to develop products with security-by-design principles in mind.

2. In the Order, we set forth the framework by which the IoT Labeling Program will operate. We focus the IoT Labeling Program initially on IoT “products,” which we define to include one or more IoT devices and additional product components necessary to use the IoT device beyond basic operational features. Recognizing that a successful voluntary IoT Labeling Program will require close partnership and collaboration between industry, the Federal Government, and other stakeholders, we adopt an administrative framework for the IoT Labeling Program that capitalizes on the existing public, private, and academic sector work in this space, while ensuring the integrity of the IoT Labeling Program through oversight by the Commission.

3. Voluntary IoT Labeling Program. We establish a voluntary IoT Labeling Program for wireless consumer IoT products. While participation is voluntary, those that choose to participate must comply with the requirements of the IoT Labeling Program to receive authority to utilize the FCC IoT Label bearing the Cyber Trust Mark. The *IoT Labeling Notice of Proposed Rulemaking (NPRM)*, 88 FR 58211 (August 25, 2023), sought comment on whether the proposed IoT Labeling Program should be voluntary, reasoning that “success of a cybersecurity labeling program will be dependent upon a willing, close partnership and collaboration between the federal government, industry, and other stakeholders.” The record shows substantial support for a voluntary approach. The Custom Electronic Design & Installation Association (CEDIA) suggests that IoT Labeling Program must be voluntary “for the program to gain momentum in the marketplace.” AIM, Inc. (AIM) suggests that the voluntary aspect of the IoT Labeling Program “will help drive adoption of the label by device producers.” Further, commenters suggest that a voluntary program will ensure the broadest reach, most efficiency, and widest access to a diversity of IoT technologies. We agree that a voluntary program will help drive adoption of the IoT Labeling Program, so that a willing, close partnership can be achieved. We also agree with the record that flexible, voluntary, risk-based best practices are the hallmarks of IoT security as it exists today and as it is being developed around the world. Additionally, we acknowledge the view that “consumer labeling is a difficult undertaking in any context,” especially

in the evolving area of cybersecurity, and that the “best approach is to start the Program with something achievable and effective.” We concur that willing participation will allow the IoT Labeling Program to be more easily achievable than requiring participation in a novel program. With the added imprimatur of a U.S. Government certification mark, the IoT Labeling Program will help distinguish products in the marketplace that meet minimum requirements and provide options to consumers.

4. We reject arguments that mandating participation in the IoT Labeling Program is necessary. While we recognize that a voluntary IoT Labeling Program may cause concern that smaller businesses with limited resources may choose not to participate, we believe the strong stakeholder engagement and collaboration that we expect to result from willing participation, and which is vital to establishing this new program, outweighs these risks. Further, while we acknowledge that, at least in the near term, allowing the IoT Labeling Program to be voluntary “could limit its adoption and impact,” we believe this risk is outweighed by the benefits that a voluntary program will garner, such as speed to market to hasten impact, efficiency of resources, and the likelihood that consumer demand will drive widespread adoption over time.

5. In adopting the IoT Labeling Program with the parameters discussed in the *Order*, we are establishing a collaborative effort between the Federal Government and relevant stakeholders in industry and the private sector. We emphasize that the *Order* is intended to provide the high-level programmatic structure that is reasonably necessary to establish the IoT Labeling Program and create the requirements necessary for oversight by the Commission, while leveraging the extensive work, labeling schemes, processes and relationships that have already been developed in the private sector. We also note that there is further development to be done by the private sector and other Federal agencies to implement the IoT Labeling Program and, as discussed below, expects many of the details not expressly addressed in the *Order* will be resolved through these separate efforts and by the authorities the Commission delegates to the Public Safety and Homeland Security Bureau (PSHSB or the Bureau).

A. Eligible Devices or Products

6. The *Order* initially establishes the IoT Labeling Program for wireless consumer IoT products. We do not, however, foreclose the possibility of

expanding the IoT Labeling Program in the future.

7. The record supports adopting an IoT Labeling Program that encompasses consumer-focused IoT products. We focus our IoT Labeling Program initially on consumer IoT products, rather than enterprise or industrial IoT products. Because medical devices regulated by the U.S. Food and Drug Administration (FDA) already are subject to statutory and regulatory cybersecurity requirements under other Federal laws more specifically focused on such devices, we do not include such devices in our IoT Labeling Program. In addition, we exclude from this program motor vehicles¹ and motor vehicle equipment (as defined in 49 U.S.C. 30102(8)) given that the National Highway Traffic Safety Administration (NHTSA) “has the authority to promulgate motor vehicle safety regulations on cybersecurity and has enforcement authority to secure recalls of motor vehicles and motor vehicle equipment with a safety-related defect, including one involving cybersecurity flaws.” We also exclude from our IoT Labeling program any communications equipment on the Covered List that the Commission maintains pursuant to the Secure and Trusted Communications Networks Act and equipment produced by certain other entities as discussed below. Finally, our initial IoT Labeling Program will focus on wireless consumer IoT devices consistent with the core of our section 302 authority governing the interference potential of devices that emit radio frequency energy—and thus we exclude wired IoT devices at this time.

8. Definition of IoT Devices. Although we focus our IoT Labeling program on IoT “products,” to lay a foundation we must first address the definition of IoT “devices” because this definition is a building block of the IoT “product” definition. In this respect, we adopt the modified version of the National Institute of Standards and Technology (NIST) definition of “IoT device” that the Commission proposed in the IoT Labeling NPRM. Specifically, the IoT Labeling NPRM proposed defining an IoT device to include (1) an internet-connected device capable of intentionally emitting radio frequency (RF) energy that has at least one transducer (sensor or actuator) for interacting directly with the physical world, coupled with (2) at least one network interface (e.g., Wi-Fi,

Bluetooth) for interfacing with the digital world. This definition builds on NIST’s definition by adding “internet-connected” as a requirement, because “a key component of IoT is the usage of standard internet protocols for functionality.” The modified definition adopted in the *Order* also adds that a device must be “capable of intentionally emitting RF energy,” because aspects of the Commission’s authority recognizes the particular risks of harmful interference associated with such devices. It should be noted that we direct the Label Administrator to collaborate with Cybersecurity Label Administrators (CLAs) and other stakeholders (e.g., cyber experts from industry, government, and academia) as appropriate and recommend within 45 days of publication of updates or changes to NIST guidelines, or adoption by NIST of new guidelines, to the FCC any appropriate modifications to the Labeling Program standards and testing procedures to stay aligned with the NIST guidelines.

9. The record supports this reasoning. For example, Consumer Reports states that “[i]f you’re going to sell a device where some of the benefits come from having a cloud connection, an app, and connectivity, then those must also be secured.” Consumer Reports provides further support for the Commission’s reasoning by noting that “connectivity may be so central to the functionality of the device that it may no longer be able to operate safely [without it].” TIC Council Americas similarly “agrees that ‘internet-connected’ should be included in the definition of IoT devices.” We agree with these arguments and adopt the modified IoT device definition requiring “internet-connected” device element to assure consumers that the functionality of the IoT device or product displaying the Cyber Trust Mark is reasonably secure as well. As noted by ioXt Alliance, including “internet-connected” in the definition of IoT makes “sense if the program focuses on IoT products instead of devices because not all IoT devices are ‘internet-connected.’” Because the IoT Labeling Program will be focused on the broader category of IoT consumer products and not devices, including “internet-connected” in the definition of IoT device is further justified.

10. We disagree with commenters who argue the Commission should adopt the NIST definition of a device without change. We acknowledge that the record indicates some concern regarding the internet-connected element of the Commission’s proposed definition; however, we find these concerns to be misplaced. TIC Council

¹ Motor Vehicle “means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.” 49 U.S.C. 30102(7).

Americas, for example, supports adding “internet-connected” to the definition, but argues that “there are devices that are able to connect to non-internet connected networks, and that those devices should not be excluded from the program.” While we do not foreclose the possibility of expanding the IoT Labeling Program to devices on non-internet connected networks in the future, we focus initially on the more common category of internet-connected consumer IoT products. Others argue that “internet-connected” is too “situational,” with a concern that the device might become “disconnected from the internet and, therefore, no longer be an ‘IoT device.’” We do not agree that “internet-connected device” must be interpreted so narrowly as to exclude from the IoT Labeling Program devices that may become disconnected from the internet. “internet-connected,” in terms of the IoT Labeling Program, applies to the functional capability of the device; if the device is capable of being connected to the internet, the fact that it may not be connected at any given point in time does not exclude its eligibility for participation in the IoT Labeling Program. Further, any potential concerns arising from requiring an IoT device be “internet-connected” for inclusion in the IoT Labeling Program are outweighed by the benefit of giving consumers further assurance that the security of their IoT device or product extends to the connected functionality that a consumer expects when making such a purchase. In this respect, including “internet-connected” in the definition of IoT device also recognizes the highest risk functional component of an IoT device that distinguishes “smart” devices from other devices a consumer may use, and allows the Cyber Trust Mark to more effectively support consumer expectations.

11. The record also supports adding an RF energy-emitting element to the IoT device definition, acknowledging the Commission’s authority under section 302 governing the interference potential of devices that emit RF energy and can cause harmful interference to radio communications. We reject the argument that limiting the definition to RF-emitting devices may lead to marketplace confusion if a product does not bear the Cyber Trust Mark due solely to its lack of RF energy emissions. In the first instance, we note the need to launch an achievable IoT Labeling Program consistent with the Commission’s core authority. We also note that the benefits that a focus on wireless products will have in elevating the overall cybersecurity posture of the

IoT ecosystem, especially in view of the record indicating that the majority of IoT devices are wireless, outweigh the risks associated with concerns regarding marketplace confusion. In any case, there will be a number of products—both wired and wireless—that do not bear the Cyber Trust Mark while uptake occurs. We also anticipate that consumer education in this space will help alleviate these concerns.

12. We further disagree with the view that the capability of a device to emit RF radiation is “unrelated to the general, far-ranging cybersecurity concerns the Commission is confronting in this proceeding.” Instead, we agree with Comcast that interference caused by a [distributed denial of service] attack raises “the same policy concerns and has the same practical effect as interference caused by traditional means.” The Electronic Privacy Information Center (EPIC) explains how hackers exploit unpatched vulnerabilities to attack a large number of wireless devices, and turning them into signal jammers to take down mobile networks. The record thus bears out our view that cybersecurity vulnerabilities in wireless IoT devices could cause harmful interference to radio communications. Given Congress’ direction to the Commission in section 302 of the Act to guard against the interference potential of wireless devices, requiring the element of “emitting RF energy interference” in the IoT device definition for the initial iteration of the IoT Labeling Program focuses on that core Commission authority without ruling out future action regarding wired IoT devices. Further, while we acknowledge that devices that unintentionally or incidentally emit RF radiation may also pose interference potential, we find that a focus initially on “intentional” radiators provides the ability of a nascent program to target products with the highest risk profile from among those that emit RF energy.

13. Definition of IoT Products. We adopt the NIST definition of an “IoT product.” Specifically, the IoT Labeling NPRM’s proposed definition of IoT product is an “IoT device and any additional product components (e.g., backend, gateway, mobile app) that are necessary to use the IoT device beyond basic operational features.” The record supports adopting the IoT product definition developed by NIST, with Garmin International, Inc. (Garmin) noting that a fundamental purpose of the IoT Labeling Program “is to inform consumers regarding device security as they evaluate potential IoT purchases. . . . [T]his purpose is best

achieved by focusing on ‘consumer IoT products’ as defined by NIST in NISTIR 8425.” Additionally, Kaiser Permanente states that adopting the NIST definition of IoT products will “promote consistency across federal agency programs and related industry norms and requirements.” Further, the Information Technology Industry Council (ITI) explained that the “Commission’s implementation of the program will be more successful if it aligns as closely as possible to the definitions, processes and procedures already outlined by NIST.” We agree with these commenters, in that adopting NIST’s IoT product definition will allow for consistency in the treatment of programmatic elements across the Federal Government, and allow the Commission to appropriately leverage the work existing in this space to promote the IoT Labeling Program’s success. We also note that no commenters opposed the NIST definition of IoT products. For purposes of the IoT Labeling Program, when discussing IoT products and their “components” in the *Order*, we are using the NISTIR 8425 scoping definition of “components.” We believe that this definition allows the IoT Labeling Program to address the most relevant “package” components expected by consumers to be securable when making purchasing decisions, and encompasses the appropriate level of “component” pieces to address the functionalities that generate the most salient cybersecurity risks.² This view is supported by the record, with Consumer Technology Association (CTA) providing a proposed testing framework where “all individual components provided by the manufacturer should be in scope for testing,” including all components of the IoT product “that are necessary for the device to function in a normal use case scenario.”

14. *IoT Devices vs. IoT Products.* We find that the IoT Labeling Program should apply to “IoT products” as defined above, rather than being limited only to “IoT devices.” In the IoT Labeling NPRM, the Commission noted

² For purposes of the IoT Labeling Program, the NISTIR 8425 scoping definition of “components” falls into three main types: Specialty networking/gateway hardware (e.g., a hub within the system where the IoT device is used); Companion application software (e.g., a mobile app for communicating with the IoT device); and Backends (e.g., a cloud service, or multiple services, that may store and/or process data from the IoT device). See NISTIR 8425 at 2. Our use of this scoping definition of “components” is intended only to apply to the IoT Labeling program. We note that Commission rules use the term “components” in a variety of contexts and different rule provisions, and we are not intending to affect the use of that term in those other contexts.

that it was important to ensure that the IoT Labeling Program “would be sufficiently inclusive to be of value to consumers.” Since the Commission’s adoption of the IoT Labeling NPRM, NIST has provided clarity in this realm by stating “the cybersecurity technical and non-technical outcomes defined in the NISTIR 8425 consumer profile apply to IoT products and not just IoT devices.” In addition, in reviewing the record, we believe applying the IoT Labeling Program to IoT products instead of IoT devices alone achieves these priorities because only by addressing the full functionality of a consumer product (*i.e.*, one or more IoT devices and any additional product components (*e.g.*, backend, gateway, mobile app) that are necessary to use the IoT device, beyond basic operational features) “including data communications links to components outside this scope but excluding those external components and any external third-party components that are outside the manufacturer’s control” will provide consumers the necessary scope to satisfy the basic security expectation of the consumer and effectuate a discernable increase in the cybersecurity posture of the IoT ecosystem at large.

15. There is significant support in the record for an IoT product focus for the IoT Labeling Program. As explained by UL Solutions, applying the IoT Labeling Program to IoT products is necessary since “most IoT devices sold to consumers cannot be meaningfully used without additional components.” The Cybersecurity Coalition further supports this position by saying “IoT devices are typically part of a broader ecosystem of components that can have their own security issues, requiring ‘IoT cybersecurity’ to extend beyond individual devices to be effective.” ITI notes an IoT product focus benefits consumers because it “will appropriately capture the relevant devices/components of the product that could be vulnerable to attack (and are always included in an IoT product, as NIST points out).” Applying the IoT Labeling Program to IoT products further benefits consumers by promoting consumer safety because it “encourages manufacturers to prioritize security across all components, ultimately leading to safer and more reliable IoT experiences for consumers.” Additionally, the record indicates that “the entire service which includes cloud infrastructure as well as apps or other ways to control or manage the device by the user, and not simply the physical device itself, is critical for an assessment of safety and security.”

Further, focusing on IoT products aligns not only with the technical requirements of NISTIR 8425, but also “emerging requirements in Europe and the UK [United Kingdom], such as the EU [European Union] [Cyber Resilience Act], and EU Directives on consumer protections EU 2019/770, 771.” We agree and will apply the IoT Labeling Program to consumer IoT products, which provides for the greatest level of consumer benefit by prioritizing cybersecurity across the entirety of the consumer product, as compared to just the device, which is able to perform its full functionality only when working in conjunction with other product components.

16. We disagree with Samsung, CTIA—The Wireless Association (CTIA), LG Electronics, and CTA, who advocate focusing on IoT devices instead of IoT products. Samsung and CTIA argue that cybersecurity standards for devices are more mature than standards for products, and CTA argues that applying the FCC IoT Label to products would be more complex than devices. LG Electronics expresses concern that expanding to products “would require device manufacturers to attest to the security of product components that are outside of their control.” We do not agree that these rationales support limiting application of the IoT Labeling Program only to devices, rather than products. First, applying the IoT Labeling Program narrowly to IoT devices would run counter to NIST’s guidance and considerable work in this space, upon which the Commission has relied for the basis for the IoT Labeling Program proposal. NIST’s Profile of the IoT Core Baseline for Consumer IoT Products (NISTIR 8425), discussed above, provides fundamental IoT guidelines and applies to the broader product category, and the more recent NIST IoT Product Component Requirements Essay clearly states that the outcomes listed in NISTIR 8425 apply to consumer IoT products and not just IoT devices.

17. Further, regarding the notion that the IoT Labeling Program should be focused on IoT devices because existing standards for IoT devices are more readily available or achievable in the near term, we counter that the record shows existing IoT device standards can be leveraged to support assessing IoT products as well. As noted by commenter ITI, existing IoT industry standards “capture similar baseline themes” to the NIST criteria. In view of these similarities, the IoT Labeling Program can leverage these existing standards for IoT devices as building blocks, and tailor them in view of the

IoT products being assessed.

Accordingly, the need to realize the benefits of a product-level label weigh in favor of taking a small amount of time to get to product-based standards by leveraging existing device standards.

18. We also reject the argument that because “cybersecurity frameworks and testing programs have been developed to focus on device-level—rather than product-level—assessment” that a device-level IoT Labeling Program is the appropriate outcome. We note, for example, that ITI recommends recognizing IoT security assessments from our international partners, such as IoT assessments under the Cybersecurity Labelling Scheme (CLS) by Singapore’s Cyber Security Agency, which assesses the overall IoT product, and not just a single device included in the IoT product. In this regard, the ability to recognize international efficiencies for IoT Labeling Program participants would be hindered by limiting the Cyber Trust Mark to the device level, as Singapore’s CLS (and other evolving international standards) focus on product-level assessments.

19. Finally, applying the IoT Labeling Program to products enhances value to consumers without requiring manufacturers to be responsible for products or devices that are outside of their control. The record shows that a consumer’s expectation of security extends to the entire IoT product they purchase. This consumer expectation is evidenced in the record by ITI, clarifying that “because consumers purchase, interact with, and view IoT merchandise not as component parts but as complete physical product . . . Consumers are primarily concerned with the entire physical product they are purchasing.” Additionally, as noted by UL Solutions, “most IoT devices sold to consumers cannot be meaningfully used without additional components.” In view of this need, a manufacturer seeking authority to affix the FCC IoT Label is expected to secure the whole IoT product, including the product’s internal communication links connecting the different parts of the product to each other as well as the product’s communication links that connect the IoT product to the outside world. We do not require manufacturers to be responsible for third-party products or devices (including apps) that are outside of their control;²

² To further clarify, nothing in this item prohibits manufacturers from allowing product owners from installing the software of their choice, from disabling security features, or from replacing or modifying components of a product, including the firmware and software. An IoT manufacturer cannot

however, where a manufacturer allows third-party apps, for example, to connect to and they allow that application to control their IoT product, such manufacturer is responsible for the security of that connection link and the app if such app resides on the IoT product. Further, we agree with CTIA that if “a [p]roduct [c]omponent also support[s] other IoT Products through alternative features and interfaces, these alternative features and interfaces may, through risk-assessment, be considered as separate from and not part of the IoT Product for purposes of authorization.” Moreover, NIST enumerates the dangers of an IoT device-only focus, establishing that the “additional product components have access to the IoT device and the data it creates and uses-making them potential attack vectors that could impact the IoT device, customer, and others,” and that “these additional components can introduce new or unique risks to the IoT product.” Consumer expectations that the FCC IoT Label would apply to the entirety of the product purchased is further highlighted by Consumer Reports, explaining that “If everything is sold within a box, then everything in the box should be approved to use the mark.” Consumer Reports also notes that “[i]f the labeling programs were only to address the physical device and not other system components, consumers would likely be deceived as to the scope and efficacy of the program.” The record is adamant that the “Cyber Trust Mark must be trusted by consumers to be successful.” In view of the record, securing only a portion of an IoT product by just assessing a single IoT device included in the IoT product, instead of assessing the devices and components that comprise the IoT product holistically, could deceive consumers and go against consumer expectation that the technology being brought into their homes is reasonably secure. We weigh heavily the likelihood for consumer confusion should the device-only approach be taken, and accordingly we apply this consumer IoT Labeling Program to IoT products and not just IoT devices.

20. In sum, although there are relative advantages and disadvantages with either a narrow focus on IoT devices or a broader focus on IoT products, on balance we are persuaded to focus our

be held responsible for the owner's decision to make such changes, just as a traditional product manufacturer cannot be responsible for the actions of a consumer who modifies the core mechanisms of a product and thereby risks rendering it unsafe. However, we reiterate that in order to be authorized to use the FCC IoT Label, manufacturers must meet the requirements of the program.

initial IoT Labeling Program on IoT products. As explained above, we find commenters' concerns about encompassing full IoT products in our IoT Labeling Program to be overstated. At the same time, we see significant shortcomings with a narrower focus just on IoT devices. Weighing the totality of these considerations, we are persuaded that targeting the IoT Labeling Program on IoT products is the best approach at this time.

21. Consumer IoT Products vs. Enterprise IoT Products. The IoT Labeling Program applies to the labeling of consumer IoT products that are intended for consumer use, and does not include products that are primarily intended to be used in manufacturing, healthcare, industrial control, or other enterprise applications. While we do not foreclose expansion of the IoT Labeling Program at a later date, this initial scope will provide value to consumers most efficiently and expeditiously, without added complexity from the enterprise environment.

22. The record supports the IoT Labeling Program having a consumer IoT focus, with support provided by UL Solutions, the Cybersecurity Coalition, and the Connectivity Standards Alliance (CSA), among others. The FDA also suggests that IoT outside of the consumer scope may need “[g]reater and more tailored controls,” suggesting that different considerations might attend IoT with a purpose outside of that in the routine consumer realm. Additionally, commenters highlight the differing security needs of consumer and enterprise products. For example, UL Solutions notes that “IoT products intended for commercial or industrial settings are exposed to different types of threats than consumer products and often carry higher risk if breach, which necessitates different requirements.” CSA also highlights that “[e]nterprise device security approaches are often customized and vary based on the specific needs of the business.” We agree that applying the IoT Labeling Program to consumer IoT products will reduce complexity, which will bolster the likelihood of success when starting the new IoT Labeling Program.

23. The International Speech and Communication Association (ISCA) supports including enterprise IoT, stating that a broader scope will ensure the IoT Labeling Program remains flexible to the extent that the boundary between consumer and enterprise IoT is blurring. Further, ISCA and Abhishek Bhattacharyya note that attackers have more to gain from targeting enterprise settings. While there are considerable threat vectors and vulnerabilities

associated with all classes of IoT products,³ we agree with Everything Set, Inc., that focusing the IoT Labeling Program on household use of IoT products will be more useful and have greater impact, given that enterprises tend to have more time, resources, and expertise to devote to network security. They note further that many small- and medium-sized businesses also buy consumer devices, so a consumer-focused Cyber Trust Mark would be of utility to them, as well. We believe in the near term that a consumer focus will provide the most initial impact, and create a level of recognition and trust in the Cyber Trust Mark itself as the IoT Labeling Program progresses that could be leveraged to enterprise IoT at a later time, and we therefore defer consideration of the IoT Labeling Program's expansion.

24. Exclusion of Certain Devices/Products. As an initial matter, we exclude from the IoT Labeling Program medical devices regulated by the U.S. Food and Drug Administration (FDA). The Center for Devices and Radiological Health (within the FDA) expresses concern that the Commission's labeling IoT Labeling Program may lack controls and minimum criteria that it believes are necessary for IoT medical devices. In addition, the FDA is concerned that including medical devices in the IoT Labeling Program may cause consumer confusion and “potentially creates conflict where product manufacturers attempt to both qualify for the Cyber Trust Mark and comply with existing statutory and regulatory cybersecurity requirements under other federal laws, such as the Federal Food, Drug, and Cosmetic Act (FD&C Act).” These considerations persuade us to exclude FDA-regulated medical devices from our IoT Labeling Program, consistent with commenters' recommendations. In

³ There are many types IoT devices and products, which may be divided into various categories or classes based on their purpose, application, and functionality. These classes of IoT devices and products include smart home (e.g., smart thermostats, smart lights, smart locks, smart cameras), wearables (e.g., fitness trackers, smart watches), and Healthcare (e.g., remote patient monitoring devices, smart medical equipment). It is worth noting that not all IoT devices or products are created equal, in terms of features, security and the level of risk they present. Additionally, from security standpoint, an IoT product that is appropriate for consumer or home use may not be suitable for industrial or enterprise environment. These differences suggest the need for different security standards that distinguish between low-risk, medium-risk and high-risk applications. Our approach to identifying the specific cybersecurity standards to apply enables us to appropriately account for that in the case of particular wireless consumer products (or categories of such products) in our initial implementation of the IoT Labeling Program.

addition, we exclude from this program motor vehicles and motor vehicle equipment given that the National Highway Traffic Safety Administration (NHTSA) “has the authority to promulgate motor vehicle safety regulations on cybersecurity and has enforcement authority to secure recalls of motor vehicles and motor vehicle equipment with a safety-related defect, including one involving cybersecurity flaws.”

25. Exclusion of Devices/Products Produced by Certain Entities. We adopt the following measures to promote national security in connection with the IoT Labeling Program. The IoT Labeling NPRM proposed to exclude from the IoT Labeling Program (1) any communications equipment on the Covered List maintained by the Commission pursuant to section 2 of the Secure and Trusted Communications Networks Act (STCNA); (2) any IoT device produced by an entity identified on the Covered List (*i.e.*, an entity named or any of its subsidiaries or affiliates) as producing “covered” equipment; and (3) any device or product from a company named on certain other lists maintained by other Federal agencies that represent the findings of a national security review. We now adopt all of these prohibitions as they relate to our decision to focus the IoT Labeling Program on consumer IoT products. Thus, any communications equipment identified on the Covered List, now or in the future, will be ineligible for the IoT Labeling Program, and any such product will be denied approval to use the Cyber Trust Mark. Furthermore, any additional products produced by an entity identified on the Covered List as producing “covered” equipment, or any product containing devices or product components produced by such an entity, will be ineligible for the IoT Labeling Program; this would include products that may not fit within the definition of “communications equipment” under STCNA. Only entities identified on the Covered List as producers of “covered” equipment—not those on the Covered List only because of their “covered” services—are subject to this prohibition. In addition, we adopt the proposal that IoT devices or products containing devices manufactured by companies named on the Department of Commerce’s Entity List, named on the Department of Defense’s List of Chinese Military Companies, or suspended or debarred from receiving Federal procurements or financial awards, including those published as ineligible for award on the

General Service Administration’s System for Award Management, will not be authorized to display the FCC IoT Label or participate in the IoT Labeling Program. Further, we exclude from the IoT Labeling Program any products containing devices produced or manufactured by these entities. We conclude that inclusion on these lists represents a determination by an agency charged with making national security determinations that a company’s products lack the indicia of trustworthiness that the Cyber Trust Mark is intended to represent. Our action here thus supports and reinforces the steps we have taken in other proceedings to safeguard consumers and communications networks from equipment that poses an unacceptable risk to national security and that other Federal agencies have taken to identify potential concerns that could seriously jeopardize the national security and law enforcement interests of the United States.

26. With the exception of China’s comments raising the same World Trade Organization (WTO) issue we rejected in the Report and Order applying the Covered List to the FCC equipment authorization program, the record overwhelmingly supports excluding from the IoT Labeling Program these products and devices produced by companies identified on the Covered List. Additionally, USTelecom, CTIA, CTA, Cybersecurity Coalition and Consumer Reports specifically support excluding from the IoT Labeling Program IoT devices that are manufactured by companies on the Covered List, but also urge the Commission to restrict any equipment manufactured by companies on additional Federal restricted lists, including those otherwise banned from Federal procurement. Consumer Reports agrees with excluding systems that include components included on the Covered List or similar lists from the IoT Labeling Program. Each of these lists represent the determination by relevant Federal agencies that the entities on the list may pose a national security threat within their respective areas, and as such we find that we cannot separately sanction their products as trustworthy via the IoT Labeling Program. While each list is designed to support specific prohibitions, their use here only excludes their contents from a voluntary program representing U.S. Government assessment of their security and does not prohibit any other use. Insofar as the FCC IoT Label reflects the FCC’s signal to consumers about cybersecurity, it is reasonable for the FCC to take a cautious

approach especially for those products for which relevant Federal agencies have expressed other security concerns.

27. Applicant Declaration Under Penalty of Perjury. To implement the Commission’s goal of ensuring the Cyber Trust Mark is not affixed to products that pose a risk to national security or a risk to public safety, we require applicants seeking authorization to use the FCC IoT Label to provide a declaration under penalty of perjury that all of the following are true and correct:

(i) The product for which the applicant seeks to use the FCC IoT Label through cybersecurity certification meets all the requirements of the IoT Labeling Program.

(ii) The applicant is not identified as an entity producing covered communications equipment on the Covered List, established pursuant to § 1.50002 of the Commission’s rules.

(iii) The product is not comprised of “covered” equipment on the Covered List.

(iv) The product is not produced by any entity, its affiliates, or subsidiaries identified on the Department of Commerce’s Entity List, or the Department of Defense’s List of Chinese Military Companies.

(v) The product is not owned or controlled by or affiliated with any person or entity that has been suspended or debarred from receiving Federal procurements or financial awards, to include all entities and individuals published as ineligible for award on the General Service Administration’s System for Award Management.

(vi) The applicant has taken every reasonable measure to create a securable product.

(vii) The applicant will, until the support period end date disclosed in the registry, diligently identify critical vulnerabilities in our products and promptly issue software updates correcting them, unless such updates are not reasonably needed to protect against security failures.

(viii) The applicant will not elsewhere disclaim or otherwise attempt to limit the substantive or procedural enforceability of this declaration or of any other representations and commitments made on the FCC IoT Label or made for purposes of acquiring or maintaining authorization to use it.

28. If any applicant fails to make any of the above disclosures within 20 days after being notified of its noncompliance, such failure would result in termination of any improperly granted authorization to use the Label, and/or subject the applicant to other

enforcement measures. The applicant is required to update its declaration, or withdraw a not-yet granted application, if any of the applicant's circumstances impacting the declarations materially change while the application is pending.

29. *Wireless Consumer IoT Devices vs. Wired Consumer IoT Devices.* The *Order* adopts the IoT Labeling NPRM's proposal that the IoT Labeling Program apply initially to wireless consumer IoT devices. This is consistent with the *IoT Labeling NPRM* proposal to focus the scope of the IoT Labeling Program on intentional radiators that generate and emit RF energy by radiation or induction and exclude wired-only IoT devices, noting such devices are encompassed by the Commission's section 302 authority governing the interference potential of devices that emit RF energy and can cause harmful interference. We find that this distinction is appropriate, both because of the Commission's interest in keeping the scope of the IoT Labeling Program clear and manageable during its debut and because there is support in the record for wireless intentional radiators as most prevalent types of consumer IoT devices contemplated in the IoT Labeling NPRM. While we recognize that there are other types of RF devices—both unintentional and incidental radiators—that are subject to our jurisdiction, we are not including them in our IoT Labeling Program at this time.

30. We acknowledge there is substantial support in the record for including wired IoT consumer products within the scope of the IoT Labeling Program. Consumer Reports recommends including both wired and wireless IoT within the scope of the IoT Labeling Program, pointing out that wired IoT devices or products are vulnerable to cybersecurity threats just as wireless IoT devices or products are. Consumer Reports also points out that “while wireless devices are the majority of IoT devices, there are still almost 700 million wired IoT devices globally, and they are expected to grow by a 10% [compound annual growth rate] through 2027 according to IoT Analytics ‘State of IoT—Spring 2023 Report.’” TÜV SÜD also encourages the Commission to cover both wired and wireless devices within the scope of the IoT Labeling Program, and AIM emphasizes the importance of the security of both wired and wireless IoT to the cybersecurity ecosystem. CTA further states that the Commission should not define the scope of the IoT Labeling Program in such a way as to exclude wired IoT products. The Association of Home

Appliance Manufacturers (AHAM) points out that both wired and wireless IoT are included in the NIST definition.

31. While we agree that wired IoT products are susceptible to cyberattacks and similarly pose security risks to consumers and others, we find it to be in the public interest for the IoT Labeling Program to start with wireless consumer IoT products in view of the record indicating that “wireless devices are the majority of IoT devices,” which would indicate that a focus on this product segment will have a substantial impact on the overall IoT market. The record also supports this approach, with Keysight Technologies, Inc. concurring that “the program should include consumer RF IoT products initially.” Further, we do not agree with arguments that there may be an unintended perception that “[c]reating a program that would only certify wireless IoT devices would send an improper message that only wireless IoT devices are secure.” Instead, we believe that beginning with wireless IoT products is both feasible and can be adopted with more speed, providing more prompt benefit in the marketplace. Further, a more limited scope will streamline the initial rollout of the IoT Labeling Program, provide focus to the additional tasks necessary to stand up the program, and lay the groundwork for expansion, and we do not foreclose consideration including wired IoT products in the future. As such and as discussed below, we also defer consideration of our legal authority to consider wired products at this time.

B. Oversight and Management of the IoT Labeling Program

32. Based on the comments filed regarding oversight and management of the IoT Labeling Program, the Commission finds it is in the public interest to continue to foster public-private collaboration, including with regard to the management and administration of the IoT Labeling Program, while ensuring the Commission retains ultimate control and oversight of the IoT Labeling Program. In this respect, providing a broad, unifying government oversight framework for existing private labeling schemes and other private efforts in this context will allow current participants in this ecosystem to capitalize on their existing investments and relationships in a way that not only promotes the overall effectiveness of the FCC's IoT Labeling Program and increases the security of the IoT ecosystem.

33. The Commission adopts the IoT Labeling NPRM proposal that the IoT Labeling Program be comprised of a

single “program owner” responsible for the overall management and oversight of the IoT Labeling Program, with administrative support from one or more third-party administrators. NIST's white paper recommends one “scheme owner” responsible for managing the labeling program, determining its structure and management, and performing oversight to ensure the program is functioning consistently in keeping with overall objectives. We agree that it is appropriate for a single entity to perform these functions and find that the Commission will be the program owner of the IoT Labeling Program, and as such retains ultimate control over the program, and determines the program's structure. CSA highlights support in the record for having the Commission as the program owner, arguing that “[p]lacing the regulatory authority in the hands of the Commission and providing government-backed endorsement may strengthen trust with Consumers.” However, the NIST Cybersecurity White Paper also recommends the “scheme owner” be responsible for defining the conformity assessment requirements, developing the label and associated information, and conducting consumer outreach and education.

34. While the Commission as program owner will oversee the elements of the program, the program will be supported by Cybersecurity Label Administrators (Label Administrators or CLAs) who will manage certain aspects of the program and authorize use the FCC IoT Label as well as a Lead Administrator selected by the Bureau from among the CLAs, which will undertake additional duties including acting as the point of contact between the CLAs and the Commission. In addition, the Commission believes it is appropriate for a Lead Administrator, in collaboration with the CLAs and other stakeholders, to identify or develop, and recommend to the Commission for approval, the IoT specific standards and testing procedures, procedures for post-market surveillance, as well as design and placement of the label. The Lead Administrator will also be responsible for developing, in coordination with stakeholders, a consumer education plan and submitting the plan to the Bureau and engaging in consumer education. Each of these duties are discussed in depth below. The Cybersecurity Coalition recommends the Commission utilize a single administrator, rather than multiple administrators “to reduce the likelihood of conflict among administrators and simplify engagement with

manufacturers, consumers, and government agencies.” CTA, on the other hand, contemplates multiple administrators, suggesting that the Commission may consider leveraging “a consortium of scheme owners[] to ensure that the IoT Labeling Program is administered and issues are adjudicated in an effective, objective, and timely fashion.” We agree with CTA’s reasoning, while also acknowledging the Cybersecurity Coalition’s concern regarding potential conflict.

Accordingly, the Bureau will select a Lead Administrator from among the CLA applicants to address conflicts.

35. As an initial matter, we have looked to the structure of, and experiences with, the Commission’s equipment authorization program and rules in developing the IoT Labeling Program, as proposed and discussed in the IoT Labeling NPRM. We emphasize, however, that the IoT Labeling Program is new and distinct, and it will operate under its own rules and with new authorities specifically delegated to PSHSB. This is consistent with the record developed in the proceeding, in which many commenters urged the Commission to keep the equipment authorization and IoT Labeling programs separate. In addition, several commenters addressed whether obtaining a valid equipment authorization should be a pre-requisite for obtaining the Cyber Trust Mark, or whether obtaining approval to use the Cyber Trust Mark would be required as a condition for applying for an equipment authorization. We emphasize that our IoT Labeling Program is voluntary, and parties are required to follow the Commission’s equipment authorization program regardless of whether or not they choose to participate in the IoT Labeling Program. We also clarify that there is no requirement to complete the equipment authorization process before qualifying for the Cyber Trust Mark; however, our existing part 2 rules will continue to prohibit the marketing of a device that does not have a valid equipment authorization.

36. We conclude that it is in the public interest and supported in the record to adopt the IoT Labeling Program structure recommended by NIST, with the modifications discussed above regarding third-party administrators that are overseen by the Commission as the program owner. This and the following paragraph preview the remaining roles and responsibilities for the IoT Labeling Program, which will be developed in depth in the remaining sections of the Order. The Commission also will be responsible for

coordinating mutual recognition of the Cyber Trust Mark with international partners, coordinating with the Lead Administrator, Federal partners, industry, and other stakeholders on consumer education programs, and performing oversight to ensure the IoT Labeling Program is functioning properly. In addition, the Commission will specify the data to be included in a consumer-friendly registry that provides additional information about the security of the products approved to use the Cyber Trust Mark and is accessible through the QR Code that is required to accompany the Cyber Trust Mark. Further, the Commission will own and maintain the registration for the Cyber Trust Mark, which may only be used when the product has been appropriately tested and complies with the Commission’s IoT Labeling Program requirements.

37. The Commission will approve qualified Cybersecurity Label Administrators (Label Administrators or CLAs) to manage certain aspects of the labeling program and be authorized by the Commission to license the Cyber Trust Mark to manufacturers whose products are in compliance with the Commission’s IoT cybersecurity labeling rules. The Commission will also select a Lead Administrator, which will be responsible for carrying out additional administrative responsibilities, including but not limited to reviewing applications and recognizing qualified and accredited Cybersecurity Testing Laboratories (CyberLABs) and engaging in consumer education regarding the Cyber Trust Mark. The Lead Administrator will also collaborate with cyber experts from industry, government, academia, and other relevant sectors if needed to identify, develop, and maintain consumer IoT cybersecurity technical and conformity assessment standards that are based on NIST standards and guidance, that will be submitted to PSHSB for consideration and approval, and, subject to any required public notice and comment, adopted into the Commission’s rules. The standards and testing procedures developed or identified in collaboration with CLAs and other stakeholders and submitted by the Lead Administrator for consideration by the Commission will, in turn, be used by accredited⁴ testing

⁴ The organization(s) accrediting the prospective Label Administrators and testing labs must meet the requirements and conditions in ISO/IEC 17011. See 47 CFR 8.910(b)(1) ISO/IEC 17011:2004(E), “Conformity assessment—General requirements for accreditation bodies accrediting conformity assessment bodies,” First Edition, 2004–09–01, IBR approved for §§ 8.217(e) and 8.218(b).

labs recognized by the Lead Administrator—whether CyberLABs,⁵ a CLA-run lab, or a testing lab internal to a company (in-house testing lab) for product testing.

38. Retaining key overarching functions within the Commission as discussed above will ensure the effective administration and oversight of this government program and protect the integrity of the FCC-owned Cyber Trust Mark, while perpetuating, where appropriate, the relevant efforts of the private sector that meet the goals and requirements of the program. We also agree with CSA that program ownership by the Commission will increase consumer confidence in the Cyber Trust Mark. In addition, the clear high-level oversight functions retained for the Commission ensures the Commission has meaningful decision-making control. Here, while the CLA(s) will recommend standards and testing procedures to be approved by the Commission as well as manage the day-to-day administrative functions assigned, the Commission will ultimately review, consider, and exercise judgment on whether the requirements are appropriate to support the Commission’s program, and on how the program is ultimately administered.

39. We adopt the IoT Labeling NPRM’s proposal that one or more qualified third-party administrators (Cybersecurity Labeling Administrators or CLAs) be designated by the Commission to manage certain aspects of the labeling program and be authorized to certify the application of the FCC IoT Label by manufacturers whose products are found to be in compliance with the Commission’s IoT cybersecurity labeling rules and regulations. The record supports the Commission’s adoption of a labeling program that is supported by CLAs.

⁵ There appeared to be some confusion in the record with the Commission’s use of the term Cybersecurity Labeling Authorization Bodies. Specifically, the ANSI National Accreditation Board (ANAB) recommended the Commission reconsider the use of the term “CyberLAB” as the “implication that such organizations are laboratories could create market confusion.” ANAB Reply at 2. We disagree that the term CyberLAB may be confusing because these organizations are, in fact, laboratories/testing bodies that will be testing products to determine compliance with applicable standards. The CyberLABs, however, are not “certification bodies.” Rather, the entity that will be authorizing an applicant to use the Cyber Trust Mark on their product is the CLA, as described below. To ensure there is no confusion, the Commission has changed the term from Cybersecurity Labeling “Authorization Bodies” as these terms are reserved for accreditation bodies, to Cybersecurity Testing Laboratories, reflecting that the function of these labs is for testing and generating reports, and not certifying or issuing a label. We continue to use the short-form term “CyberLAB” to refer to these testing labs.

According to TIC Council Americas, involving independent third-party administrators who verify that labeled products meet the program requirements will bring trust, consistency, and an impartial level playing field to the Cyber Trust Mark. The Cybersecurity Coalition, Widely, and CSA highlight that utilizing experienced third-party administrators will allow the program to run more efficiently and will provide “the required expertise for the administration of the program.” CTA and other commenters also assert that the IoT Labeling Program will be best served if the Commission “leverage[s] the unique expertise and existing certification infrastructure offered by well-regarded industry organizations.” AHAM says that “[g]iven the volume and increasing numbers of IoT products on the market, [the] FCC needs to give manufacturers as many options as possible as far as obtaining the Cyber Trust mark” and that “third parties will play an important role in any successful program.”

40. CTA supports assigning certain responsibilities to one or more independent, (*i.e.*, neutral) third-party administrators which it refers to as “Authorized Scheme Owners.” However, the Commission disagrees with this descriptor insofar as some commenters are confused as to whether the “scheme owner” is the entity ultimately responsible for the program, or a third-party entity responsible for certain program administration functions or specified tasks under the ultimate direction of the Commission. To avoid confusion, the Commission refers to these third-party administrators as CLAs. These CLAs are neutral third parties independent of the applicant and within the context of a program overseen by the Commission.

41. We believe that authorizing one or more CLAs to handle the routine administration of the program will help to ensure a timely and consistent rollout of the program. In particular, several private entities have already implemented robust IoT cybersecurity labeling programs with established business processes in place to receive applications from IoT manufacturers and conduct conformity/standards testing against widely accepted cybersecurity guidelines (*e.g.*, NIST guidelines) or proprietary product profiles based on the NIST criteria. We anticipate a large number of entities will seek grants of authorization to use the FCC IoT Label and we are concerned that if we were to adopt a program limited to a single administrator, there may be bottlenecks in the

processing of applications and a single administrator could result in a single point of failure in the program. Allowing multiple CLAs to execute the role of day-to-day administration of the program will provide for the simultaneous processing of a significant number of applications, provide redundancy of structure, and potentially foster competition in this space to better serve those seeking access to the label. In addition, leveraging the expertise of multiple existing program managers and using pre-existing systems and processes that meet our program specifications will minimize administrative delay, while promoting an efficient and timely rollout of the Cyber Trust Mark. This will also ensure that the Commission effectively utilizes the expertise of those entities who have made investments in their own cybersecurity labeling programs and have experience working with manufacturers and IoT conformity and standards testing, expediting the ability to provide consumers with a simple way to understand the relative security of the products and devices they purchase under a government-backed standard.

42. We recognize, however, that there is a need for a common interface between the CLAs and the Commission to facilitate ease of engagement and to conduct other initial tasks associated with the launch of the program. We delegate authority to PSHSB to review CLA applications, review CLA applications that also request consideration for Lead Administrator, select the Lead Administrator and manage changes in the Lead Administrator.

43. Lead Administrator Duties. The Lead Administrator will undertake the following duties in addition to the CLA duties outlined below:

- a. interface with the Commission on behalf of the CLAs, including but not limited to submitting to the Bureau all complaints alleging a product bearing the FCC IoT Label does not meet the requirements of the Commission’s labeling program;
- b. conduct stakeholder outreach as appropriate;
- c. accept, review, and approve or deny applications from labs seeking recognition as a lab authorized to perform the conformity testing necessary to support an application for authority to affix the FCC IoT Label,⁶

⁶ If the Lead Administrator, in addition to its administrative duties, intends to offer lab testing service (CLA-run lab), it must submit an application with PSHSB seeking FCC recognition as a lab authorized to perform conformity testing to support an application for authority to affix the FCC IoT Label. The Lead Administrator is not authorized to

and maintain a publicly available list of Lead Administrator-recognized labs and a list of labs that have lost their recognition;

d. within 90 days of release of the Public Notice announcing the Lead Administrator selection, the Lead Administrator shall, in collaboration with stakeholders (*e.g.*, cyber experts from industry, government, and academia) as appropriate:

i. submit to the Bureau recommendations identifying and/or developing the technical standards and testing procedures for the Commission to consider with regard to at least one class of IoT products eligible for the IoT Labeling Program. The Bureau will evaluate the recommendations, and if the Bureau approves of the recommendations, subject to any required public notice and comment, incorporate them by reference into the Commission’s rules;

ii. submit to the Bureau a recommendation on how often a given class of IoT products must renew their request for authority to bear the FCC IoT Label, which may be dependent on the type of product, and that such a recommendation be submitted in connection with the relevant standards recommendations for an IoT product or class of IoT products; The Bureau will evaluate the recommendations, and if the Bureau approves of the recommendations, subject to any required public notice and comment, incorporate them by reference into the Commission’s rules;

iii. submit to the Bureau recommendations on the design of the FCC IoT Label, including but not limited to labeling design and placement (*e.g.*, size and white spaces, product packaging.) The Bureau will evaluate the recommendations, and if the Bureau approves of the recommendations, subject to any required public notice and comment, incorporate them by reference into the Commission’s rules; and

iv. submit to the Bureau recommendations with regard to updates to the registry including whether the registry should be in additional languages, and if so, to recommend specific languages for inclusion;

v. submit to the Bureau recommendations on the design of the FCC IoT Label, including but not limited to labeling design and placement (*e.g.*, size and white spaces, product packaging, whether to include

recognize its own cybersecurity testing lab. If approved by PSHSB, the Lead Administrator will add the name of its lab to the list of recognized labs.

the product support end date and other security and privacy information on the label.) The Bureau will evaluate the recommendations, and if the Bureau approves of the recommendations, subject to any required public notice and comment, incorporate them by reference into the Commission's rules.

e. The Lead Administrator shall, in collaboration with CLAs and other stakeholders (e.g., cyber experts from industry, government, and academia) as appropriate recommend within 45 days of publication of updates or changes to NIST guidelines, or adoption by NIST of new guidelines, to the FCC any appropriate modifications to the Labeling Program standards and testing procedures to stay aligned with the NIST guidelines;

f. submit to the Commission reports on CLAs' post-market surveillance activities and findings in the format and by the date specified by PSHSB;

g. develop in collaboration with stakeholders a consumer education campaign, submit the plan to the PSHSB, and participate in consumer education;

h. receive complaints about the Labeling Program, including but not limited to consumer complaints about the registry and coordinate with manufacturers to resolve any technical problems associated with consumers accessing the information in the registry;

i. facilitate coordination between CLAs; and

j. submit to the Commission any other reports upon request of the Commission or as required by Commission rule.

44. Cybersecurity Label Administrator Duties. CLA(s) are responsible for various administrative duties, including:

a. receive and evaluate applications and supporting data requesting authority to use the FCC IoT Label on the product subject to the application;

b. grant an application only if it meets all of the Commission's requirements to use the FCC IoT Label and authorize (i.e., certify) the applicant to use the FCC IoT Label on the product subject to the application;

c. ensure that manufacturers make all required information accessible by the IoT registry;

d. participate in consumer education campaign in coordination with the Lead Administrator;

e. perform post-market surveillance activities, such as audits, in accordance with ISO/IEC 17065 and submit periodic reports to the Lead Administrator of their post-market surveillance activities and findings in

the format and by the date specified by PSHSB; and

f. receive complaints alleging an IoT product does not support the cybersecurity criteria conveyed by the Cyber Trust Mark and refer these complaints to the Lead Administrator which will notify PSHSB.⁷

45. The record supports the use of CLAs to support a variety of tasks within the program's construct. ioXt Alliance supports utilizing CLAs for evaluating and certifying products for the Cyber Trust Mark. CTA supports utilizing CLAs to conduct program operations. The Cybersecurity Coalition and Kaiser Permanente also support utilizing CLAs for managing the day-to-day operations of the IoT Labeling Program. CSA argues that, "the day-to-day administration of the Cyber Trust Mark Program should be managed by a Third-Party Administrator, serving as the entity that grants permission to use the Program trademark to applicants." In addition, ITI recommends that it should be the responsibility of the CLA to review or audit self-attestations and that "third-party administrators can and should play a key role in administering conformity assessment schemes." CSA and CTIA further recommend adopting the IoT Labeling NPRM's proposal that a third-party administrator evaluate, accredit, or recognize the CyberLABs, and CSA also "recommends that the Commission hire a third-party administrator to operate the IoT Registry." Finally, ioXt Alliance recommends that third-party administrators should also "vet companies and products during the certification process" to determine which products pose a threat to national security, based on Commission guidance. ioXt Alliance also notes in its comments that the "label design and associated information should be informed by the expertise of manufacturers and third-party administrators."

46. Subject to Commission oversight, and consistent with recommendations in the record, the CLAs will evaluate and grant or deny requests for authority to use the FCC IoT Label on consumer IoT products in accordance with the IoT Labeling Program. Each administrator will be responsible for certifying that the consumer IoT products for which it authorizes a manufacturer to apply the

⁷ This process does not foreclose the ability of consumers to file an informal complaint in accordance with the Commission's rules. See 47 CFR 1.716 through 1.719. In the event an informal complaint is filed with the Commission, the complaint will be forwarded to the Lead Administrator for investigation and/or referral to the issuing CLA.

FCC IoT Label are tested by an accredited testing lab, which as discussed further below may be a CyberLAB, the applicant's own in-house lab, or a CLA-run lab, and that the testing report demonstrates the product conforms to all Commission IoT labeling rules. The CLA will track each application it receives requesting authority to use the FCC IoT Label, and the disposition of all applications, including date of filing, date of acceptance as complete, the date and reason application is returned to applicant, and date of grant or denial. The CLAs will review each application they receive to ensure the application and supporting documents are provided and are sufficient to show the product conforms to all Commission rules and that it includes a compliance test report generated by an accredited and Lead Administrator-recognized testing lab (e.g., third-party lab (CyberLAB), applicant's in-house testing lab, or CLA-run lab). If the application is deficient, it will not be granted until all necessary conditions are satisfied. If the application is complete and meets all of the Commission's requirements, the CLA will issue a cybersecurity labeling authorization (i.e., cybersecurity certification) approving the applicant to affix the FCC IoT Label to the identified product.

47. In addition to its role as a CLA, the Lead Administrator must collaborate with CLAs and other stakeholders (e.g., cyber experts from industry, government, and academia) as appropriate to develop or identify, and maintain, consumer IoT cybersecurity technical and conformity assessment standards to be met for each class of IoT product seeking authority to affix the FCC IoT Label on their product, which the Lead Administrator will submit to PSHSB for consideration and approval and, subject to any required public notice and comment, adoption into its rules. Adopting standards through consensus is supported by the record in this proceeding.⁸ The Information Technology Industry Counsel (ITI) supports the Commission retaining ownership of the IoT Labeling Program and authorizing the "various industry-led, consensus standards, which can be used to gain approval for the Cyber Trust Mark." ITI also notes that using industry-led, consensus standards will also limit the likelihood of legal challenges. UL Standards & Engagement

⁸ As below, we emphasize the importance of leveraging existing expertise in this space, and as such adopt as a criterion for consideration in selecting the lead administrator the ability to convene and develop consensus among stakeholders.

agrees that the FCC should use a “voluntary consensus-based standards development process” to create and update standards for the IoT Labeling Program. The U.S. Chamber of Commerce also supports a consensus-based approach urging the Commission “to track closely with public-private developments in IoT cybersecurity as well as industry-driven initiatives, such as the C2 Consensus on IoT Device Security Baseline Capabilities (C2 Consensus) and CTIA’s cybersecurity certification program for IoT devices.” The Council to Secure the Digital Economy (CSDE), which is “composed of USTelecom, the Consumer Technology Association (CTA), and 13 global information and communications technology (ICT) companies—has also already convened technical experts from 19 leading organizations throughout the ICT sector to develop and advance industry consensus on baseline security capabilities for new devices,” including the C2 Consensus document, which provides guidance to the public and private sectors on IoT devices security. We agree with these recommendations that the Commission adopt standards following recommendations based on an industry-led consensus process, leveraging standards work already in process or completed, which will provide for the swift development and implementation of the IoT Labeling Program.

48. The Lead Administrator is to base the recommended technical standards and testing procedures on the NISTIR 8425, Profile of the IoT Core Baseline for Consumer IoT Products. As noted by ITI, there is “a suite of existing standards that might be leveraged to ensure that the outcomes NIST outlines can be met.” In addition, NIST’s IoT Product Component Requirements Essay provides a summary of standards and guidance that NIST has initially identified as applicable to IoT devices and IoT product components, that the Lead Administrator may determine are applicable to the IoT Labeling Program. The Lead Administrator should evaluate and leverage existing work for efficiency and speed to market where appropriate in making its recommendations to the Commission.

49. The Lead Administrator in collaboration with stakeholders as appropriate will identify or develop IoT cybersecurity standards (or packages of standards) and testing procedures that they determine can be used to test that a product meets the NISTIR 8425 criteria for each class of products identified by the working group. The Lead Administrator will submit to the Bureau recommendations on a rolling

basis as they are identified, but shall submit the initial set of recommendations no later than 90-days after release of the Public Notice selecting the Lead Administrator. We specify a timeframe here to ensure timeliness of initial standards and prompt launch of the program. Noting the work already ongoing on these issues, we also find such a timeframe to be reasonably achievable. The proposed standards (or packages of standards) and testing procedures must be approved by the Commission prior to implementation. The Commission delegates authority to PSHSB to evaluate and (after any required public notice and comment) approve (or not approve) the technical standards and testing procedures proposed by the Lead Administrator for use in the IoT Labeling Program and incorporate the approved standards and testing procedures by reference into the Commission’s rules. The Commission further directs the Bureau to ensure the standards and testing procedures are relevant and appropriate to support the Commission’s IoT Labeling Program.

50. Selecting CLAs. Each entity seeking authority to act as a CLA must file an application with the Commission for consideration by PSHSB,⁹ which includes a description of its organization structure, an explanation of how it will avoid personal and organizational conflict when processing applications, a description of its processes for evaluating applications seeking authority to use the FCC IoT Label, and a demonstration of expertise that will be necessary to effectively serve as a CLA including, but not limited to:

1. Cybersecurity expertise and capabilities in addition to industry knowledge of IoT and IoT labeling requirements.

2. Expert knowledge of NIST’s cybersecurity guidance, including but not limited to NIST’s recommended criteria and labeling program approaches for cybersecurity labeling of consumer IoT products.

⁹This approach necessitates a mechanism for the Commission to recognize administrators, and we accordingly adopt a rule doing so. See 47 CFR 8.219. We model our approach on analogous elements of our equipment authorization rules, with which the Commission and industry have substantial experience, and which have proven workable in practice. See 47 CFR 2.949. We delegate to PSHSB and OMD authority to take any necessary steps, including adoption of additional procedures and any applicable fees (pursuant to any required public notice and comment), as necessary to ensure compliance with the Communications Act with respect to any rules adopted here that contemplate the filing of applications directly with the Commission. 47 U.S.C. 158(c).

3. Expert knowledge of FCC rules and procedures associated with product compliance testing and certification.

4. Knowledge of Federal law and guidance governing the security and privacy of agency information systems.

5. Demonstration of ability to securely handle large volumes of information and demonstration of internal security practices.

6. Accreditation pursuant to all the requirements associated with ISO/IEC 17065 with the appropriate scope.¹⁰ We recognize that CLAs cannot obtain accreditation to the FCC scope until after the Commission adopts standards and testing procedures. As such, the Commission will accept and conditionally approve CLA applications from entities that meet the other FCC program requirements and commit to obtain ISO/IEC 17065 accreditation with the appropriate scope within six (6) months of the effective date by the adopted standards and testing procedures. CLA approval to authorize use of the FCC IoT Label will be finalized upon receipt and demonstration to the Commission of ISO/IEC 17065 accreditation with the appropriate scope.¹¹

7. Demonstrate implementation of controls to eliminate actual or potential conflicts of interests (including both personal and organizational), particularly with regard to commercially sensitive information, to include but not limited to, remaining impartial and unbiased and prevent them from giving preferential treatment to certain applications (e.g., application line jumping) and from implementing heightened scrutiny of applications from entities not members or otherwise aligned with the CLA.

8. That the applicant is not owned or controlled by or affiliated with any entity identified on the Commission’s Covered List or is otherwise prohibited from participating in the IoT Labeling Program. We will dismiss all CLA applications from an entity (company) identified on the Commission’s Covered List, the Department of Commerce’s Entity List, and the Department of Defense’s List of Chinese Military Companies.

9. That the applicant is not owned or controlled by or affiliated with any person or entity that has been suspended or debarred from receiving

¹⁰The scope of CLA’s ISO/IEC 17065 certification includes certifying IoT products and devices for compliance with FCC cybersecurity standards.

¹¹Consistent with standard practice for accreditation, the organization accrediting the CLAs must be recognized by the Bureau to perform such accreditation based on International Standard ISO/IEC 17011.

Federal procurements or financial awards, to include all entities and individuals published as ineligible for award on the General Service Administration's System for Award Management.

10. In addition to completing the CLA application information, entities seeking to be the Lead Administrator will submit a description of how they will execute the duties of the Lead Administrator, including:

a. their previous experience in IoT cybersecurity;

b. what role, if any, they have played in IoT labeling;

c. their capacity to execute the Lead Administrator duties outlined in the Order;

d. how they would engage and collaborate with stakeholders to identify or develop the Bureau recommendations discussed in the Order;

e. a proposed consumer education campaign; and

f. additional information the applicant believes demonstrates why they should be the Lead Administrator.

51. For items #7 and #8, we note that the record raises national security considerations when selecting a Label Administrator. For example, CTIA urges that the Commission "exclude all entities on the Covered List (not just those included on the list for producing equipment), all entities on the other lists identified in the *IoT Labeling NPRM*, as well as entities that are otherwise banned from federal procurement." CTIA explains that these broad exclusions for program participation are necessary because of "the unique nature of the proposed labeling program—namely that it is both government-administered and voluntary—counsels in favor of painting with a broad brush on national security-based exclusions." We agree with the commenters in the record, and consistent with our reasoning herein addressing the exclusion of certain products that would raise potential national security concerns, we also prohibit entities owned or controlled by or affiliated with entities that produce equipment found on the Covered List, as well as entities specified on the other lists referenced above or those suspended or debarred from receiving Federal procurements or financial awards from being a CLA in view of national security considerations and to insure the integrity of the IoT Labeling Program. Each of these lists represent the determination of relevant Federal agencies that the entities on the list may pose a national security threat within their respective areas, and as such we find that it is not in the public interest

to permit these entities to provide assurances to the American public that products meet minimum cybersecurity standards. Importantly, we are only excluding the entities of the lists from a voluntary program under which the FCC approves their capability to oversee cybersecurity certification testing for purposes of the IoT Label. Insofar as the FCC IoT Label reflects the FCC's signal to consumers about cybersecurity, it is reasonable for us to take a cautious approach when approving entities to conduct the underlying product evaluations when relevant Federal agencies have expressed security concerns with the entity.

52. NCTA—The Internet & Television Association (NCTA) also suggests that "any 'foreign entity of concern' as defined by the CHIPS Act should be ineligible for certification or recognition as a CyberLAB." Further, ioXt Alliance recommends that the Commission "establish rules to ensure CyberLABs are not subject to undue influence by foreign adversaries." We agree that it would be problematic for the U.S. to rely on the determination of entities controlled or affiliated with "foreign adversaries" as to the security of products approved to use the Cyber Trust Mark, and therefore the FCC will not recognize for purposes of the IoT Labeling Program any applicant that is an entity, its affiliate, or subsidiary owned or controlled by a "foreign adversary" country. A "foreign adversary" country is defined in the Department of Commerce's rule, 15 CFR 7.4, and includes China (including Hong Kong), Cuba, Iran, North Korea, Russia, and Maduro Regime. We do not otherwise see a basis to preclude other foreign entities from serving as CLAs, but at this preliminary stage of establishing the IoT Labeling Program—where no international agreements are yet in place in this regard, and oversight details continue to be effectuated—we defer action in this regard. We delegate authority to PSHSB, in consultation with the Office of International Affairs (OIA), to evaluate and (after any appropriate public notice and comment) establish qualification criteria for any entity outside the United States to be approved to act as a CLA once any appropriate international agreements or other appropriate prerequisites are in place.

53. We decline to require that a CLA be a non-profit. The Cybersecurity Coalition recommends that the CLA be a non-profit entity, but did not elaborate on why, focusing their comments on having a neutral, independent third-party that followed consistent pricing guidelines and had industry experience

and strong security practices. Researchers from the Northeastern University's College of Engineering similarly agreed that the Label Administrator should be a non-profit while emphasizing that the CLA should not have conflicts of interest. We decline, however, to require that the CLA be a non-profit organization, recognizing that there may be well-qualified companies that may be for-profit organizations or non-profit organizations that possess the other relevant qualifications. We agree with what appear to be the underlying concerns of the record, that the CLA be neutral, have the knowledge outlined above (e.g., knowledge regarding FCC rules, IoT cybersecurity standards and testing procedures), and be free of conflicts. However, we believe that a company that satisfies the above requirements could carry out the CLA duties without being a non-profit organization. Moreover, expanding the pool of potential participants should increase the likelihood that a reasonable number of qualified entities apply to fulfill the specified roles. In addition, the record did not highlight reasons why a for-profit company would be incapable of fulfilling the role of label administrator.

54. Termination of CLA Authority. To address national security concerns, the authority of CLAs to grant applications to use the FCC IoT Label under the IoT Labeling Program will automatically terminate if the CLA subsequently becomes owned or controlled by or affiliated with an entity that produces equipment found on the Covered List, or otherwise added to any exclusionary list identified in this item as precluding authorization as a CLA. In addition, a CLA's authority may also be terminated for failure to uphold the required competencies or accreditations enumerated above. We delegate authority to PSHSB, to determine if a CLA's authority is to be terminated in the latter circumstance, and to terminate such authorization.¹² PSHSB, may identify such CLA deficiencies itself or receive notice from other entities, including other agencies, consumers,

¹² Because of the public safety importance of a CLA having the requisite qualifications and adhering to our rules when evaluating requests to use the FCC IoT Label, this process should proceed appropriately expeditiously to minimize any periods of time where a CLA continues to operate in that capacity once concerns have come to PSHSB's attention. In particular, PSHSB shall provide notice to the CLA that the Bureau proposes to terminate the CLA's authority and provide the CLA a reasonable opportunity to respond (not more than 20 days) before reaching a decision on possible termination. PSHSB may suspend the CLA's ability to issue labeling authorizations during the pendency of such consideration if appropriate.

and industry, that products granted authorization by a CLA do not accurately reflect the security posture of the product. Products authorized to use the FCC IoT Label by a disqualified CLA will be subject to the disqualification procedures described further below.

55. **CLA Application Filing Window.** We delegate authority to the Bureau to issue a Public Notice opening the initial filing window to receive applications from entities seeking authority to be recognized as a CLA (and Lead Administrator) under the IoT Labeling Program with instructions on how to apply and further details on the qualifications required of CLA applicants as well as the decision criteria used to select applicants. We also delegate to the Bureau authority to open additional filing windows or otherwise accept additional applications for authority to be recognized by the Bureau as a CLA when and as the Bureau determines it is necessary. Interested parties must establish they meet the requirements established in the *Order*. The Commission notes that it may refer applications to the U.S. Committee for the Assessment of Foreign Participation in the U.S. Telecommunications Sector (Team Telecom) for their review and consideration of national security and law-enforcement risks. We further delegate authority to PSHSB in coordination with the Office of the Managing Director (OMD) (specifically Office of the Chief Information Officer) and, to the extent necessary, the Office of General Counsel (OGC) (specifically the Senior Agency Official for Privacy), to receive and review each application for compliance with the criteria established in the *Order*. We also delegate to PSHSB authority to adopt additional criteria and administrative procedures necessary to efficiently select one or more independent, non-governmental entities, to act as CLA(s) and Lead Administrator. The Lead Administrator must provide equitable recommendations to the Commission to encourage the broadest possible participation of CLAs within the parameters of the FCC's rules.¹³ We also delegate to PSHSB authority to adopt additional criteria and procedures in the event the Lead Administrator must be replaced or chooses to withdraw from its responsibilities.¹⁴ We delegate

¹³ We also agree with CTA in highlighting the importance of PSHSB's involvement in matters where the Lead Administrator and CLAs may share vested interests.

¹⁴ We recognize the potential raised by ioXt Alliance for anticompetitive preferences in recommendations made to the Bureau if a CLA is chosen as Lead Administrator.

authority to PSHSB to release a Public Notice announcing the CLA(s) selected by the Bureau and next steps for each entity, including but not limited to the execution of appropriate documentation governing the details of the CLA's responsibilities. Moreover, we delegate to PSHSB and OMD authority to take any necessary steps, including adoption of additional procedures and any applicable fees after selection of the CLAs, if necessary to ensure compliance with the Communications Act or applicable government-wide statutes that are implicated by the IoT Labeling Program. Finally, we also delegate authority to PSHSB and OMD, in consultation with OGC, to take any additional actions necessary to preserve the Commission's rights to the Cyber Trust Mark under trademark and other applicable laws. Only entities who have followed the procedures required by PSHSB and OMD and executed relevant required documentation will be authorized by the Commission to accept and grant applications authorizing the use of the FCC IoT Label, which includes the Cyber Trust Mark and QR Code.

C. CyberLABs, CLA-Run Labs, and In-House Testing Labs

56. The Commission envisioned the role of CyberLABs as assessing IoT devices or products for compliance against IoT security standards, once developed. The Commission sought comment on whether the Commission or one of the authorized label administrators would evaluate, accredit, or recognize the CyberLABs, noting that it was seeking to ensure that CyberLABs have the necessary expertise and resources to properly test and assess whether IoT devices and products are in compliance with the IoT security standards. To become accredited and FCC-recognized for the proposed IoT Labeling Program, the Commission proposed the submission of applications demonstrating the applicant CyberLAB met the following requirements:

- **Qualifications:** The CyberLAB has technical expertise in cybersecurity testing and conformity assessment of IoT devices and products.
- **Resources:** The CyberLAB has the necessary equipment, facilities, and personnel to conduct cybersecurity testing and conformity assessment of IoT devices and products.
- **Procedures:** The CyberLAB has documented procedures for conformity assessment.
- **Continued competence:** Once accredited and recognized, CyberLABs would be periodically audited and reviewed to ensure they continue to

comply with the IoT security standards and testing procedures.

57. We adopt our proposal to accept CyberLABs, in-house labs, and CLA-run labs, to test and assess IoT products for compliance with the consumer IoT standards that are established pursuant to the process described above to actualize the outcome of the NIST criteria. Rather than having the Commission or CLA evaluate or accredit a lab, however, we are persuaded that it is appropriate to recognize testing labs that have been accredited to ISO/IEC 17025 standards to conduct compliance testing that would support an application for authority to affix the FCC IoT Label. Consistent with standard practice for accreditation, the organization accrediting the testing labs must be recognized by the Bureau to perform such accreditation based on International Standard ISO/IEC 17011. We recognize that labs cannot be accredited or recognized in the context of this IoT Labeling Program until after the IoT cybersecurity standards have been approved by the Commission and incorporated into the Commission's rules. We delegate authority to PSHSB to publish a Public Notice, subject to any required notice and comment, outlining the specific standards CyberLABs, in-house labs, and CLA-run labs must meet to be recognized as qualified to conduct conformity testing to support applications seeking authority to use the FCC IoT Label. We also find it to be in the public interest for the Lead Administrator to review and recognize labs that meet these accreditation requirements and make a list of recognized labs publicly available.¹⁵

58. The Order agrees with CTIA that entities specializing in testing and certification will be valuable to program participants, and that such entities are likely to have the resources and expertise to evaluate IoT products in accordance with a standard. CTIA also notes, "a third-party certification model will help to lend credibility to the program" because CyberLABs can focus on the assessment aspects of the program in a way that helps ensure the

¹⁵ To enable the Lead Administrator to compile a reliable and verifiable list, we require accredited CyberLABs to submit certain information to the Lead Administrator: (1) Laboratory name, location of test site(s), mailing address and contact information; (2) Name of accrediting organization; (3) Scope of laboratory accreditation; (4) Date of expiration of accreditation; (5) Designation number; (6) FCC Registration Number (FRN); (7) A statement as to whether or not the laboratory performs testing on a contract basis; (8) For laboratories outside the United States, details of the arrangement under which the accreditation of the laboratory is recognized; and (9) Other information as requested by the Commission.

integrity of the IoT Labeling Program. The Order also agrees with CTA that leveraging accredited industry bodies to perform conformity assessments will “speed the establishment of the program and increase the program’s ultimate quality.”

59. We agree with CSA’s argument that the Commission should adopt a model where CyberLABs must be ISO/IEC 17025 accredited. CSA notes its confusion as to whether CyberLABs were intended to be “certification bodies” as defined by ISO/IEC 17065 or “evaluation laboratories” as defined by ISO/IEC 17025. We clarify that the proposal as envisioned by the IoT Labeling NPRM and adopted here is for CyberLABs, in-house labs, and CLA-run labs to function as a body responsible for assessing the security of IoT products (*i.e.*, testing lab). CSA proposes that such bodies hold ISO/IEC 17025 accreditations, as this model has been the basis for mutual recognition agreements in the cybersecurity industry, and we agree.

60. We note the objection of LG Electronics, which asserts that “[t]he CyberLAB concept described in the NPRM would almost certainly create a testing bottleneck” that would slow the process, and deter participation in the IoT Labeling Program. Instead, LG Electronics argues, self-certification is required to avoid these problems, although LG Electronics concedes that some compliance certification is required to participate in the IoT Labeling Program. As a nascent program, and as discussed above in connection with the envisioned process, we do not find it appropriate to adopt at this time a labeling path that does not include some level of laboratory testing in combination with an application to a CLA to ensure the product bearing the FCC IoT Label complies with the IoT Labeling Program’s requirements. However, we recognize the benefits of time, efficiency and cost-savings associated with in-house testing and will allow the option for applicants to use an in-house testing labs, provided the lab is ISO/IEC 17025 accredited.

61. CyberLABs’ Programmatic Role. CyberLABs will receive requests for conformance testing from manufacturers seeking to use the FCC IoT Label and will assess and test the products using the cybersecurity standards developed by industry and approved by the Commission and provide the applicant with a report of their findings. There was confusion in the record with how the term CyberLAB is to be applied. The Commission clarifies that the CyberLABs are laboratories whose role is limited to conducting compliance

tests and generating reports. CyberLABs are not, in the organizational structure adopted in the Order, either certifying products or issuing authorization to use the FCC IoT Label. While the IoT Labeling NPRM defined a CyberLAB as an “authorization body” we remove that reference here as the term “authorization body” might be seen as referring to certification bodies, not laboratories. The role of CyberLABs is to conduct the required tests and generate test reports for use by the applicant in seeking CLA authorization to use the FCC IoT Label.

62. In-House Testing Lab. We also adopt an option for manufacturers to use an accredited and Lead Administrator-recognized in-house testing lab to perform the cybersecurity conformity testing for their IoT products, provided the in-house lab meets the same vigorous standards as the CyberLABs. In the *IoT Labeling NPRM*, the Commission sought comment on whether there is an avenue for “a comprehensive review that an IoT device or product compl[ies] with the IoT security standards.” We received significant support in the record for an in-house testing option. Samsung argues that, to encourage widespread adoption, the Commission must allow manufacturers an option to perform in-house testing to receive the label. The Cybersecurity Coalition urges the Commission to allow for in-house testing. We agree that an in-house testing option, for some manufacturers, will be more cost-effective, encourage participation in the IoT Labeling Program, and when combined with the filing of an application with a CLA can assure quality and trust in the IoT Labeling Program. However, we do require that in-house labs meet the same accreditation and recognition requirements as CyberLABs. In this respect, consumers may be assured that the label achieved on an in-house basis meets the same standards as those tested elsewhere, promoting consistency and reliance on the IoT Labeling Program generally. We also expect that ensuring a common baseline testing standard will ultimately aid in the ability to gain international recognition of the Cyber Trust Mark.

63. CLA-Run Testing Lab. We also recognize that CLAs may also have, or seek to have, their own in-house labs conduct conformity testing for applicants seeking certification to use the Mark. The Commission finds no need to limit the number of potential testing facilities by prohibiting CLA-run labs from also being considered recognized labs. Applicants who wish to do so, may file an application with an

authorized CLA and request the services of the CLA’s accredited and Lead Administrator-recognized lab. Again, the Commission requires CLA labs to meet the same accreditation and recognition requirements as CyberLABs. Only after a lab has been accredited by a recognized accreditation body may the lab file an application with the Lead Administrator seeking to be recognized as an approved cybersecurity testing lab.¹⁶ As explained by the American Association for Laboratory Accreditation (A2LA), “[a]ccreditation is a means of determining the technical competence of conformity assessment organizations such as laboratories using qualified, third-party accreditation bodies. It assures federal government agencies as well as private sector organizations that assessments conducted by accreditation bodies are objective and reliable and that one can have confidence in the data generated by the accredited testing laboratory.” Recognizing that, whether an IoT product is evaluated by a CyberLAB, CLA-run lab, or an in-house lab there is a need to ensure equal rigor in the process, this requirement applies to in-house testing labs and third-party testing labs (CyberLABs and CLA-run labs). For ease of understanding, when we refer to CyberLABs below, we are including CyberLABs, in-house testing labs, and CLA-run labs.

64. In order to achieve recognition by the Lead Administrator, all labs seeking recognition under the Commission’s IoT Labeling Program must submit evidence of accreditation in the form of an attestation from an accreditation body that the prospective lab has demonstrated:

1. Technical expertise in cybersecurity testing and conformity assessment of IoT devices and products. Compliance with all requirements associated with ISO/IEC 17025. If we determine that other ISO standards or other relevant requirements are missing, the Commission will provide guidance to industry on how they may be addressed.

¹⁶This approach necessitates a mechanism for the Commission to recognize lab accreditation bodies, and we accordingly adopt a rule doing so. *See* 47 CFR 8.218. We model our approach on analogous elements of our equipment authorization rules, with which the Commission and industry have substantial experience, and which have proven workable in practice. *See* 47 CFR 2.949. We delegate to PSHSB and OMD authority to take any necessary steps, including adoption of additional procedures and any applicable fees (pursuant to any required public notice and comment), as necessary to ensure compliance with the Communications Act with respect to any rules adopted here that contemplate the filing of applications directly with the Commission. 47 U.S.C 158(c).

2. Knowledge of FCC rules and procedures associated with IoT cybersecurity compliance testing and certification.

3. Necessary equipment, facilities, and personnel to conduct cybersecurity testing and conformity assessment of IoT devices and products.

4. Documented procedures for IoT cybersecurity conformity assessment.

5. Demonstrated implementation of controls to eliminate actual or potential conflicts of interests (including both personal and organizational), particularly with regard to commercially sensitive information.

6. That the applicant is not owned or controlled by or affiliated with any entity that produces equipment on the FCC Covered List or is otherwise prohibited from participating in the IoT Labeling Program. We will dismiss all applications from a company named on the Department of Commerce's Entity List, the Department of Defense's List of Chinese Military Companies.

7. That the applicant is not owned or controlled by or affiliated with any person or entity that has been suspended or debarred from receiving Federal procurements or financial awards, to include all entities and individuals published as ineligible for award on the General Service Administration's System for Award Management.

65. Once accredited and recognized, the lab will be periodically audited and reviewed by the Lead Administrator to ensure they continue to comply with the IoT security standards and testing procedures.

66. Concerning items #6 and #7, national security considerations must be considered when allowing testing labs to participate because of "the unique nature of the proposed labeling program." As recommended in the record and consistent with our exclusions as to eligible products and eligibility to serve as a third-party administrator, all entities owned or controlled by or affiliated with entities that produce equipment found on the Covered List, as well as entities specified on the other U.S. Government exclusionary lists referenced above are prohibited from serving as a CyberLAB. Each of these lists represent the determination of relevant Federal agencies that the entities on the list may pose a national security threat within their respective areas, and as such we find that we cannot give U.S. Government endorsement to their security testing while claiming they pose such a threat. Insofar as the label reflects the FCC's signal to consumers about cybersecurity, it is reasonable for

the FCC to take a cautious approach especially for those products for which relevant Federal agencies have expressed other security concerns with the testing lab.

67. NCTA also suggests also suggests that "any 'foreign entity of concern' as defined by the CHIPS Act should be ineligible for certification or recognition as a CyberLAB." Further, ioXt Alliance recommends that the Commission "establish rules to ensure CyberLABs are not subject to undue influence by foreign adversaries." We agree that it would be problematic for the U.S. to rely on the determination of entities controlled or affiliated with "foreign adversaries" as to the security of products approved to use the Cyber Trust Mark, and therefore the Lead Administrator will not recognize for purposes of the IoT Labeling Program any testing lab that is an entity, its affiliate, or subsidiary owned or controlled by a "foreign adversary" country. A "foreign adversary" country is defined in the Department of Commerce's rule, 15 CFR 7.4, and includes China (including Hong Kong), Cuba, Iran, North Korea, Russia, and Maduro Regime. Because of the role CLAs will play in the labeling program, we find that the concerns related to entities identified as "foreign adversaries" are equally applicable to entities acting as CLAs as they are testing labs. To avoid these issues, the record suggests requiring testing labs certify compliance with the Commission's rules, including the rules pertaining to the Covered List. Accordingly, we find it appropriate that each testing lab must certify to the truth and accuracy of all information included in its recognition application and immediately update the information if the information changes.

68. The Order notes that Garmin advocates even stricter measures on the testing labs, suggesting that the labs be "located in the U.S." We decline to require physical location within the U.S. to avoid "unnecessarily limiting the pool of legitimate CyberLABs approved to conduct testing and conformity assessment for the Mark." Further, the record indicates that this stricter approach "would vastly diminish manufacturers' abilities to select and access evaluation labs, conduct proper risk management and promote competition and diversity in the lab market." Such a restriction might also unduly limit the ability of legitimate foreign corporations that do not raise national security concerns to participate in the IoT Labeling Program to the detriment of the goal of elevating the cybersecurity posture of those IoT

devices sold in the U.S. and to promote international recognition of the Cyber Trust Mark. We delegate authority to the Bureau to adopt any additional criteria or procedures necessary with respect to labs located outside of the United States.

69. Terminating CyberLAB Testing Authority. To address national security concerns, the CyberLAB recognition afforded to entities under this IoT Labeling Program will be automatically terminated for entities that subsequently become affiliated with an entity that is owned or controlled by or affiliated with entities that produce equipment placed on the Covered List, or that are otherwise added to any exclusionary list identified in this item as precluding authorization as a CyberLAB. CyberLAB testing authority may also be terminated for failure to uphold the required competencies or accreditations enumerated above. We delegate authority to the Bureau to determine when a CyberLAB's authority is to be terminated, and to terminate such authorization.¹⁷ The Bureau may identify such deficiencies itself or receive notice from other entities, including other agencies, consumers, and industry, that products tested by a CyberLAB do not accurately reflect the security posture of the product. Products authorized to use the FCC IoT Label by a disqualified CyberLAB will be subject to the disqualification procedures described further below.

70. *Fees.* To fulfill their role, as envisioned by the *IoT Labeling NPRM*, we authorize CyberLABs to charge reasonable fees to conduct the tasks adopted in the Order. The *IoT Labeling NPRM* proposed a fee calculation methodology adopted by the Commission in the *2020 Application Fee Report and Order*, 86 FR 15026 (March 19, 2021), and sought comment on whether any oversight is needed by the Commission over such charges. We did not receive any comments on the suitability of the approach proposed in the *IoT Labeling NPRM* or detailed comments about the degree of oversight the Commission should conduct over

¹⁷ Because of the public safety importance of a CyberLAB having the requisite qualifications and adhering to our rules when evaluating requests to use the FCC IoT Label, this process should proceed appropriately expeditiously to minimize any periods of time where a CyberLAB continues to operate in that capacity once concerns have come to PSHSB's attention. In particular, PSHSB shall provide notice to the CyberLAB that the Bureau proposes to terminate the CyberLAB's authority and provide the CyberLAB a reasonable opportunity to respond (not more than 20 days) before reaching a decision on possible termination. PSHSB may suspend the CLA's ability conduct product testing during the pendency of such consideration if appropriate.

the charges. We recognize the Cybersecurity Coalition's comments that high fees would deter participation in the IoT Labeling Program. We anticipate that there will be multiple CyberLABs authorized through the approach adopted in the Order, and we believe that market competition will ensure fees are reasonable, competitive, and accessible while covering the costs incurred by the CyberLABs in performing their designated tasks. We believe this addresses the concerns raised by the Cybersecurity Coalition and renders the approach proposed in the *IoT Labeling NPRM* unnecessary. The National Association of Manufacturers (NAM) rightly indicates, however, that the fee structure for CyberLABs will necessitate "robust protections to ensure that CyberLABs focus on the underlying mission of protecting the public rather than boosting their revenues." We delegate to the Bureau, in connection with OMD, to review and reconsider if necessary whether the level and structure of the fees should be regulated by the Commission.

D. Two-Step Process for Obtaining Authority To Use the FCC IoT Label

71. The Commission adopts a two-step process for a manufacturer seeking authority to use the FCC IoT Label, which includes (1) product testing by an accredited and Lead Administrator-recognized lab (e.g., CyberLAB, CLA lab, or an in-house lab) and (2) product label certification by a CLA. In the context of this IoT Labeling Program and as discussed in detail below, we find that in order to ensure the integrity of this nascent program, that the FCC IoT Label certification process will include a two-step process involving (1) the use of an accredited and Lead Administrator-recognized laboratory (CyberLAB, CLA lab, or in-house lab) to test the IoT product for compliance to FCC rules and generate a test report; and (2) an application to an FCC-recognized CLA (i.e., an accredited certification body) to certify the product as fully compliant with all relevant FCC IoT Labeling Program rules.

72. The record is split on the processes the Commission should adopt for manufacturers to follow when seeking to use the FCC IoT Label, specifically with regard to whether it is necessary for a third-party to review and verify the product meets all of the IoT Labeling Program requirements, including product testing, or if the manufacturer should be afforded the opportunity to "self-declare" compliance and affix the FCC IoT Label without third-party verification.

73. UL Solutions, TÜV SÜD, and TIC Council Americas recommend that the Commission require all applications to be supported by conformity testing conducted by an accredited lab (e.g., ISO/IEC 17025 accredited), and submitted to a third-party for verification of compliance with the Commission's program requirements. Others argue the Commission should accept a declaration of conformity or self-certification, while others recommend the Commission enter into agreements with each manufacturer to allow the manufacturer to conduct internal conformity testing of its products and self-certify compliance with the Commission's program requirements resulting in approval to use the Cyber Trust Mark without third-party involvement. CTA, for example, contemplates a "Manufacturer Self-Attestation Process" where manufacturers apply to the Commission for access to a "Mark Self-Attestation License Agreement" between the manufacturer and the FCC. Under this process, the manufacturer provides documentation showing how it complies with the NIST Criteria and if the Commission agrees with the documentation, the parties execute the agreement. The license agreement will identify the limits of the manufacturer's license authority, which may be corporate-wide, on a divisional basis, or for a specific product line.

74. To ensure the Cyber Trust Mark retains the highest level of integrity and consumer trust, we agree with commenters who caution against allowing testing by entities that are not accredited and recognized. We also agree with Garmin and AHAM, who recommend third-party verification of the information contained in a manufacturer's application to use the Cyber Trust Mark. UL Solutions notes that while the Commission's equipment authorization process allows some products that pose a low risk of RF interference to be approved via a Supplier's Declaration of Conformity (SDoC), there is no clear line to be drawn between low risk and high risk connected products when "IoT devices are significant targets for an ever-growing number of cybersecurity attacks." In addition, UL Solutions points to the investigation conducted by the Government Accountability Office (GAO) into the ENERGY STAR program's initial reliance a supplier's declaration of conformity, which GAO found to be unreliable because GAO was able to obtain UL certification with blatantly non-conforming products.

75. The Commission disagrees with commenters who believe the IoT

Labeling Program should offer different methods of conformity assessment based on varying levels of risk and potential impact on consumers because doing so adds an unnecessary and significant layer of complexity to the process. The Commission recognizes the view of Keysight, the National Electronic Manufacturers Association (NEMA), AIM, Whirlpool, AHAM, Consumer Reports, Garmin, NAM, ITI, and TIC Council Americas, who support self-attestation as an efficient and cost effective methodology for applicants to conduct conformity assessments. However, the Commission agrees with A2LA, which urges caution with self-attestations of conformity "due to the bias inherent in self-declaration." We also take into serious consideration the 2010 GAO Report that found the ENERGY STAR program in effect at that time, which was "primarily a self-certification program relying on corporate honesty and industry self-policing to protect the integrity of the Energy Star label," failed to require upfront third-party validation of manufacturers' self-reported claims of compliance with the program requirements, which resulted in the certification of bogus products as ENERGY STAR compliant. ENERGY STAR has since changed the manner in which it certifies products as ENERGY STAR compliant, stating that in order "[t]o ensure consumer confidence in the ENERGY STAR label and to protect the investment of ENERGY STAR partners, the U.S. Environmental Protection Agency (EPA) requires all ENERGY STAR products to be third-party certified. Products are tested in an EPA-recognized laboratory and reviewed by an EPA-recognized certification body before they can carry the label."

76. As such, in light of the nascent nature of the IoT Labeling Program, lessons learned in the ENERGY STAR context, and the need to ensure that the Cyber Trust Mark garners sufficient trust by consumers to be viewed as providing accurate information and manufacturer participation, we find that allowing a path to "self-attestation" is not appropriate at this time. While such a path may provide for prompt time to market for the Cyber Trust Mark itself, the concerns regarding the Mark's integrity at this initial stage counsel against "self-attestation." Moreover, we anticipate that the benefits and level of efficiency afforded manufacturers by the ability to use in-house labs will mitigate the additional process associated with certification by a CLA, as discussed below.

77. We intend for the Cyber Trust Mark to serve as a reliable and trusted

way for consumers to quickly identify those products that meet the Commission's program requirements. To achieve this, the Commission must adopt sufficient controls over the IoT Labeling Program to ensure only those products that meet the Commission's requirements bear the Cyber Trust Mark. The Commission's second step of requiring an application be submitted to a CLA is a significant and important control to ensure that an independent disinterested third-party outside the manufacturer's control has reviewed the manufacturer's product application and supporting test report and verified that the product complies with the Commission's program requirements.

78. The second step of the application process is particularly important because, as discussed above, the Commission allows the first step (testing) to be completed by an accredited and recognized CyberLAB, a CLA lab, or the manufacturer's in-house lab. Requiring the manufacturer to submit an application with a CLA is an important control, particularly to ensure that all products, including those products whose conformity testing is conducted, and reports are generated, by the manufacturer's in-house lab, are subject to third-party scrutiny and oversight. As such, the Commission requires all entities seeking to use the FCC IoT Label must submit an application for authority to a CLA to use the FCC IoT Label that is supported by the appropriate report detailing the conformity testing conducted by a lab that is both accredited and Lead Administrator-recognized (CyberLAB, CLA lab, or manufacturer's in-house lab). Only entities who have received prior authorization from a CLA (*i.e.*, cybersecurity certification) are authorized to use the FCC IoT Label, which will ensure the IoT Labeling Program retains its integrity.¹⁸ We further recognize that the CLA may charge a reasonable fee to cover the cost of reviewing the application and the costs of conducting the other tasks the CLA would perform. Once the IoT Labeling Program is established, we may revisit the issue of whether to adopt additional pathways to obtaining authority to use the FCC IoT Label.

¹⁸ In addition to the discussion in the text, we adopt certain rules to support the administration and integrity of the IoT Labeling Program, including governing the designation of agents for service of process and governing required signatures. See 47 CFR 8.208(i), (k). We model our approach on analogous elements of our equipment authorization rules, with which the Commission and industry have substantial experience, and which have proven workable in practice. See 47 CFR 2.911(d)(7), (f).

79. The IoT Labeling NPRM sought comment on whether and how one or more third-party administrators should be utilized to manage the IoT Labeling Program, and whether the Commission should designate one or more administrators to authorize use of the label. Kaiser Permanente argues that the Commission should maintain ownership of the application process, as well as oversight and supervision of third parties administering the IoT Labeling Program. Garmin notes that the application process described in the *IoT Labeling NPRM* is unclear and worries that third-party involvement would require enormous effort, and cautioned that sharing sensitive information with a third-party administrator itself raises security concerns. However, the record was silent with respect to details about an application process. We agree that oversight and supervision of the IoT Labeling Program, including intaking applications, will require effort but believe a CLA is in the best position to streamline that process and, as noted, ensure the integrity of the process. We will require the CLA to have the ability to securely handle large volumes of information, which we believe should alleviate Garmin's concern. We outline the application process to use the FCC IoT Label below.

80. Before being able to display the Cyber Trust Mark, the applicant must determine their product is an eligible product under our rules; have their product tested by an accredited and Lead Administrator-recognized CyberLAB, CLA Lab, or manufacturer's in-house lab; obtain a report of conformity and compliance from the lab; and submit an application for authority to use the FCC IoT Label to an FCC-recognized CLA in accordance with their procedures. Using the CLAs' filing processes, entities seeking authority to use the FCC IoT Label will file an application to be developed by the Bureau. Each application must include a report of conformity issued by an accredited CyberLAB, accredited CLA lab, or accredited in-house lab whose testing and reporting is comparative in rigor to that completed by a CyberLAB. The CLA will review the application and supporting documentation to ensure it is complete and in compliance with the Commission's rules and will either grant or deny the application. If an application is granted, the CLA will provide the applicant with notification of the grant and authority to affix the FCC IoT Label to the product granted authorization.

81. Applications that do not meet the Commission's IoT Labeling Program will be denied by the CLA. If an

application is denied, the CLA will provide the applicant with notification of the denial and an explanation of why it was denied. An applicant may only re-submit an application for a denied product if the CLA-identified deficiencies have been corrected. The applicant must indicate on its application that it is re-submitting the application after it was denied, the name of the CLA that denied the application, and the CLA's explanation of why it was denied. Failure to disclose the denial of an application for the same or substantially similar product will result in denial of the application for that product and the FCC will take other regulatory and/or legal action it deems appropriate.

82. Grant or denial of an application for authority to use the FCC IoT Label will be made by the CLA in the first instance. The CLA will return incomplete applications to the applicant or otherwise contact the applicant regarding the incomplete application, as soon as possible.

83. We delegate authority to the Bureau to issue a Public Notice after any necessary notice and public comment and after completing any process required under the Paperwork Reduction Act, providing further details on how to apply for authority to use the FCC IoT Label, including but not limited to informational elements of the application, additional details on filing requirements (*e.g.*, description or photograph of the label and how/where it will be affixed to the product), and how to request confidential treatment of submitted information. As the Commission anticipated in the NPRM, CLAs may charge reasonable fees for their services and to cover the costs of performing the administrative duties. The IoT Labeling NPRM proposed to follow the fee calculation methodology adopted by the Commission in the 2020 Application Fee Report and Order and requested comment on the proposal and any changes. We did not receive any comments on the suitability of this approach. We recognize the Cybersecurity Coalition's comments that high fees would deter participation in the IoT Labeling Program. We anticipate that there will be multiple administrators authorized through the approach adopted in the Order, and we believe that market competition will ensure fees are reasonable, competitive, and accessible while covering the costs incurred by the CLA in performing their designated tasks. We believe this addresses the concerns raised by the Cybersecurity Coalition and renders the approach proposed in the IoT Labeling NPRM unnecessary. We therefore reject

the NPRM's proposal. To the extent that the Lead Administrator may incur costs in performing its duties on behalf of the program as a whole, we expect these costs to be shared among CLAs as a whole.¹⁹ We delegate to the Bureau, in connection with OMD, to consider these issues and provide guidance to the CLAs and Lead Administrator to ensure the fees do not become onerous, as indicated by the record.

84. **Seeking Review of CLA Decision.** Any party aggrieved by an action taken by a CLA must first seek review from the CLA, which must be filed with the CLA within 60 days from the date of the CLA's decision. A party aggrieved by an action taken by a CLA may, after seeking review by the CLA, seek review from the Commission. A request for Commission review must be filed with the Commission within 60 days from the date the CLA issues a decision on the party's request for review. In all cases of requests for review, the request for review shall be deemed filed on the postmark date. If the postmark date cannot be determined, the applicant must file a sworn affidavit stating the date that the request for review was mailed. Parties must adhere to the time periods for filing oppositions and replies set forth in 47 CFR 1.45.

85. We delegate authority to PSHSB to consider and act upon requests for review of CLA decisions. Requests for review that raise novel questions of fact, law, or policy will be considered by the full Commission. An affected party may seek review of a decision issued under delegated authority pursuant to the rules set forth in part 1 of the Commission's rules. The Bureau will conduct de novo review of requests for review of decisions issued by a CLA. The Commission will conduct de novo review of requests for review of decisions by the CLA that involve novel questions of fact, law, or policy; provided, however, that the Commission will not conduct de novo review of decisions issued by the Bureau under delegated authority. The Bureau will, within 45 days, take action in response to a request for review of CLA decision that is properly before it. The Bureau may extend the time period for taking action on a request for review of a CLA decision for a period of up to 90 days. The Commission may also at any time, extend the time period for taking action of a request for review of

a CLA decision pending before the Bureau. The Commission will issue a written decision in response to a request for review of a CLA decision that involves novel questions of fact, law, or policy within 45 days. The Commission may extend the time period for taking action on the request for review of a CLA decision. The Bureau also may extend action on a request for review of an CLA decision for a period of up to ninety days. While a party seeks review of a CLA decision, they are not authorized to use the FCC IoT Label until the Commission issues a final decision authorizing their use of the FCC IoT Label.

E. Consumer IoT Product Cybersecurity Criteria and Standards

86. **Technical Criteria for Consumer IoT Products.** We adopt the IoT Labeling NPRM proposal that the NIST Core Baseline serve as the basis of the IoT Labeling Program. The NIST Core Baseline is based on product-focused cybersecurity capabilities (also referred to by NIST as "Outcomes") rather than specific requirements, which NIST asserts provide the flexibility needed due to the diverse marketplace of IoT products, and we agree. As outlined in the IoT Labeling NPRM, the NIST criteria includes the following IoT product capabilities: (1) asset identification; (2) product configuration; (3) data protection; (4) interface access control; (5) software update; (6) cybersecurity state awareness; and the following IoT Product Developer Activities: (7) documentation; (8) information and query reception; (9) information dissemination; and (10) product education and awareness.

87. The record reflects broad support for adoption of the technical criteria presented in NISTIR 8425. For example, a coalition of industry stakeholders including the Association of Home Appliance Manufacturers, Connectivity Standards Alliance, Consumer Technology Association, CTIA Information Technology, Industry Council, National Electrical Manufacturers Association, Plumbing Manufacturers International Power Tool Institute, Security Industry Association, Telecommunications Industry Association, U.S. Chamber of Commerce, and USTelecom submitted a letter to the Commission supporting the establishment of "a voluntary program based on the technical criteria developed by [NIST], under NISTIR 8425." UL Solutions supports adoption of the NISTIR 8425 criteria and asserts that there are several mature standards that can be drawn from that address the

NISTIR 8425 criteria, such as UL 2900, UL 5500, and IEC 62443.

88. CTIA supports adoption of the NIST Core Baseline but urges the Commission not to prescribe any specific methodologies that testing programs or standards must use, other than to require that such programs or standards be consistent with NIST Core Baseline. CSA also supports adoption of the NIST Core Baseline but urges the Commission to refrain from developing its own standards for testing. Rather, CSA asserts that they have developed a certification program that meets the requirements of NISTIR 8425 and other relevant standards documents, including ETSI EN 303 645 and the Singapore Cybersecurity Labeling Scheme, and CTA indicates that they are working on American National Standards (ANS) documents that will "[d]efine a Framework that is a standardized and objective method of applying the Criteria in NISTIR 8425 to a candidate Scheme or to a manufacturer's proposal for self-attestation . . ." Garmin encourages the Commission to consider ETSI 303 645 standards, and commenters American Certification Body, Inc. and Consumer Reports encourage international standards such as those developed as a result of the EU Cyber Resiliency Act and UK's Product Security and Telecommunications Infrastructure Act. These commenters did not oppose referencing the NIST criteria.

89. We agree with Infineon, Consumer Reports, and NCTA and adopt NISTIR 8425 as the basis for the Commission's IoT Labeling Program. The consumer IoT environment is complicated by a significant number of different types of consumer IoT products. Adoption of the NIST criteria as the foundation of the IoT Labeling Program will result in a robust consumer IoT program that is sufficiently flexible that it can be applied across all types of consumer IoT products. The NIST criteria were developed through a multi-year effort between NIST and various stakeholders, and includes significant industry input and will continue to be updated by NIST as necessary. The Commission agrees with NIST's publication, which avers that the following NISTIR 8425 criteria identify the cybersecurity capabilities that consumers would expect manufacturers to address within the products they buy. NIST contemplates that most of the criteria concern the IoT product directly and are expected to be satisfied by software and/or hardware implemented in the IoT product (1–6 below) and other criteria apply to the IoT product developer (7–10 below). The following is the list of

¹⁹ We recognize that many of the duties of the Lead Administrator benefit all the CLAs and the program as a whole, and we do not suggest that the costs associated with the duties of the Lead Administrator as described in the Order to be an exhaustive list of the shared costs we expect to be shared among CLAs as a whole.

the NIST IoT product capability criteria, NIST's brief description of each, and the NIST-identified cybersecurity utility for each:

(1) *Asset Identification*: The product can be uniquely identified by the customer and other authorized entities and the product uniquely identifies each IoT product component and maintains an up-to-date inventory of connected product components

i. *Cybersecurity Utility*: The ability to identify IoT products and their components is necessary to support such activities as asset management for updates, data protection, and digital forensics capabilities for incident response.

(2) *Product Configuration*: The configuration of the IoT product is changeable, with an ability to restore a secure default setting, and changes can only be performed by authorized individuals, services, and other IoT product components.

i. *Cybersecurity Utility*: The ability to change aspects of how the IoT product functions can help customers tailor the IoT product's functionality to their needs and goals. Customers can configure their IoT products to avoid specific threats and risk they know about based on their risk appetite.

(3) *Data Protection*: The IoT product protects data store across all IoT product components and transmitted both between IoT product components and outside the IoT product from unauthorized access, disclosure, and modification.

i. *Cybersecurity Utility*: Maintaining confidentiality, integrity, and availability of data is foundational to cybersecurity for IoT products. Customers will expect that data are protected and that protection of data helps to ensure safe and intended functionality of the IoT product.

(4) *Interface Access Control*: The IoT product restricts logical access to local and network interfaces—and to protocols and services used by those interfaces—to only authorized individuals, services, and IoT product components.

i. *Cybersecurity Utility*: Enumerating and controlling access to all internal and external interfaces to the IoT product will help preserve the confidentiality, integrity, and availability of the IoT product, its components, and data by helping prevent unauthorized access and modification.

(5) *Software Update*: The software of all IoT product components can be updated by authorized individuals, services, and other IoT product components only by using a secure and

configurable mechanism, as appropriate for each IoT product component.

i. *Cybersecurity Utility*: Software may have vulnerabilities discovered after the IoT product has been deployed; software update capabilities can help ensure secure delivery of security patches.

(6) *Cybersecurity State Awareness*: The IoT product supports detection of cybersecurity incidents affecting or affected by IoT product components and the data they store and transmit.

i. *Cybersecurity Utility*: Protection of data and ensuring proper functionality can be supported by the ability to alert the customer when the device starts operating in unexpected ways, which could mean that unauthorized access is being attempted, malware has been loaded, botnets have been created, device software errors have happened, or other types of actions have occurred that was not initiated by the IoT product user or intended by the developer.

The following is the list of NIST-identified IoT Product Developer Activities/Non-Technical Supporting Capabilities and their NIST-identified cybersecurity utility:

(7) *Documentation*: The IoT product developer creates, gathers, and stores information relevant to cybersecurity of the IoT product and its product components prior to customer purchase, and throughout the development of a product and its subsequent lifecycle.

i. *Cybersecurity Utility*: Generating, capturing, and storing important information about the IoT product and its development (e.g., assessment of the IoT product and development practices used to create and maintain it) can help inform the IoT product developer about the product's actual cybersecurity posture.

(8) *Information and Query Reception*: The IoT product developer has the ability to receive information relevant to cybersecurity and respond to queries from the customer and others about information relevant to cybersecurity.

i. *Cybersecurity Utility*: As IoT products are used by customers, those customers may have questions or reports of issues that can help improve the cybersecurity of the IoT product over time.

(9) *Information Dissemination*: The IoT product developer broadcasts (e.g., to the public) and distributes (e.g., to the customer or others in the IoT product ecosystem) information relevant to cybersecurity.

i. *Cybersecurity Utility*: As the IoT product, its components, threats, and mitigations change, customers will need to be informed about how to securely use the IoT product.

(10) *Product Education and Awareness*: The IoT product developer creates awareness of and educates customers and others in the IoT product ecosystem about cybersecurity-related information (e.g., considerations, features) related to the IoT product and its product components.

i. *Cybersecurity Utility*: Customers will need to be informed about how to securely use the device to lead to the best cybersecurity outcomes for the customers and the consumer IoT product marketplace.

90. Consumer IoT Product Standards. We find that standards are necessary to administer the IoT Labeling Program in a fair and equitable manner and to ensure the products with the FCC IoT Label have all been tested to the same standards to provide consumers with confidence that products bearing the FCC IoT Label include strong cybersecurity. Commenters generally agree with the adoption of standards based on NIST's Core Baseline for Consumer IoT products (NISTIR 8425). We take up the Cybersecurity Coalition's recommendation "that the Commission or a designated third-party administrator work with stakeholders to identify recognized standards that encompass the Core Baseline, or that offer equivalent controls." NCTA also notes that "Standards Development Organizations ("SDOs") and specification organizations are well-established organizations that can develop standards aligned with NIST guidelines and the Program's goals." According to NIST, the NISTIR 8425 "outcomes are guidelines that describe what is expected . . . but more specific information may be needed to define how to implement IoT products or product components so that they meet an outcome. Requirements define how a component can meet an outcome for a specific use case, context, technology, IoT product component etc. . . ."

91. We reject CTIA's recommendation that the Commission refrain from adopting specific standards and solely rely on the NIST criteria. Rather, the Commission agrees with NIST and commenters that its criteria are general guidelines that must be further developed into a requirements document (i.e., standards) and corresponding testing procedures, which will demonstrate how the product bearing the FCC IoT Label has met the NIST criteria and to ensure consistency of application across a class of products. ITI adds that the "Commission need not recreate [existing] work or develop its own standards but can leverage completed standards work for swift development

and implementation.” The integrity of the Cyber Trust Mark requires the Commission to adopt standards that provide for adequate and consistent testing of products to ensure that all products bearing the FCC IoT Label have demonstrated conformance to the identified standards that the Commission has approved as compliant with the NIST criteria. In addition, for the Commission’s IoT Labeling Program to be fairly administered by the multiple CLAs, all products displaying the FCC’s label must be tested against the same standards to ensure that all products displaying the FCC IoT Label conform to the Commission’s standards.

92. Commenters such as TÜV SÜD agree that “the main requirement when perform[ing] testing for compliance is that the test need[s] to be reliable and always offer the same outcome when a product is tested in the same condition. In the current state of the NIST IoT criteria there is not enough detail[] in the standard, so there is the need to write a more detail[ed] test method/standard.” UL Solutions also “supports the use of the NISTIR 8425 criteria as the basis for the IoT Labeling Program. These criteria help establish a minimum security baseline suitable for consumer IoT products. . . . However, as noted in paragraphs 27 and 28 [of the *IoT Labeling NPRM*], these criteria must be defined by minimum IoT security requirements and standards to enable consistent and replicable product testing.” Moreover, Somos similarly agrees that leveraging existing standards for device definition and security guidelines are the fastest, most effective path to the definition of a secure ecosystem, that NIST 8425 standard is the appropriate starting point, and that “existing standards should allow for the Commission to quickly create its definitions and guidelines.” We agree with the Cybersecurity Coalition that “only those standards and best practices recognized by the labeling program should be eligible, in order to avoid the inclusion of non-credible or irrelevant frameworks that may undermine trust in the label.”

93. We further determine that, given the existing work in this space, the Commission should not undertake the initial development of the standards that underpin the NIST Core Baseline. Rather, as discussed in paragraph 56 above, we direct the Lead Administrator to undertake this task, and delegate authority to the Bureau to review and approve the consumer IoT cybersecurity standards and testing procedures that have been identified and/or developed by the Lead Administrator (after any appropriate public comment) that

ensures the product to which a manufacturer seeks to affix the FCC IoT Label conforms to the NIST criteria. NIST’s *IoT Product Component Requirements Essay* provides a summary of standards and guidance that NIST has initially identified as applicable to IoT devices and IoT product components, that the Lead Administrator may determine are applicable to the IoT Labeling Program. Moreover, the Lead Administrator may also determine existing standards or schemes that exist in the market already may be readily adaptable and leverage such work to meet the terms of the program.

94. The Commission recognizes that since a “product” for purposes of the IoT Labeling Program is comprised of at least one IoT device and any additional product components that are necessary to use the IoT device beyond basic operational features, there may be multiple standards (*e.g.*, a package of standards) applicable to a single IoT product (*e.g.*, standards applicable to IoT devices; mobile apps; networking equipment included with IoT devices; and cloud platforms). The Commission does not anticipate a single standard would be developed or identified to apply to *all* consumer IoT products. However, a single package of standards may be developed or identified for each product type or class as identified by the Lead Administrator and reviewed and approved by the Bureau. We also agree with the Cybersecurity Coalition that “participants should have discretion to include security features that go beyond standard requirements. . . . So long as the additional security features do not conflict with conformity with the standard used for eligibility by the labeling program participants, participants should be encouraged to go beyond baseline requirements.”

F. The FCC IoT Label (Cyber Trust Mark and QR Code)

95. We adopt the IoT Labeling NPRM’s proposal to implement a single binary label with layering. As discussed in the *IoT Labeling NPRM*, “under a binary label construct, products will either qualify to carry the label or not qualify (*i.e.*, not be able to carry the label) and ‘layers’ of the label would include the Commission’s Cyber Trust Mark representing that the product or device has met the Commission’s baseline consumer IoT cybersecurity standards and a scannable code (*e.g.*, QR Code) directing the consumer to more detailed information of the particular IoT product.”

96. We adopt a binary label because we believe that a label signaling that an

IoT product has met the minimum cybersecurity requirements will be simplest for consumers to understand, especially as the label is introduced to and established for the public. The Cybersecurity Coalition supports a binary label, citing the benefits of a simple, consumer friendly nature and its potential to streamline the purchasing decision for consumers. Similarly, as LG Electronics points out, “[l]ike the ENERGY STAR program, a binary label specifying that a device has met a government standard—in this case for cybersecurity—will be enough to drive consumers and manufacturers toward more secure products,” while leaving manufacturers free to separately provide additional cybersecurity information about their products. And the Connectivity Standards Alliance supports the use of a single binary label with layering, as recommended by NIST, asserting that “[a]cademic studies have validated this approach.” Conversely, Canada advocates a multi-tiered approach to labeling to “lower barriers to entry into the labelling regime and facilitate trade and competition by ensuring Micro, Small and Medium Sized Enterprises (MSMEs), with fewer resources to meet a high level of cybersecurity,” and to “provide the incentives for a greater number of firms to innovate in IoT products and work on ‘climbing the ladder’ of cybersecurity levels over time.” Another commenter suggests a multi-tiered label that would have different colors depending on the length of time the product is supported. Other commenters advocate a multi-tiered approach that need not be reflected in different Cyber Trust Marks, but in different information available when a consumer scans the QR code. A study by Carnegie Mellon University indicates that different types of labels of various complexities have varying levels of effectiveness, but does not contest the idea of a binary label. We also recognize that some international regimes, such as Singapore, use a multi-tiered label.

97. Although one could imagine myriad different approaches to labeling that each have relative advantages and disadvantages, on balance we are persuaded to rely on a binary label as we begin our IoT Labeling Program, consistent with NIST’s recommended approach. We agree with the Cybersecurity Coalition that “the primary value of the IoT . . . labeling program is to better enable ordinary consumers to distinguish labeled products as likely providing better basic security than unlabeled products.” We believe a binary label meets this goal by

providing a clear indication that products with the label meet the Commission's cybersecurity requirements. We anticipate that promoting early consumer recognition of the FCC IoT Label—which we think is better advanced by a binary label—will, in turn, make consumers more attuned to cybersecurity issues and more receptive to additional cybersecurity information that manufacturers elect to provide apart from the FCC IoT Label and associated QR code. Thus, we believe that our use of a binary label still retains incentives for manufacturers to innovate and achieve higher levels of cybersecurity. Our approach to determining what cybersecurity standards will be applied also accommodates the potential for different requirements being necessary to meet the NIST baseline criteria in different contexts. To the extent that any multi-tiered labeling approach contemplated by commenters would allow manufacturers to obtain a label through lesser cybersecurity showings, that would be less effective at achieving the goals of our program. And to the extent that any multi-tiered labeling approach would require manufacturers to make heightened cybersecurity showings to achieve higher-tier labels, that is unlikely to lower barriers to participation in the IoT Labeling Program while also risking less understanding and acceptance of the FCC IoT Label by consumers. Because delay in moving forward with the IoT Labeling Program would have its own costs in pushing back the potential for benefits to consumers and device security, we also recognize the benefits of a binary label as more straightforward to implement, at least at the start of our IoT Labeling Program. Weighing all the relevant considerations, we are persuaded to move forward with a binary label at this time.

98. We require that products bearing the FCC IoT Label, which includes the Cyber Trust Mark, must also include the corresponding QR Code. Approval to use the Cyber Trust Mark is conditioned on the label also bearing the QR Code in accordance with the IoT Labeling Program's label standards. In addition, the FCC IoT Label must be easily visible to consumers (e.g., on product packaging). This approach received considerable support in the record. We agree with USTelecom that “consumers should not have to open the package to get information because that could impact their ability to return the product.” Power Tool Institute, Inc. concurs that “[p]lacing a QR Code on the packaging is preferable to placing it

on the device.” Notable pros of using a QR Code are providing “consumers with detailed information about a device or product,” enhancing the program's objective by providing real-time updates. However, some commenters raise concerns with the placement of the QR Code on the product packaging. Logitech urges the Commission to not require a QR Code in conjunction with the label, stating that it could crowd packaging, cause consumer confusion, and may cause confusion if retailers scan the wrong barcode when checking out a customer. We believe that as the label becomes established and recognized by consumers and retailers, the benefit of providing a QR Code linking to a registry populated with current information on the IoT product outweighs the potential for consumer confusion. We also believe the registry will be of value to consumers such that they will want to see it acknowledged in an easily accessible manner, which will override any potential difficulty retailers may have with scanning the incorrect code. Moreover, recognizing the realities of inventory turnover against the need for a cybersecurity label to be dynamic, the use of a QR Code-embedded URL in this context ensures that (1) if a consumer desires more information about the product than what the label itself signifies there is a simple means of access; and (2) information associated with the product's compliance with the IoT Labeling Program is current. We view these as relevant considerations to purchasing decisions, which requires easy access to such information “on the spot” rather than requiring a purchaser to independently seek it out.

99. We direct the Lead Administrator to collaborate with stakeholders as needed to recommend to the Commission standards for how the FCC IoT Label bearing the Cyber Trust Mark and the QR Code should be designed (e.g., size and white spaces) and where such a label should be placed. This should include where the label could be placed on products where consumers may not see product packaging when shopping or after purchasing (e.g., refrigerators, washing machines, dryers, dishwashers, etc.) and including where consumers purchase products online. The Lead Administrator and stakeholders should also examine whether the label design should include the date the manufacturer will stop supporting the product as well as whether including other security and privacy information (e.g., sensor data collection) on the label would be useful to consumers. In addition, the Lead

Administrator should address the use of the FCC IoT Label in store displays and advertising.²⁰ We recognize the current work being done by industry on an appropriate format for the label, including the Cybersecurity Label Design, which is part of CTA's American National Standards Institute (ANSI)-accredited standards program. As noted by CTA in its reply comments, the FCC specifies requirements for the use of the Cyber Trust Mark, but “there are several additional details needed regarding QR coding and resolution, white space for accurate recognition of QR codes, and more.” CTA states that the draft ANSI/CTA-2120 details lay out requirements for packaging, and we encourage the Lead Administrator to review and consider the work CTA's Cybersecurity Label Design working group (a subgroup of CTA's Cybersecurity and Privacy Management Committee) has completed in this regard. We agree that we should take into consideration the considerable work that has already been undertaken with respect to labeling design and placement and seek to leverage and benefit from this expertise by directing the Lead Administrator to seek feedback from a cross-section of relevant stakeholders who have been working on these issues. We delegate authority to PSHSB to review, approve (or not approve) the Lead Administrator-recommended labeling design and placement standards after any required public notice and comment process and if approved incorporate into the Commission's part 8 rules. The provisions of 47 CFR 2.935(a) (allowing the electronic display of “or other information that the Commission's rules would otherwise require to be shown on a physical label attached to the device”) do not apply to the FCC IoT Label. The Cyber Trust Mark may only be used as directed by part 8, notwithstanding 47 CFR 2.935 or any other rule.

G. Registry

100. We adopt our proposal from the *IoT Labeling NPRM* that the label include the Cyber Trust Mark and a QR Code that links to a decentralized publicly available registry containing

²⁰The issue of where the FCC IoT Label would be placed was raised in the record. We agree that flexibility in placement is important in instances where the consumer might not see the product's packaging, such as in larger appliances, before purchasing the product. We recognize that some types of products might be customarily displayed in ways that make a one-size-fits-all approach inappropriate. As such, we agree with the ioXt Alliance's suggestion that we consider how the label may be placed in ways that will be helpful to a consumer, such as through an in-store display, advertisement on a screen, or website.

information supplied by entities authorized to use the FCC IoT Label (e.g., manufacturers) through a common Application Programming Interface (API). The registry will include and display consumer-friendly information about the security of the product. We believe a publicly accessible registry furthers the Commission's mission of allowing consumers to understand the cybersecurity capabilities of the IoT devices they purchase. We also agree that it is important for the registry to be dynamic, so a consumer can be aware if a product loses authorization to use the FCC IoT Label or if the manufacturer is no longer providing security updates. There is robust support for the development of a publicly-accessible registry. We agree with NCTA that "the IoT Registry is foundational to the value and utility of the Cyber Trust Mark Program." In the following paragraphs, we establish general parameters for registry information.

101. We adopt a decentralized registry that contains specific essential information that will be disclosed by the manufacturer, as discussed in further detail below. This essential information from the manufacturer will be provided to a consumer accessible application via the registry by utilizing a common API that is secure by design. When a consumer scans the QR Code, a consumer accessible application will access the registry using the common API and present the consumer with the information we require to be displayed from the registry. CTIA points out that a centralized registry containing all the information the Commission conceived in the *IoT Labeling NPRM* and by commenters in the record would be inordinately complex and costly. We agree, and endeavor to meet the policy goal of providing a transparent, accessible registry to the public through more efficient and less complicated means.

102. We agree with the Commission's assessment in the *IoT Labeling NPRM* that the registry's goal is to assist the public in understanding security-related information about the products that bear the Cyber trust Mark. CTIA confirms this view, stating "the Commission should focus on the [registry] as a means to provide consumers with information that is critical to the success of the program." CTIA further proposes that we should allow each manufacturer to establish their own mechanisms for conveying this information to consumers. However, we acknowledge ioXt Alliance's concern that a completely manufacturer-driven approach could lead to inconsistencies, inaccuracies, or other difficulties for the

consumer. To balance the need for a workable, streamlined registry that is consistent for consumers and meets the Commission's goals while easing the administrative burden inherent in a centralized registry, we require a common API that would provide access to the following essential information from the manufacture and display it to the consumer in a simple, uniform way:

- Product Name;
- Manufacturer name;
- Date product received authorization (i.e., cybersecurity certification) to affix the label and current status of the authorization (if applicable);
- Name and contact information of the CLA that authorized use of the FCC IoT Label;
- Name of the lab that conducted the conformity testing;
- Instructions on how to change the default password (specifically state if the default password cannot be changed);
- Information (or link) for additional information on how to configure the device securely;
- Information as to whether software updates and patches are automatic and how to access security updates/patches if they are not automatic;
- The date until which the entity promises to diligently identify critical vulnerabilities in the product and promptly issue software updates correcting them, unless such an update is not reasonably needed to protect against cybersecurity failures (i.e., the minimum support period); alternatively, a statement that the device is unsupported and that the purchaser should not rely on the manufacturer to release security updates;
- Disclosure of whether the manufacturer maintains a Hardware Bill of Materials (HBOM) and/or a Software Bill of Materials (SBOM);²¹ and
- Additional data elements that the Bureau determines are necessary pursuant to the delegated authority discussed below.

103. To reduce potential burdens and focus on essential information, we pare back the scope of the registry from what the Commission proposed in the *IoT Labeling NPRM*. We agree with the Cybersecurity Coalition that "[t]he primary purpose of the label is to help consumers make informed purchasing decisions" and include in the registry information that is key to making a purchasing decision, without overwhelming the consumer. To this end, we agree with commenters who

suggest that including the information proposed in the *IoT Labeling NPRM* may be too burdensome. NEMA, for example, expresses concern about the resources required for a registry containing a full catalogue of devices. CTIA agrees that the IoT registry envisioned by the *IoT Labeling NPRM* would "impose significant, unmeetable burdens" for participants and the manager of the registry, and encourages us to refine our approach. The Cybersecurity Coalition likewise expresses concern over the complexity of the proposed registry. We agree that the registry be "modest in its goals" and "limited to basic information that is uniform . . . and pragmatic and useful to the consumer." We believe that a registry containing simple, easy to understand information will be most helpful to a consumer making a purchasing decision, but also see the value in allowing manufacturers to include a second registry page (following the consumer-focused page) to enable manufacturers to provide additional technical details designed for researchers, enterprise purchasers, and other expert consumers of the label. Focusing only on the most critical information will further facilitate the speedy establishment of the *IoT Labeling Program* and the registry itself.

104. In the interest of keeping information simple and establishing the database swiftly, we streamline the elements that should be included in the registry. We do require information about how to operate the device securely, including information about how to change the password, as it would help consumers understand the cybersecurity features of the products, how those products are updated or otherwise maintained by the manufacturer, and the consumer's role in maintaining the cybersecurity of the product. We do not require information about whether a product's security settings are protected against unauthorized changes as part of the initial rollout of the registry in an attempt to streamline the registry to address concerns that the registry would be too bulky or unfriendly to consumers. We recognize the value of ensuring the registry information is accessible to everyone, including those whose primary language is not English. Accordingly, we direct the Lead Administrator to recommend to the Bureau whether the registry should be in additional languages and if so, to recommend the specific languages for inclusion. We delegate authority to the Bureau to consider and adopt requirements in this regard upon review

²¹ In addition to the declaration, the SBOM and HBOM will be made available upon request by the Commission, CyberLAB, and/or CLA.

of these recommendations. As the Association of Home Appliance Manufacturers points out, the location of the product's manufacture is redundant with existing legal requirements. We also do not require labels to include an expiration date at this time as it may not be an applicable requirement for every product, but we direct the Label Administrator to consider whether to recommend including the product support end date on labels for certain products, or category of products.

105. While we recognize the value of utilizing the registry to keep consumers informed about product vulnerabilities, we note CTIA and Garmin's concerns about listing unpatched vulnerabilities as not providing value to consumers, discouraging manufacturers from participating in the program, and tipping off bad actors. We agree that these concerns are significant and do not require detailed information about vulnerability disclosures in the registry at this time. Rather, we require disclosure only of whether a manufacturer maintains an SBOM and HBOM for supply chain security awareness. We agree with Consumer Reports, NYC Cyber Command Office of Technology and Innovation (NYC OTI), and the Cybersecurity Coalition that an SBOM should be considered as an element of the registry. We also note that Garmin's concern is with disclosing the specific contents of an SBOM to the public, which "could reveal confidential business relationships with companies, as well as provide a roadmap for attackers," but this is not what we require here. Requiring participating manufacturers to disclose only the maintenance of an SBOM and HBOM, rather than the contents therein, indicates an added level of software and hardware security while also protecting potentially sensitive information. Further, while we agree with CTA that a searchable registry would have value for the public, we are mindful of the resources, costs, and time involved with creating a registry that is searchable by each of the elements identified in the IoT Labeling NPRM. In limiting the registry as we have, we address the concerns that the registry may be too complex to administer in the initial iteration of the IoT Labeling Program. As discussed above, the decentralized, API-driven registry we adopt in the Order addresses the complexity concerns raised in the record. We cabin our initial vision of the registry and direct the Bureau, as described further below, to consider ways to make the initial design of the registry modest,

with potential to scale the registry as the IoT Labeling Program grows.

106. In this respect, we note that NIST's research suggests that "future work should be done to examine potential issues of including an expiry date on a label." NIST cited studies conducted by the UK Government that consumers were confused about what the expiration date meant, and an Australian government study in which consumers thought the device would stop working after that date. The UK research did conclude, however, that continued manufacturer support was important to survey participants. Consumer Reports suggested an expiration date, if present, should be tied to an end-of-support date rather than a renewal date. NIST's research into the importance of support dates to consumers coupled with the potential confusion of expiration dates and the support from the record lead us to conclude an expiration date is not warranted. We do find, however, that the disclosure of a minimum support period and end date for the support period for the device is appropriate and will provide meaningful information to consumers on the manufacturer's commitment to provide patches or other support—a vital issue in a dynamic threat environment. To ensure that information about this support period remains accurate, and to encourage manufacturers to support their products for longer periods, manufacturers shall be able to extend the support period in the registry through a mechanism to be determined by the Lead Administrator, but which should be expeditious and require no further disclosures.

107. While we identify the defined set of data that is consistent across all manufacturers, we believe the information contained in the registry for a particular IoT product or product class may also depend on the standards and testing procedures adopted for each particular IoT product. As such, in the near term, we expect there will be additional registry data elements that are specific to an IoT product, or classes of IoT products, that are not yet ripe for decision. We also recognize that some of the information recommended by NIST in its consumer education recommendations, discussed in further detail below, may be valuable for consumers to see in the registry. Accordingly, while we provide a baseline of necessary information that must be displayed for an IoT product in the registry, regardless of class the IoT product belongs to, we delegate authority to the Bureau to determine, subject to any required public notice and comment processes, whether any

additional disclosure fields, such as the manufacturer's access control protections (e.g., information about passwords, multi-factor authentication), whether or not the data is encrypted while in motion and at rest (including in the home, app, and cloud), patch policies and security or privacy information are necessary, and if so, what should they be.

108. We disagree with commenters, such as LG Electronics, who suggest that manufacturers should have discretion over whether to include additional privacy and/or security information through a QR Code, URL, or other scannable mechanism insofar as it would require additional information in the registry. LG Electronics, though supportive of adding a variety of data to the registry, acknowledges it is unclear how much detail or what types of information would be of value to a consumer. We believe that allowing discretion over what information is included in the registry may overcrowd it, or engender consumer confusion. Rather, uniform registry elements will provide greater consistency for consumers and adoption of uniform registry elements is supported by the record. We make clear, however, that we do not otherwise restrict what information manufacturers may include or reference on their product packaging, so long as it does not interfere with or undermine the display of the FCC IoT Label.

109. We recognize that a decentralized registry relying on data derived through an API from manufacturers will require some oversight to ensure that the registry, when accessed by consumers using QR Codes, functions as described and displays the required information about individual products. We direct the Lead Administrator to receive and address any technical issues that arise in connection with displaying the registry through the QR Code, the associated API, and consumer complaints with respect to the registry. CSA recommends that the Commission engage a third-party with operating the registry for cost and efficiency reasons. CTA agrees that the Commission should use a third-party to host and manage the registry due to the resources required to establish the registry. We agree that, given the structure of the registry as we adopt in the Order, the Lead Administrator is in the best position to interface with manufacturers to ensure the smooth operation of the registry.

110. We also recognize that for a registry of this magnitude to be effectively and timely rolled out requires significant input and

coordination with industry partners. To determine how the registry should be structured to best meet the goals of the IoT Labeling Program as we adopt in the Order, we direct the Bureau to seek comment and consider, as part of a public process, the technical details involved with the operation of the registry. We delegate authority to the Bureau to adopt a Public Notice, subject to any required public notice and comment, establishing the structure of the registry; identifying the common API; how the API should be structured; how the API should be used; how the queried data will be displayed to the consumer; how manufacturers need to maintain and implement the API in connection with its interactions with the registry; what, if any, additional disclosure fields would be most beneficial to consumers in the future, as discussed above; how the data in the registry returned by the API should be presented to the consumer; how the costs involved in maintaining the registry will be handled; how often the registry should be updated; whether to require the manufacturer to list the product sensors, what data is collected, if the data is shared with third parties, or security or privacy issues and if data should be replicated; and whether data should be replicated in multiple repositories—by the relevant CLA(s) or vendors, for example—and publicly accessible via a single query point; and any other technical information needed to establish the registry as we adopt in the Order. The Bureau should consider how to reduce burdens on manufacturers in supporting the decentralized registry. We delegate authority to PSHSB in coordination with, at a minimum, OMD (specifically the Office of the Chief Information Officer) and, to the extent necessary OGC (specifically the Senior Agency Official for Privacy) to identify and impose any applicable security or privacy requirements arising from Federal law or Federal guidance for the registry and to approve or modify the recommendations regarding the functional elements of the registry listed above. We further delegate authority to PSHSB to publish a Public Notice, subject to any required public notice and comment, adopting and incorporating into the Commission's rules any additional requirements or procedures necessary to implement the Cyber Trust Mark registry.

H. Continuing Obligations of Entities Authorized To Use the FCC IoT Label

111. We adopt the proposal in the IoT Labeling NPRM that applicants must renew their authority to use the FCC IoT

Label. Entities authorized to use the FCC IoT Label are required to ensure the product bearing the FCC IoT Label continue to comply with the Commission's program requirements. We disagree with the Connected Consumer Device Security Council (CCDS) that no renewals should be required and the product should simply bear the last date of testing. Such an approach could severely impair consumer trust in the label, especially if a product bearing the FCC IoT Label is being sold as new but is far out of date as to its initial achievement of the Mark.

112. For those that support some interval of renewal, the record is divided with respect to whether IoT Labeling Program applicants should file for renewal each year, as proposed in the IoT Labeling NPRM. Consumer Reports and TÜV SÜD agree that annual renewal is appropriate. AHAM feels that an annual renewal application as the Commission proposed was unnecessary, or at minimum "unnecessarily rigid." AHAM posits that a requirement to renew should only be triggered when a significant or substantive change is made to either the standard the manufacturer certifies to, or a significant design change to the product. Similarly, more durable IoT products (such as smart appliances) may need to be renewed less frequently. NAM argues that annual renewals are unnecessary for products that pose a limited risk. Kaiser Permanente believes higher-risk devices should be updated annually, and otherwise renewal should occur every three years. CCDS argues no annual testing is necessary, and the product should simply have the date it was authorized to bear the label that signals the product was compliant as of the initial date. CSA suggests limiting the need for annual testing, but suggests some kind of annual reporting should be required. We observe that other certifying bodies, such as ioXt Alliance, require annual renewal for products they certify and allow incentives for early renewal. Based on the record, we recognize the degrees of nuance attendant to the different types of products at issue. We agree with the notion that certain IoT products, depending on their lifespan and risk level, may need different standards for renewal to achieve the FCC IoT Label.

113. We task the Lead Administrator to collaborate with stakeholders and provide recommendations to PSHSB on how often a given class of IoT products must renew their request for authority to bear the FCC IoT Label, which may be dependent on the type of product, and that such a recommendation be submitted in connection with the

relevant standards recommendations for an IoT product or class of products. In doing so, consideration should be given as to whether annual continuous compliance reports are acceptable for purposes of renewing, and how to effectively balance the need for industry flexibility and the need to ensure that consumers have up-to-date information about the product they are considering purchasing. Consideration should also be given to the fees incurred as part of a renewal process, as we agree with Kaiser Permanente that renewal fees must not be unduly burdensome or cost-prohibitive. We emphasize that renewals should occur frequently enough that a consumer can be sure that a product bearing the FCC IoT Label has reasonable cybersecurity protections in place, and some process must be in place to ensure accountability, even if annual testing is not required. We delegate authority to PSHSB to review, approve (if appropriate) and, subject to any required public notice and comment, incorporate by reference into the Commission's rules, the proposals from the Lead Administrator for renewal of authority to bear the FCC IoT Label.

I. Audits, Post-Market Surveillance, and Enforcement

114. We adopt the IoT Labeling NPRM's proposal to rely on a combination of administrative remedies and civil litigation to address non-compliance and direct the CLA(s) to conduct post-market surveillance. The purpose of this IoT Labeling Program is to provide reasonable assurances to the consumer that the products they bring into their homes have at least a minimum level of cybersecurity. The success of the IoT Labeling Program hinges on the label retaining its integrity as a trusted consumer resource. This requires vigorous review and enforcement to ensure that products bearing the Cyber Trust Mark are in compliance with the program standards. We further observe that the ISO/IEC 17065 standards require CLAs to perform appropriate post-market surveillance activities. We adopt post-market surveillance and civil enforcement, accordingly.

115. We find support in the record that the "Mark must be trusted by consumers to be successful" and "to gain consumer confidence and incentivize cybersecurity, the label must be backed by a robust enforcement program." We agree with the EPIC's position that weak enforcement may result in unmet consumer expectations regarding a product's actual level of cybersecurity and "allow bad actors to take advantage of the goodwill created

by the cybersecurity program,” and take up its recommendation of independent, post-market audits accordingly. Whirlpool also supports regular market surveillance to find instances of unapproved use of the Cyber Trust Mark, as well as products that may have been certified but no longer meet program requirements. Whirlpool states that surveillance “should include random auditing . . . as well as sampling of some established percentage on a regular basis of certified products/devices.” The American Association for Laboratory Accreditation supports adopting the product surveillance standards established for Telecommunication Certification Bodies (TCBs) and in the EPA’s ENERGY STAR program. We also agree with commenters who indicate that the Commission, CLAs, and possibly the Federal Trade Commission (FTC) should be able to receive complaints of noncompliant displays of the Cyber Trust Mark, which could result in auditing. We delegate authority to the Bureau, in coordination with the Consumer and Governmental Affairs Bureau, to determine the process for receiving and responding to complaints. CTA and Planar Systems also support random auditing. We agree that random audits, in addition to regular post-market surveillance will best serve to maintain consumer confidence in the Cyber Trust Mark.²²

116. Post-market surveillance. We agree with the Cybersecurity Coalition that post-market surveillance of products receiving the Cyber Trust Mark should be a principal enforcement mechanism, and find that CLAs are in the best position to conduct post-market surveillance and random auditing, in accordance with ISO/IEC 17065. These activities are based on type testing a certain number of samples of the total number of product types which the CLA has certified. In addition, each CLA must be prepared to receive and address post-market surveillance from the public. If a CLA determines that a product fails to comply with the technical regulations for that product, the CLA will immediately notify the

grantee and the Lead Administrator in writing. The grantee will have 20 days to provide a report to the CLA describing actions taken to correct the deficiencies. Continued deficiency after 20 days will result in termination of the grantee’s approval to display the Cyber Trust Mark. A grantee’s approval to display the Cyber Trust Mark may also be terminated subject to the 20 day cure period for false statements or representations found in their application or associated materials or if other conditions come to the attention of a CLA which would warrant initial refusal to authorize use of the FCC Label. Such terminations will protect the integrity of the FCC IoT Label and encourage accurate representations and disclosures in application materials that will enhance the reliability of the Labeling Program’s operation, more generally.

117. We believe it is appropriate for the Lead Administrator, in collaboration with the CLAs and other stakeholders, to identify or develop, and recommend to the Commission for approval, the post market surveillance activities and procedures that CLAs will use for performing post-market surveillance. The recommendations should include specific requirements such as the number and types of samples that a CLA must test and the requirement that grantees submit, upon request by PSHSB or a CLA, a sample directly to the CLA to be evaluated for compliance at random or as needed.²³ We delegate authority to the Bureau to review the recommendations and, subject to any required public notice and comment, incorporate post market procedures into the Commission’s rules. We also delegate authority to the Bureau to establish requirements (subject to any required public notice and comment) regarding post-market surveillance of products in any instances where the CLA that granted the authorization of the product is not available to conduct such post-market surveillance. The document will also address procedures to be followed if a grantee’s approval to display the Cyber Trust Mark is terminated based on mandatory post-market surveillance or notice from the public, including disqualification from the IoT Labeling Program and potential further investigation into other products related to the manufacturer or the CyberLAB, as discussed below. Finally, the Lead Administrator will submit periodic reports to PSHSB of the CLAs’

²³ If necessary to accommodate the volume of auditing, a CLA may outsource some post-market surveillance testing to a recognized CyberLAB, but retains responsibility for the final review.

post-market surveillance activities and findings in the format and by the date specified by PSHSB.

118. The IoT Labeling NPRM sought comment on disqualification for nonconformity, referencing the Department of Energy’s ENERGY STAR program, which sets out contractual Disqualification Procedures, including a 20 day period to dispute before a formal disqualification decision and what steps an ENERGY STAR partner must take after being formally disqualified (*e.g.*, removing references to ENERGY STAR in the product labeling, marketing). The IoT Labeling NPRM asked whether the IoT Labeling Program should adopt a similar process. We agree with EPIC and Planar Systems in supporting a “cure period [to] give[] good actors the opportunity to fix any issues without incurring penalties” and “to address any discovered non-conformance as long as the manufacturer is acting in good faith.” Here, we adopt a cure period of 20 days, which is in line with the ENERGY STAR program.

119. EPIC also supports adopting disqualification procedures similar to ENERGY STAR’s for non-compliance, including ceasing shipments of units displaying the label, ceasing the labeling of associated units, removing references to the label from marketing materials, and covering or removing labels on noncompliant units within the brand owner’s control. It notes that the EPA also conducts retail store level assessments to identify mislabeled products and argues that a robust enforcement mechanism should include all of these actions. We delegate to the Bureau to consider whether such requirements should follow from termination of authority.

120. In addition, we find that a combination of enforcement procedures for non-compliance are available, including administrative remedies under the Communications Act and civil litigation trademark infringement or breach of contract. Administrative remedies may include, but are not limited to, show cause orders, forfeitures, consent decrees, cease and desist orders, and penalties. The Commission will pursue all available means to prosecute entities who improperly or fraudulently use the FCC IoT Label, which may include, but are not limited to, enforcement actions, legal claims of deceptive practices prosecuted through the FTC,²⁴ and legal

²⁴ In addition, to further help safeguard the integrity of the IoT Labeling Program and the FCC IoT Label, we codify a rule that prohibits any person from, in any advertising matter, brochure, etc., using or making reference to the FCC IoT Label or the Cyber Trust Mark in a deceptive or

²² To enable a meaningful audit process it will be important to be able to review certain key records, which we consequently will require grantees to retain records regarding the original design and specifications and all changes that have been made to the relevant consumer IoT product that may affect compliance with the IoT Labeling Program requirements; a record of the procedures used for production inspection and testing; and a record of the test results that demonstrate compliance. See 47 CFR 8.215. We model our approach on analogous elements of our equipment authorization rules, with which the Commission and industry have substantial experience, and which have proven workable in practice. See 47 CFR 2.938(a), (f).

claims for trademark infringement or breach of contract. The record supports both administrative remedies to address consumer harm and civil enforcement actions for false use of the FCC IoT Label. We assert that this combination of enforcement mechanisms are best suited to protect consumer trust in the Cyber Trust Mark and incentivize participant compliance.

121. Cyber Trust Mark Demonstrates Adherence to Widely Accepted Industry Cybersecurity Standards. While we decline to preempt state law, we find that approval to use the Cyber Trust Mark on a particular product is an indicator of reasonableness and demonstrates adherence to widely accepted industry cybersecurity standards. While several commenters support Commission preemption of state laws, as well as adoption of liability protections for devices approved to display the Cyber Trust Mark, we decline to preempt state law and decline to implement a legal safe harbor beyond reiterating the Commission's view that achievement of FCC IoT Label is an indicium of reasonableness for entities whose products are compromised despite being approved to use the Cyber Trust Mark. We recognize that a more fulsome safe harbor provision may indeed incentivize participation in the IoT Labeling Program, as the U.S. Chamber of Commerce urges. However, on this record we are not persuaded that it would be feasible or prudent for the Commission to make liability pronouncements as to laws or standards outside the Commission's purview as would be necessary for a broader safe harbor in the absence of preemption. As EPIC observes, such a safe harbor could also decrease consumer trust in the label. In addition, several states have adopted legal safe harbors for entities that implement reasonable security measures (e.g., voluntarily adopt recognized best practices such as NIST's and implement written security programs), and we defer to the states to determine whether approval to use the Cyber Trust Mark meets these State requirements. Given the uncertain interplay between qualification to use the Cyber Trust Mark and various state law regimes, coupled with the risk that such a safe harbor could decrease consumer trust in the label, we decline to preempt state liability requirements at this time.

misleading manner. See 47 CFR 8.213(b). We model our approach on analogous elements of our equipment authorization rules, with which the Commission and industry have substantial experience, and which have proven workable in practice. See 47 CFR 2.927(c).

J. International Reciprocal Recognition of the Cyber Trust Mark

122. We note the robust record highlighting the immense value to manufacturers of IoT products in international harmonization of cybersecurity standards. We agree with Widely that "IoT devices are often manufactured and sold globally. As supply chains evolve, a consistent set of standards will support the rapid growth of innovation and security." We further agree with Consumer Reports that "mutual recognition should only occur when the other program to be recognized has standards as stringent or more stringent" than the IoT Labeling Program.

123. We recognize several other countries already have an established national cyber IoT labeling program, including Singapore, Finland, and Germany. The record cites to these programs and highlights their features for consideration in developing the IoT Labeling Program. For example, the record explains how Singapore's CLS takes reference from the EN 303 645 standards developed by the European Telecommunications Standards Institute (ETSI). We note that other commenters have also recommended use of the ETSI EN 303 645 standards. Further, the record provides Finland's IoT labeling database as an example for developing our IoT registry. Several other countries have government activity around IoT devices or products. For example, Canada has a cybersecurity certification program for small and medium-sized organizations. As another example, South Korea has a IoT security certification system justified under Article 48–6 of their "Act on Promotion of Information and Communications Network Utilization and Information Protection" statute.

124. We also observe continuing developments in IoT security across the globe for consideration. The European Union Agency for Cybersecurity (ENISA) is currently developing a cybersecurity certification framework that would require certain products, services, and processes to adhere to specific requirements. Relatedly, the U.S. has signed an agreement for a joint roadmap between the Cyber Trust Mark and similar consumer labeling programs in the EU. Further, Japan has committed to work with the U.S. to "ensure interoperability" of its IoT labeling scheme currently under development.

125. We fully recognize the importance of ensuring international recognition of the IoT Labeling Program and reciprocity considerations underlie our decisions in the Order. We delegate

authority to the Bureau and the FCC Office of International Affairs to work with other Federal agencies to develop international recognition of the Commission's IoT label and mutual recognition of international labels, where appropriate, as promptly as possible to enable recipients of the Cyber Trust Mark to realize the benefits an internationally recognized Cyber Trust Mark can have to promote global market access. Moreover, the proliferation in the marketplace both in the U.S. and abroad of products meeting a common baseline standard will elevate the overall global cybersecurity baseline for IoT and promote security-by-design approaches to smart products.

K. Consumer Education

126. We adopt the IoT Labeling NPRM's proposal and base the IoT Labeling Program's consumer education requirements on the considerations NIST outlines in the NIST Cybersecurity White Paper due to its general applicability to an IoT label and in light of support from the record. The Lead Administrator will be responsible for developing a consumer education campaign that is based on the considerations recommended by NIST in the NIST Cybersecurity White Paper and discussed in greater detail below. In developing its consumer education plan, we task the Lead Administrator with considering ways to roll out a robust campaign with a reasonable national reach, including ways to make the consumer education accessible and whether education materials should be developed in multiple languages. We further task the Lead Administrator with considering the costs of conducting such outreach and how that outreach would be funded. Once developed, the Lead Administrator will submit this consumer education plan to the Bureau for consideration and for coordination in publicizing the benefits of the IoT Labeling Program. We recognize the importance of close collaboration between industry and delegate authority to the Bureau to consider and work with the Lead Administrator and other stakeholders to determine how the consumer education campaign would be executed and to execute the campaign. In addition and in furtherance of our expectation that the success of the IoT Labeling Program will be dependent on a close collaboration with the Federal Government, industry, and other relevant stakeholders, the Commission will coordinate as needed with relevant agencies, such as the Department of Homeland Security, Cybersecurity and Infrastructure Security Agency (CISA), the Federal Bureau of Investigation

(FBI), as well as the FTC, the Consumer Product Safety Commission (CPSC), and other industry stakeholders who have indicated a willingness to publicize the benefits of the IoT Labeling Program as part of their own consumer education activities.

127. We agree with CEDIA that consumer education will have a significant impact on meeting the IoT Labeling Program's goals. We further agree that adequate consumer education must inform consumers of the limitations of the Cyber Trust Mark as well as the benefits of having a product that meets baseline cybersecurity requirements, and we agree with CSA that consumers should understand that the label does not guarantee complete device security, but that such protections are an important component of risk management. As pointed out by the City of New York's Office of Technology and Innovation, an effective consumer education program would need to cover the risks and threats to "digital integration of [IoT] devices" and how those risks "can be lessened by helping operators, users, and consumers . . . learn the key elements of a strong IoT Cybersecurity posture." We agree with commenters in the record that NIST's approach to consumer education is best, and note that no commenters opposed NIST's approach.

128. As the Commission acknowledged in the IoT Labeling NPRM, NIST has prepared a document identifying consumer education considerations as part of its analysis of a cybersecurity labeling program. In following with NIST's recommendations, the Commission believes consumers should have access to the following information as part of the IoT Labeling Program's consumer education plan:

(1) What the label means and does not mean, including that the label does not imply an endorsement of the product and that labeled products have not completely eliminated risk;

(2) What cybersecurity baselines must be met to obtain authority to affix the label, why they were included, and how those criteria address security risks;

(3) A glossary of applicable terms, written in plain English;

(4) General information about the conformity assessment process, including information about how the conformity assessment was conducted and the date the label was awarded to the product;

(5) The kinds of products eligible for the label and an easy way for consumers to identify labeled products;

(6) The current state of device labeling as new cybersecurity threats and vulnerabilities emerge;

(7) Security considerations for end-of-life IoT products and functionality implications if the product is no longer connected to the internet;

(8) Consumer's shared responsibility for securing the device software and how their actions (or inactions) can impact the product's software cybersecurity; and

(9) Contact information for the IoT Labeling Program and information on how consumers can lodge a complaint regarding a product label.

129. We recognize that some aspects of this consumer education campaign overlap other aspects of the IoT Labeling Program, such as the registry. We see no harm with including that information in the registry as well as the consumer education campaign. We also observe the importance of conducting what NIST describes as a "campaign" to establish and increase label recognition, and thus envision a Lead Administrator-led, multiple stakeholder engagement that puts NIST's recommendations into practice.

130. NIST has conducted research into the consumer perspective on the loss of manufacturer support in IoT products. The research suggests that proactive communication to consumers from the manufacturer with information about end-of-life support policies, the expected lifespan, and how to sign up for notifications about changes to support is an additional, important step. NIST also emphasizes the importance of consumer education about the meaning of the dates attached to a label, and cautions that this can confuse consumers as to the date's meaning. We agree with Consumer Reports that educating consumers about the meaning of support periods is an important aspect of consumer education. We believe that the recommendations identified by NIST in the NIST Cybersecurity White Paper, coupled with the consumer research done by NIST and industry, provide a strong model that the Lead Administrator can utilize in its consumer education campaign to meet the goals NIST and the record, discussed above, identify as important for a successful consumer education campaign.

131. To assist the Lead Administrator in promoting consumer education, the Commission will coordinate publicizing the benefits of the IoT Labeling Program with the relevant agencies, including the Department of Homeland Security, CISA, FBI, FTC, CPSC, and other industry stakeholders who have indicated a willingness to assist with

consumer education. A coalition of trade associations advocates for a consumer education program led by the U.S. Government, but do not propose how to conduct outreach consistent with the Federal outreach concerns articulated in the *IoT Labeling NPRM*. We agree that a government outreach program is essential in a larger campaign to effectively inform consumers about the IoT Labeling Program, consistent with NIST's recommendations identified above. The Commission intends to work closely with CISA to make use of their "Secure our World" program. We agree with CTA that Federal consumer education efforts do not preclude independent communication and outreach programs. For example, the National Retail Foundation indicated their willingness to support consumer education efforts. While Everything Set, Inc. is concerned that outsized private sector involvement in consumer education might hurt the campaign's credibility, we believe that retail and manufacturer involvement in promoting the IoT Labeling Program and the limitations of the IoT Labeling Program are important to ensure widespread recognition of the Cyber Trust Mark in commerce. To promote consumer education and engage in a joint effort with industry and stakeholders to raise awareness of the label, the Commission will coordinate with the Lead Administrator, Executive Agencies, and other industry stakeholders who have indicated a willingness to publicize the benefits of the IoT Labeling Program as part of their own consumer education efforts.

L. Cost/Benefit Analysis

132. Our analysis indicates that the expected benefits of the IoT Labeling Program greatly exceed the expected costs of the program. The expected benefits of the IoT Labeling Program include improved consumer cyber awareness; reduced vulnerability of products that could be used in cyberattacks both in people's homes and as part of a larger national IoT ecosystem; and increased manufacturer competition and relational benefits stemming from increased goodwill and product awareness. Consumers value the security of their devices, and the complexity of understanding whether IoT devices meet baseline security standards, and making informed purchases on that basis is a significant cost to consumers.

133. Consumer Benefit from Reduced Search Costs. The Cyber Trust Mark can lower consumer research costs by reducing the amount of time consumers spend researching the cybersecurity

characteristics of IoT products before making a purchase. We estimate that the Cyber Trust Mark will save consumers at least \$60 million annually from reduced time spent researching cybersecurity features of potential purchases. We use the U.S. Department of Transportation (DOT)'s approach of valuing the time savings of travel to value the time savings to consumers of the Cyber Trust Mark. Our analysis relies on the share of households with a smart home device (which we note is only one segment of the IoT market likely to be impacted by the Order), the share of those households that are likely to devote time to investigating the cybersecurity of their connected products, and an estimate of their time value of researching cybersecurity characteristics of devices. First, we estimate that 49 million U.S. households own at least one IoT device from a market segment that likely will be impacted by the Cyber Trust Mark. Further, recent survey evidence suggests that 32% of households are invested in reducing their cybersecurity risk. We estimate each hour of time savings to be valued at \$16 based on the median compensation in the U.S. and an individual's potential preference for researching products rather than working an additional hour. We note that this calculation only focuses on one segment of the IoT market, which may underestimate the time savings induced by the Order. We recognize that the exact time savings of utilizing the Cyber Trust Mark relative to searching for information online is unknown, so a lower end estimate of 15 minutes of time savings per year per household is used. We find a 15-minute time savings is consistent with the value of cybersecurity features disclosed in surveys. Given manufacturer and industry group comments showing support for consumer awareness and cybersecurity, we believe there would be sufficiently large enough immediate manufacturer participation in the IoT Labeling Program to incur these benefits in the first year of the program, and every year thereafter. Nationwide, the Cyber Trust Mark would result in a minimum of \$60 million in time savings annually.²⁵

134. A separate approach to calculating the benefit of the Cyber Trust Mark is to estimate the value consumers place on security and privacy features of IoT devices. A study submitted by Consumer Reports found that respondents valued individual

security upgrades between \$6 and \$13. The study also found that devices were valued at around \$34 more if they had a label emphasizing a bundle of the most protective security features. Given the difficulty consumers face in understanding what security and privacy features are included in a device, the Cyber Trust Mark would help consumers easily identify and choose products with features they value. For example, if the Cyber Trust Mark represented the most protective features associated with the label in the study, a consumer would benefit by \$34 from purchasing a device with the Cyber Trust Mark over a device that did not display the Mark. Based on our estimate of 15 million households that would be impacted by the IoT labeling program, we estimate that the benefit to consumers, in terms of the added value of the Cyber Trust Mark, would be between \$85 million and \$500 million annually. While the exact security features that will be proposed by the Lead Administrator in collaboration with stakeholders are not yet determined, if the Cyber Trust Mark only emphasized the lowest valued security feature, the program would produce a benefit of at least \$85 million.

135. Manufacturer Competitive and Reputational Benefits. Aside from the direct benefits to consumers, there are also wider benefits of the Cyber Trust Mark. Participating businesses benefit from product differentiation and quality signaling vis-a-vis competitors that do not participate in the IoT Labeling Program and from increased company goodwill and reduced risks related to cybersecurity incidents. By aligning minimum security practices with the proposed standards, and communicating those standards to consumers, manufacturers may be able to generate goodwill and reduce business loss after cybersecurity incidences. While we do not revisit our discussion of a safe harbor from liability as discussed above, we note that manufacturers may benefit from adopting security practices that are consistent with standards necessary to bear the Cyber Trust Mark. We highlight that there have been several instances where the Federal Trade Commission investigated and settled with firms due to poor security practices or inaccurate communication of their security practices. We merely note that a manufacturer that has gone through the process of obtaining the Cyber Trust Mark may benefit from likely having documented the security practices and attendant testing necessary to acquire the Mark.

136. Market-Wide Benefits of Reduced Cybersecurity Incidents. Insecure IoT products are often used in distributed denial-of-service (DDoS) attacks, which can be used to overwhelm websites to create a distraction during other cybersecurity crimes, or to request a ransom be paid to stop the attack. While we cannot quantify the expected benefits the Cyber Trust Mark may have on reducing the number of vulnerable devices and/or the potential reduction on their likelihood of being used in a cybersecurity attack, commenters do highlight improved security as one of the major benefits of this IoT Labeling Program. We do further emphasize this as a benefit that is likely to have significant impacts on firms in a wide range of industries.

137. Costs to IoT Labeling Program Participants. Only those entities who choose to participate will incur costs associated with the voluntary IoT Labeling Program. The specific costs of participating manufacturers cannot be readily measured but are expected to include: conformity testing fees at a CyberLAB, CLA lab, or through in-house testing; CLA fees; internal compliance and filing costs; Cyber Trust Mark placement on product; costs incurred for API access as part of the QR Code; a customer information campaign; and adjustments to security practices necessary to meet the standards established for the Cyber Trust Mark. These costs are likely to vary depending on the standards and testing procedures proposed by the Lead Administrator as well as the extent of manufacturer participation. Any in-house testing lab will also be required to obtain accreditation to ISO/IEC standards and will incur the accreditation costs. We expect that manufacturers that choose to pursue this option may offset the accreditation costs with time savings, and potentially cost savings, associated with in-house testing.

138. Participating manufacturers will incur conformity testing, reporting costs, potential renewal fees, and Label Administrator processing fees, but the Commission's IoT Labeling Program is voluntary and we only expect manufacturers who would benefit from the program to participate in the long-run, further indicating that accrued benefits will exceed manufacturer costs. Furthermore, comments in the record show that many manufacturers and industry groups are in favor of consumer awareness and addressing cybersecurity concerns. This provides some indication that manufacturers perceive the benefits of participating in the IoT Labeling Program as outweighing the costs. We understand

²⁵ \$60 million = (15,000,000 * \$16 * (15/60)) is the estimated value for 15 minutes of time savings nationwide.

that manufacturers' security practices for IoT products vary. Some manufacturers will find it beneficial to align their cybersecurity standards with the IoT Labeling Program's standards and apply for the Cyber Trust Mark. If a manufacturer decides not to participate in the program, then they will not experience any additional costs.

139. Cost of Registry Development and Administration. We attempt to estimate the cost of developing and administering the registry with currently available information, recognizing that our cost estimate is unable to incorporate pending issues that will be addressed by the Bureau as discussed above. While the cost to the Lead Administrator to manage the registry in accordance with the Bureau's pending determinations and as discussed above are forthcoming, we nevertheless attempt to estimate the costs of the Lead Administrator's administrative role in managing the registry as described above. Our estimate utilizes data submitted by Consumer Reports, which envisioned a centralized registry. We note that the registry, as adopted, will be less burdensome than the costs described by Consumer Reports in their estimates.²⁶ Our estimate to maintain registry components and review applications as part of the CLA duties, which aligns with the middle of the expert range based on commenter submissions, is approximately \$5 million annually. The high-end estimate submitted by Consumer Reports is \$10 million. Consumer Reports indicates that setting up a centralized registry could be done by one individual with a few contractors at a cost less than \$200,000 a year. Depending on the requirements, the Lead CLA may still need to set up some minimal components of a registry and incur a small portion of these costs. The estimates on the annual administration costs are much less precise with the expert proposed estimate of between \$100k and \$10 million annually, with indication that the \$10 million estimate is on the very high end. Staff calculate a more reasonable, but likely still high, estimate in the middle of that range, even accounting for the advanced technical expertise that would be required to review applications. For example, an organization relying on five lawyers, five electrical engineers, and

five software developers in a full-time capacity would require \$3 million annually in wage compensation. If we generously assume another \$2 million in additional costs to accommodate ISO/IEC accreditation, contractors, facilities, and other resources, the total is \$5 million. While these estimates are for a single administrator, we believe this is a reasonable estimate of the staffing costs that would be distributed among the CLAs to meet the requirements of reviewing applications.

140. The estimated high-end costs of administering the IoT Labeling Program annually (\$10 million) are far less than the low-end estimate of annual benefits to consumers (\$60 million) of just one aspect of the program. We further highlight that the benefits to manufacturers are likely to exceed manufacturer's participation costs. Together this indicates the total program benefits exceed costs. Because the initial startup costs are so low relative to the benefits, we do not compare the discounted values.

I. Legal Authority

141. We adopt the IoT Labeling NPRM's tentative conclusion that the FCC has authority to adopt the IoT Labeling Program. We conclude that section 302 provides us with the authority to adopt a voluntary program for manufacturers seeking authority to affix the FCC-owned Cyber Trust Mark on wireless consumer IoT products that comply with the program requirements. In the IoT Labeling NPRM, the Commission sought comment on its authority under section 302 of the Act, along with other possible sources of authority. In particular, under section 302(a) of the Act, consistent with the public interest, convenience, and necessity, the Commission is authorized to make reasonable regulations (1) governing the interference potential of devices which in their operation are capable of emitting radio frequency energy by radiation, conduction, or other means in sufficient degree to cause harmful interference to radio communications; and (2) establishing minimum performance standards for home electronic equipment and systems to reduce their susceptibility to interference from radio frequency energy.

142. Some commenters question our authority under section 302 to establish an IoT Labeling Program. The U.S. Chamber of Commerce cautions the Commission to not "overinterpret its harmful interference authority" under sections 302(a) and 333. CTIA argues that the Commission does not have the authority to regulate cybersecurity, but

does not cite to section 302(a) or explain why the Commission's action in the Order does not fall within the scope of section 302(a) or any other section of the Communications Act. Others do not dispute the Commission's authority to adopt a voluntary program but argue that the Commission does not have the authority to make the IoT Labeling Program mandatory.

143. We agree with Comcast that Congress intended section 302 to be flexible enough "to address novel issues not yet on the legislative radar[.]" As Comcast further observes, "[t]he stated goal of the [IoT Labeling] Program is to 'ensure that IoT devices have implemented certain minimum cybersecurity protocols to prevent their being hacked by bad actors who could cause the devices to cause harmful interference to radio communications,' which falls squarely within the Commission's remit under section 302(a)." Further, NYC OTI points out that IoT which "by design doesn't protect against the reception of spurious or unintended RF communications may be subject to a series of radio-layer attacks due to the lack of these protections" and thus is within our authority to regulate. A voluntary IoT Labeling Program thus assures consumers that certain cybersecurity standards are met to protect those devices from being used to generate interference to other devices.

144. In addition to our authority under section 302(a)(1), section 302(a)(2) authorizes the Commission to "establish minimum performance standards for home electronic equipment and systems to reduce their susceptibility to interference from radio frequency energy." A voluntary program for consumer IoT products is encompassed within our authority to regulate home electronic equipment and their accompanying systems that render that home electronic equipment operational.

145. Section 302(a)(2) allows such regulations to apply to "the manufacture, import, sale, offer for sale, or shipment of such devices and home electronic equipment and systems[.]" The legislative history of section 302 also supports our conclusion. Congress adopted section 302 due to concerns about radio frequency interference to consumer electronic equipment:

In the market for home devices, however, good faith industry attempts to solve this interference have not always been as successful. . . . [T]he Conferees believe that Commission authority to impose appropriate regulations on home electronic equipment and systems is now necessary to insure that consumers' home electronic equipment and

²⁶ The Consumer Reports proposed registry architecture includes a dataset that can store images and PDFs as well as allows for device manufacturers, retailers, security researchers and administrators to access the platform. The registry, as adopted, does not include these features and therefore would not incur the costs to develop and maintain them.

systems will not be subject to malfunction due to [radio frequency interference].

146. Congress envisioned “home electronic equipment and systems” to include not only radio and television sets, but all types of electronics and their supporting systems used by consumers. Examples given by Congress were home burglar alarms, security systems, automatic garage door openers, record turntables, and sound systems. Congress clearly foresaw interference and disruption to consumer equipment and the systems that equipment was connected to as within the ambit of section 302 when it gave the Commission “exclusive jurisdiction” over matters involving radio frequency interference. The many alternatives available to the Commission to accomplish its duty under section 302 include directing manufacturers to meet “certain minimal standards” or utilizing labels.

147. We additionally conclude that our section 302(a) authority to adopt “reasonable regulations” governing the interference potential of devices capable of causing RF interference empowers us to choose specific approaches that advance goals of the Act in addition to the core concerns in section 302(a)(1) and (2). For one, as widely supported in the record, we rely on NIST’s recommended IoT criteria (the NIST Core Baseline) as the foundation for the cybersecurity requirements to be applied under the IoT Labeling Program. Even if some elements or applications of those criteria could advance policies or interests in addition to guarding against the risk that exploited vulnerabilities in internet-connected wireless consumer IoT products could cause harmful interference, it would be neither prudent nor workable to try to segregate or disaggregate that package of criteria in an effort to isolate some product capabilities from others in an effort to narrow the Program’s focus. To the contrary, maintaining the integrity of the cohesive package of NIST criteria advances the directive in section 302(a) to address the interference potential of wireless devices through “reasonable regulations.” Commenters point out, for example, that even when harmful interference to IoT products from cyberattacks “is not necessarily the traditional form of interference caused by devices operating in frequencies and at power levels not approved by the Commission[,]” it can implicate statutory policy concerns nonetheless. Under the circumstances here, we thus find it “reasonable” for our IoT Labeling Program to rely on the full package of IoT cybersecurity criteria that guard

against the risk that the covered products *cause* harmful interference, and also guard against the risk of interference *to* those covered products—even in the case of non-RF interference—consistent with the policy goals underlying provisions such as sections 302(a) and 333 and of the Act. Our understanding of the reasonableness of our approach here also is informed by the public safety and national security goals in sections 1 and 4(n) of the Act. Thus, although we do not rely on additional provisions beyond section 302 as authority for the voluntary IoT Labeling Program we adopt in the Order, they inform our understanding of what regulatory approach to implementing section 302(a) is reasonable under these circumstances.²⁷

148. Comcast also cites the legislative history of section 302(a) in support of our authority to establish an IoT Labeling Program. Congress agreed with a letter from the Commission that initial language that would have restricted section 302(a) to devices that cause harmful interference to “‘commercial, aircraft, and public safety’ radio communications” was too narrow. Congress instead adopted the current language: “reasonable regulations . . . consistent with the public interest, convenience, and necessity.” The Commission’s authority under section 302 was designed by Congress to be “sufficiently broad to permit it to formulate rules relating to any service where interference from these devices is a serious problem.” Such language, it was believed, would be “sufficiently broad to permit it to formulate rules relating to any service where interference from these devices is a serious problem.” We conclude that a voluntary program with minimum standards to prevent radio interference to consumer IoT products is consistent with the text and history of section 302.

149. Further, we have previously imposed security requirements that prevent unauthorized parties from accessing and alerting technology to cause radio interference under our section 302 authority. In 2020, we required that access points to automated frequency coordination systems were secure so unauthorized parties could not alter the list of available frequencies and power levels sent to an access point. We agree with Comcast that our previous actions requiring end user devices to “contain security features

²⁷ Because we conclude that section 302 of the Act authorizes our actions in the Order, we defer consideration of other sources of authority that the Communications Act may grant the Commission over this area.

sufficient to protect against modification of software and firmware by any unauthorized parties” and actions to secure unlicensed national information infrastructure devices are sufficiently analogous to this proceeding as to be supported by our section 302 authority.

150. Finally, consistent with our tentative conclusion in the *IoT Labeling NPRM*, we find that our section 302 authority enables us to rely on third parties in carrying out the implementation details of our Program. As the Commission pointed out in the *NPRM*, section 302(e) of the Act authorizes the Commission to delegate equipment testing and certification to private laboratories, and the Commission already has relied in part on third parties in carrying out its equipment authorization rules that likewise implement section 302 of the Act.

II. Incorporation by Reference

151. These final rules include regulatory text that is incorporated by reference. In accordance with requirements of 1 CFR 51.5, the Commission describes the incorporated materials here. These final rules are incorporating by reference the following ISO/IEC standards: ISO/IEC 17011:2017(E), *Conformity assessment—Requirements for accreditation bodies accrediting conformity assessment bodies*, Second Edition, November 2017, ISO/IEC 17025:2017(E), *General requirements for the competence of testing and calibration laboratories*, Third Edition, November 2017, and ISO/IEC 17065:2012(E), *Conformity assessment—Requirements for bodies certifying products, processes and services*, First Edition, 2012–09–15, which establish international standards requirements for accreditation bodies accrediting conformity assessment bodies; general requirements for testing and calibration laboratories; and conformity assessment requirements for certifying products, processes, and services; respectively. Copies of these standards are available for purchase from the American National Standards Institute (ANSI) through its NSSN operation (www.nssn.org) at Customer Service, American National Standards Institute, 25 West 43rd Street, New York, NY 10036, telephone (212) 642–4900.

III. Procedural Matters

152. *Paperwork Reduction Act*. This document contains new and modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It

will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

153. In this document, we have assessed the effects of the operational framework for a voluntary IoT cybersecurity labeling program. Since the IoT Labeling Program is voluntary, small entities who do not participate in the IoT Labeling Program will not be subject to any new or modified reporting, recordkeeping, or other compliance obligations. Small entities that choose to participate in the IoT Labeling Program by seeking authority to affix the Cyber Trust Mark on their products will incur recordkeeping and reporting as well as other obligations that are necessary to test their IoT products to demonstrate compliance with the requirements we adopt in the Order. We find that, for the Cyber Trust Mark to have meaning for consumers, the requirements for an IoT product to receive the Cyber Trust Mark must be uniform for both small businesses and other entities. Thus, the Commission continues to maintain the view we expressed in the IoT Labeling NPRM, that the significance of mark integrity, and building confidence among consumers that devices and products containing the Cyber Trust Mark label can be trusted to be cyber secure, necessitates adherence by all entities participating in the IoT Labeling Program to the same rules regardless of size.

154. *Regulatory Flexibility Act Analysis.* A Final Regulatory Flexibility Act (FRFA) Analysis for the final rules adopted in the Order was prepared and can be found as Exhibit B of the FCC's Report and Order, FCC 24–26, adopted March 15, 2024, at this link: <https://docs.fcc.gov/public/attachments/FCC-24-26A1.pdf>.

155. *OPEN Government Data Act.* The OPEN Government Data Act requires agencies to make “public data assets” available under an open license and as “open Government data assets,” *i.e.*, in machine-readable, open format, unencumbered by use restrictions other than intellectual property rights, and

based on an open standard that is maintained by a standards organization. This requirement is to be implemented “in accordance with guidance by the Director” of the OMB. The term “public data asset” means “a data asset, or part thereof, maintained by the Federal Government that has been, or may be, released to the public, including any data asset, or part thereof, subject to disclosure under the Freedom of Information Act (FOIA).” A “data asset” is “a collection of data elements or data sets that may be grouped together,” and “data” is “recorded information, regardless of form or the media on which the data is recorded.” We delegate authority, including the authority to adopt rules, to the Bureau, in consultation with the agency’s Chief Data Officer and after seeking public comment to the extent it deems appropriate, to determine whether to make publicly available any data assets maintained or created by the Commission within the meaning of the OPEN Government Act pursuant to the rules adopted herein, and if so, to determine when and to what extent such information should be made publicly available. Such data assets may include assets maintained by a CLA or other third party, to the extent the Commission’s control or direction over those assets may bring them within the scope of the OPEN Government Act, as interpreted in the light of guidance to be issued by OMB.²⁸ In doing so, the Bureau shall take into account the extent to which such data assets are subject to disclosure under the FOIA.

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

IV. Ordering Clauses

157. Accordingly, *it is ordered* that pursuant to the authority contained in sections 1, 2, 4(i), 4(n), 302, 303(r), 312, 333, and 503, of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(n), 302a, 303(r), 312, 333, 503; the IoT Cybersecurity Improvement Act of 2020, 15 U.S.C. 278g–3a through 278g–3e; the Report and Order *is hereby adopted*.

158. **It is further ordered** that the Office of the Managing Director, Performance Program Management, SHALL SEND a copy of the *Report and Order* in a report to be sent to Congress and the Government Accountability

Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 8

Communications, Consumer protection, Cybersecurity, Electronic products, Incorporation by reference, internet, Labeling, Product testing and certification, Telecommunications.

Federal Communications Commission

Marlene Dortch,
Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR subchapter A as follows:

- 1. Under the authority of 47 U.S.C. 151, 152, 153, 154(i)–(j), 160, 163, 201, 202, 206, 207, 208, 209, 214, 215, 216, 217, 218, 219, 220, 230, 251, 254, 256, 257, 301, 303, 304, 307, 309, 310, 312, 316, 332, 403, 501, 503, 522, 1302, revise the heading for subchapter A to read as follows:

Subchapter A—General

PART 8—SAFEGUARDING AND SECURING THE INTERNET

- 2. The authority citation for part 8 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 163, 201, 202, 206, 207, 208, 209, 216, 217, 257, 301, 302a, 303, 304, 307, 309, 312, 316, 332, 403, 501, 503, 522, 1302, 1753.

- 3. Revise the heading for part 8 to read as set forth above.

§§ 8.1, 8.2, 8.3, and 8.6 [Designated as Subpart A]

- 4. Designate §§ 8.1, 8.2, 8.3, and 8.6 as subpart A.
- 5. Add a heading for newly designated subpart A to read as follows:

Subpart A—Protections for internet Openness

- 6. Add subpart B to read as follows:

Subpart B—Cybersecurity Labeling Program for IoT Products

- Sec.
- 8.201 Incorporation by reference.
 - 8.202 Basis and purpose.
 - 8.203 Definitions.
 - 8.204 Prohibition on use of the FCC IoT Label on products produced by listed sources.
 - 8.205 Cybersecurity labeling authorization.
 - 8.206 Identical defined.
 - 8.207 Responsible party.
 - 8.208 Application requirements.
 - 8.209 Grant of authorization to use FCC IoT Label.
 - 8.210 Dismissal of application.
 - 8.211 Denial of application.
 - 8.212 Review of CLA decisions.

²⁸ OMB has not yet issued final guidance.

- 8.213 Limitations on grants to use the FCC IoT Label.
- 8.214 IoT product defect and/or design change.
- 8.215 Retention of records.
- 8.216 Termination of authorization to use the FCC IoT Label.
- 8.217 CyberLABs.
- 8.218 Recognition of CyberLAB accreditation bodies.
- 8.219 Approval/recognition of Cybersecurity Label Administrators.
- 8.220 Requirements for CLAs.
- 8.221 Requirements for the Lead Administrator.
- 8.222 Establishment of an IoT Registry.

Subpart B—Cybersecurity Labeling Program for IoT Products

§ 8.201 Incorporation by reference.

Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at the Federal Communications Commission (FCC or Commission) and at the National Archives and Records Administration (NARA). Contact the FCC at the address indicated in 47 CFR 0.401(a), phone: (202) 418–0270. 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. The material may be obtained from the International Electrotechnical Commission (IEC), IEC Central Office, 3, rue de Varembe, CH–1211 Geneva 20, Switzerland, Email: inmail@iec.ch, www.iec.ch.

(a) ISO/IEC 17011:2017(E), *Conformity assessment—Requirements for accreditation bodies accrediting conformity assessment bodies*, Second Edition, November 2017; IBR approved for § 8.217.

(b) ISO/IEC 17025:2017(E), *General requirements for the competence of testing and calibration laboratories*, Third Edition, November 2017; IBR approved for §§ 8.217; 8.220.

(c) ISO/IEC 17065:2012(E), *Conformity assessment—Requirements for bodies certifying products, processes and services*, First Edition, 2012–09–15; IBR approved for § 8.220.

Note 1 to § 8.201: The standards listed in this section are co-published with the International Organization for Standardization (ISO), 1, ch. De la Voie-Creuse, CP 56, CH–1211, Geneva 20, Switzerland; www.iso.org; Tel.: + 41 22 749 01 11; Fax: + 41 22 733 34 30; email: central@iso.org.

Note 2 to § 8.201: ISO publications can also be purchased from the American National

Standards Institute (ANSI) through its NSSN operation (www.nssn.org), at Customer Service, American National Standards Institute, 25 West 43rd Street, New York, NY 10036, telephone (212) 642–4900.

§ 8.202 Basis and purpose.

In order to elevate the Nation's cybersecurity posture and provide consumers with assurances regarding their baseline cybersecurity, thereby addressing risks of harmful radiofrequency interference to and from consumer internet-connected (Internet of Things or IoT) products the Federal Communications Commission establishes a labeling program for consumer IoT products.

§ 8.203 Definitions.

(a) *Affiliate*. For purposes of this subpart and the IoT labeling program, an *affiliate* is defined as a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this subpart, the term *own* means to own an equity interest (or the equivalent thereof) of more than 10 percent.

(b) *Consumer IoT products*. IoT products intended primarily for consumer use, rather than enterprise or industrial use. *Consumer IoT products* exclude medical devices regulated by the U.S. Food and Drug Administration (FDA) and excludes motor vehicles and motor vehicle equipment regulated by the National Highway Traffic Safety Administration (NHTSA).

(c) *Cybersecurity Label Administrator (CLA)*. An accredited third-party entity that is recognized and authorized by the Commission to manage and administer the labeling program in accordance with the Commission's rules in this subpart.

(d) *Cybersecurity Testing Laboratory (CyberLAB)*. Accredited third-party entities recognized and authorized by a CLA to assess consumer IoT products for compliance with requirements of the labeling program.

(e) *Cyber Trust Mark*. A visual indicator indicating a consumer IoT product complies with program requirements of the labeling program and the Commission's minimum cybersecurity requirements in this subpart.

(f) *FCC IoT Label*. A binary label displayable with a consumer IoT product complying with program requirements of the labeling program, the binary label bearing the Cyber Trust Mark, and a scannable QR code that directs consumers to a registry containing further information on the complying consumer IoT product.

(g) *Intentional radiator*. A device that intentionally generates and emits radiofrequency energy by radiation or induction.

(h) *Internet-connected device*. A device capable of connecting to the internet and exchanging data with other devices or centralized systems over the internet.

(i) *IoT device*. (1) An internet-connected device capable of intentionally emitting radiofrequency energy that has at least one transducer (sensor or actuator) for interacting directly with the physical world; coupled with

(2) At least one network interface (e.g., Wi-Fi, Bluetooth) for interfacing with the digital world.

(j) *IoT product*. An IoT device and any additional product components (e.g., backend, gateway, mobile app) that are necessary to use the IoT device beyond basic operational features, including data communications links to components outside this scope but excluding those external components and any external third-party components that are outside the manufacturer's control.

(k) *Labeling program*. A voluntary program for consumer IoT products that allows a complying consumer IoT product to display an FCC IoT Label.

(l) *Lead Administrator*. A CLA selected from among Cybersecurity Label Administrators (CLAs) to be responsible for carrying out additional administrative responsibilities of the labeling program.

(m) *Product components*. Hardware devices, plus supporting components that generally fall into three main types per NISTIR 8425: specialty networking/gateway hardware (e.g., a hub within the system where the IoT device is used); companion application software (e.g., a mobile app for communicating with the IoT device); and backends (e.g., a cloud service, or multiple services, that may store and/or process data from the IoT device). Should a product component also support other IoT products through alternative features and interfaces, these alternative features and interfaces may, through risk-assessment, be considered as separate from and not part of the IoT product for purposes of authorization.

(n) *Registry*. Information presented to consumers about consumer IoT products that comply with the program requirements of the labeling program, the registry is publicly accessible through a link from the QR Code of the FCC IoT Label displayed with the complying consumer IoT product, and containing information about the complying consumer IoT product, manufacturer of the complying

consumer IoT product, and other information as required by the labeling program.

§ 8.204 Prohibition on use of the FCC IoT Label on products produced by listed sources.

All consumer IoT products produced by sources listed in this subpart are prohibited from obtaining use of the FCC IoT Label under this subpart. This includes:

(a) All communications equipment on the Covered List, as established pursuant to 47 CFR 1.50002;

(b) All IoT products containing IoT devices or product components produced by entities listed in paragraph (c) or (d) of this section;

(c) IoT devices or IoT products produced by any entity, its affiliates, or subsidiaries identified on the Covered List as producing covered equipment, as established pursuant to 47 CFR 1.50002;

(d) IoT devices or IoT products produced by any entity, its affiliates, or subsidiaries identified on the Department of Commerce's Entity List, 15 CFR part 744, supplement no. 4, and/or the Department of Defense's List of Chinese Military Companies, U.S. Department of Defense, Entities Identified as Chinese Military Companies Operating in the United States in Accordance with Section 1260H of the William M. ("Mac") Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283), Tranche 2 (2022), <https://media.defense.gov/2022/Oct/05/2003091659/-1/-1/0/1260H%20COMPANIES.PDF>, and

(e) Products produced by any entity owned or controlled by or affiliated with any person or entity that has been suspended or debarred from receiving Federal procurements or financial awards, to include all entities and individuals published as ineligible for award on the General Service Administration's System for Award Management.

§ 8.205 Cybersecurity labeling authorization.

(a) Cybersecurity labeling authorization is an authorization issued by a Cybersecurity Label Administrator (CLA) and authorized under the authority of the Commission, which grants an applicant of a complying consumer IoT product to display the FCC IoT Label on the relevant packaging for the complying consumer product, based on compliance with the program requirements as determined by the CLA.

(b) Cybersecurity labeling authorization attaches to all units of the complying consumer IoT product

subsequently marketed by the grantee that are identical (see § 8.206) to the sample determined to comply with the program requirements except for permissive changes or other variations authorized by the Commission.

§ 8.206 Identical defined.

As used in this subpart, the term *identical* means identical within the variation that can be expected to arise as a result of quantity production techniques.

§ 8.207 Responsible party.

In the case of a complying consumer IoT product that has been granted authorization to use the FCC IoT Label, the applicant to whom that grant of cybersecurity labeling authorization is issued is responsible for continued compliance with the program requirements for continued use of the FCC IoT Label.

§ 8.208 Application requirements.

(a) An application to certify the consumer IoT product as being compliant with the labeling program shall be submitted in writing to a Cybersecurity Labeling Administrator (CLA) in the form and format prescribed by the Commission. Each application shall be accompanied by all information required by this subpart.

(b) The applicant shall provide to the CLA in the application all information that the CLA requires to determine compliance with the program requirements of the labeling program.

(c) The applicant will provide a declaration under penalty of perjury that all of the following are true and correct:

(1) The product for which the applicant seeks to use the FCC IoT Label through cybersecurity certification meets all the requirements of the IoT labeling program.

(2) The applicant is not identified as an entity producing covered communications equipment on the Covered List, established pursuant to 47 CFR 1.50002.

(3) The product is not comprised of "covered" equipment on the Covered List.

(4) The product is not produced by any entity, its affiliates, or subsidiaries identified on the Department of Commerce's Entity List, 15 CFR part 744, supplement no. 4, and/or the Department of Defense's List of Chinese Military Companies, U.S. Department of Defense, Entities Identified as Chinese Military Companies Operating in the United States in Accordance with Section 1260H of the William M. ("Mac") Thornberry National Defense

Authorization Act for Fiscal Year 2021 (Pub. L. 116–283), Tranche 2 (2022), <https://media.defense.gov/2022/Oct/05/2003091659/-1/-1/0/1260H%20COMPANIES.PDF>; and

(5) The product is not owned or controlled by or affiliated with any person or entity that has been suspended or debarred from receiving Federal procurements or financial awards, to include all entities and individuals published as ineligible for award on the General Service Administration's System for Award Management as described in § 8.204.

(6) The applicant has taken every reasonable measure to create a securable product.

(7) The applicant will, until the support period end date disclosed in the registry, diligently identify critical vulnerabilities in our products and promptly issue software updates correcting them, unless such updates are not reasonably needed to protect against security failures.

(8) The applicant will not elsewhere disclaim or otherwise attempt to limit the substantive or procedural enforceability of this declaration or of any other representations and commitments made on the FCC IoT Label or made for purposes of acquiring or maintaining authorization to use it.

(d) The applicant shall provide a written and signed declaration to the CLA that all statements it makes in the application are true and correct to the best of its knowledge and belief.

(e) Each application, including amendments thereto, and related statements of fact and authorizations required by the Commission, shall be signed by the applicant or their authorized agent.

(f) The applicant declares the product is reasonably secure and will be updated through minimum support period for the product and the end date of the support period must be disclosed.

(g) The applicant shall declare under penalty of perjury that the consumer IoT product for which the applicant is applying for participation in the labeling program is not prohibited pursuant to § 8.204.

(h) If the identified listed sources under § 8.204 are modified after the date of the declaration required by paragraph (c) of this section but prior to grant of authorization to use the FCC IoT Label, then the applicant shall provide a new declaration as required by paragraph (c).

(i) The applicant shall designate an agent located in the United States for the purpose of accepting service of process on behalf of the applicant.

(1) The applicant shall provide a written attestation:

(i) Signed by both the applicant and its designated agent for service of process, if different from the applicant;

(ii) Acknowledging the applicant's consent and the designated agent's obligation to accept service of process in the United States for matters related to the applicable product, and at the physical U.S. address and email address of its designated agent; and

(iii) Acknowledging the applicant's acceptance of its obligation to maintain an agent for service of process in the United States for no less than one year after either the grantee has permanently terminated all marketing and importation of the applicable equipment within the U.S., or the conclusion of any Commission-related administrative or judicial proceeding involving the product, whichever is later.

(2) An applicant located in the United States may designate itself as the agent for service of process.

(j) Technical test data submitted to the CLA shall be signed by the person who performed or supervised the tests. The person signing the test data shall attest to the accuracy of such data. The CLA may require the person signing the test data to submit a statement showing that they are qualified to make or supervise the required measurements.

(k) *Signed*, as used in this section, means an original handwritten signature or any symbol executed or adopted by the applicant or CLA with the intent that such symbol be a signature, including symbols formed by computer-generated electronic impulses.

§ 8.209 Grant of authorization to use FCC IoT Label.

(a) A CLA will grant cybersecurity labeling authorization if it finds from an examination of the application and supporting data, or other matter which it may officially notice, that the consumer IoT product complies with the program requirements.

(b) Grants will be made in writing showing the effective date of the grant.

(c) Cybersecurity certification shall not attach to any product, nor shall any use of the Cyber Trust Mark be deemed effective, until the application has been granted.

(d) Grants will be effective from the date of authorization.

(e) The grant shall identify the CLA granting the authorization and the Commission as the issuing authority.

(f) In cases of a dispute, the Commission will be the final arbiter.

§ 8.210 Dismissal of application.

(a) An application that is not in accordance with the provisions of this subpart may be dismissed.

(b) Any application, upon written request signed by the applicant or their agent, may be dismissed prior to a determination granting or denying the authorization requested.

(c) If an applicant is requested to submit additional documents or information and fails to submit the requested material within the specified time period, the application may be dismissed.

§ 8.211 Denial of application.

If the CLA is unable to make the findings specified in § 8.209(a), it will deny the application. Notification of the denial to the applicant will include a statement of the reasons for the denial.

§ 8.212 Review of CLA decisions.

(a) *Seeking review from a CLA.* Any party aggrieved by an action taken by a CLA must first seek review from the CLA. The CLA should respond to appeals of their decisions in a timely manner and within 10 business days of receipt of a request for review.

(b) *Seeking review from the Commission.* A party aggrieved by an action taken by a CLA may, after seeking review by the CLA, seek review from the Commission.

(c) *Filing deadlines.* (1) An aggrieved party seeking review of a CLA decision by the CLA shall submit such a request within sixty (60) days from the date the CLA issues a decision. Such request shall be deemed submitted when received by the CLA.

(2) An aggrieved party seeking review of a CLA decision by the Commission shall file such a request within sixty (60) days from the date the CLA issues a decision on the party's request for review. Parties must adhere to the time periods for filing oppositions and replies set forth in 47 CFR 1.45.

(d) *Review by the Public Safety and Homeland Security Bureau or the Commission.* (1) Requests for review of CLA decisions that are submitted to the Federal Communications Commission shall be considered and acted upon by the Public Safety and Homeland Security Bureau; provided, however, that requests for review that raise novel questions of fact, law or policy shall be considered by the full Commission.

(2) An aggrieved party may seek review of a decision issued under delegated authority by the Public Safety and Homeland Security Bureau pursuant to the rules set forth in 47 CFR part 1.

(e) *Standard of review.* (1) The Public Safety and Homeland Security Bureau shall conduct de novo review of request for review of decisions issued by the CLA.

(2) The Federal Communications Commission shall conduct de novo review of requests for review of decisions by the CLA that involve novel questions of fact, law, or policy; provided, however, that the Commission shall not conduct de novo review of decisions issued by the Public Safety and Homeland Security Bureau under delegated authority.

(f) *Time periods for Commission review of CLA decisions.* (1) The Public Safety and Homeland Security Bureau shall, within forty-five (45) days, take action in response to a request for review of a CLA decision that is properly before it. The Public Safety and Homeland Security Bureau may extend the time period for taking action on a request for review of a CLA decision for a period of up to ninety days. The Commission may also at any time, extend the time period for taking action of a request for review of a CLA decision pending before the Public Safety and Homeland Security Bureau.

(2) The Commission shall issue a written decision in response to a request for review of a CLA decision that involves novel questions of fact, law, or policy within forty-five (45) days. The Commission may extend the time period for taking action on the request for review of a CLA decision. The Public Safety and Homeland Security Bureau also may extend action on a request for review of a CLA decision for a period of up to ninety days.

(g) *No authorization pending CLA review.* While a party seeks review of a CLA decision, they are not authorized to use the FCC IoT Label until the Commission issues a final decision authorizing their use of the FCC IoT Label.

§ 8.213 Limitations on grants to use the FCC IoT Label.

(a) A grant of authorization to use the FCC IoT Label remains effective until set aside, revoked or withdrawn, rescinded, surrendered, or a termination date is otherwise established by the Commission.

(b) No person shall, in any advertising matter, brochure, etc., use or make reference to the FCC IoT Label or the Cyber Trust Mark in a deceptive or misleading manner.

§ 8.214 IoT product defect and/or design change.

When a complaint is filed directly with the Commission or submitted to the Commission by the Lead Administrator or other party concerning a consumer IoT product being non-compliant with the labeling program, and the Commission determines that the

complaint is justified, the Commission may require the grantee to investigate such complaint and report the results of such investigation to the Commission within 20 days. The report shall also indicate what action if any has been taken or is proposed to be taken by the grantee to correct the defect, both in terms of future production and with reference to articles in the possession of users, sellers, and distributors.

§ 8.215 Retention of records.

(a) For complying consumer IoT products granted authorization to use the FCC IoT Label, the grantee shall maintain the records listed as follows:

(1) A record of the original design and specifications and all changes that have been made to the complying consumer IoT product that may affect compliance with the standards and testing procedures of this subpart.

(2) A record of the procedures used for production inspection and testing to ensure conformance with the standards and testing procedures of this subpart.

(3) A record of the test results that demonstrate compliance with the appropriate regulations in this chapter.

(b) Records shall be retained for a two-year period after the marketing of the associated product has been permanently discontinued, or until the conclusion of an investigation or a proceeding if the grantee is officially notified that an investigation or any other administrative proceeding involving its product has been instituted.

§ 8.216 Termination of authorization to use the FCC IoT Label.

(a) Grant of authorization to use the FCC IoT Label is automatically terminated by notice of the Bureau following submission of a report as specified in § 8.214 has not been adequately corrected:

(1) For false statements or representations made either in the application or in materials or response submitted in connection therewith or in records required to be kept by § 8.215.

(2) If upon subsequent inspection or operation it is determined that the consumer IoT product does not conform to the pertinent technical requirements in this subpart or to the representations made in the original application.

(3) Because of conditions coming to the attention of the Commission which would warrant it in refusing to grant authorization to use the FCC IoT Label.

(4) Because the grantee or affiliate has been listed as described in § 8.204.

(b) [Reserved]

§ 8.217 CyberLABs.

(a) A CyberLAB providing testing of products seeking a grant of authorization to use the FCC IoT Label shall be accredited by a recognized accreditation body, which must attest that the CyberLAB has demonstrated:

(1) Technical expertise in cybersecurity testing and conformity assessment of IoT devices and products.

(2) Compliance with accreditation requirements based on ISO/IEC 17025 (incorporated by reference, see § 8.201).

(3) Knowledge of FCC rules and procedures associated with products compliance testing and cybersecurity certification.

(4) Necessary equipment, facilities, and personnel to conduct cybersecurity testing and conformity assessment of IoT devices and products.

(5) Documented procedures for conformity assessment.

(6) Implementation of controls to eliminate potential conflicts of interests, particularly with regard to commercially sensitive information.

(7) That the CyberLAB is not an organization, its affiliates, or subsidiaries identified by the listed sources of prohibition under § 8.204.

(8) That it has certified the truth and accuracy of all information it has submitted to support its accreditation.

(b) Once accredited or recognized the CyberLAB will be periodically audited and reviewed to ensure they continue to comply with the requirements of the ISO/IEC 17025 standard.

(c) The Lead Administrator will verify that the CyberLAB is not listed in any of the lists in § 8.204.

(d) The Lead Administrator will maintain a list of accredited CyberLABs that it has recognized, and make publicly available the list of accredited CyberLAB. Inclusion of a CyberLAB on the accredited list does not constitute Commission endorsement of that facility. Recognition afforded to a CyberLAB under the labeling program will be automatically terminated for entities that are subsequently placed on the Covered List, listed sources of prohibition under § 8.204, or of it, its affiliate, or subsidiary is owned or controlled by a foreign adversary country defined by the Department of Commerce in 15 CFR 7.4.

(e) In order to be recognized and included on the list in paragraph (d) of this section, the accrediting organization must submit the information in paragraphs (e)(1) through (9) of this section to the Lead Administrator:

(1) Laboratory name, location of test site(s), mailing address and contact information;

(2) Name of accrediting organization;

(3) Scope of laboratory accreditation;

(4) Date of expiration of accreditation;

(5) Designation number;

(6) FCC Registration Number (FRN);

(7) A statement as to whether or not the laboratory performs testing on a contract basis;

(8) For laboratories outside the United States, details of the arrangement under which the accreditation of the laboratory is recognized; and

(9) Other information as requested by the Commission.

(f) A laboratory that has been accredited with a scope covering the measurements required for the types of IoT products that it will test shall be deemed competent to test and submit test data for IoT products subject to cybersecurity certification. Such a laboratory shall be accredited by a Public Safety and Homeland Security Bureau-recognized accreditation organization based on ISO/IEC 17025. The organization accrediting the laboratory must be recognized by the Public Safety and Homeland Security Bureau to perform such accreditation based on ISO/IEC 17011 (incorporated by reference, see § 8.201). The frequency for reassessment of the test facility and the information that is required to be filed or retained by the testing party shall comply with the requirements established by the accrediting organization, but shall occur on an interval not to exceed two years.

§ 8.218 Recognition of CyberLAB accreditation bodies.

(a) A party wishing to become a laboratory accreditation body recognized by the Public Safety and Homeland Security Bureau (PSHSB or Bureau) must submit a written request to the Chief of PSHSB requesting such recognition. PSHSB will make a determination based on the information provided in support of the request for recognition.

(b) Applicants shall provide the information in paragraphs (b)(1) through (4) of this section as evidence of their credentials and qualifications to perform accreditation of laboratories that test equipment to Commission requirements, consistent with the requirements of § 8.217(e). PSHSB may request additional information, or showings, as needed, to determine the applicant's credentials and qualifications.

(1) Successful completion of an ISO/IEC 17011 peer review, such as being a signatory to an accreditation agreement that is acceptable to the Commission.

(2) Experience with the accreditation of conformity assessment testing laboratories to ISO/IEC 17025.

(3) Accreditation personnel/assessors with specific technical experience on the Commission cybersecurity certification rules and requirements.

(4) Procedures and policies developed for the accreditation of testing laboratories for FCC cybersecurity certification programs.

§ 8.219 Approval/recognition of Cybersecurity Label Administrators.

(a) An accredited third-party entity wishing to become a Cybersecurity Label Administrator (CLA) must file a written application with the Commission. The Commission may approve the written application for the accredited third-party entity to be recognized and authorized by the Commission as a CLA to manage and administer the labeling program by meeting the requirements of paragraph (b) of this section. An accredited third-party entity is recognized and authorized by the Commission to manage and administer the labeling program in accordance with the Commission's rules in this subpart.

(b) In the United States, the Commission, in accordance with its procedures, allows qualified accrediting bodies to accredit CLAs based on ISO/IEC 17065 and other qualification criteria. CLAs shall comply with the requirements in § 8.220.

§ 8.220 Requirements for CLAs.

(a) *In general.* CLAs designated by the Commission, or designated by another authority recognized by the Commission, shall comply with the requirements of this section. Each entity seeking authority to act as a CLA must file an application with the Commission for consideration by PSHSB, which includes a description of its organization structure, an explanation of how it will avoid personal and organizational conflict when processing applications, a description of its processes for evaluating applications seeking authority to use the FCC IoT Label, and a demonstration of expertise that will be necessary to effectively serve as a CLA including, but not limited to, the criteria in paragraph (c) of this section.

(b) *Methodology for reviewing applications.* (1) A CLA's methodology for reviewing applications shall be based on type testing as identified in ISO/IEC 17065 (incorporated by reference, see § 8.201).

(2) A CLA's grant of authorization to use the FCC IoT Label shall be based on the application with all the information specified in this part. The CLA shall review the application to determine compliance with the Commission's

requirements in this subpart and shall issue a grant of product cybersecurity certification in accordance with § 8.208.

(c) *Criteria for designation.* (1) To be designated as a CLA under this section, an entity shall demonstrate cybersecurity expertise and capabilities in addition to industry knowledge of IoT and IoT labeling requirements.

(2) The entity shall demonstrate expert knowledge of National Institute of Standards and Technology's (NIST) cybersecurity guidance, including but not limited to NIST's recommended criteria and labeling program approaches for cybersecurity labeling of consumer IoT products.

(3) The entity shall demonstrate expert knowledge of FCC rules and procedures associated with product compliance testing and certification.

(4) The entity shall demonstrate knowledge of Federal law and guidance governing the security and privacy of agency information systems.

(5) The entity shall demonstrate an ability to securely handle large volumes of information and demonstrate internal security practices.

(6) To expedite initial deployment of the FCC labeling program, the Commission will accept and conditionally approve applications from entities seeking to be designated as a CLA provided they commit to obtain accreditation pursuant to all the requirements associated with ISO/IEC 17065 with the appropriate scope within six (6) months of the effective date by the adopted standards and testing procedures and otherwise meet the FCC's IoT Labeling Program requirements. The entity must also demonstrate implementation of controls to eliminate actual or potential conflicts of interests (including both personal and organizational), particularly with regard to commercially sensitive information. The Bureau will finalize the entity's application upon receipt and demonstration of ISO/IEC 17065 accreditation with the appropriate scope.

(7) The entity is not owned or controlled by or affiliated with any entity identified on the Commission's Covered List, listed sources of prohibition under § 8.204, or of it, its affiliate, or subsidiary is owned or controlled by a foreign adversary country defined by the Department of Commerce in 15 CFR 7.4.

(8) The entity must demonstrate it has implemented controls to eliminate actual or potential conflicts of interests (including both personal and organizational), particularly with regard to commercially sensitive information, to include but not limited to, remaining

impartial and unbiased and prevent them from giving preferential treatment to certain applications (e.g., application line jumping) and from implementing heightened scrutiny of applications from entities not members or otherwise aligned with the CLA.

(d) *External resources.* (1) In accordance with the provisions of ISO/IEC 17065 the evaluation of a product, or a portion thereof, may be performed by bodies that meet the applicable requirements of ISO/IEC 17025, in accordance with the applicable provisions of ISO/IEC 17065 for external resources (outsourcing). Evaluation is the selection of applicable requirements and the determination that those requirements are met. Evaluation may be performed using internal CLA resources or external (outsourced) resources.

(2) A CLA shall not outsource review or decision activities.

(3) When external resources are used to provide the evaluation function, including the testing of products subject to labeling, the CLA shall be responsible for the evaluation and shall maintain appropriate oversight of the external resources used to ensure reliability of the evaluation. Such oversight shall include periodic audits of products that have been tested and other activities as required in ISO/IEC 17065 when a CLA uses external resources for evaluation.

(e) *Commission approves a CLA.* (1) The Commission will approve as a CLA:

(i) Any entity in the United States that meets the requirements of this section.

(ii) The Commission will not approve as a CLA any organization, its affiliates, or subsidiaries listed in the listed sources of prohibition under § 8.204.

(2) The Commission will withdraw its approval of a CLA if the CLA's designation or accreditation is withdrawn, if the Commission determines there is just cause for withdrawing the approval, or upon request of the CLA. The Commission will limit the scope of products that can be certified by a CLA if its accreditor limits the scope of its accreditation or if the Commission determines there is good cause to do so. The Commission will notify a CLA in writing of its intention to withdraw or limit the scope of the CLA's approval and provide at least 60 days for the CLA to respond.

(3) The Commission will notify a CLA in writing when it has concerns or evidence that the CLA is not carrying out its responsibilities under the labeling program in accordance with the Commission's rules in this subpart and policies and request that it explain and correct any apparent deficiencies.

(4) The Public Safety and Homeland Security Bureau shall provide notice to the CLA that the Bureau proposes to terminate the CLA's authority and provide the CLA a reasonable opportunity to respond (not more than 20 days) before reaching a decision on possible termination.

(5) If the Commission withdraws its recognition of a CLA, all grants issued by that CLA will remain valid unless specifically set aside or revoked by the Commission.

(6) A list of recognized CLAs will be published by the Commission.

(f) *Scope of responsibility.* (1) A CLA shall receive and evaluate applications and supporting data requesting authority to use the FCC IoT Label on the product subject to the application.

(2) A CLA shall grant authorization to use the FCC IoT Label with a complying consumer IoT product in accordance with the Commission's rules in this subpart and policies.

(3) A CLA shall accept test data from any Lead Administrator-recognized accredited CyberLAB, subject to the requirements in ISO/IEC 17065 and shall not unnecessarily repeat tests.

(4) A CLA may establish and assess fees for processing applications and other Commission-required tasks.

(5) A CLA may only act on applications that it has received or which it has issued a certification authorizing use of the FCC IoT Label.

(6) A CLA shall dismiss an application that is not in accordance with the provisions of this subpart or when the applicant requests dismissal, and may dismiss an application if the applicant does not submit additional information or test samples requested by the CLA.

(7) A CLA shall ensure that manufacturers make all required information accessible to the IoT registry.

(8) A CLA shall participate in a consumer education campaign in coordination with the Lead Administrator.

(9) A CLA shall receive complaints alleging a product bearing the FCC IoT Label does not support the cybersecurity criteria conveyed by the Cyber Trust Mark and refer these complaints to the Lead Administrator which will notify the Public Safety and Homeland Security Bureau.

(10) A CLA may not:

(i) Make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress;

(ii) Grant a waiver of the rules in this subpart; or

(iii) Take enforcement actions.

(11) All CLA actions are subject to Commission review.

(g) *Post-market surveillance requirements.* (1) In accordance with ISO/IEC 17065, a CLA shall perform appropriate post-market surveillance activities. These activities shall be based on type testing a certain number of samples of the total number of product types for which the CLA has certified use of the Label.

(2) PSHSB may request that a grantee of authority to use the FCC IoT Label submit a product sample directly to the CLA that evaluated the grantee's application as part of the post market surveillance. Any product samples requested by the Commission and tested by the CLA will be counted toward a minimum number of samples that the CLA must test to meet its post market surveillance requirements.

(3) A CLA may also request a grantee submit samples of products that the CLA has certified to use the FCC IoT Label directly to the CLA.

(4) If during post market surveillance of a complying consumer IoT product, a CLA determines that the product fails to comply with the technical regulations (or other FCC requirements) for that product, the CLA shall immediately notify the grantee and the Commission in writing of its findings. The grantee shall provide a report to the CLA describing the actions taken to correct the situation, as provided in § 8.216, and the CLA shall provide a report of these actions to the Commission within 30 days.

(5) CLAs shall submit periodic reports to the Commission of their post-market surveillance activities and findings in a format and by a date specified by the Commission.

§ 8.221 Requirements for the Lead Administrator.

(a) *Establishing a Lead Administrator.* If more than one qualified entity is selected by the Commission to be a CLA, the Commission will select a Lead Administrator. The Lead Administrator shall:

(1) Interface with the Commission on behalf of the CLAs, including but not limited to submitting to the Bureau all complaints alleging a product bearing the FCC IoT Label does not meet the requirements of the Commission's labeling program;

(2) Coordinate with CLAs and moderate stakeholder meetings;

(3) Accept, review, and approve or deny applications from labs seeking recognition as a lab authorized to perform the conformity testing necessary to support an application for authority to affix the FCC IoT Label, and maintain a publicly available list of Lead Administrator-recognized labs and

a list of labs that have lost their recognition;

(4) Within 90 days of election as Lead Administrator, the Lead Administrator will, in collaboration with the CLAs and stakeholders (e.g., cyber experts from industry, government, and academia):

(i) Submit to the Bureau recommendations identifying and/or developing the technical standards and testing procedures for the Commission to consider with regard to at least one class of IoT products eligible for the IoT labeling program. The Bureau will evaluate the recommendations, subject to any required public notice and comment, incorporate them by reference into the Commission's rules in this subpart;

(ii) Submit to the Bureau a recommendation on how often a given class of IoT products must renew their request for authority to bear the FCC IoT Label, which may be dependent on the type of product, and that such a recommendation be submitted in connection with the relevant standards recommendations for an IoT product or class of IoT products. The Bureau will evaluate the recommendations, and if the Bureau approves of the recommendations, subject to any required public notice and comment, incorporate them by reference into the Commission's rules in this subpart;

(iii) Submit to the Bureau a recommendation on procedures for post market surveillance by the CLAs. The Bureau will evaluate the recommendations, and if the Bureau approves of the recommendations, subject to any required public notice and comment, incorporate them by reference into the Commission's rules in this subpart;

(iv) Make recommendations to the Bureau with regard to updates to the registry including whether the registry should be in additional languages, and if so, to recommend specific languages for inclusion; and

(v) Submit to the Bureau recommendations on the design of the FCC IoT Label, including but not limited to labeling design and placement (e.g., size and white spaces, product packaging) and whether to include the product support end date on labels for certain products or category of products. The Bureau will evaluate the recommendations, and if the Bureau approves of the recommendations, subject to any required public notice and comment, incorporate them by reference into the Commission's rules in this subpart;

(5) Within 45 days of publication of updates or changes to NIST guidelines, or adoption by NIST of new guidelines,

recommend in collaboration with CLAs and other stakeholders any appropriate modifications to the labeling program standards and testing procedures to stay aligned with the NIST guidelines;

(6) Submit to the Commission reports on CLAs' post-market surveillance activities and findings in the format and by the date specified by Public Safety and Homeland Security Bureau;

(7) Develop in collaboration with stakeholders a consumer education campaign, submit the plan to the Public Safety and Homeland Security Bureau, and participate in consumer education;

(8) Receive complaints about the labeling program, including but not limited to consumer complaints about the registry and coordinate with manufacturers to resolve any technical problems associated with consumers accessing the information in the registry;

(9) Facilitate coordination between CLAs; and

(10) Submit to the Commission any other reports upon request of the Commission or as required by Commission rules in this subpart.

(b) *Criteria for designation.* In addition to completing the CLA application information, entities seeking to be the Lead Administrator will submit a description of how they will execute the duties of the Lead Administrator, including:

(1) Their previous experience in IoT cybersecurity;

(2) What role, if any, they have played in IoT labeling;

(3) Their capacity to execute the Lead Administrator duties;

(4) How they would engage and collaborate with stakeholders to identify or develop the Bureau recommendations;

(5) A proposed consumer education campaign; and

(6) Additional information the applicant believes demonstrates why they should be the Lead Administrator.

§ 8.222 Establishment of an IoT Registry.

(a) A grantee of authority to use the FCC IoT Label shall provide information about the complying consumer IoT product to the public. Information supplied by grantees shall be made available in a dynamic, decentralized, publicly accessible registry through a common Application Programming Interface (API) that is secure by design.

(b) A grantee of authority to use the FCC IoT Label shall publish the following information through the common API in the Registry:

(1) Product Name;

(2) Manufacturer name;

(3) Date the product received authorization (*i.e.*, cybersecurity certification) to affix the label and current status of the authorization (if applicable);

(4) Name and contact information of the CLA that authorized use of the FCC IoT Label;

(5) Name of the lab that conducted the conformity testing;

(6) Instructions on how to change the default password (specifically state if the default password cannot be changed);

(7) Information (or link) for additional information on how to configure the device securely;

(8) Information as to whether software updates and patches are automatic and how to access security updates/patches if they are not automatic;

(9) The date until which the entity promises to diligently identify critical vulnerabilities in the product and promptly issue software updates correcting them, unless such an update is not reasonably needed to protect against cybersecurity failures (*i.e.*, the minimum support period); alternatively, a statement that the device is unsupported and that the purchaser should not rely on the manufacturer to release security updates;

(10) Disclosure of whether the manufacturer maintains a Hardware Bill of Materials (HBOM) and/or a Software Bill of Materials (SBOM); and

(11) Additional data elements that the Bureau deems necessary.

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Part III

Federal Communications Commission

47 CFR Part 54

Schools and Libraries Cybersecurity Pilot Program; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 23–234; FCC 24–63; FRS ID 230286]

Schools and Libraries Cybersecurity Pilot Program

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) establishes the Schools and Libraries Cybersecurity Pilot Program (Pilot or Pilot Program). The Pilot Program will enable the Commission to evaluate the impact that using Universal Service Fund (USF or Fund) support for eligible cybersecurity services and equipment will have on protecting school and library broadband networks and data. In so doing, the Commission seeks to address the apparent needs of schools and libraries for additional support for cybersecurity services and equipment, while evaluating the impact that providing that support would have on the USF.

DATES: Effective August 29, 2024, except for amendatory instruction 3 (adding §§ 54.2004, 54.2005, and 54.2006) and amendatory instruction 4 (adding § 54.2008), which are delayed indefinitely. The Commission will publish a document in the **Federal Register** announcing the effective date for those sections.

FOR FURTHER INFORMATION CONTACT: Kristin Berkland *Kristin.Berkland@fcc.gov* in the Telecommunications Access Policy Division, Wireline Competition Bureau, 202–418–7400 or TTY: 202–418–0484. Requests for accommodations should be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission’s Schools and Libraries Cybersecurity Pilot Program, Report and Order (Order), in WC Docket No. 23–234; FCC 24–63, adopted June 6, 2024, and released June 11, 2024. The full text of this document is available at the following internet address: <https://www.fcc.gov/document/fcc-adopts-200m-cybersecurity-pilot-program-schools-libraries-0>.

I. Introduction

1. As broadband connectivity and internet access have become essential

for K–12 students and adults alike, the security and safety of that access has likewise become paramount. Whether for online learning, job searching, or connecting with peers and the community, high-speed broadband is critical to educational, professional, and personal success in the modern world. Although broadband connectivity and internet access can simplify and enhance the education and daily lives of K–12 students, school staff, and library patrons, they can also be used by malicious actors to steal personal information, compromise online accounts, and cause online personal harm or embarrassment. In response to the growing importance of cybersecurity to broadband connectivity and internet access for K–12 schools and libraries, and in light of the increase in cyberattacks to disrupt or disable these critical networks, the Commission adopts a three-year pilot program within the USF to provide up to \$200 million to support cybersecurity services and equipment for eligible schools and libraries.

2. The Pilot Program is a critical next step to evaluate whether, and to what extent, the Commission should leverage the USF to support the cybersecurity needs of schools and libraries. By proceeding via a short-term Pilot Program, the Commission can gather key data on the types of cybersecurity services and equipment that K–12 schools and libraries need to protect their broadband networks and securely connect students, school staff, and library patrons to advanced communications that are integral to education. The Pilot Program will evaluate whether supporting cybersecurity services and equipment with universal service funds advances the key universal service principles of providing quality internet and broadband services to K–12 schools and libraries at just, reasonable, and affordable rates; and ensuring schools’ and libraries’ access to advanced telecommunications. Importantly, the Pilot Program will also enable the Commission to better estimate the costs of supporting cybersecurity services and equipment via the USF, which will help inform future decisions on how to best utilize the USF to support the connectivity and network security needs of K–12 schools and libraries. Data and information collected through this Pilot Program may also aid in the considerations of broader efforts across the government to help schools and libraries address their cybersecurity concerns. In this regard, the Commission notes that other Federal

partners, including the Department of Homeland Security’s Cybersecurity and Infrastructure Security Agency (CISA) and the U.S. Department of Education (Education Department), have jurisdiction and deep expertise on cybersecurity matters, and the Commission expects continued interagency coordination will enable us to leverage their knowledge and resources to explore how the Commission can contribute to addressing the cybersecurity needs of K–12 schools and libraries.

3. Eligible schools and libraries will be able to request and receive support through the Pilot Program to purchase a wide range of qualifying cybersecurity services and equipment that best suit their particular needs. To ensure that the Commission is able to select a large number of participants for the Pilot Program, it adopts per-student and per-library budgets, subject to a minimum funding floor, as well as an overall funding cap. Additionally, the Commission expects to select a diverse cross-section of schools, libraries, and consortia to participate in the Pilot Program, with a focus on selecting applicants with the greatest need. By selecting a participant pool that reflects large, small, urban, rural, and Tribal schools and libraries, the Commission expects to gain a better understanding about the cybersecurity needs of a wide range of schools and libraries.

4. In adopting this Pilot Program, the Commission is also mindful of the E-Rate program’s longstanding goal of promoting connectivity, as well as its obligation to be a mindful and prudent steward of the Commission’s limited universal service funds. To that end, the Commission must balance its actions in this proceeding against competing priorities, bearing in mind that the universal service funds are obtained through assessments collected from telecommunications carriers that are typically passed on to and paid for by U.S. consumers. The Commission acknowledges that, as a limited-term Pilot Program, only a subset of K–12 schools and libraries will likely be selected and receive support to defray their cybersecurity-related costs. And, with a \$200 million budget, the Pilot Program will not be able to fund all of the cybersecurity-related needs of the selected Pilot participants. The Commission notes that the estimated costs for all types of cybersecurity services may exceed the funding available for this Pilot Program, and it further notes that the Pilot participants will not receive 100% reimbursement, as they will be required to pay their non-discount share of the costs of the

eligible services and equipment. Within this framework, the Commission finds that the Pilot Program will serve a vital role in informing the Commission, and the broader Federal Government, as to the most pressing cybersecurity needs of K–12 schools and libraries, and the associated costs, which will enable the Commission and other stakeholders to best address these needs on a long-term basis.

II. Discussion

5. In the Order, the Commission establishes a three-year Pilot Program to evaluate whether supporting cybersecurity services and equipment with universal service support could advance the key universal service principles of providing quality internet access and broadband services to K–12 schools and libraries at just, reasonable, and affordable rates; and ensuring schools' and libraries' access to advanced telecommunications as provided by Congress in the Telecommunications Act of 1996 (1996 Act). Specifically, the Commission first adopts a three-year Pilot timeframe and \$200 million cap to support cybersecurity services and equipment, including advanced firewalls, for eligible schools and libraries, and consortia of eligible schools and libraries, using the Connected Care Pilot Program as a model. Second, the Commission establishes per-student and per-library budgets to specify the amount of funding that Pilot participants can receive and ensure funding can be widely disbursed. Next, the Commission confirms that all eligible schools and libraries, including those that do not currently participate in the E-Rate program, are eligible to apply to participate in the Pilot Program. The Commission then adopts a Pilot eligible services list that specifies the cybersecurity services and equipment that will be eligible for Pilot funding, and an application process that mirrors the E-Rate program and through which it can select a broad pool of participants. In addition, the Commission establishes Pilot Program rules and procedures for all phases of the Pilot, including competitive bidding, requesting funding, and invoicing/reimbursement. These Pilot rules and procedures draw on its experience administering the E-Rate and Emergency Connectivity Fund (ECF) programs and will promote efficient program administration and reduce burdens on Pilot participants. The Commission also appoints an Administrator of the Pilot and adopt program integrity protections, including document retention and production, gift, certification, audit, and suspension

and debarment rules, consistent with its responsibility to be a careful steward of the limited USF dollars. The Commission then adopts Pilot performance goals and data reporting requirements to help us assess the costs and benefits of using the limited universal service funds to support the cybersecurity needs of K–12 schools and libraries, and establish appeal and waiver request rules to provide recourse for parties aggrieved by decisions of the Pilot Program Administrator. Lastly, the Commission concludes that the Commission has legal authority to establish a Pilot Program that provides USF support for cybersecurity services and equipment to eligible schools and libraries and that the requirements of the Children's internet Protection Act (CIPA) are triggered by the purchase of eligible services or equipment through the Pilot.

6. *Pilot Program Timeframe.* The Commission first adopts a Pilot Program duration of three years. In the *Cybersecurity Notice of Proposed Rulemaking (NPRM)*, 88 FR 90141, December 29, 2023, the Commission sought comment on its proposed three-year term for the Pilot Program. The Commission sought comment specifically to understand whether (i) the proposed length of the program would be sufficient to provide the Commission with data to evaluate how effective the Pilot funding is in protecting K–12 schools and libraries, and their broadband networks and data, from cybersecurity threats and attacks; (ii) if it would be feasible to shorten the Pilot without compromising the integrity of the data collected; and (iii) if it should provide additional time for participants to prepare for the Pilot or for the Commission to evaluate the data at the conclusion of the Pilot.

7. While several commenters support the proposed Pilot duration of three years, many advocated for a shortened Pilot duration of either one year or eighteen months. Commenters supporting a shorter Pilot timeframe offered four main reasons for doing so. First, commenters argued that a three-year Pilot would render the data collected on cybersecurity services and equipment used to combat cybersecurity threats and attacks obsolete by the conclusion of the Pilot Program. Second, commenters advocated that a shorter program would allow the Commission to evaluate Pilot data in time to align with the next E-Rate category two budget cycle (*i.e.*, funding years (FY) 2026 through FY 2030). Third, commenters argued for a shorter duration on the grounds that applicants who were not selected to participate in

the Pilot would be required to wait over three years to potentially receive funding to combat cybersecurity threats and attacks. Finally, commenters recommended a shorter Pilot term or, alternatively, a higher cap, in order to increase the number and diversity of participants.

8. A three-year Pilot Program will give the Commission the time to evaluate whether universal service support should be used to fund cybersecurity services and equipment on a permanent basis and the Commission adopts a program duration of three years for the Pilot. In establishing the Connected Care Pilot Program, the Commission concluded that a three-year pilot program was “reasonable and [would] allow the Commission to obtain sufficient, meaningful data from the selected pilot projects” and the Commission finds the same reasoning applies here. As a responsible steward of the limited USF, the Commission is obliged to carefully evaluate any actions that would expand demands on the Fund. This is particularly important where, as here, the Commission is exploring whether to make funding available to support services and equipment not previously covered, and where other resources may be available. Given record estimates regarding what it could cost to fund a complete suite of cybersecurity services and equipment, the Commission thinks it is imperative to carefully consider the potential benefits—and burdens—before deciding whether to move forward with such funding on a wider scale or permanent basis. The Commission believes that a three-year term will enable us to gather the necessary information.

9. The Commission recognizes there is a tradeoff between learning more from the Pilot and moving quickly to potentially expand support to protect K–12 schools' and libraries' broadband networks and data from cybersecurity threats and attacks. While some commenters suggested setting a one-year to eighteen-month term, in part to align with the next category two budget cycle, the Commission declines to do so. A shorter term would hamper the Commission's ability to evaluate the use of universal service funds to fund cybersecurity equipment and services, particularly given the expected lead time for schools and libraries to implement a cybersecurity solution and unknowns around the evolving threat of potential cybersecurity attacks. Moreover, the Commission notes that it would be challenging to align the conclusion of the Pilot with the next category two budget cycle in any event, given the time needed to evaluate

lessons learned from the Pilot and the proceedings needed to implement any permanent funding stream for cybersecurity services and equipment. Additionally, the Commission disagrees with commenters that a three-year term would render any potential solutions or analysis obsolete. Given the flexibility the Commission provides to Pilot participants to select and modify the cybersecurity services and equipment they choose over the three-year period, the Commission expects that participants will be able to quickly adapt to changes in cybersecurity threats or attacks, or the availability of new cybersecurity solutions. Additionally, given the reporting requirements adopted herein, the Commission expects to keep pace with lessons learned from the Pilot as data is provided which, in turn, will help facilitate its analysis and determination of next steps. Finally, the Commission disagrees with commenters who suggest it shorten the Pilot term or allocate additional funding in order to fund a greater or wider array of participants. The Commission believes the \$200 million cap will allow it to provide sufficient support to a wide cross-section of Pilot participants; thus, the benefits to retaining the proposed three-year time frame are greater than the benefits of a shorter duration.

10. *Pilot Program Cap.* The Commission also adopts a Pilot Program funding cap of \$200 million over three years for the Pilot Program. In the *Cybersecurity NPRM*, the Commission sought comment on whether (i) a cap of \$200 million would be sufficient to obtain meaningful data about how this funding would help to protect schools' and libraries' broadband networks and data and improve their ability to address K–12 cyber risks; (ii) if a lower cap would be sufficient for these purposes (e.g., \$100 million); and (iii) how the total Pilot Program cap should be distributed over the three-year funding period in a way that accounts for participants' spending needs while ensuring predictable funding over the three-year term.

11. Several commenters agree that the proposed \$200 million funding cap is sufficient to fund a wide range of Pilot participants over a three-year period. Others suggested a higher amount in order to provide funding to a larger number of Pilot participants. Having reviewed the record in its entirety, the Commission adopts the proposed \$200 million funding cap for the Pilot Program. For its goal of obtaining meaningful information on how this Pilot could help protect schools' and libraries' broadband networks and data,

and improve their ability to address K–12 schools' and libraries' cybersecurity risks, as discussed in the Order, the Commission believes the proposed cap of \$200 million over three years will be sufficient.

12. To provide funding for the Pilot, and to minimize the impact on the contribution factor, the Commission will assign unused E-Rate funds from prior funding years to cover the full \$200 million cap. In 2023, the Wireline Competition Bureau (Bureau) found that unused funds from prior funding years were available for use in funding year 2023 and directed the USF Administrator, the Universal Service Administrative Company (USAC), to fully fund year 2023 demand, and to reserve an additional \$190 million of carry forward funds for future use. Similarly, in 2024, the Bureau directed USAC to reserve \$10 million of the available \$500 million of carry forward funds for future use. With the Order, the Commission assigns that \$200 million of carry forward funding to offset the collection requirements for the Pilot, thereby reducing any potential increase on the contribution factor. In the *Cybersecurity NPRM*, the Commission sought comment on other approaches that could be used to fund the Pilot, aside from directing USAC to separately collect the needed funds. No commenter addressed these approaches. Making use of carry forward funding in this way is consistent with its responsibility to be a careful steward of the USF, while at the same time allowing the Commission to respond to the need for additional cybersecurity funding for K–12 schools and libraries. This approach is consistent with how the E-Rate and other USF programs are administered.

13. The Commission next adopts fixed per-student and per-library budgets to determine the amount of funding that participants may receive during the Pilot. In the *Cybersecurity NPRM*, the Commission sought comment on how to evaluate funding requests and whether to establish a maximum amount of funding that an individual participant could receive. Among other things, the Commission sought comment on whether providing a larger amount of funding to a smaller number of participants, or a smaller amount of funding to a greater number of participants, would best enable us to assess the use of the USF for cybersecurity services and equipment. In particular, the Commission sought comment on whether it should establish a per-student budget, with a corresponding budget for libraries, as well as the data sources and cost information that would be appropriate

to use in evaluating funding requests. Additionally, the Commission sought comment on whether it should require Pilot participants to contribute a portion of the eligible costs of cybersecurity services and equipment in order to receive funding. The Commission further proposed to apply a participant's category two discount rate to calculate the non-discounted share of costs for the Pilot Program, but also sought comment on requiring participants to instead contribute a fixed percentage of the costs of the cybersecurity services and equipment purchased. Finally, the Commission sought comment on whether a participant should receive its funding commitment in equal installments, or whether there may be reasons why a Pilot participant may need access to a greater amount earlier during the three-year term.

14. A 2021 cost study submitted jointly by Funds For Learning, LLC (FFL), the Consortium for School Networking (CoSN), and others estimated it would cost approximately \$13.60 per student annually to support advanced or next-generation firewall services, \$16.20 per student annually to support endpoint security and protection, and \$14.50 per student annually to support additional, advanced cybersecurity services and equipment. Rubrik, Inc. (Rubrik), in its comments, stated it would be reasonable to establish a funding maximum for individual entities of \$1 million to \$2 million. Based on its review of the cost estimates submitted by commenters, and consistent with its goal to provide funding to a wide variety of participants, as discussed in the Order, the Commission adopts fixed budgets to determine the amount of funding that a Pilot participant can receive. While these budgets, including associated maximums and floors, are specified in terms of annualized dollar amounts, participants' expenses are capped based on the full three-year duration of the Pilot and not on an annual basis. Thus, Pilot participants may request reimbursement for expenses as they are incurred even if it means that the amount of funding disbursed to a participant in a given year of the program exceeds their annual budget, so long as the total amount disbursed to a participant over the three-year term does not exceed three times that annual budget. In establishing these budgets, which account for the estimated costs of different types of advanced cybersecurity solutions, the Commission expects to provide a meaningful benefit to a substantial number of schools, libraries, and consortia. In

implementing this approach, the Commission declines to award support based on a percentage of a participant's category one or category two budget, as suggested by some commenters. The Commission finds that a more tailored approach, grounded in the estimated cost of implementing specific types of cybersecurity solutions, would best achieve its goals in a targeted and cost-effective manner. Furthermore, the Commission notes that because it does not limit Pilot participation to current E-Rate applicants, it would be difficult to implement an approach based on category one or category two budgets. When implementing these budgets, the Commission will categorize Pilot applicants and consider their funding needs in combination with their applicant type, as discussed in greater detail below.

15. *Schools and School Districts.* Schools and school districts will be eligible to receive up to \$13.60 per student, annually, on a pre-discount basis, to purchase eligible cybersecurity services and equipment over the three-year Pilot duration. The Commission finds that a pre-discount annual budget of \$13.60 per student strikes an appropriate balance between supporting the various types of cybersecurity services and equipment needed to protect school networks and data, and its desire to provide funding to as many schools and school districts as possible in the limited-term Pilot Program. Additionally, the Commission notes that this per-student annual budget is sufficient to support the majority of the total annual costs related to any one of the three types of security measures FFL and CoSN identified in their cost estimate, and is also consistent with the Commission's analysis in the *First 2014 E-Rate Order*, 80 FR 167, January 5, 2015, that established per-student budgets for category two equipment and services.

16. The Commission recognizes that for many schools a pre-discount annual budget of \$13.60 will not, by itself, be sufficient to fund all of the school's cybersecurity needs to achieve a fully mature cybersecurity posture, as doing so would typically require a school to implement multiple categories of technical solutions, often in a specific priority order. Given the limited Pilot funding available, its approach instead ensures that each participating school will receive funding to prioritize implementation of solutions within one major technological category requested by commenters, enabling the school to make meaningful progress toward its own cybersecurity goals and providing flexibility for schools with differing

cybersecurity strengths and vulnerabilities. The Commission finds that this approach ensures that each participant can make meaningful, incremental progress towards its own cybersecurity goals, and best positions the Commission to assess the benefits that accrue from funding individual cybersecurity solutions, consistent with a core objective of the Pilot. The Commission also finds that this approach represents a strategic and cost-effective way to spend the limited Pilot funds in the context of considering future changes to the E-Rate program, as it creates incentives for each school to select the most impactful incremental solutions available to it in view of the school's specific cybersecurity vulnerabilities and strengths.

17. Schools and school districts selected for the Pilot Program will be eligible to receive, at a minimum, \$15,000 in annual support, on a pre-discount basis, over the three-year Pilot duration. The Commission establishes this funding floor to ensure that even the smallest schools and school districts can receive support sufficient to purchase a variety of cybersecurity services and equipment. The Commission sets the annual funding floor at \$15,000, pre-discount, because it aligns with the annual cost estimate submitted by FFL and CoSN, which found that the approximate per-site annual cost for advanced firewalls is \$15,994. The Commission notes that a pre-discount \$13.60 per-student budget equates to approximately 1,100 students in a school or school district receiving \$15,000 in support. As a result, schools and school districts with 1,100 students or fewer will be eligible to receive the pre-discount \$15,000 annual funding floor. The Commission also establishes an annual budget maximum of \$1.5 million, pre-discount, which equates to approximately 110,000 students, using the pre-discount \$13.60 per-student budget. As a result, schools and school districts with more than 1,100 students, and up to approximately 110,000 students, will calculate their budget using the pre-discount \$13.60 per-student multiplier. Schools and school districts with more than 110,000 students will be subject to the annual budget maximum of \$1.5 million, over the three-year Pilot duration. The Commission finds that a \$1.5 million annual maximum reflects the greater purchasing power of larger schools, school districts, and consortia, and the associated reduction in the cost-per-student amount. Additionally, the Commission establishes the annual budget maximum to best ensure that

Pilot funds are able to support cybersecurity services and equipment for as many participants as possible, and also to ensure that a disproportionate amount of funding is not awarded to any one participant.

18. *Libraries and Library Systems.* Rather than adopt a per-user budget, as the Commission has for schools and school districts, or a budget based on library square footage as it does for category two E-Rate funding requests, it adopts a budget that provides a set amount of funding per library to purchase cybersecurity services and equipment. In particular, the Commission establishes a pre-discount annual budget of \$15,000 per library up to 11 libraries/sites, consistent with its analysis regarding the per-site funding amount needed to support advanced firewalls. Library systems with more than 11 libraries/sites will be eligible for support up to \$175,000 annually, pre-discount, which approximately reflects the cost of providing advanced firewalls to an entity with between 10 and 24 locations. The Commission believes using a per-site methodology and funding caps for calculating library budgets is more appropriate than using library square footage, as it does for E-Rate category two funding requests, because costs for cybersecurity services and equipment do not scale with square footage in the same way as they do for building internal Wi-Fi networks. The Commission also finds that the pre-discount budgets established for libraries and library systems are generally consistent with how funding is allocated in the E-Rate program to cover the majority of the cost of supported services and equipment, and strike a balance between funding a baseline amount needed to procure cybersecurity services and equipment, and ensuring that the Pilot Program is able to support as many participants as possible.

19. *Consortia.* Consortia participants comprised of eligible schools and libraries will be eligible to receive funding based on student count (using the annual pre-discount \$13.60 per student multiplier and \$1.5 million, pre-discount, annual cap) and the number of library sites (using the pre-discount \$15,000 per library annual budget up to 11 libraries/sites and the \$175,000, pre-discount, annual cap). Consortia that are solely comprised of schools will be subject to the pre-discount annual \$1.5 million budget maximum applicable to schools. Consortia that are solely comprised of libraries will be subject to the pre-discount \$175,000 annual budget maximum for library systems. Consortia comprised of both eligible

schools and libraries will be subject to the pre-discount \$1.5 million annual budget maximum applicable to schools. The Commission finds these budget maximums are an important mechanism to ensure that Pilot funding is widely disbursed. The Commission will also require each consortium to select a consortium leader.

20. *Non-discount Share of Costs.* The Commission will require participants to contribute a portion of the costs of the cybersecurity services and equipment they seek to purchase with Pilot Program support, similar to the non-discount share that E-Rate applicants are required to contribute to the cost of their eligible services and equipment. The Commission agrees with the Dallas Independent School District that requiring participants to contribute some portion of the costs of eligible services and equipment, as it has in E-Rate, will be “successful in aligning the interests of applicants to minimizing waste, fraud, and abuse.” In the *Cybersecurity NPRM*, the Commission proposed using a participant’s category two discount rate to determine the portion of costs a participant will be required to contribute. The Commission establishes in the Order, instead, that participants will use their category one discount rate to determine the non-discount share of costs. Thus, participants with the students with the greatest need will be eligible for support for 90 percent of their costs, and will be required to contribute 10 percent of the cost of eligible cybersecurity services and equipment purchased with Pilot funds. By using the category one discount rate, the program’s neediest schools and libraries will have greater flexibility in selecting eligible services and equipment, thus supporting its goal to evaluate the benefits of supporting advanced firewalls and cybersecurity services using the USF. Furthermore, the category one discount rate is appropriate, as Pilot funds will be used to enhance the protection of the broadband networks, including those funded from the E-Rate program’s category one. The Commission finds that this approach is preferable to establishing a uniform contribution percentage like the one adopted for the Connected Care Pilot Program because it equitably accounts for the relative need of the participant. Moreover, most, if not all, Pilot applicants and participants—including large state or regional consortia—are already familiar with the use of discount rates in the E-Rate program.

21. *Disbursement of Support.* The Commission will permit Pilot participants to request reimbursement

as expenses are incurred, even if it means that a greater amount of funding is disbursed earlier in the three-year Pilot term than is specified by its annual budgets, so long as the overall disbursement to a participant over the course of the three-year Pilot term does not exceed three times the annual budget. In doing so, the Commission acknowledges that some participants may face greater up-front costs for the services and equipment needed to implement their cybersecurity plans, whereas others may have ongoing recurring costs, or some combination of both. The Commission agrees with Cisco that it should not adopt a “static” funding approach, as well as with Palo Alto Networks, Inc. that a flexible approach would “ensure a stronger runway for the deployment and configuration of eligible solutions and products under the Pilot.” However, the Commission declines to adopt the recommendation of Advanced Technology Academic Research Center Cybersecurity Higher Education and Workforce Development Working Group that it abandon its traditional reimbursement structure to provide “seed” money at the outset of the Pilot. The reimbursement process the Commission adopts here is consistent with the reimbursement processes used in the E-Rate and other universal service programs and, combined with the requirement that Pilot participants contribute some amount of their own money towards the cost of eligible services and equipment, serves as an important backstop for safeguarding the integrity of the Pilot Program. Moreover, while the Commission is mindful of the importance of establishing a predictable cap that minimizes the contribution burden on consumers, it expects that the limited nature of the Pilot cap relative to the overall size of the Fund, as well as its planned use of the reserved \$200 million in carry forward funding, will minimize any burden to the overall Fund for any given quarter.

22. *Pilot Benefits will Exceed Costs.* The Commission expects the benefits of the Pilot Program to exceed the costs. As a threshold matter, the Commission notes that program participation by applicants, participants, and service providers is voluntary, and it expects that Pilot participants will carefully weigh the benefits, costs, and burdens of participation to ensure that the benefits outweigh their costs. The Pilot will also enable us to evaluate the estimated economic benefits of using universal service support for cybersecurity services and equipment, compared to its cost to the Fund. In this regard, the

Commission notes that, according to the Federal Bureau of Investigation’s internet Crime Complaint Center, the U.S. population, including U.S. territory residents, incurred an estimated \$10.9 billion in losses from cybercrime in 2023. Based on a 2023 U.S. population of 335 million, this equates to a per-capita loss of about \$32.50 per person from cybercrime. The Pilot Program caps support at a pre-discount, annual level of \$13.60 per student for most schools and school districts. If the Pilot can reduce the annual monetary cost of cyberattacks on participating K–12 schools by at least 42 percent, the expected economic benefits of increased cybersecurity would exceed the per-student funding costs. The Commission expects that there may be additional benefits that cannot be easily quantified, such as a reduction in learning downtime caused by cyberattacks, reputational benefits from increased trust in school and library systems, increased digital and cybersecurity literacy among students and school staff, and the safeguarding of intellectual property. Despite these benefits, the Commission is also concerned about the overall cost to the Fund if it were to provide cybersecurity funding to all E-Rate participants, which CoSN estimates could cost the Fund \$2.389 billion annually. This limited Pilot Program will therefore enable the Commission to evaluate the benefits of using universal service funding to fund cybersecurity services and equipment against the costs before deciding whether to support it on a permanent basis.

23. The Commission next make eligibility for participation in the Pilot Program open to all eligible schools and libraries, including those that do not currently participate in the E-Rate program. In the *Cybersecurity NPRM*, the Commission sought comment on the types of entities that should be eligible to participate in the Pilot Program. The Commission observed that a wide array of entities participate in the E-Rate program, and sought comment on how to ensure that the Pilot likewise has a diverse participant pool. Specifically, the Commission asked whether: (i) eligibility should be limited to schools and libraries currently participating in the E-Rate program; (ii) eligibility should be expanded to include schools and libraries that do not currently participate in the E-Rate program; or (iii) eligibility should include any entity that qualifies for funding through the E-Rate program. The Commission proposed to adopt the same definitions for schools and libraries as used in the E-Rate

program, when determining the eligibility of Pilot participants.

24. Commenters generally supported leveraging the E-Rate program rules to determine the types of entities that should be eligible to participate in the Pilot Program, with at least a few encouraging the Commission to limit eligibility to existing E-Rate applicants. For example, The Internet & Television Association (NCTA) argued that limiting eligibility to existing E-Rate participants was appropriate “since [Pilot] cybersecurity services will be integrated with the connectivity being purchased pursuant to the E-Rate program.” Several commenters urged the Commission to make consortia eligible, consistent with the E-Rate program. These commenters noted that consortia “can provide valuable services at scale,” which would allow the Commission to “stretch the limited proposed Pilot funding and increase the impact to more students and schools.” Others suggested that it expand eligibility to include local and other government entities and Educational Service Agencies (ESAs).

25. The Commission has determined that it will permit all eligible schools and libraries, including those that do not currently participate in the E-Rate program, to apply to participate in the Pilot. The Commission adopts the definitions of elementary school, secondary school, library, and library consortium contained in Final Rules section of the Order, which mirror the definitions that it uses for the E-Rate program. In taking these steps, the Commission declines to adopt suggestions from commenters that it limit Pilot eligibility to only those schools and libraries that currently participate in the E-Rate program. The Commission observes that all schools and libraries currently face increased cybersecurity threats and attacks regardless of whether they receive E-Rate funding and opening the Pilot Program to all eligible schools and libraries will allow us to gather data from the widest range of eligible participants. While the Commission appreciates the concern raised by NCTA and others that the Pilot should focus on protecting E-Rate-funded networks, it believes that, on balance, opening the Pilot Program to a wider pool of participants would best ensure that it has sufficient data to evaluate the impact of universal service support on the purchase of cybersecurity services and equipment both now and in the future. Given the large percentage of eligible schools that participate in the E-Rate program, the Commission anticipates that the overwhelming

majority of Pilot participants will also be E-Rate participants.

26. Consistent with the Commission E-Rate rules, it further clarifies that it will also permit eligible schools and libraries that apply as a consortium to participate in the Pilot Program. The Commission agrees with commenters that consortia have buying power that can help bring down costs and that including consortia in the Pilot would allow larger, better-resourced schools and libraries to partner with smaller, less technically savvy participants. Given the limited funding for the Pilot Program and the Commission’s objective to select as many participants as possible, it will allow a school or library to apply and participate only once in the Pilot Program, either individually or as part of a consortium. The Commission declines to extend eligibility to local and other governmental entities, including ESAs, or other entities that are not an eligible school or library as defined in § 54.2000 of the Commission’s rules adopted. However, non-eligible entities, including local, state, and Tribal governmental entities, and other not-for-profit organizations may serve as a consortium leader for a consortium participant in the Pilot, but as in the Rural Health Care, E-Rate, and Connected Care Pilot programs, will be ineligible to receive Pilot benefits, discounts, and funding, and therefore must pass through the benefits, discounts, and support to the eligible school and library consortium members. While the Commission recognizes that local governmental entities may provide economies of scale or cybersecurity expertise that would benefit schools and libraries, the E-Rate and Rural Health Care programs direct USF support to schools, libraries, and health care providers, pursuant to sections 254(c)(3) and 254(h) of the Communications Act of 1934, as amended (the Act). As its legal authority for the Pilot stems from the same source, the Commission declines to expand Pilot eligibility to include governmental and other entities that would be ineligible under the E-Rate or Rural Health Care programs; however, it recognizes the expertise and value of these entities by allowing them to serve as ineligible consortium leaders that pass through the benefits, discounts, and support from the Pilot Program to their eligible school and library consortium members. The Commission directs the Bureau and USAC to provide additional training and guidance on creating a Pilot consortium and serving as a consortium leader in the Pilot. The Commission also

directs the Bureau and USAC to establish measures to prevent eligible schools and libraries from receiving duplicative Pilot support as individual Pilot participants and as Pilot consortium members.

27. The Commission adopts a Pilot Eligible Services List (P-ESL) which specifies eligible cybersecurity services and equipment for the Pilot. In the *Cybersecurity NPRM*, the Commission sought comment on the “equipment and services . . . that should be made eligible to participants in the Pilot” and on whether it should specify eligible services and equipment using “general criteria” or a “list of specific technologies.” Based on the record, the Commission adopts a flexible approach for the P-ESL as it deems services and/or equipment eligible if they “constitute a protection designed to improve or enhance the cybersecurity of a K–12 school, library, or consortia.” At the same time, the Commission provides applicants with specificity and clarity in practical terms in the P-ESL, as it enumerates as eligible, in a non-limiting manner, four general categories of technology raised by commenters as effective in combatting cyber threats, namely, (i) advanced/next-generation firewalls; (ii) endpoint protection; (iii) identity protection and authentication; and (iv) monitoring, detection, and response. Moreover, for each of these categories, the Commission provides a non-exhaustive list of examples of eligible services and equipment in the P-ESL. Through the list of examples, the Commission confirms that the wide range of services and equipment it had proposed for inclusion in the *Cybersecurity NPRM*, or that commenters had otherwise requested, are eligible. The Commission designates the eligible services and equipment for the duration of the Pilot through the P-ESL. The Commission also delegates authority to the Bureau, as needed, to clarify and make technical changes to the P-ESL consistent with the standards it established herein, to promote efficient program administration and account for technological evolution.

28. The Commission agrees with commenters who opine that Pilot participants should have flexibility to determine which solutions best serve their needs by basing eligibility on broader considerations, rather than a specific and potentially rigid set of pre-authorized components. Its approach is consistent with Rubrik’s view that it “provide general guidance for applicants, but not lock them into specific technology products.” Its approach also includes as eligible the advanced or next-generation firewalls,

endpoint security and protection, and other advanced security services and equipment identified by E-Rate stakeholders, including FFL and CoSN. At the same time, by enumerating four non-limiting categories of eligible technology, the Commission finds that its approach also meets the recommendations of commenters that it “establish general categories of eligible offerings” without “specify[ing] the precise technologies or solutions that must be relied upon” and allow “[p]ilot participants to select any product and/or services that fall into any of the eligible categories.” Its approach also ensures that most, if not all, of the cybersecurity services and equipment needed to implement recommendations from the CISA K–12 Cybersecurity Report, the Education Department K–12 Digital Infrastructure Briefs, and other Federal resources and guides are eligible while still allowing Pilot participants significant flexibility to determine the extent to which any of these specific measures would be most cost-effective for them to implement. While the Commission declines to make these or other Federal recommendations the sole basis for determining eligibility for the purposes of the Pilot, it strongly encourages all participants to consider these Federal recommendations, particularly those that can be implemented at little or no cost, as part of their assessment of which services and equipment to request to be funded through the Pilot. The Commission directs the Bureau to identify these Federal recommendations, and it directs the Bureau and USAC to facilitate access to these recommendations by including information related to them on relevant program websites and in training materials that each entity makes available to Pilot participants. The Commission further directs the Bureau and USAC to periodically update the information provided on their respective websites and in the training materials to reflect relevant updates to the recommendations that may issue during the duration of the Pilot.

29. The Commission finds that specifying eligibility based on broader considerations is appropriate in the context of a Pilot that aims to study the effectiveness of a wide variety of technological solutions. The Commission further finds that its approach, in which it declines to attempt to exhaustively list every possible technological category or eligible service or piece of equipment within a category, is reasonable and reflects the rapidly-changing nature of the technical solutions available to

address cybersecurity threats and attacks. Its approach also ensures that services or equipment are not deemed ineligible merely because the service provider or equipment-maker uses a label or term to describe it that is not specifically enumerated in the P–ESL. To provide participants with further flexibility, and in view of a lack of consensus around the terminology used to describe similar cyber solutions, the Commission makes eligible both the specific services and equipment identified in the P–ESL, as well as ones that have “substantially similar features or their equivalents.” The Commission also makes eligible security updates and patches, which will help to ensure that participants are protected even as threat vectors evolve over the course of the Pilot. The Commission finds that this will help to ensure that the services and equipment funded through the Pilot do not reach their end of useful life prematurely, thus avoiding waste in the Pilot Program. Finally, consistent with the flexible approach the Commission adopts, it clarifies that applicants are permitted to seek funding for multi-year licenses for eligible recurring services that are longer than three years, however, only services delivered within the Pilot Program period can be reimbursed using Pilot funds. Similarly, the costs of eligible services that will be incurred during the Pilot Program period are eligible, subject to compliance with procurement requirements and limitations on duplicative funding, even if prior years’ costs were paid with another funding source.

30. The Commission further finds its approach strikes a reasonable balance between specifying basic limits on the scope of eligible services and equipment, which reflects the limited funding available for the Pilot and the need to safeguard Pilot funds from being used on components unrelated to Pilot objectives, while providing participants with clarity and significant flexibility to address their unique cybersecurity threat profiles, which they are ultimately in the best position to assess. Moreover, its enumeration of four key categories of technology, and specific services and equipment within each area, ensures that USAC will be positioned to expediently conduct program integrity and service reviews and quickly issue funding decisions for the eligible Pilot Program services and equipment.

31. The Commission clarifies that its inclusion of a given technological category, equipment, or service in the P–ESL and/or any subsequent determination by the Bureau that a

specific piece of equipment or service is eligible in the Pilot Program, is not an endorsement by the Commission, the Bureau, or USAC that the equipment or service is sufficiently cost- or technologically-effective for its intended purpose (e.g., in preventing a breach, a loss of data, or other harm). Rather, the Commission expects participants to select equipment and services from among those that are eligible based on their own assessments of cost-effectiveness in addressing their specific needs. Accordingly, a participant may not rely on eligibility determinations made by the Commission or the Bureau in the Pilot as a defense or safe harbor should it experience a cyber incident, including a breach, a data loss, or other harm. Moreover, the Commission clarifies that the services and equipment listed in the P–ESL are eligible only when they are used on or as a part of a participant’s school or library broadband network that directly furthers its educational mission. The Commission finds this clarification appropriate to ensure that it can satisfy the statutory purpose of the E-Rate program, as well as its goal of measuring the costs associated with cybersecurity services and equipment. The Commission also declines to limit eligible services and equipment for the Pilot to those that are used on E-Rate-funded broadband networks only. The Commission finds this step reasonable given that Pilot participants are not limited solely to current applicants in the E-Rate program.

32. In the *Cybersecurity NPRM*, the Commission sought comment on whether to make advanced and next-generation firewalls eligible for the Pilot and, if so, how to define the scope of these terms. The Commission adopts this proposal to enable Pilot participants to protect their networks from outside cyber attackers by blocking malicious or unnecessary network traffic. For purposes of the Pilot, the Commission defines an “advanced” or “next-generation” firewall as “equipment, services, or a combination of equipment and services that limits access between networks, excluding basic firewall services and components that are currently funded through the E-Rate program.” This definition is reflected in the P–ESL.

33. The Commission agrees with the vast majority of commenters that advanced or next-generation firewalls are a logical starting point and an important tool to include in the Pilot as it studies the potential use of universal service funding to protect eligible schools and libraries from cybersecurity threats and attacks. The Commission

also agrees that making these tools eligible in the Pilot will provide the Commission with a stronger understanding of the technical benefits and cost implications of potentially funding these tools in the broader E-Rate program. While no commenter directly opposed the view that advanced and next-generation firewalls could meaningfully improve security postures, a few commenters opined that the associated funding could be used more effectively in other ways, including to fund training of “staff and end-users.” The Commission disagrees with these commenters and find that funding advanced and next-generation firewalls is justified in light of the Commission’s previous findings establishing the value of these technologies, and it finds it reasonable to extend Pilot funding to these tools rather than to fund, *e.g.*, training more broadly than described further below or the less-vetted alternatives raised by commenters. The Commission further finds that the funding of specific advanced firewall technologies will provide more quantifiable and tractable benefits compared with funding broad cybersecurity training programs, based on undetermined materials and methods.

34. However, the Commission does agree that funding some level of training will help to ensure that the Pilot-funded equipment and services are used effectively and for maximum benefit. Accordingly, it makes training eligible on terms similar to those in E-Rate, namely, when the training is included “as a part of installation services but only if it is basic instruction on the use of eligible equipment, directly associated with equipment installation, and is part of the contract or agreement for the equipment” and if it “occur[s] coincidentally or within a reasonable time after installation.” The Commission finds that this approach balances the need to ensure that applicants have access to training that will enable them to effectively oversee, utilize, and supervise the use of the Pilot-funded equipment and services and prevent the limited Pilot funds from being disproportionately used for cybersecurity awareness training for staff and end-users, thereby, limiting the number of technical solutions that can be implemented and evaluated during the course of the Pilot. However, in contrast to the E-Rate program, it does not require that the training be provided “[o]n-site” to be eligible. The Commission finds it appropriate to fund off-site training as much of the equipment and services identified in the

P-ESL are likely to be supplied or otherwise provided to a participant remotely. The Commission notes that there are numerous free cybersecurity training resources already available through its Federal Government partners. The Commission also expects, based on its years of experience directing USAC’s administration of the E-Rate program, that vendors are likely to include basic training at no additional cost as part of their sale of the eligible equipment and services.

35. The Commission also clarifies that for the purposes of the Pilot Program eligibility rules that “advanced” and “next-generation” firewalls exclude services and/or equipment that are eligible in the E-Rate program. Participants are therefore required to cost allocate components or features that are eligible in E-Rate (*e.g.*, basic firewall components and features) when seeking reimbursement for their eligible equipment and services in the Pilot. Its approach reflects a definition of the term “firewall” endorsed by the National Institute of Standards and Technology (NIST) with a carve out for services and equipment that are already funded through the E-Rate program. The Commission finds it is appropriate to adopt a broad definition as this is consistent with its objective to determine the technological benefits and monetary costs associated with a wide and diverse range of tools for addressing cybersecurity threats and attacks. At the same time, the Commission finds it reasonable to exclude from its definition basic firewall services and equipment that are currently funded through the E-Rate program. The Commission finds that this approach ensures that Pilot funds are spent efficiently, *i.e.*, only on services and equipment not already funded through other USF programs, and that this approach will thus maximize the amount of data and information collected on cybersecurity tools during the Pilot. The Commission further finds that its approach provides sufficient clarity to Pilot participants, and flexibility to request funding for advanced firewalls as they may continue to evolve over the course of the Pilot, while avoiding difficulties associated with attempting to exhaustively enumerate all relevant technological features. To further address commenter views, and as reflected in the P-ESL, the Commission confirms that most, if not all, of the relevant features that commenters endorse as “advanced” and “next-generation” firewall features, including intrusion detection and prevention,

application-level inspection, anti-malware and anti-virus protection, virtual private network (VPN), Domain Name System (DNS) security, distributed denial-of-service (DDoS) protections, and content filtering technologies, are eligible for the Pilot.

36. The Commission declines to adopt the proposal of some commenters, made in this proceeding and in response to the Bureau’s recent Public Notices related to the scope of the Funding Year 2024 E-Rate ESL, that it immediately makes advanced and/or next-generation firewalls eligible in the E-Rate program, even as it continues to study the benefits and costs of other services and equipment through the proposed Pilot. Making advanced and/or next-generation firewalls immediately eligible in the E-Rate program would run directly counter to its proposed purpose of the Pilot Program to, among other things, “measur[e] the costs associated with . . . advanced firewall services, and the amount of funding needed to adequately meet the demand for these services if extended to all E-Rate participants.” As similarly noted by the National Education Organizations (EdGroup), an aim of the Pilot is to further “demonstrate the need for and costs of cybersecurity measures such as advanced firewalls, and to gauge how districts would respond to available federal funding.” The Commission finds it reasonable, and consistent with its obligations to be a careful steward of the limited USF funds, to first study the costs and benefits of advanced and/or next-generation firewalls in the Pilot, before making any determination on whether and how to potentially make these services and equipment eligible through the E-Rate program.

37. Next, the Commission makes endpoint protection, including anti-virus, anti-malware, and anti-ransomware, services and equipment eligible in the Pilot so that participants can protect their networks from potential vulnerabilities introduced by desktops, laptops, mobile devices, and other end-user devices that connect to their networks. For the purposes of the Pilot, the Commission defines endpoint protection as “equipment, services, or a combination of equipment and services that implements safeguards to protect school- and library-owned end-user devices, including desktops, laptops, and mobile devices, against cybersecurity threats and attacks.” This definition is reflected in the P-ESL.

38. The Commission agrees with the many commenters who argue for the inclusion of the specific endpoint technologies that it makes eligible. The Commission also agrees with

commenters that providing funding for endpoint protection should be a priority in investigating ways to improve a school's or library's network security. The Commission finds that its approach is justified as school and library networks continue to evolve to include an ever increasing number of endpoint devices, including desktops, laptops, and mobile devices that serve as points of vulnerability. Moreover, the Commission finds that this approach provides funding to address the Center for internet Security's (CIS) observations that a large percentage of cyberattacks involve ransomware, malware, web application hacking, insider and privilege misuse, and target intrusions. No commenter objects to the Pilot funding endpoint protection. The Commission further finds that its definition of endpoint protection is reasonable as it largely reflects a definition endorsed by NIST, but allows for tools to be software- or non-software-based and emphasizes that, to be eligible, tools must defend against cyberattacks.

39. The Commission also makes identity protection and authentication tools eligible in the Pilot so that participants can prevent malicious actors from accessing and compromising their networks under the guise of being legitimate users. Such tools may include DNS/DNS-layer security, content blocking and filtering/URL filtering, multi-factor authentication (MFA)/ phishing-resistant MFA, single sign-on (SSO), and event logging. For the purposes of the Pilot, the Commission defines identity protection and authentication as "equipment, services, or a combination of equipment and services that implements safeguards to protect a user's network identity from theft or misuse and/or provide assurance about the network identity of an entity interacting with a system." This definition is reflected in the P-ESL.

40. The Commission agrees with the large number of commenters who argue for the inclusion of the specific identity protection and authentication technologies that it makes eligible. The Commission also agrees with commenters that deploying these tools will better ensure that unauthorized users will be unable to gain network access, unable to cause network damage if they do gain access, and/or provide an early warning to schools and libraries of unusual or anomalous behavior that could signal the presence of near and future cyber threats or attacks while they can still be effectively remediated. No commenter objects to the Pilot funding identity protection and

authentication technologies. Moreover, the Commission finds that its definition of identity protection and authentication is reasonable as it largely reflects a definition of "identity authentication" endorsed by NIST, and also clarifies that protection involves protection from theft or misuse.

41. The Commission further makes network monitoring, detection, and response, including the use of security operations centers (SOCs) for managed cybersecurity services, eligible in the Pilot so that participants can promptly and reliably detect and neutralize malicious activities that would otherwise compromise their networks. For purposes of the Pilot, the Commission defines monitoring, detection, and response as "equipment, services, or a combination of equipment and services that monitor and/or detect threats to a network and that take responsive action to remediate or otherwise address those threats." This definition is reflected in the P-ESL.

42. The Commission agrees with the large number of commenters who argue for the inclusion of the specific monitoring, detection, and response technologies that it makes eligible. The Commission also agrees with commenters who advocate for the inclusion of these services and equipment as an important approach to remediating cybersecurity threats and attacks, particularly given the limited resources of schools/libraries to hire or retain staff or other personnel to conduct these activities themselves. No commenter objects to the funding of network monitoring, detection, and response solutions.

43. The Commission imposes a number of limitations on eligibility to ensure the efficient and appropriate use of the limited Pilot funds, and to avoid duplicative funding, protect against waste, fraud, and abuse, and stretch the limited support available through the Pilot. First, the Commission makes ineligible for the Pilot funding any services, equipment, or associated cost that is already eligible through the E-Rate program. The Commission similarly makes ineligible for Pilot funding any service, equipment, or associated cost for which an applicant has already received full reimbursement, or plans to apply for full reimbursement, through any other USF or Federal, state, Tribal, or local government program through which reimbursement is sought. Participants may, however, use Pilot funding to support Pilot-eligible services and equipment that participants were previously paying for themselves, subject to its competitive bidding rules,

as this will allow the Commission to evaluate the efficacy of using universal service funding to support cybersecurity services and equipment, while potentially freeing up funding for participants to use for other needs. The Commission finds that limiting eligibility in this manner ensures that the Commission maximizes the use of the limited Pilot funding by eliminating the provision of redundant or duplicative support for the same cybersecurity services and equipment funded through other sources. It will also maximize the data and information the Commission is able to collect on new services and equipment not already funded through E-Rate or other programs, thus efficiently using Pilot resources to best inform any potential Commission action based on the Pilot data. As is customary in E-Rate, the Commission requires Pilot participants to perform a cost allocation to remove from their funding requests costs associated with ineligible components or functions of an otherwise eligible equipment or service.

44. In the *Cybersecurity NPRM*, the Commission proposed to limit eligibility to "equipment that is network-based (*i.e.*, that excludes end-user devices, including, for example, tablets, smartphones, and laptops) and services that are network-based and/or locally installed on end-user devices, where the devices are owned or leased by the school or library," and to equipment and services that are "designed to identify and/or remediate threats that could otherwise directly impair or disrupt a school's or library's network, including to threats from users accessing the network remotely." The Commission adopts this proposal in the P-ESL with a clarification that "network-based" services include those that are cloud-based and server-based. In doing so, the Commission addresses concerns raised by some commenters by confirming that the term "network-based" solutions includes both cloud and server-based solutions. The Commission finds this clarification appropriate since both servers and cloud architectures are used in conjunction with a network.

45. In taking this action, the Commission disagrees with the view expressed by Clark County School District (CCSD) that limiting eligibility in the way it had proposed would "not go far enough in protecting end-users." Contrary to CCSD's views, the Commission's consideration for eligibility specifically encompass "end-user devices, where the devices are owned or leased by the school or library." The Commission also disagrees

with CTIA's view that eligibility should extend to end-user devices not owned or leased by the school or library since "leaving even one device exposed compromises an entire network." While the Commission is sympathetic to this view on a technical level, it finds it administratively and financially impractical to expand eligibility to an even larger (and unknowable) number of additional devices that students, school staff, and library patrons may seek to connect to their networks over the duration of the Pilot Program. For purposes of the Pilot, the Commission therefore prioritize protection for (*i.e.*, limit eligibility to) devices that are the most essential to a school's or library's educational mission and likely to be used to convey traffic on the networks of these participants. The Commission's overall approach further addresses CTIA's concerns by making a wide range of network-based protections available to monitor, detect, and remediate potential threats introduced by an end-user device that does not qualify for funding under Pilot Program rules. Practically speaking, schools and libraries cannot as easily limit access to their networks by their leased and owned devices while still fulfilling their core educational mission. The Commission thus finds that its approach strikes a reasonable balance between affording protections to the devices most essential and likely to be used on a school's or library's network, reducing threats that may be posed by non-funded devices (*e.g.*, through its decision to make eligible network-level protection technologies) and effectively deploying the limited amount of Pilot funding to provide benefits to a diverse range of schools and libraries. Accordingly, for these reasons and those previously provided in the *Cybersecurity NPRM*, the Commission adopts its proposal as clarified.

46. To further protect the Pilot's limited funds, the Commission restricts eligibility in a number of ways. The Commission deems ineligible (i) staff salaries and labor costs for a participant's personnel and (ii) beneficiary and consulting services that are not related to the installation and configuration of the eligible equipment and services. This mirrors restrictions in the E-Rate program that have proven to be effective in conserving the limited USF funds. The Commission expects that this action will provide similar benefits in the context of the Pilot. The Commission similarly deems ineligible insurance costs and any costs associated with responding to specific ransom demands. The Commission finds that

these restrictions are necessary to ensure that the limited Pilot funding is used for the evaluation of specific technologies, *i.e.*, eligible cybersecurity services and equipment, so that it can gain maximum insight into the technical effectiveness of those offerings. The Commission finds it reasonable to exclude these enumerated uses from the Pilot, which has even more limited funding available as compared to the E-Rate program.

47. In the *Cybersecurity NPRM*, the Commission sought comment on "whether it should place restrictions on the manner or timing of a Pilot participant's purchase of security measures," including whether "funding [should] be limited to a participant's one-time purchase of security measures or [if it] should . . . cover the on-going, recurring costs that a Pilot participant may incur, for example, in the form of continual service contracts or recurring updates to the procured security measures." The Commission received only a few comments in response with commenters suggesting that any such restrictions should be minimally burdensome and avoid unnecessarily interfering with participants' attempts to obtain funding support. Accordingly, the Commission confirms that Pilot participants may request reimbursement for one-time purchases, as well as the recurring costs of eligible security measures. As discussed in this proceeding, Pilot participants will be permitted to request reimbursement as expenses are incurred, whether for one-time or recurring expenses, subject to the limitations regarding participants' budgets as well as funding commitments.

48. *Supply Chain Restrictions.* In the *Cybersecurity NPRM*, the Commission proposed to apply the Secure and Trusted Communications Networks Act of 2019 to Pilot participants by prohibiting these participants from using any funding obtained through the program to purchase, rent, lease, or otherwise obtain any of the services or equipment on the Commission's Covered List or to maintain any of the services or equipment on the Covered List that was previously purchased, rented, leased, or otherwise obtained. The Commission also sought comment on whether "there are any other restrictions or requirements that it should place on recipients of Pilot funds based on the Secure [and Trusted Communications] Networks Act and/or other . . . concerns related to supply chain security." The Commission adopts its proposal to bar Pilot participants from using Pilot funding in ways prohibited by the Secure and

Trusted Communications Networks Act and/or the Commission's rules, including §§ 54.9 and 54.10 of the Commission's rules, that implement the Secure and Trusted Communications Networks Act. Accordingly, Pilot participants are prohibited by § 54.9 of the Commission's rules from using funding made available through the Pilot to "purchase, obtain, maintain, improve, modify, or otherwise support any equipment or services produced or provided by any company posing a national security threat to the integrity of communications networks or the communications supply chain," including Huawei Technologies Company and ZTE Corporation, and their parents, affiliates, and subsidiaries. Pilot participants are also prohibited by § 54.10 of the Commission's rules from using Pilot funding to "[p]urchase, rent, lease, or otherwise obtain any . . . communications equipment or service" or "[m]aintain any . . . communications equipment or service previously purchased, rented, leased, or otherwise obtained" that is included on the Commission's Covered List. The Commission notes that the entities, services, and equipment designated under these rules may evolve over time as the Commission's Public Safety and Homeland Security Bureau (PSHSB) revises its designations of covered companies and/or issues updates to the Covered List. It is the responsibility of Pilot participants to ensure they remain in compliance with the Secure and Trusted Communications Networks Act, and the Commission's related rules, if such revisions are made. The Commission finds that these actions will effectively ensure that potential risks and vulnerabilities in Pilot participants' communications networks are addressed in the manner intended and directed by Congress in the Secure and Trusted Communications Networks Act. Cisco generally supports this approach, and no commenter opposes it.

49. *Application Process for Pilot Program.* The Commission adopts application and selection processes for the Pilot Program patterned after the Connected Care Pilot Program, adopt several of the application, selection, and administrative proposals from the *Cybersecurity NPRM*, and designate USAC to be the Administrator of the Pilot Program. In the *Cybersecurity NPRM*, the Commission proposed to structure the Pilot Program in a manner similar to the Connected Care Pilot Program. In particular, the Commission proposed that schools, libraries, and consortia would apply to be Pilot participants and that those entities

selected to participate in the Pilot would be eligible to apply for funding for eligible cybersecurity services and equipment. The Commission also proposed that Pilot participants would receive a funding commitment and, after receipt of the commitment, would be eligible to receive cybersecurity services and equipment and submit requests for reimbursement for Pilot funding. The Commission further proposed that USAC be appointed the Administrator of the Pilot Program. Two commenters specifically expressed support for its proposal to structure the Pilot in a manner similar to the Connected Care Pilot Program. Only one commenter, the American Library Association (ALA), addressed its proposal that USAC be appointed the Administrator of the Pilot Program, agreeing that the application process and other aspects of the Pilot Program should be administered by USAC.

50. The Commission also proposed in the *Cybersecurity NPRM* that entities interested in participating in the Pilot be required to submit a Pilot Program Application (FCC Form 484) describing their proposed use of Pilot funds, including, but not limited to, the following information: (i) identification and contact information; (ii) cybersecurity posture and risk management practices; (iii) information on unauthorized access and cybersecurity incidents; (iv) the specific types of cybersecurity services and equipment to be purchased with Pilot funds; and (iv) how the entities plan to collect data and track their cybersecurity progress if selected as a Pilot participant. While there was minimal opposition to the collection of general information, the majority of commenters recommended against the collection of applicant-specific cybersecurity information. For example, some commenters recommended that the Commission refrain from seeking information about previous cyber threats, attacks, or incidents as part of the FCC Form 484 application. Still others recommended that applicants not be required to provide details regarding their cybersecurity postures, network environments, or current protection measures (or lack thereof). Several commenters recommended that the FCC Form 484 application process be minimally burdensome, and a few commenters recommended that it align with E-Rate tools and concepts that are familiar to E-Rate applicants wherever possible.

51. Finally, The Commission proposed in the *Cybersecurity NPRM* that applicants and participants submit their FCC Form 484 applications via an

online platform designed and operated by USAC and inquired as to confidentiality or security concerns. The Commission also asked how it could best leverage its prior experience in other USF and congressionally-appropriated programs and sought comment on lessons learned. For administrative efficiency, the Commission further proposed that the Bureau select Pilot participants in consultation with the Office of Economics and Analytics (OEA), PSHSB, and the Office of the Managing Director (OMD), as needed. The Commission also proposed to delegate to the Bureau the authority to implement the proposed Pilot and direct USAC's administration of the program consistent with the Commission's rules and oversight. No commenter addressed the submission of the FCC Form 484 applications using an online platform designed and operated by USAC, though some expressed concerns about the confidentiality and security of cybersecurity data provided as part of the application process. Comments related to past experience and lessons learned focused on the requests for reimbursement and invoicing processes, are discussed in the Order. Many commenters supported the Commission's legal authority to conduct the Pilot Program, but did not address Bureau review of Pilot Program applications in consultation with OEA, PSHSB, and OMD, or the delegation of authority to the Bureau to implement the Pilot or direct USAC's administration of the Pilot.

52. Based on the record, the Commission adopts several of the proposals from the *Cybersecurity NPRM*. Specifically, the Commission adopts the application, selection, and administrative proposals, and it designates USAC to be the Administrator of the Pilot. In doing so, the Commission is mindful of the concerns expressed by commenters about the scope of information to be included in the FCC Form 484 application and agree that the initial application process would benefit from a decrease in the amount of cybersecurity-sensitive school and library data requested. To that end, the FCC Form 484 application will be split into two parts. The first part will collect a more general level of cybersecurity information about the applicant and its proposed Pilot project, and will use pre-populated data where possible, as well as a number of "yes/no" questions and questions with a predetermined set of responses (*i.e.*, multiselect questions with predefined answers). The second

part will collect more detailed cybersecurity data and Pilot project information, but only from those who are selected as Pilot participants. The Commission will treat all cybersecurity-related information requested and provided in the FCC Form 484 as presumptively confidential, and will not make it routinely available for public inspection.

53. To be considered for the Pilot, an applicant must complete and submit part one of the FCC Form 484 application describing its proposed Pilot project and providing information to facilitate the evaluation and eventual selection of high-quality projects for inclusion in the Pilot. Specifically, the applicant must explain how its proposed project meets the considerations outlined below. In addition, the applicant must present a clear strategy for addressing the cybersecurity needs of its K-12 school(s) and/or library(ies) pursuant to its proposed Pilot project, and clearly articulate how the project will accomplish the applicant's cybersecurity objectives. The Commission anticipates that successful applicants will be able to demonstrate that they have a viable strategic plan for providing eligible cybersecurity services and equipment directly to the school(s) and/or library(ies) included in their proposed Pilot projects. Further, the Commission expects applications to be tailored to the unique circumstances of each applicant. USAC and/or the Bureau may disqualify from consideration for the Pilot those applications that provide a bare minimum of information or are generic or template in nature.

54. *Part One Application Information.* For the first part of the FCC Form 484 application, the Commission directs the Bureau and USAC to collect a general level of cybersecurity information from schools, libraries, and consortia that apply to participate in the Pilot Program. At a minimum, applications to participate in the Pilot Program must contain the following required information:

- Names, entity numbers, FCC registration numbers, employer identification numbers, addresses, and telephone numbers for all schools, libraries, and consortium members that will participate in the proposed Pilot project, including the identity of the consortium leader for any proposals involving consortia.
- Contact information for the individual(s) who will be responsible for the management and operation of the proposed Pilot project (name, title or

position, telephone number, mailing address, and email address).

- Applicant number(s) and type(s) (e.g., school; school district; library; library system; consortia; Tribal school or library (and Tribal affiliation)), if applicable; and current E-Rate participation status and discount percentage, if applicable.

- A broad description of the proposed Pilot project, including, but not limited to, a description of the applicant's goals and objectives for the proposed Pilot project, a description of how Pilot funding will be used for the proposed project, and the cybersecurity risks the proposed Pilot project will prevent or address.

- The cybersecurity equipment and services the applicant plans to request as part of its proposed project, the ability of the project to be self-sustaining once established, and whether the applicant has a cybersecurity officer or other senior-level staff member designated to be the cybersecurity officer for its Pilot project.

- Whether the applicant has previous experience implementing cybersecurity protections or measures (answered on a yes/no basis), how many years of prior experience the applicant has (answered by choosing from a preset menu of time ranges (e.g., 1 to 3 years)), whether the applicant has experienced a cybersecurity incident within a year of the date of its application (answered on a yes/no basis), and information about the applicant's participation or planned participation in cybersecurity collaboration and/or information-sharing groups.

- Whether the applicant has implemented, or begun implementing, any Education Department or CISA best practices recommendations (answered on a yes/no basis), a description of any Education Department or CISA free or low-cost cybersecurity resources that an applicant currently utilizes or plans to utilize, or an explanation of what is preventing an applicant from utilizing these available resources.

- An estimate of the total costs for the proposed Pilot project, information about how the applicant will cover the non-discount share of costs for the Pilot-eligible services, and information about other cybersecurity funding the applicant receives, or expects to receive, from other Federal, state, local, or Tribal programs or sources.

- Whether any of the ineligible services and equipment the applicant will purchase with its own resources to support the eligible cybersecurity equipment and services it plans to purchase with Pilot funding will have any ancillary capabilities that will allow

it to capture data on cybersecurity threats and attacks, any free or low-cost cybersecurity resources that the applicant will require service providers to include in their bids, and whether the applicant will require its selected service provider(s) to capture and measure cost-effectiveness and cyber awareness/readiness data.

- A description of the applicant's proposed metrics for the Pilot project, how they align with the applicant's cybersecurity goals, how those metrics will be collected, and whether the applicant is prepared to share and report its cybersecurity metrics as part of the Pilot Program.

To facilitate the inclusion of a diverse set of Pilot projects and to target Pilot funds to the populations most in need of cybersecurity support, particularly those with minimal or no cybersecurity protections today, the Commission anticipates selecting projects from, and providing funding to, a combination of large and small and urban and rural schools, libraries, and consortia, with an emphasis on funding proposed Pilot projects that include low-income and Tribal applicants. Similarly, and addressing concerns expressed by ActZero, the Commission encourages participation in the Pilot by a broad range of service providers and note that the rules and requirements it adopts here do not discourage new companies from participating. Nor does it require service providers to have preexisting service provider identification numbers (SPIN) before submitting cybersecurity bids or previous E-Rate experience before participating in the Pilot.

55. When an applicant submits part one of its FCC Form 484 application, it will be required to certify, among other things, that it is authorized to submit the application and is responsible for the data being submitted; the data being submitted is true, accurate, and complete; if selected for the Pilot, it will comply with all rules and orders governing the program, including the competitive bidding rules and the requirement to pay the non-discount share of costs for Pilot-eligible services and equipment from eligible sources; all requested Pilot-funded eligible services and equipment will be used for their intended purposes; the schools, libraries, and consortia listed in the FCC Form 484 application are not already receiving, and do not expect to receive, other funding for the same cybersecurity services and equipment for which Pilot funding is being sought; it may be audited pursuant to its Pilot Program application and will retain any and all records related to its application for 10 years; and, if audited, it will produce

those records at the request of the appropriate officials. The applicant must also certify that it understands that failure to comply with the Pilot Program rules and order(s) may result in the denial of funding, cancellation of funding commitments, and/or the recoupment of past funding disbursements. The Commission emphasizes that it is committed to protecting the integrity of the Pilot and ensuring that USF funds disbursed through the Pilot are used for eligible and appropriate purposes. In the event of a violation of Pilot Program rules or requirements, the Commission reserves the right to take appropriate actions, including, but not limited to, seeking recovery of funds or further enforcement action. Applicants who participate in the Pilot Program must also comply with all applicable Federal and state laws, including sections 502 and 503(b) of the Act, title 18 of the United States Code, and the Federal False Claims Act.

56. While the Commission understands the desire by some commenters to keep the initial application as streamlined as possible, in order to evaluate the proposed Pilot projects and select well-defined and sustainable projects, it is incumbent on us to require certain information at the application stage. Thus, the Commission disagrees with commenters who say that applicants will need to possess a prohibitive amount of knowledge during the application stage and will not be able to describe how they propose to use Pilot Program funds until *after* they have been selected as Pilot participants. Although an applicant may not know the precise cybersecurity services and equipment it would seek to fund with Pilot funding, it is unlikely that an applicant would apply to participate in the program without having some general cybersecurity goals or plans for using the funding, if selected as a participant. Additionally, the Order contains a list of Pilot-eligible services and equipment that will aid applicants as they begin formulating their proposed Pilot projects in advance of the opening of the FCC Form 484 application window. Applicants, therefore, should do their best to provide the requested information in the application, including information on estimated costs related to their proposed cybersecurity project.

57. *Selection Process for Pilot Program.* To select Pilot participants, the Commission directs the Bureau and USAC to use limited prerequisites and a broad and objective set of evaluation factors with an emphasis on funding low-income and Tribal entities, consistent with the E-Rate and

Connected Care Pilot programs. In the *Cybersecurity NPRM*, the Commission sought comment on how to evaluate and prioritize Pilot applications. In particular, the Commission sought comment on what prerequisites, if any, the Commission should adopt to select participants. For example, it asked whether the adoption of free and low-cost cybersecurity tools and resources should be required for an applicant to be selected as a Pilot participant; Pilot participants should be required to correct known security flaws and conduct routine back-ups; Pilot participants should be required to join cybersecurity information-sharing groups, such as MS-ISAC or K12 SIX; Pilot participants should be required to implement, or demonstrate their plans to implement, recommended best practices from organizations like the Education Department, CISA, and NIST; and Pilot participants should be required to take steps to improve their cybersecurity posture by designating an officer or senior staff member to be responsible for cybersecurity implementation, updates, and oversight. The Commission received mixed reactions to its proposed use of prerequisites to select Pilot participants. At least one commenter thought the Commission should not utilize prerequisites to determine Pilot participation. Commenters were split on the proposal to require the adoption of free and low-cost cybersecurity tools and resources for an applicant to be selected as a Pilot participant. No commenter spoke directly to whether Pilot participants should be required to correct known security flaws or conduct routine back-ups as part of the Pilot Program, though a small number of commenters discussed whether Pilot funding should be targeted to allow schools and libraries to implement some or all of the items contained in the CISA list of highest priority steps. Some commenters thought requiring Pilot participants to join cybersecurity information-sharing groups was too onerous, while others found such a requirement beneficial. Some commenters supported the requirement for Pilot participants to implement, or demonstrate plans to implement, recommended best practices from organizations like the Education Department, CISA, and NIST or recommended using the best practices to evaluate Pilot Program success, though at least one commenter expressed reservations about the Commission doing so. The State E-Rate

Coordinators Alliance (SECA) proposed that the Commission “specify that completion or submission of an application for the free vulnerability assessment offered by CISA . . . [be] sufficient for meeting the assessment prerequisite as part of the Form 484 application process.” Clear Creek Amana CSD (Clear Creek), however, cautioned against relying on Federal resources outside of a limited incident response plan following the NIST frameworks. A few commenters supported the proposal that a school, library, or consortium should have implemented or begun implementing a cybersecurity framework or program to participate in the Pilot. However, others called for selection based on a holistic view of an applicant’s cybersecurity expertise and risk. CIS stated that designating an officer or senior staff member to be responsible for cybersecurity implementation, updates, and oversight was an important step towards cyber maturity that should be achievable by Pilot participants. The Alliance for Digital Innovation (ADI) similarly recommended that the Commission make leadership commitment a requirement to participate in the Pilot Program, noting that “[s]enior leadership commitment plays a pivotal role in prioritizing cybersecurity within organizations.”

58. The Commission also asked questions about reliance on objective versus subjective factors and how such factors should be used to select Pilot participants. In terms of objective factors, it asked whether the selection of Pilot participants should be based on E-Rate category two discount rate levels, location (*e.g., urban vs. rural*), and/or participant size (*i.e., small vs. large*). The Commission also sought comment on whether certain of those factors are more or less important than others from a Pilot selection standpoint and requested the underlying rationale for such determinations. Commenters generally agreed that the Pilot should prioritize the neediest applicants or those applicants that qualify for the highest discount percentages in the E-Rate program. Commenters overwhelmingly supported the Commission’s proposal to incorporate a diverse array of applicants in the Pilot, including both urban and rural and large and small participants. Many commenters advocated for the preferential selection of consortia and statewide, regional, and local government applications, noting that such applications allow schools and

libraries to stretch their cybersecurity dollars and extend cybersecurity protections to a larger pool of recipients. Similarly, other commenters encouraged the Commission to enable school districts to work across district and community boundaries to participate in the Pilot Program.

59. For subjective Pilot selection factors, the Commission inquired as to whether the Pilot Program would benefit from including schools and libraries with advanced cybersecurity expertise only or whether cybersecurity expertise should not factor into Pilot participant selection at all. Relatedly, the Commission also sought comment on how it could ensure that schools and libraries that lack funding, expertise, or are otherwise under-resourced could meaningfully participate in the Pilot. The Commission asked commenters to address whether Pilot participants should be required to demonstrate that they have started to take actions to improve their cybersecurity posture. Conversely, the Commission also asked commenters whether a school or library should be required to provide a certification or other confirmation that, absent participation in the Pilot, it does not have the resources to start implementing CISA’s K–12 cybersecurity recommendations. Commenters generally agreed that the Pilot would most benefit from including participants with a mix of cybersecurity expertise and varying cybersecurity postures. With respect to how to ensure that under-resourced schools and libraries are able to meaningfully participate in the Pilot, commenters suggested that the FCC and USAC conduct early and detailed Pilot Program outreach, including providing technical and other assistance to those applicants who are likely to need it most. No commenters addressed the proposal that a school or library be required to provide a certification or other confirmation that it does not have the resources to start implementing the CISA K–12 cybersecurity recommendations absent selection for the Pilot. CTIA recommended that applicants be required to disclose funding from non-Pilot sources and explain how Pilot Program funding would complement, but not duplicate, the applicant’s existing cybersecurity tools and support.

60. Along these same lines, the Commission also asked whether participation in the Pilot should be limited to those schools and

libraries that have faced or are facing particular types of cybersecurity threats or attacks. In particular, it sought comment on the types of cybersecurity threats and attacks encountered by schools and libraries and how they should be evaluated, if at all, when selecting Pilot participants and similarly, whether an applicant's previous history of cybersecurity threats or attacks should be taken into consideration as part of the Pilot Program selection process. The Commission also asked what role, if any, cybersecurity risk, geographic or socioeconomic factors, staffing constraints or financial need, or technical challenges should play in Pilot participant selection. Commenters urged the Commission to forgo reliance on whether an applicant has faced or is facing a particular type of cybersecurity threat or attack, an applicant's previous history with cybersecurity threats or attacks, or the frequency with which an applicant has experienced a cybersecurity incident as drivers of Pilot participant selection. Commenters were generally supportive of selecting and prioritizing applicants who face geographic, socioeconomic, financial, and other challenges, or who serve low-income and under-resourced populations.

61. The Commission agrees with commenters who support using a broad and objective set of evaluation factors to select Pilot Program participants. After reviewing the record, the Commission concludes that the Pilot Program goals will best be served by directing funding to: (1) the neediest eligible schools, libraries, and consortia who will benefit most from cybersecurity funding (*i.e.*, those at the highest discount rate percentages); (2) as many eligible schools, libraries, and consortia as possible; (3) those schools, libraries, and consortia that include Tribal entities; and (4) a mix of large and small and urban and rural, schools, libraries, and consortia. Selecting Pilot participants in this manner is consistent with its standard practice in E-Rate of prioritizing funding for the most resource-constrained schools, libraries, and consortia and is logical to apply here. It also achieves its goal of ensuring that the Pilot contains a diverse cross-section of applicants with differing cybersecurity postures and experiences. The Commission directs the Bureau to weigh these considerations during the Pilot application review and participant selection processes.

62. The Commission has considered commenters' suggestions regarding the potential application factors and have determined that the considerations

outlined will provide us with meaningful information with which it can select Pilot projects and participants. The Commission acknowledges that commenters suggested it weighs other considerations, but it believes that the considerations listed best enable it to select high-quality projects that will meet Pilot goals and target Pilot funding to the schools and libraries with the greatest need. Further, each of these considerations play an important part in helping us better understand the relationship of certain cybersecurity services and equipment to the overall cybersecurity health and posture of entities in varying contexts and with varying levels of cybersecurity expertise.

63. The Commission directs the Bureau and USAC to review the applications and select Pilot projects and participants based on applicants' responses, weighing the considerations listed, in combination with the applicants' category one discount rates. In selecting Pilot projects and participants, limited initial screening prerequisites should be employed, but the Bureau and USAC may exclude applications that are incomplete or do not meet Pilot Program eligibility standards. The Bureau and USAC should also work to ensure that, to the extent feasible and based on qualified applications, Pilot Program funding is not heavily concentrated in any particular state or region, and instead is distributed widely throughout the United States, including the District of Columbia and the U.S. territories, with an emphasis on funding proposed Pilot projects that include low-income and Tribal applicants. The Commission declines to require Pilot applicants or participants to join information-sharing organizations like MS-ISAC, though it highly encourages all applicants or participants to do so. In choosing participants for the Pilot, the Bureau and USAC should also consider the cost of the proposed Pilot project compared to the total Pilot Program cap. This does not mean that proposed Pilot projects should be evaluated based on their total project budgets, but, rather, the Bureau and USAC should seek to select an array of Pilot projects with varying costs that can all be funded within the Pilot Program's cap. In addition, the Bureau and USAC should seek to select an array of Pilot participants with differing levels of exposure to cybersecurity threats and attacks, and ensuring that the selected Pilot participants include schools and libraries that currently have limited cybersecurity protections. Although

applicants' responses will be considered consistent with the considerations listed when evaluating proposed Pilot projects, the considerations are not determinative of whether a Pilot project will be selected because the Commission recognizes that each proposed Pilot project will have its own unique strengths and potential challenges. The Commission's goal is to ensure the selection of proposed Pilot projects that present a well-defined plan for meeting the cybersecurity needs of specific schools, libraries, or consortia, with a particular emphasis on resource-challenged and Tribal applicants and the three Pilot Program goals discussed in greater detail in the Order.

64. *Prioritization.* In the event that the number of FCC Form 484 applications received exceeds the number of projects that can be funded through the Pilot, the Commission directs the Bureau and USAC to prioritize the selection of Pilot participants by considering their funding needs in combination with the funding needs of the same type(s) of applicants. Under the rules for the Pilot, eligible schools and libraries may receive discounts ranging from 20 percent to 90 percent of the pre-discount price of eligible services and equipment, based on indicators of need. Schools and libraries in areas with higher percentages of students eligible for free or reduced-price lunch through the National School Lunch Program (or a federally approved alternative mechanism) qualify for higher discounts for eligible services than those with lower levels of eligibility for such programs. The Commission's priority rules for the Pilot provide that funds shall be allocated first to requests for support at the 90 percent discount rate. To the extent funds remain after discounts are awarded to entities eligible for a 90 percent discount, the rules Pilot rules provide that the Administrator shall continue to allocate funds for discounts to participants at each descending single discount percentage. The Pilot rules also provide that if sufficient funds do not exist to grant all requests within a single discount percentage, the Administrator shall allocate the remaining support on a pro rata basis over that single discount percentage level. Funding for libraries will be prioritized based on the percentage of free and reduced lunch eligible students in the school district that is used to calculate the library's discount rate. Funding for individual schools that are not affiliated financially or operationally with a school district, such as private or charter schools that apply individually, will be prioritized

based on each school's individual free and reduced student lunch eligible population. For those schools and libraries selected as Pilot participants that do not participate in the E-Rate program, their discount rate will be calculated based on indicators of need as outlined and their funding prioritized consistent with the prioritization rules for the Pilot described in this paragraph. This prioritization gives applicants serving the highest poverty populations first access to funds while allowing us to fund within a discount band even where funding is not sufficient to reach all participants in the band. This system of prioritization is also consistent with Fortinet's recommendation that "the Commission . . . consider a tiered prioritization scheme for Pilot support requests" and the recommendations of commenters that those schools, libraries, and consortia with a higher discount rate receive funding ahead of those who are entitled to a lower discount rate.

65. Part Two Application Information. For the second part of the FCC Form 484 application, the Commission directs the Bureau and USAC to collect more detailed cybersecurity information from applicants who are selected to participate in the Pilot Program. The Commission has bifurcated the application into two parts, seeking a general level of cybersecurity information from applicants and leaving the more detailed cybersecurity reporting for the selected Pilot participants. This has the benefit of limiting the amount of sensitive cybersecurity information that will be provided by applicants at the application stage and will reduce the initial application burden. The Commission requires Pilot participants to provide such information to help establish a baseline that will enable it to effectuate the Performance Goals and Data Reporting discussed. Applicants should be aware, that, if selected to participate in the Pilot Program, they will be required to provide the following additional (or substantially similar) cybersecurity information, as applicable, and may be removed from the Pilot Program if they refuse or fail to do so:

- Information about correcting known security flaws and conducting routine backups, developing and exercising a cyber incident response plan, and any cybersecurity changes or advancements the participant plans to make outside of the Pilot-funded services and equipment.
- A description of the Pilot participant's current cybersecurity posture, including how the school or

library is currently managing and addressing its current cybersecurity risks through prevention and mitigation tactics.

- Information about a participant's planned use(s) for other Federal, state, or local cybersecurity funding (*i.e.*, funding obtained outside of the Pilot).
- Information about a participant's history of cybersecurity threats and attacks within a year of the date of its application; the date range of the incident; a description of the unauthorized access; a description of the impact to the K–12 school or library; a description of the vulnerabilities exploited and the techniques used to access the system; and identifying information for each actor responsible for the incident, if known.
- A description of the specific Education Department or CISA cybersecurity best practices recommendations that the participant has implemented or begun to implement.
- Information about a participant's current cybersecurity training policies and procedures, such as the frequency with which a participant trains its school and library staff and, separately, information about student cyber training sessions, and participation rates.
- Information about any non-monetary or other challenges a participant may be facing in developing a more robust cybersecurity posture.

66. Instructions for Filing Applications. In order to facilitate the application process, the Commission plans to provide an application titled "Schools and Libraries Cybersecurity Pilot Program Application" (FCC Form 484) that applicants must use when submitting their project proposals to the Commission. Applicants will be required to complete each section of the first part of the application and make the required certifications. The applications for the Pilot Program must be submitted through the Pilot portal on USAC's website during the announced FCC Form 484 application filing window discussed below. The Commission directs the Bureau to issue a Public Notice subsequent to the release of the Order that specifies the effective date of the Pilot Program rules and the filing window dates for submitting Pilot applications. The Public Notice must also include details on how to submit an application using the Pilot portal on USAC's website. In response to concerns about the security and confidentiality of cybersecurity information provided as part of the Pilot, as stated previously, the Commission is only requiring more general information at the application

stage of the Pilot. The more detailed, cybersecurity-related information will only be provided by Pilot participants. Some commenters have expressed concerns that this type of information is sensitive and could be used by malicious cybersecurity actors for nefarious purposes. The Commission agrees and find that the cybersecurity-related information that is being requested and provided in the FCC Form 484 constitutes sensitive business information and includes trade secrets. Accordingly, the Commission will treat it as presumptively confidential under its rules and will withhold it from public inspection. The Commission further notes that FCC Form 484 data will be protected by security protections built into USAC's Pilot portal.

67. Instructions for Establishing Application Schedule and Reviewing Applications. The Commission delegates to the Bureau the authority to establish an application schedule consistent with the direction provided in the Order; review Pilot FCC Form 484 applications; and select Pilot projects and participants, doing so in an efficient and expedited manner. The Commission further directs the Bureau to consult with OEA, PSHSB, OMD, and the Office of General Counsel (OGC), as needed, regarding the review of Pilot applications and selection of participants. After selecting the Pilot participants, the Commission directs the Bureau to announce its selections through a Public Notice that will provide further detail about the Pilot Program requirements, including providing additional information and instruction regarding Pilot requirements for submitting the second part of the Form 484 application, competitive bidding, submitting requests for funding, and invoicing, as well as the Pilot-specific data and metrics reporting requirements discussed herein and the format for those reporting and metrics requirements.

68. Establishing an Application Filing Window. To facilitate an efficient and equitable application review process, the Commission directs the Bureau to establish an application filing window, after which it will review applications from all eligible applicants by weighing the considerations discussed. Establishing a single filing window was well received by those commenters who addressed the proposal and opening a single window will allow the Bureau to review all applications before making selections. The Commission expects that adopting a single FCC Form 484 application filing window and proceeding in this manner will assist with its goal of selecting a diverse cross-

section of Pilot participants with a particular focus on the under-resourced applicants who are most in need of cybersecurity funding. To further assist under-resourced applicants, the Commission directs the Bureau and USAC to offer dedicated training and office hours for applicants and participants who are less experienced with cybersecurity services and equipment, or with the E-Rate and ECF program forms and processes.

69. The Commission next adopts competitive bidding processes and rules for the Pilot Program that mirror the E-Rate program to ensure that the limited Pilot funds are used for the most cost-effective eligible services and equipment; the integrity of the Pilot Program is protected; and potential waste, fraud, and abuse is prevented. The Commission directs the Bureau and USAC to model the Pilot Program requests for services, invoicing, and reimbursement processes and forms on existing E-Rate and ECF program processes and forms to the extent possible for the Pilot Program, consistent with record support. In particular, the Commission expects the Bureau and USAC to leverage the following FCC forms for the Pilot that will mirror existing E-Rate and ECF forms: (1) FCC Form 470 (Description of Services Requested and Certification Form); (2) FCC Form 471 (Description of Services Ordered and Certification Form); (3) FCC Form 472 (Billed Entity Applicant Reimbursement (BEAR) Form); and (4) FCC Form 474 (Service Provider Invoice (SPI) Form). The Commission requires Pilot participants and service providers to make certain certifications on Pilot Program forms to protect the integrity of the Pilot. The Commission also requires them to submit invoices with their reimbursement requests that support the amounts requested and approved in their Pilot FCC Form 471 applications. By modeling the Pilot processes and forms on existing E-Rate and ECF processes and forms, the Commission expects to save Pilot participants time needed to familiarize themselves with the new forms and reduce administrative cost and burden.

70. As in the E-Rate program, the Commission adopts competitive bidding processes and rules for the Pilot Program to ensure that the limited Pilot funds are used for the most cost-effective eligible services and equipment, and to protect the integrity of the Pilot. Competitive bidding is a cornerstone of several USF programs, including the E-Rate and Connected Care Pilot programs, and is critical to ensuring that applicants obtain the most

cost-effective offering available. Currently, under the E-Rate program rules, to obtain support an applicant must first conduct a competitive bidding process and comply with the Commission's competitive bidding rules. Applicants begin the competitive bidding process by filing a completed E-Rate FCC Form 470 with USAC. USAC, in turn, posts the form on its website for potential competing service providers to review and submit bids. An applicant must wait at least 28 days from the date on which its E-Rate FCC Form 470 is posted on USAC's website before entering into a signed contract or other legally binding agreement with a service provider and submitting an E-Rate FCC Form 471 to seek funding for selected services and equipment. The E-Rate FCC Form 470 must specify and provide a description of the eligible services and equipment requested with sufficient detail to enable potential service providers to submit responsive bids.

71. In the *Cybersecurity NPRM*, the Commission proposed a competitive bidding process and rules for Pilot participants that mirror the existing E-Rate competitive bidding process and rules. Because of the structural similarities between the E-Rate program and the Pilot, the proven effectiveness of the E-Rate processes and rules, and the reduced compliance burden for Pilot participants who are already familiar with existing E-Rate requirements, it concludes that its proposal is reasonable and adopts it here. To begin, the Commission adopts a Pilot FCC Form 470, modeled after the E-Rate form, that Pilot participants will use to describe their desired Pilot-eligible services and equipment and initiate the competitive bidding process. Likewise, the Commission adopts competitive bidding requirements modeled on § 54.503 of the Commission's rules, with which Pilot participants must comply to ensure they conduct an open and fair competitive bidding process. This includes, among other things, the requirement that a Pilot participant must wait at least 28 days from the date the Pilot FCC Form 470 is posted on USAC's website before entering into a legally binding agreement or contract with a service provider and must submit a Pilot FCC Form 471 to seek funding for Pilot-eligible services and equipment. It also includes the requirement that before entering into an agreement or contract with a service provider(s), a Pilot participant carefully consider all bids submitted and select the most cost-effective service offering with price as the primary (*i.e.*, most heavily-weighted) factor in the vendor

selection process. Finally, it includes a restriction on the receipt of gifts and a requirement that the competitive bidding process be conducted in a fair and open manner (*i.e.*, all potential service providers have access to the same information and are treated in the same manner throughout the entire competitive bidding process).

72. Because the competitive bidding process is essential to ensuring that Pilot participants obtain the most cost-effective eligible services and equipment, protecting program integrity, and preventing potential waste, fraud, and abuse in the Pilot, the Commission declines CCSD's recommendation that applicants with existing contracts for cybersecurity solutions be allowed to request Pilot Program funding to cover the cost of those contracts and be exempt from any competitive bidding requirements. Likewise, the Commission declines to provide an exemption to competitive bidding for costs that Pilot participants may be currently cost-allocating in E-Rate funding requests for advanced firewall services. Similarly, because an open and fair competitive bidding process hinges on all bidders being on equal footing, the Commission also declines E-Rate Central's proposal that applicants be allowed to conduct their competitive bidding processes before submitting their FCC Form 484 applications and be permitted to work alongside their selected service providers to develop their proposed Pilot projects. Finally, to enable participants to select the services and equipment that best meets their needs, it clarifies, as SECA requests, that participants are permitted to require that the services or equipment to be purchased are interoperable with and/or compatible with existing services and equipment that have already been purchased.

73. The Commission does, however, establish a limited exemption to competitive bidding for Pilot participants who may be eligible to purchase services and equipment from master services agreements (MSAs) or their equivalent. Specifically, Pilot participants will not be required to seek competitive bids when seeking support for services and equipment purchased from MSAs negotiated by Federal, state, Tribal, or local governmental entities on behalf of such Pilot participants, if such MSAs were awarded pursuant to the E-Rate Form 470 process, as well as applicable Federal, state, Tribal, or local competitive bidding requirements. The Commission agrees with SECA that these MSAs or state master contracts are "efficient contract vehicles" and reflect

“cost-effective solutions for different components and different manufacturers.” Pilot participants will be required to use the mini-bid process if required by the relevant MSA or state master contract. The Commission finds that this exemption, which was similarly included in the Connected Care Pilot Program, will enable Pilot participants to benefit from competitively bid state master contracts and MSAs, and in so doing, will streamline the competitive bidding process and minimize the burden on Pilot participants.

74. As proposed in the *Cybersecurity NPRM*, the Commission adopts the Pilot FCC Form 471, modeled after the E-Rate FCC Form 471, for Pilot participants and their service provider(s). In the E-Rate program, applicants file an FCC Form 471 to request discounts on eligible services and equipment for the upcoming funding year. The E-Rate FCC Form 471 requires detailed descriptions of the services and equipment requested, including the costs of and service dates for the services and equipment; the selected service provider(s); and certifications regarding compliance with program rules. Applicants must wait until the Allowable Contract Date (ACD), which is 28 days after the E-Rate FCC Form 470 is certified and submitted to USAC, to certify and submit their E-Rate FCC Forms 471. Once an applicant certifies and submits its E-Rate FCC Form 471, USAC issues a Receipt Acknowledgment Letter (RAL) to both the applicant and its selected service provider(s). Following the issuance of the RAL, and after USAC conducts its PIA review process, USAC issues a Funding Commitment Decision Letter (FCDL) to both the applicant and the selected service provider(s), at which point they may begin to invoice after the receipt or delivery of the requested eligible services and/or equipment.

75. Similar to the E-Rate program, Pilot participants must file a Pilot FCC Form 471 to request discounts on eligible services and equipment. As with the E-Rate form, the Pilot FCC Form 471 will include information on the recipients of services and equipment and the selected service provider(s); detailed descriptions of the services and equipment requested, including their costs and service dates; and certifications regarding compliance with Pilot rules. Pilot participants will be required to wait until the ACD to certify and submit the Pilot FCC Form 471. Once a Pilot participant certifies and submits the Pilot FCC Form 471, USAC will provide the Pilot participant an opportunity to correct any errors on the

form, through a RAL or similar process, after which USAC will issue an FCDL. Pilot participants will submit Pilot FCC Form(s) 471 to cover the full Pilot project, and will be allowed to submit service and equipment substitution change requests, if needed, during the three-year Pilot.

76. The Commission directs the Bureau and USAC to announce and open a Pilot FCC Form 471 application filing window to speed the availability of funds to the selected Pilot participants. During this application filing window, selected Pilot participants may submit their Pilot FCC Form(s) 471 to request eligible equipment and services that are needed to implement their Pilot project through the online system implemented by USAC. As the Commission is adopting forms, processes, and procedures that are used in the E-Rate and ECF programs, it expects that this application filing window process will be familiar to most of the selected Pilot participants. Pilot participants will have a three-year period from the date of their FCDL to receive and implement the services and equipment funded through the Pilot. Pilot participants will be required to report on the progress of their Pilot projects and how the Pilot funding is being used to improve their cybersecurity postures throughout the three-year term, consistent with the annual reporting requirements discussed in the Order. The Commission further expects that using a Pilot FCC Form 471 application filing window will allow USAC to quickly size demand, review applications, and issue funding decisions, thereby allowing the flow of funding more quickly to Pilot participants. In the event that demand does not exceed available funds, the Commission delegates authority to the Bureau to direct USAC to open additional Pilot FCC Form 471 application filing windows and to commit additional funding up to each Pilot participant's allotted budget. No Pilot participant will be allowed to request or receive more funding than what is calculated based on the per-Pilot participant budget rule.

77. *Invoicing.* Consistent with the E-Rate program, and pursuant to the *Second Report and Order*, 68 FR 36931, June 20, 2003, the Commission permits both Pilot participants and service providers to submit requests for reimbursement using the Pilot FCC Forms 472 and 474, respectively. The Commission agrees with those commenters who explain that allowing both participant and service provider invoicing options is the most efficient and direct way to provide funding to

eligible schools and libraries. The Commission concludes that, on balance, allowing both invoicing options for the submission of Pilot reimbursement requests is an efficient and effective way to ensure that participants are actually able to purchase Pilot-eligible services and equipment, and aligns most closely with the E-Rate program, which commenters support. Consistent with E-Rate program rules, Pilot participants must be permitted to select the method of invoicing. For administrative simplicity, Pilot participants must also specify on their Pilot FCC Form(s) 471 whether the participant or the service provider will be conducting the invoicing for each funding request. As part of the reimbursement process, Pilot participants and service providers must provide the required certifications, along with any necessary documentation to support their requests. Requests for reimbursement must be submitted to USAC within 90 days after the last date to receive service, and Pilot participants or service providers may request a one-time extension of the invoicing filing deadline, if the request is timely filed.

78. *Invoicing Documentation.* As in the ECF program, to protect the integrity of the Pilot and protect against potential waste, fraud, and abuse, the Commission requires Pilot participants and service providers to submit, along with their reimbursement requests, invoices detailing the items purchased. Invoices must support the amounts requested and approved in the Pilot FCC Form 471 application. The Commission disagrees with Lumen Technologies, Inc. and NCTA that the submission of invoices with reimbursement requests would limit flexibility for Pilot participants and serves no purposes in this context. Rather, the submission of invoices with the Pilot FCC Forms 472/474 will help expedite the review of those requests and the corresponding disbursement of funds. Moreover, although the Pilot Program is not an emergency program, it is being conducted on an expedited basis, thus necessitating swift and efficient final invoicing decisions. While the Commission will not require Pilot participants and service providers to submit other supporting documentation at the time they submit their Pilot request(s) for reimbursement, pursuant to its certifications and document retention requirements, all participants must certify receipt/delivery of eligible services and equipment and that only eligible services and equipment were invoiced, as well as retain and provide upon request by USAC, the Commission

(including Commission staff) and its Office of Inspector General (OIG), or any other authorized Federal, state, or local agency with jurisdiction over the entity, all records related to their Pilot FCC Forms 470, 471, and 472/474 (including, for example, competitive bidding documentation and contracts) for at least 10 years from the last date of service or delivery of equipment.

79. Consistent with the terms of the Memorandum of Understanding (MOU) between the Commission and USAC, and pursuant to the rules adopted, the Commission designates USAC as the Administrator of the Pilot Program. The Commission will use USAC's services to review, process, and approve the Pilot FCC Forms 470, 471, 472, 474, 484, and 488, as well as recommend funding commitments, issue FCDLs, review requests for reimbursement and invoices, and payment of funds, as well as other administration-related duties. The one commenter that directly addressed the issue supported using USAC and its processes for the efficient and effective administration of the Pilot Program, and the Commission agrees that USAC's experience administering the E-Rate and Connected Care Pilot programs, along with the other Federal universal service programs makes it uniquely situated to be the Administrator of the Pilot Program. In designating USAC as the Administrator of the Pilot Program the Commission notes that USAC may not make policy, interpret unclear statutes or rules relied upon to implement and administer the Pilot Program, or interpret the intent of Congress. In its administration of the Pilot Program, the Commission also directs USAC to comply with, on an ongoing basis, all applicable laws and Federal Government guidance on privacy and information security standards and requirements such as the Privacy Act, relevant provisions of the Federal Information Security Modernization Act of 2014, NIST publications, and Office of Management and Budget (OMB) guidance.

80. The Commission notifies Pilot participants, including their selected service providers that, similar to the E-Rate program and other USF programs, they shall be subject to audits and other investigations to evaluate their compliance with the statutory and regulatory requirements for the Pilot. USF Program audits have been successful in helping program applicants and participants improve compliance with the Commission's rules and in protecting the funds from waste, fraud, and abuse. The Commission directs USAC to perform such audits pursuant to the

Commission's and USAC's respective roles and responsibilities as set forth in the MOU and § 54.2011 of the Commission's rules. The Commission is also mindful of the privacy concerns raised regarding providing personally identifiable information (PII) to Commission or USAC staff about individual students, school staff, or library patrons that may be collected as part of the cybersecurity measures implemented through the Pilot. While it does not anticipate that Pilot participants will need to share the PII of students, school staff, or library patrons in connection with their Pilot FCC forms, audits (or related compliance tools), or reporting, it notes that the Commission, USAC, and any contractors or vendors will be required to abide by all applicable Federal and state privacy laws. The Commission also directs the Commission, USAC, and contractor/vendor staff to take into account the importance of protecting the privacy of students, school staff, and library patrons, to design requests for information from schools and libraries that minimize the need to produce information that might reveal PII, and to work with auditors to accept anonymized or deidentified information in response to requests for information wherever possible. If anonymized or deidentified information regarding the students, school staff, and library patrons is not sufficient for auditors' or investigative purposes, the auditors or investigators may request that the school or library obtain the consent of the parents or guardians, for students, and the consent of the school staff member or library patron to have access to PII or explore other legal options for obtaining PII. The Commission additionally delegates to the Bureau and OMD, in consultation with OGC (and specifically the Senior Agency Official for Privacy) the authority to establish requirements for the Bureau's, USAC's, or any contractor's/vendor's collection, use, processing, maintenance, storage, protection, disclosure, and disposal of PII in connection with any Pilot FCC forms, audit (or other compliance tool), or reporting.

81. The Commission takes seriously its obligation to be a careful steward of the USF and to protect the integrity of the Pilot Program. The commission is committed to ensuring the integrity of the Pilot and will pursue instances of waste, fraud, or abuse under its own procedures and in cooperation with the Commission's OIG and other law enforcement agencies. The specific procedures the Commission adopts regarding document retention

requirements, the prohibition on gifts, certifications, audits, suspension and debarment, and the treatment of eligible services and equipment are modeled after its E-Rate processes and are tools at its disposal to protect the Pilot and ensure the limited program funding is used for its intended purposes to support Pilot Program goals and enable the purchase of Pilot-eligible services and equipment.

82. In the *Cybersecurity NPRM*, the Commission sought comment on whether "document retention requirements" for the Pilot, including those based on modifying rules from the Commission's E-Rate program, would help "protect the program integrity of the Pilot." The Commission adopts this proposal. Specifically the Commission includes a new § 54.2010(a) of the Commission's rules, modeled after a corresponding E-Rate rule, that requires Pilot participants to "retain all documents related to their participation in the [Pilot] program sufficient to demonstrate compliance with all program rules for at least 10 years from the last date of service or delivery of equipment" and "maintain asset and inventory records of services and equipment purchased sufficient to verify the actual location of such services and equipment for a period of 10 years after purchase." The Commission also includes a new § 54.2010(b) of the Commission's rules, also modeled after a corresponding E-Rate rule, that requires Pilot participants and service providers to "produce such records upon request of any representative (including any auditor) appointed by a state education department, the Administrator, the Commission, its OIG, or any local, state, or federal agency with jurisdiction over the entity." This rule requires that Pilot participants must retain documents regarding participation in the Pilot, including asset and inventory records, accumulated during the Pilot, for a period of 10 years.

83. While commenters generally did not opine on these issues, the Commission finds that this new rule, § 54.2010(a), will ensure that participants have sufficient records on hand related to all aspects of their participation in the Pilot to permit entities with jurisdiction over the participant, including USAC and the Commission, to make efficient and reliable determinations of compliance, e.g., as part of any post-audit review or investigation that bears on potential waste, fraud and abuse in the Pilot Program. The Commission finds that this new rule, § 54.2010(b), will effectively establish (or confirm) that a

Pilot participant must provide documents to external parties with valid jurisdiction when a request is made for the retained documents. The Commission finds its actions are warranted as the Commission, as a careful steward of the USF's limited funds, has a strong interest in ensuring that sufficient documentation is available and can be accessed to permit external parties with jurisdiction to make reliable and efficient determinations of potential waste, fraud and abuse in the Pilot. The Commission also finds that the new rules will meaningfully inform potential Commission short-term action, *e.g.*, through enforcement or other remediation steps if the integrity of the Pilot Program is threatened, and long-term action, that could potentially result in future revision of Commission or USAC processes to better protect the USF and the USF programs. Moreover, the Commission finds these rules, including the associated "10 year" retention and production requirements, are likely to be effective in protecting the integrity of the Pilot because they are modeled after existing § 54.516 of the Commission's rules with only clarifying amendments reflective of the structure of the Pilot. The Commission has found the E-Rate rules to be effective over the course of its many years of experience overseeing USAC's administration of the E-Rate program. As the Commission has previously noted, these rules, including the 10-year document retention and production requirement, appropriately balance the need to have pertinent documentation available for review with corresponding administrative burdens and storage costs borne by E-Rate applicants and service providers. The Commission expects similar benefits to accrue in relation to the Pilot.

84. In balancing the longstanding goal of fair and open procurement with the disbursement of USF support for eligible equipment and services, the Commission adopts gift restrictions for the Pilot. Consistent with the E-Rate program, the Commission prohibits eligible schools and libraries receiving Pilot Program support, including their employees, officers, representatives, agents, independent contractors, consultants, and individuals who are on the governing boards, from soliciting or accepting any gift or other thing of value from a service provider participating in or seeking to participate in the Pilot. Similar to the E-Rate program, participating service providers, including their employees, officers, representatives, agents, independent

contractors, consultants, and individuals who are on governing boards, are likewise prohibited from offering or providing any gift or other thing of value to eligible entities, including their employees, officers, representatives, agents, independent contractors, consultants, and individuals who are on the governing boards.

85. As an additional measure to protect the integrity of the Pilot, the Commission also requires participants to provide several certifications as part of the FCC Form 484 application, competitive bidding, requests for services, and invoicing processes. Similarly, the Commission requires their selected service providers to provide certifications related to Pilot invoicing processes. The Commission finds, and no commenter disagrees, that the use of certifications are a key compliance mechanism to protect the limited Pilot funds. All certifications must be made subject to the provisions against false statements contained in the Act and Title 18 of the United States Code.

86. *Duplicate Funding Certification.* The Commission confirms that it will not provide support for eligible services and equipment, or the portion of eligible services and equipment, that have already been reimbursed with other Federal, state, Tribal, or local funding, or are eligible for discounts from E-Rate or another universal service program. No commenters opposed adopting this limitation to stretch the Pilot's limited funds. To implement this prohibition on requesting or receiving duplicative funding, the Commission will require Pilot participants and service providers to certify on the FCC Forms 472 or 474 that they are not seeking support or reimbursement for Pilot-eligible services and equipment that have been purchased and reimbursed with other Federal, state, Tribal, or local funding, or are eligible for discounts from E-Rate or another universal service program. The Commission takes this action to ensure that the limited Pilot support will be used for its intended purposes and clarify that if the Pilot-eligible services and equipment are fully reimbursed through other sources, participants and service providers should not be seeking funding for them through the Pilot Program.

87. *Additional Certification Requirements.* The Commission also requires Pilot participants, when submitting their Pilot FCC Form 470 competitive bidding forms, and Pilot participants and service providers when submitting their FCC Forms 472 and 474 requests for reimbursement (*i.e.*,

invoicing forms), respectively, to provide several additional certifications. For example, Pilot participants and service providers must certify that they are seeking funding for only Pilot-eligible services and equipment. Pilot participants and service providers should be aware that the certification descriptions referenced in this section are not exhaustive and it is incumbent on them to familiarize themselves with the certifications required by each of the Pilot forms and rules that are applicable to them.

88. Support provided for cybersecurity services and equipment funded through the Pilot will be subject to audits and reviews consistent with the procedures currently used for the USF programs (*e.g.*, Beneficiary and Contributor Audit Program audits and Payment Integrity Assurance (PIA) reviews), and could be subject to recovery measures should the Commission and/or USAC find a violation of its rules and deem it appropriate. Specifically, applicants, participants, and service providers may be subject to audits and other investigations by USAC and/or Bureaus and Offices of the Commission to evaluate compliance with the rules it adopted. The Commission considers audits and other review mechanisms in the Pilot program to be important tools in ensuring compliance with its rules and identifying instances of waste, fraud, and abuse. Considering the action it took to create the Pilot Program using universal service funding, the Commission expects that these tools will continue to be paramount to its ability to ensure that these finite funds are used appropriately and consistent with its rules.

89. Consistent with its proposals in the *Cybersecurity NPRM*, the Commission will apply its existing USF suspension and debarment rules to the Pilot. In addition, to the extent that the Commission adopts updated and final suspension and debarment rules in a separate and pending proceeding, it will apply the updated rules to the Pilot Program."

90. While commenters did not opine on these issues, the Commission finds it beneficial to apply its USF suspension and debarment rules, which are applicable to existing USF programs and codified at § 54.8 of its rules, to the Pilot as well. The Commission's decision to make these rules binding on persons, including individuals and entities, involved in the Pilot provides these groups with notice as to the types of behavior that could result in their suspension and debarment (and the suspension and debarment of others),

the processes by which suspension and debarment would be determined, and some of the consequences of such action. The Commission also finds that this action will permit Pilot participants to make better-informed decisions as to the consultants and other persons that they choose to employ or otherwise retain (e.g., based on factors that are identified in its suspension and debarment rules) for work on the Pilot Program, which will protect participants, and the USF, from waste, fraud, and abuse. As the Pilot incorporates administrative processes, forms, and rules from E-Rate and other USF programs, the Commission finds it reasonable to apply its existing USF suspension and debarment rules to the Pilot as well. The Commission finds that doing so ensures that participants are able to engage a variety of persons with expertise and skills relevant to the USF generally, and Pilot specifically, while also preventing potential bad actors from undermining the Pilot's goals. Ultimately, the Commission finds that its actions will support its mission to maintain the Pilot's integrity and protect it from waste, fraud, and abuse.

91. Similarly, the Commission finds it appropriate to apply any new Commission USF suspension and debarment rules that may be finalized during the course of the Pilot to the Pilot as well. The Pilot incorporates administrative processes, forms, and rules from E-Rate and other USF programs. The Commission therefore finds it reasonable to apply any new suspension and debarment rules developed for those programs to the Pilot as well.

92. The Commission adopts three performance goals to enable it to evaluate the Pilot Program. The Commission expects that, to the extent that the Pilot Program meets these goals, the results of the Pilot will help us assess the costs and benefits of utilizing universal service funds to support schools' and libraries' cybersecurity needs, as well as how other Federal resources could best be leveraged to ensure that these needs are addressed in the most efficient and effective manner. The Commission also adopts a periodic reporting requirement designed to allow the Commission evaluate the goals and success of the Pilot Program while, to the extent possible, taking steps to minimize the burden on Pilot participants.

93. In the *Cybersecurity NPRM*, the Commission proposed three performance goals for the Pilot Program. Specifically, the Commission proposed the goals of: (i) improving the security and protection of E-Rate-funded

broadband networks and the data on those networks; (ii) measuring the costs associated with cybersecurity services and equipment, and the amount of funding needed to adequately meet the demand for these services if extended to the E-Rate program; and (iii) evaluating how to leverage other Federal K–12 cybersecurity tools and resources to help schools and libraries effectively address their cybersecurity needs. Additionally, the Commission proposed and sought comment on how it can best measure progress towards these goals, to ensure that the limited Pilot funds are used most impactfully and effectively. The Commission also sought comment on how to evaluate the Pilot, including whether participants should submit periodic reports and other assessments and evaluations.

94. Based on the record, the Commission adopts its three proposed performance goals for the Pilot. The Commission notes that commenters broadly supported the three proposed goals, considering them appropriate to allow the Commission to assess the effectiveness and cost of the cybersecurity services and equipment used in the Pilot.

95. *First Performance Goal: Improving the Security and Protection of E-Rate-Funded Broadband Networks and Data.* First, the Commission adopts a goal for the Pilot Program of improving the security and protection of E-Rate-funded broadband networks and data. Funding made available by the Pilot will help participants acquire cybersecurity services and equipment to improve the security of their broadband networks and data. Commenters generally supported this goal. Cisco, for example, deemed the goal consistent with the Commission's "statutory responsibilities to adapt the universal service rules to account for advances in telecommunications and information technology." Making funding available for cybersecurity services and equipment will help Pilot participants protect and secure their E-Rate-funded broadband networks and data to mitigate increasing cybersecurity threats. In adopting this goal, the Commission emphasizes that it is not only seeking to improve the security and protection of E-Rate-funded Pilot participants, but also to gather information to aid the exploration of improving the security and protection of E-Rate-funded networks going forward. To that end, and as discussed herein, the Commission is not limiting Pilot participation to existing E-Rate participants but will allow all eligible schools, libraries, and consortia to apply for the Pilot. By taking a holistic

approach that incorporates all types of eligible schools and libraries, the Commission seeks to gather data that will help it evaluate how best to safeguard E-Rate-funded networks now and in the future.

96. *Second Performance Goal: Measuring the costs associated with cybersecurity services and equipment, and the amount of funding needed to adequately meet the demand for these services if extended to all E-Rate participants.* Next, the Commission adopts a goal of measuring the costs and effectiveness of cybersecurity services and equipment. By making a wide range of cybersecurity services and equipment eligible for USF support, the Pilot will enable the Commission to gather data on the associated cost and effectiveness of various cybersecurity solutions. As ALA, in particular, has observed, there are concerns about the cost to the USF of adding any new E-Rate eligible services and equipment, including cybersecurity services and equipment. By measuring these costs as part of the Pilot, the Commission will be well-positioned to evaluate the potential challenges to funding these types of services and equipment over the long term. In addition, to measure effectiveness, CIS recommended that the Commission require participants "to assess themselves before the Pilot and annually against a recognized cybersecurity framework and provide their scores as a measurement of success against their individual baseline." With such recommendations in mind, the Commission adopts a goal of measuring the costs and effectiveness of cybersecurity services and equipment, gathering data for the Commission to determine whether it is economically feasible to support advanced firewall and other cybersecurity services and equipment with universal service funding. In adopting this goal, the Commission disagrees with commenters who suggest that, in collecting data to evaluate the Pilot, its goals should be focused on determining "how to best modernize the E-rate Category 2 to include cybersecurity permanently" or adopting concurrent changes to its category two rules to permit funding for advanced firewalls and MFA. Although the Commission hopes to learn more about whether and how to best fund cybersecurity services and equipment at the conclusion of the Pilot, it does not prejudge the appropriate mechanism or services and equipment to fund and, instead, look holistically at how universal service funds could be used to meet the K–12 schools' and libraries'

demand for cybersecurity services and equipment.

97. *Third Performance Goal: Evaluating how to leverage other Federal K–12 cybersecurity tools and resources to help schools and libraries effectively address their cybersecurity needs.* Third, the Commission adopts a goal of evaluating how to best leverage other available and low-cost and free Federal resources to better equip K–12 schools and libraries to proactively address their cybersecurity risks, though it does not go so far as to require the use of specific Federal Government tools and resources as initially discussed in the *Cybersecurity NPRM*. Commenters generally agreed with this goal. The Friday Institute for Education Innovation (Friday Institute), for example, stated that its Federal partners “provide a wealth of best practices and knowledge,” and “[r]elying on their expertise is a prudent approach to shaping the E-rate program’s cybersecurity component.” CTIA emphasized the importance of collaborating with other agencies to pursue and implement shared cybersecurity objectives. Commenters emphasize that collaboration with other Federal partners is “vital,” with the Cybersecurity Coalition and Information Technology Industry Council (Cybersecurity Coalition/ITI) noting that they are “pleased” that the Pilot is focused on “how to balance [the] ‘complementary work of federal agency partners.’” The Commission agrees with commenters on the importance of leveraging the expertise of its Federal, state, and local partners, and adopting this goal for the Pilot Program signals its intent to continue to work collaboratively on shared objectives to streamline its efforts to address schools’ and libraries’ cybersecurity challenges. To this end, the Commission agrees with commenters that, where possible, it should align its Pilot with the cybersecurity goals of its Federal partners.

98. *Data reporting requirements for participants.* To measure the Pilot’s success in meeting the aforementioned goals, the Commission adopts initial, annual, and final reporting requirements for participants. In the *Cybersecurity NPRM*, the Commission proposed that Pilot participants submit certain information to apply for the Pilot, a progress report for each year of the Pilot, and a final report at the conclusion of the Pilot. The Commission also proposed that these reports contain information on how Pilot funding was used, any changes or advancements that were made to the school’s or library’s cybersecurity efforts outside of the Pilot-

funded services and equipment, the number of cyber incidents that occurred each year of the Pilot Program, and the impact of each cyber incident on the school’s or library’s broadband network and data. The Commission sought comment on these proposals, as well as the best ways for it to evaluate the Pilot and measure progress towards the proposed performance goals.

99. Commenters generally agreed with its proposal to establish data reporting requirements. Crown Castle Fiber LLC (Crown Castle) noted the value of data reporting requirements, stating that they provide “valuable insight into the types of new services and equipment that applicants purchase to address their network and data security concerns and the impact of implementing various cybersecurity solutions.” FFL emphasized that the effectiveness of the Pilot Program should be measured by progress made toward the implementation of solutions and tactics known to increase resiliency to attacks, not by the presence or characteristics of cyberattacks or applicant responses during an applicant’s participation in the Pilot. CTIA suggested that the reporting requirements use standardized metrics to obtain a common baseline of data across participants to aid in program evaluation.

100. Some commenters provided detailed recommendations about the reporting metrics the Commission should use to gather and report Pilot data. CrowdStrike, for example, stated that one promising evaluation metric is mean time to detection and response, and suggested that the Commission designate a “control group” of similar organizations to assess Pilot success. Rubrik proposed a variety of metrics to measure Pilot effectiveness, such as the ability to quickly recover from a cyber event; identify sensitive data on the network where it resides and determine who has access to it; and test cyber recovery functionality to properly plan for a cyber event. The City of New York Office of Technology and Innovation (City of NY OTI) suggested specific metrics that could include “Mean Time to Detect”; “Mean Time to Response”; “False Positive Rate”; “True Positive Rate”; and “Investigation Rate to Incident Containment Rate.”

101. Based on the record, the Commission adopts the requirement for initial, annual, and final reporting so that Pilot participants evaluate and report on their cybersecurity readiness before they begin participation in, during, and after the Pilot Program and it directs the Bureau to add a certification as part of the data collection requirements that will require

participants to certify to the accuracy of the information reported and define mechanisms for enforcement.

Specifically, after providing an initial baseline assessment using information that includes the reporting requirements for the second part of the application process, Pilot participants will be required to submit annual reports, followed by a final report at the completion of the program. In establishing these periodic reporting requirements, the Commission seeks to balance its need for gathering the data necessary to evaluate the goals and success of the Pilot with commenters’ recommendations that it minimize the burden on Pilot participants to the extent possible. The Commission finds that tracking and evaluating participants’ cybersecurity progress over the course of the Pilot will be essential in helping us determine whether and how to fund schools’ and libraries’ cybersecurity needs through the E-Rate program or another universal service program on an ongoing basis.

Information contained in initial, annual, and final reports will be presumptively confidential; however, the Commission does plan to use school or library data as a tool to evaluate the Pilot and determine next steps. Additionally, at its discretion, the Commission may create for public release a version of this information that is aggregated, anonymized, or otherwise not subject to protection from disclosure under the Freedom of Information Act. The Commission requires Pilot participants to submit each annual report no later than 60 days following the conclusion of each year (*i.e.*, year one and year two) of the Pilot Program, and to submit their final report no later than 60 days following the conclusion of the last year (*i.e.*, year three) of the Pilot Program. To accomplish the goal of periodic reporting by Pilot participants, the Commission delegates to the Bureau the authority to use school and library data to evaluate the Pilot, as well as the authority to create and release a public version of this information. The Commission also directs the Bureau to release a Public Notice (or multiple Public Notices, as needed) detailing the specific information to be provided by Pilot participants, additional detail regarding the timing for the submission of these reports, and to consider developing a standardized reporting form and publicizing its availability. In developing the required reporting metrics, the Commission directs the Bureau to consult with OEA and relevant Federal partners to identify those metrics that will best serve the

needs of the Pilot and allow the Commission to evaluate whether and to what extent the Pilot succeeded in meeting the three performance goals. The Bureau should, to the extent practicable, and subject to approval from OMB, make the data reporting requirements available to Pilot participants prior to the availability of the Pilot FCC Form 470 to enable participants to consider whether there is any required information that they may need to obtain from their vendor(s) during the competitive bidding process.

102. Finally, in making these data reporting recommendations, a few commenters expressed concerns about protecting both the sensitive nature of the data and insulating Pilot applicants and participants from malicious cybersecurity actors who would use the data for nefarious purposes. The Commission is sensitive to and agree with these concerns and have measures in place to protect the school- and library-specific cybersecurity data it requests as part of the Pilot Program. Specifically, the Commission finds that the information provided by Pilot participants in the initial, annual, and final reports required by the Pilot constitutes sensitive business information and the reports may also contain trade secrets. The Commission therefore will treat this information as presumptively confidential under its rules and withhold it from public inspection. In addition, the Commission has elected to bifurcate the application process, seeking a more general level of cybersecurity information from applicants and leaving the more detailed cybersecurity reporting for Pilot participants. Taken together, the Commission expects that these measures will alleviate commenters' concerns about protecting Pilot applicants' and participants' sensitive information regarding cybersecurity threats and readiness.

103. *Pilot Program reports.* The Commission directs the Bureau, in consultation with OEA, to review the reports submitted by Pilot participants and publish one interim report during the three-year Pilot and a final report after the Pilot has concluded. The interim report will, at a minimum, provide a summary of funding commitments and disbursements to-date and provide an update on progress toward the Pilot Program's performance goals. The final report will, at a minimum, provide a summary of funding disbursements, evaluate the Pilot Program's success in meeting each performance goal, and identify lessons learned. Recognizing the sensitivity of the information provided by Pilot

applicants and participants, the Commission directs the Bureau to follow procedures for confidential information, including aggregating the information as necessary. The Commission directs the Bureau to publish the interim report no later than 180 days after Pilot participants submit their second (*i.e.*, year two) annual reports and to publish the final report no later than 180 days after Pilot participants submit their final (*i.e.*, year three) reports.

104. The Commission provides a path for recourse to parties aggrieved by decisions issued by USAC as a result of, or during, the Pilot. Specifically, the Commission adopts appeal and waiver request rules consistent with those that govern USAC's administration of the USF programs, including the E-Rate program. The Commission finds these existing processes sufficient to provide a meaningful review of decisions issued by USAC and the Commission regarding the Pilot. However, the Commission makes one modification for the Pilot Program appeal and waiver rules and provide a 30-day timeframe to request the review of an action by USAC, or to request the review of a decision by USAC or a waiver of the Commission's rules. Despite assertions from some commenters that modifying the rules in this manner would limit Pilot participant flexibility and is unnecessary in this context, the Commission thinks this change will benefit Pilot participants (and the program generally) by providing faster timeframes for appeal and waiver decisions and final Pilot funding decisions. Additionally, the Commission finds that a 30-day timeframe is appropriate given the limited three-year duration of the Pilot Program.

105. The Commission concludes that the Commission has legal authority to establish a Pilot Program that provides USF support for cybersecurity services and equipment to eligible schools and libraries. As a preliminary matter, in the *Cybersecurity NPRM*, it tentatively concluded that the Commission has sufficient legal authority for funding cybersecurity services and equipment for schools and libraries pursuant to sections 254(c)(1), (c)(3), (h)(1)(B), and (h)(2) of the Act. The Commission noted that the Pilot is consistent with Congress's view that the USF represents an evolving level of service, informing potential future actions that the Commission would take to further its obligation to "establish periodically" universal service rules that "tak[e] into account advances in telecommunications and information

technologies and services." Additionally, the Commission noted that the existing record supported the view that the Pilot is "technically feasible and economically reasonable" as required by section 254(h)(2)(A) of the Act. The Commission also noted that the proposed Pilot appeared consistent with section 254(c)(3) of the Act, which grants the Commission authority to "designate additional services for [USF] support . . . for schools [and] libraries," as the Pilot would allow for the designation of additional services that may be used by participating schools and libraries based on USF funding. In the *Cybersecurity NPRM*, the Commission sought additional comment on such views and on the other sources of legal authority, such as the extent to which the Pilot fulfills the Commission's mandate to make "[q]uality services" available at just, reasonable, and affordable rates, and the limits and restrictions that it should place on recipients of Pilot funds to remain within the statutory authority.

106. Commenters generally supported its conclusion that sufficient legal authority exists for the creation of this Pilot Program. In particular, commenters agreed that universal service is an "evolving level of telecommunications services," and noted that the Pilot-supported services and equipment "reflect ongoing advances in schools and libraries broadband networks and services." Furthermore, Cisco stated that enhanced cybersecurity services and equipment strengthens and ensures access to and usability of broadband networks, supporting the Act's mandate that the Commission enhance access to advanced telecommunications and information services for schools and libraries. Cisco also noted that the scale and number of cybersecurity threats and attacks increased during the pandemic, as schools shifted to heavier reliance on technology services, and "such changed circumstances support consideration of a change in the Commission's policy with respect to the funding of cybersecurity measures for schools and libraries," in furtherance of Congress's mandate "to take into account evolving technologies and to designate additional services to support enhanced connectivity for schools and libraries."

107. It agrees with these assessments, and affirm its conclusion in the *Cybersecurity NPRM* that the Commission has sufficient legal authority to use universal service funds to support cybersecurity services and equipment for eligible schools and libraries, for several reasons. First, the Commission agrees that providing

support for cybersecurity services and equipment fulfills its mandate under section 254(c)(1) of the Act to periodically refine universal service to take into account advances in technology and services. As CoSN points out, the Pilot Program will provide support for new services and equipment that reflect advances in school networking technology. By studying how best universal service funds can be used to support E-Rate-funded networks and data, the Pilot enables us to refine universal service in today's modern educational environment, pursuant to section 254(c)(1) of the Act.

108. Second, the Commission finds that Pilot funds will be used for "educational purposes," pursuant to section 254(h)(1)(B) of the Act. E-Rate rules require schools and libraries to use eligible services "primarily for educational purposes," defined for schools as "activities that are integral, immediate, and proximate to the education of students," and for libraries as "activities that are integral, immediate, and proximate to the provision of library services to library patrons." Pilot funds will help ensure that school and library connections are reliable and not disrupted by cyberattacks, and will further protect the sensitive data often stored on those networks. As such, use of Pilot funds serves an educational purpose, by promoting the education of students, or the provision of library services to library patrons, free from disruption, cyberattack, or theft of sensitive data, pursuant to its mandate under section 254(h)(1)(B) of the Act.

109. Furthermore, the Commission concludes that the use of universal service support for advanced firewalls and other cybersecurity services and equipment for educational purposes fits within the Commission's authority and direction under section 254(h)(1)(B) of the Act to designate "services that are within the definition of universal service under subsection (c)(3)," which authorizes the Commission to designate non-telecommunications services for support. In the *First Universal Service Order*, 62 FR 32862, June 17, 1997, the Commission found that sections 254(h)(1)(B) through 254(c)(3) of the Communications Act authorizes universal service support for telecommunications services and additional services such as information services. The Commission therefore finds that, to the extent any of the advanced firewall or cybersecurity services are not telecommunications services, those services nevertheless can be purchased with universal service

support pursuant to section 254(h)(1)(B) of the Act. In addition, sections 254(h)(1)(B) through 254(c)(3) of the Act provides authority to support the advanced firewall and cybersecurity equipment that the Pilot will fund to protect E-Rate-funded networks and data. In the *First Universal Service Order*, the Commission concluded that "we can include 'the information services,' e.g., protocol conversion and information storage, that are needed to access the internet, as well as internal connections, as 'additional services' that section 254(h)(1)(B), through section 254(c)(3), authorizes us to support." The Commission further distinguished between ineligible types of peripheral equipment (e.g., laptops) and eligible equipment that is necessary to make the services functional. Therefore, the Commission also finds that because advanced firewall and cybersecurity equipment are critical to support the services that will protect E-Rate-funded networks and data, they fall into the latter category and it therefore concludes that the Commission has authority under sections 254(h)(1)(B) through 254(c)(3) of the Act to support the purchase of advanced firewall and cybersecurity equipment for educational purposes.

110. Additionally, the Commission has concluded that, pursuant to sections 4(i) and 254(c)(1), (c)(3), (h)(1)(B), and (h)(2) of the Act, E-Rate-supported services can be provided by both telecommunications carriers and non-telecommunications carriers. In reaching this conclusion, the Commission determined that section 254(h)(1)(B)'s requirement that discounts for services be provided to "telecommunications carriers" does not "stand as a bar to its authority to allow non-telecommunications providers to provide such services and participate in the E-rate program" under sections 254(h)(2)(A) and 4(i) because limiting the eligibility of such services to only those provided by telecommunications carriers would "unduly limit the flexibility of schools and libraries to select the most cost-effective broadband solutions to meet their needs, which would be inconsistent with its schools and libraries policies." Moreover, permitting the provision of such services by both telecommunications and non-telecommunications carriers "enhances access to advanced telecommunications and information services for public and non-profit elementary and secondary school classrooms and libraries." Consistent with this authority, the Commission likewise allow Pilot participants to

purchase eligible services and equipment from both telecommunications and non-telecommunications providers because it will provide Pilot participants with greater access and flexibility to select the best option at lower costs.

111. Third, and separately, the Commission affirms its authority under section 254(h)(2)(A) of the Act, as the Pilot will enhance access to advanced telecommunications and information services for elementary and secondary school classrooms and libraries. The use of Pilot-supported services to protect school and library broadband networks further enhances school classroom and library access to other advanced telecommunications and information services. Specifically, the Commission agree with CoSN that "cyberattacks throttle or completely thwart the ability of schools and libraries to use the 'advanced telecommunications and information services' promised by the Act." Supporting cybersecurity services through the Pilot will enable and encourage participants to make full use of their connectivity services, with the reassurance that their broadband networks and services, and the information contained in them is protected. The Commission finds this to be true even for use of school-owned devices used for educational purposes outside of the school, for example, in a student's home. Section 254(h)(2)(A)'s reference to "classrooms" is not prohibitive to the use of E-Rate support for off-premises use. The statute directs the Commission to establish rules to enhance access "for all public and nonprofit elementary and secondary school classrooms . . . and libraries." Notably, the text does not say to enhance access to services "at" or "in" school classrooms (or libraries), as would more naturally indicate a tie to a physical location. As such, the statute permits funding of services that enhance access for school classrooms and libraries, even if such services are used off-premises. Accordingly, the Pilot can support the purchase of advanced firewall and cybersecurity services and equipment for use on school-owned devices for educational purposes, even if those devices may be used off-premises.

112. Lastly, the Commission finds that the Pilot Program is economically reasonable, and a prudent use of the limited universal service funds. The Commission has previously found expanding the types of cybersecurity services and equipment beyond basic firewall services to be cost-prohibitive to the E-Rate program. Since then, however, the COVID-19 pandemic

changed how K–12 schools and libraries use their broadband networks for educational purposes, and K–12 schools and libraries increasingly find themselves prime targets for cybersecurity threats and attacks by malicious actors who seek to exploit the schools' and libraries' networks and data. In light of such developments, as well as an increased cap for E-Rate funding, exploring expanding funding for cybersecurity services and equipment beyond basic firewalls is now prudent to determine whether there is more the Commission can do to protect schools' and libraries' E-Rate-funded broadband networks. Furthermore, by conducting a limited Pilot, the Commission can best determine whether it can support these essential services without jeopardizing the ability of the E-Rate program to continue to support the connectivity of school and library broadband networks. Generally, commenters were in favor of increasing funding to support cybersecurity services beyond basic firewalls. For example, CIS recommended that the Commission "allow funding for any cybersecurity protection that improves or enhances the cybersecurity of an organization." Cisco stated that "enhanced cybersecurity and advanced firewalls are needed for the delivery of reliable and useable broadband connectivity to students and educators" and funding such services is "consistent with the public interest, convenience, and necessity." As a result, the Commission finds funding cybersecurity services and equipment through the Pilot to be a prudent use of the limited USF support and conclude that the Pilot is economically reasonable pursuant to section 254(h)(2)(A) of the Act.

113. The Commission concludes that the requirements of the Children's internet Protection Act (CIPA) are triggered by the purchase of eligible services or equipment through the Pilot Program. As it has explained in the E-Rate and ECF programs, CIPA applies to the use of school- or library-owned computers, including laptop and tablet computers, if the school or library accepts support for services and equipment that are used for internet access, internet services, or internal connections. As discussed in the *Cybersecurity NPRM*, Congress enacted CIPA to protect children from exposure to harmful material while accessing the internet from a school or library, and CIPA prohibits certain schools and libraries having computers with internet access from receiving funding under section 254(h)(1)(B) of the Act unless

they comply with specific internet safety requirements. Its determination that CIPA is applicable to the Pilot Program is consistent with past Commission decisions in the E-Rate program and E-Rate ESLs which have included both basic firewall services provided as a standard component of a vendor's internet access service as category one internet access services, and standalone basic firewall services and components as category two internal connections services. Because the cybersecurity services and equipment it makes eligible under the Pilot Program serve functions equivalent to that of the basic firewall services currently supported by the E-Rate program, the Commission treats them similarly, either as standalone internal connections or as components of internet access. The Commission therefore concludes that the provision of Pilot support is also governed by sections 254(h)(5)(A)(i) and 254(h)(6)(A)(i) of the Act, and compliance with the CIPA internet safety requirements is a condition of the receipt of Pilot Program support. As with the E-Rate and ECF programs, the Commission also concludes that CIPA does not apply where schools or libraries have purchased services to be used only in conjunction with student-, school staff-, or library patron-owned computers. Also, consistent with the ECF program, the Commission finds that a Pilot participant need not complete additional CIPA compliance certifications if it has already certified its CIPA compliance for E-Rate support for the funding year preceding the start of the Pilot (*i.e.*, it has certified its compliance in an E-Rate FCC Form 486 or FCC Form 479). If a Pilot participant has not previously certified its CIPA compliance in the E-Rate program, it will need to do so to qualify for Pilot Program support or certify that it is taking actions to come into compliance with the CIPA requirements.

114. In order to ease program administration, the Commission delegates to the Bureau, consistent with the goals of the Pilot Program, the authority to waive certain program deadlines, clarify any inconsistencies or ambiguities in the Pilot Program rules, adjust Pilot project funding commitments, or to perform other administrative tasks as may be necessary for the smooth implementation, administration, and operation of the Pilot Program. The Commission also delegates to the Bureau the authority to grant limited extensions of deadlines to Pilot projects,

and other authority as may be necessary to ensure a successful Pilot Program.

115. In addition, the Commission delegates financial, information security, and privacy oversight of the Pilot Program to OMD and OGC, and direct OMD and OGC to work in coordination with the Bureau to ensure that all financial, information security, and privacy aspects of the Pilot have adequate internal controls. These duties fall with OMD's current delegated authority to ensure that the Commission operates in accordance with Federal financial statutes and guidance. OMD performs this role with respect to USAC's administration of the Commission's universal service programs and it anticipates that OMD will leverage existing policies and procedures, to the extent practicable and consistent with the Pilot, to ensure the efficient and effective management of the program. Finally, it notes OMD is required to consult with the Bureau on any policy matters affecting the Pilot Program, consistent with § 0.91(a) of the Commission's rules.

116. The Commission directs the Bureau to conduct outreach to educate eligible schools and libraries about the Pilot Program, and to coordinate, as necessary, with other Federal agencies, and state, local, and Tribal governments. As supported by the record in this proceeding, the Commission also directs USAC to develop and implement a communications strategy, under the oversight of the Bureau, to provide training and information necessary for schools and libraries to successfully participate in the Pilot Program. Outreach, education, and engagement with Pilot Program applicants and, ultimately, selected Pilot participants will be an important tool in ensuring the Pilot Program is successful and meets its goals.

117. The Commission recognizes that once implementation of the Pilot Program begins, the Bureau may encounter unforeseen issues or problems with the administration of the program that may need to be resolved. To promote maximum effectiveness and smooth administration of the Pilot Program, the Commission delegates to Bureau staff the authority to address and resolve such unforeseen administrative issues or problems, provided that doing so is consistent with the decisions it reached herein.

III. Procedural Matters

118. *Paperwork Reduction Act*. This document contains new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, will

invite the general public to comment on the information collection requirements contained in the Order as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

119. *Congressional Review Act*. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, OMB, concurs, that this rule is “non-major” under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

120. *Regulatory Flexibility Act*. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Cybersecurity NPRM*, released in November of 2023. The Federal Communications Commission (Commission) sought written public comment on the proposals in the *Cybersecurity NPRM*, including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

121. The Nation’s K–12 schools and libraries increasingly rely on remote, digital learning technologies to connect students, teachers, and library patrons to information, jobs, and other vital learning opportunities. This shift has increased the extent to which schools and libraries rely on networks to connect with student and patrons. This shift has also made school and library networks prime targets for cybersecurity threats and attacks. When these attacks occur, they have the potential to disrupt school and library operations, resulting in a loss of learning, reductions in available bandwidth, significant monetary losses, and the potential for the leak and theft of personal information and confidential data associated with students, school staff and library patrons.

122. The Nation’s eligible schools, libraries, and consortia (comprised of eligible schools and libraries) may request universal service discounts for services and equipment to support their network connectivity, including telecommunications services, internet access, and internal connections,

through the Commission’s E-Rate program. The E-Rate program was created by the Commission in 1997 in response to the Telecommunications Act of 1996. The E-Rate program currently funds basic firewall service provided as part of the vendor’s internet service as a category one service and separately-priced basic firewalls as a category two service. The E-Rate program, however, does not currently fund advanced firewalls or other cybersecurity services and equipment that have increasingly been requested by commenters to protect school and library networks from cyber harms over the years.

123. In the Order, the Commission establishes a three-year Pilot Program (Pilot or Pilot Program) funded at \$200 million, within the USF but separate from the E-Rate program, to enable it to assess the costs and benefits of utilizing universal service funds to support schools’ and libraries’ cybersecurity needs and how other Federal resources could be leveraged to ensure that these needs are addressed in the most efficient and effective manner. One objective of the Pilot is to help participants acquire cybersecurity services and equipment, including many of the equipment and services that have specifically been requested by commenters in the record, to improve the security of their broadband networks and data. Another objective of the Pilot is to measure the costs and effectiveness of cybersecurity services and equipment. By making a wide range of cybersecurity services and equipment eligible for USF support, the Pilot will enable the Commission to gather data on the associated cost and effectiveness of various solutions. A further objective of the Pilot is to evaluate how to best leverage other available low-cost and free Federal resources to help schools and libraries proactively address K–12 cybersecurity risks. To ensure that these objectives can be met, the Commission also adopts requirements that Pilot participants provide initial, annual, and final reports so that Pilot participants can be evaluated for their cybersecurity readiness before they begin participation in, during, and after the conclusion of the Pilot Program. By taking these actions, the Commission will be able to better to fulfill its obligation to ensure that schools and libraries have access to advanced telecommunications, as provided for by Congress in the 1996 Act.

124. In addition, the Order finalizes several aspects of the structure and administration of the Pilot based on the proposals made in the *Cybersecurity NPRM*. For example, the Pilot

establishes: (1) that schools and school districts will be eligible to receive up to \$13.60 per student, annually, on a pre-discounted basis, to purchase eligible cybersecurity services and equipment, with a pre-discount annual funding floor of \$15,000 and a pre-discount annual funding maximum of \$1.5 million; (2) a pre-discount annual budget of \$15,000 per library, with the provision that library systems with more than 11 sites will be eligible for support up to a pre-discount maximum of \$175,000 annually; and (3) that consortia participants comprised of eligible schools and libraries are eligible to receive funding based on student count (using the annual pre-discount \$13.60 per student multiplier) and the number of library sites (using the \$15,000 per library pre-discount annual budget) subject to either the pre-discount \$175,000 annual budget maximum for library systems or pre-discount \$1.5 million annual budget maximum for schools depending on the consortium’s constituency. While these budgets, including associated maximums and floors, are specified in terms of annualized dollar amounts, participants’ expenses are capped based on the full three-year duration of the Pilot and not on an annual basis. Thus, Pilot participants may request reimbursement for expenses as they are incurred even if it means that the amount of funding disbursed to a participant in a given year of the program exceeds their annual budget, so long as the total amount disbursed to a participant over the three-year term does not exceed three times that annual budget. The Pilot requires participants to contribute a portion of the costs of the cybersecurity services and equipment they seek to purchase with Pilot Program support, similar to the non-discount share that E-Rate applicants are required to contribute to the cost of their eligible services and equipment. The Commission also permits all eligible schools and libraries, including those that do not currently participate in the E-Rate program, to apply to participate in the Pilot.

125. The Commission also adopts a P-ESL in the Order, which specifies eligible cybersecurity services and equipment for the Pilot. The P-ESL deems services and/or equipment eligible if they constitute a protection designed to improve or enhance the cybersecurity of a K–12 school, library, or consortia. To provide clarity and specificity to small entity and other participants, the P-ESL also enumerates as eligible, in a non-limiting manner, four categories of technology raised by

commenters as effective in combatting cyber threats, namely, (i) advanced/next-generation firewalls; (ii) endpoint protection; (iii) identity protection and authentication; and (iv) monitoring, detection, and response. For purposes of the Pilot, the Commission defines: (i) an “advanced” or “next-generation” firewall as equipment, services, or a combination of equipment and services, that limits access between networks, excluding basic firewalls that are funded through the Commission’s E-Rate program; (ii) endpoint protection as equipment, services, or a combination of equipment and services that implements safeguards to protect school- and library-owned end-user devices, including desktops, laptops, and mobile devices, against cybersecurity threats and attacks; (iii) identity protection and authentication as equipment, services, or a combination of equipment and services that implements safeguards to protect a user’s network identity from theft or misuse and/or provide assurance about the network identity of an entity interacting with a system; and (iv) monitoring, detection, and response as equipment, services, or a combination of equipment and services that monitor and/or detect threats to a network and that take responsive action to remediate or otherwise address those threats. Through the list of examples provided in the P-ESL, the Commission confirms that a wide range of services and equipment that it had proposed for inclusion in the *Cybersecurity NPRM*, or that commenters had otherwise requested, are eligible. In the Order, the Commission describes that eligibility is limited to equipment that is network-based (*i.e.*, that excludes end-user devices, including, for example, tablets, smartphones, and laptops) and services that are network-based and/or locally installed on end-user devices, where the devices are owned or leased by the school or library, and where equipment and services are designed to identify and/or remediate threats that could otherwise directly impair or disrupt a school’s or library’s network, including to threats from users accessing the network remotely.

126. In the Order, it explains that ineligible costs include, among other things, (i) any equipment, service, or other related cost that is eligible in the Commission’s E-Rate program eligible services list in the corresponding E-Rate funding year for which Pilot reimbursement is sought, (ii) any equipment, service, or other related cost, or portion thereof, for which a participant has already received reimbursement in full or in part, or

plans to apply for reimbursement in full or in part, through any other USF or Federal, state, or local program, and (iii) any equipment or services prohibited by the Secure and Trusted Communications Networks Act of 2019, Public Law 116–124, 134 Stat. 158 (2020) (codified as amended at 47 U.S.C. 1601–1609) (Secure Networks Act) or the Commission’s rules, including §§ 54.9 and 54.10 of the Commission’s rules, that implement the Secure Networks Act.

127. The Commission designates USAC to be the Administrator for the Pilot. The Commission requires applicants to submit part one of a FCC Form 484 application describing its proposed Pilot project and providing information to facilitate the evaluation and eventual selection of high-quality projects for inclusion in the Pilot. To facilitate the inclusion of a diverse set of Pilot projects and to target Pilot funds to the populations most in need of cybersecurity support, the Commission anticipates selecting projects from, and providing funding to, a combination of large and small and urban and rural schools, libraries, and consortia, with an emphasis on funding proposed Pilot projects that include low-income and Tribal applicants. Further, the Commission encourages participation in the Pilot by a broad range of service providers and do not discourage new companies from participating, nor does it require service providers to have preexisting service provider identification numbers (SPIN) before submitting cybersecurity bids or previous E-Rate experience before participating in the Pilot.

128. In the Order, the Commission describes that it will direct funding to: (1) the neediest eligible schools, libraries, and consortia who will benefit most from cybersecurity funding (*i.e.*, those at the highest discount rate percentages); (2) as many eligible schools, libraries, and consortia as possible; (3) those schools, libraries, and consortia that include Tribal entities; and (4) a mix of large and small and urban and rural, schools, libraries, and consortia. This will ensure that the Pilot contains a diverse cross-section of applicants with differing cybersecurity postures and experiences. In the event that number of FCC Form 484 applications received exceeds the number of projects that can be funded through the Pilot, the Commission will prioritize selection of Pilot participants by considering their funding needs in combination with the funding needs of the same type(s) of applicants with an eye toward selecting Pilot participants with differing levels of exposure to

cybersecurity threats and attacks. In the event that there is insufficient funding to select all of the Pilot participants at a particular discount rate, the Commission will prioritize the selection of Pilot participants within the discount rate using the percentage of students who are eligible for free and reduced lunches within each applicant’s school district. Funding for libraries will be prioritized based on the percentage of free and reduced lunch eligible students in the school district that is used to calculate the library’s discount rate. Funding for individual schools that are not affiliated financially or operationally with a school district, such as private or charter schools that apply individually, will be prioritized based on each school’s individual free and reduced student lunch eligible population.

129. In the Order, the Commission directs the Bureau and the Universal Service Administration Company (USAC or the Administrator) to model the Pilot processes and forms on existing E-Rate and ECF programs’ processes and forms to the extent possible for the Pilot Program. The Commission expects the Bureau and USAC to leverage the following Pilot forms, that will mirror existing E-Rate and ECF forms: (1) FCC Form 470 (Description of Services Requested and Certification Form); (2) FCC Form 471 (Description of Services Ordered and Certification Form); (3) FCC Form 472 (Billed Entity Applicant Reimbursement (BEAR) Form); and (4) FCC Form 474 (Service Provider Invoice (SPI) Form).

130. To protect the integrity of the Pilot, and safeguard universal service funds, the Commission implements a number of program integrity protections. For example, it implements document retention requirements and a prohibition on gifts, and the Commission requires applicants provide certain certifications and be subject to auditing. The Commission has modeled these provisions after its E-Rate processes to protect the Pilot and ensure the limited program funding is used for its intended purposes. The Commission also applies its existing suspension and debarment rules to the Pilot. The Commission also delegates to Bureau the authority to address and resolve a number of matters, including unforeseen administrative issues or problems, provided that doing so is consistent with the decisions it reached in the Order. The Commission expects that this action will allow the Bureau and USAC to reduce any undue burdens on applicants and other individual and entities involved in the Pilot Program,

while ensuring that all program goals are efficient and effectively satisfied.

131. There were no comments filed that specifically address the proposed rules and policies presented in the IRFA.

132. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

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

134. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission’s actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration’s (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.

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

the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

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

137. Small entities potentially affected by the rules herein are Schools, Libraries, Telecommunications Resellers, Local Resellers, Wired Telecommunications Carriers, All Other Telecommunications, Wireless Telecommunications Carriers (except Satellite), Wireless Carriers and Service Providers, Wired Broadband internet Access Service Providers (Wired ISPs), Wireless Broadband internet Access Service Providers (Wireless ISPs or WISPs), internet Service Providers (Non-Broadband), Vendors of Infrastructure Development or Network Buildout, Telephone Apparatus Manufacturing, Custom Computer Programming Services, Other Computer Related Services (Except Information Technology Value Added Resellers), Information Technology Value Added Resellers, Software Publishers.

138. While the Commission sought to minimize compliance burdens on small entities where practicable, the rules adopted in the Order will impose new or additional reporting, recordkeeping, and/or other compliance obligations on small entities that participate in the Pilot Program. The adopted rules encompass a broad range of Pilot-related compliance requirements that are summarized in further detail below.

139. *Application process.* The purpose of the Pilot Program is to better assess the costs and benefits of utilizing universal service funds to support schools’ and libraries’ cybersecurity needs and how other Federal resources could be leveraged to ensure that these

needs are addressed in the most efficient and effective manner. To do so, the Commission requires Pilot applicants to submit, as part of their application to participate in the Pilot, part one (out of two parts) of a new FCC Form 484 application, including by completing appropriate certifications. In this first part of the application, an applicant will provide a general level of cybersecurity information about itself and its proposed Pilot project, and will use pre-populated data, as well as a number of “yes/no” questions and questions with a predetermined set of responses (*i.e.*, multiselect questions with predefined answers). The applicant will explain how its proposed project meets a number of criteria outlined in the Order. In addition, the applicant must present a clear strategy for addressing the cybersecurity needs of its K–12 school(s) and/or library(ies) pursuant to its proposed Pilot project, and clearly articulate how the project will accomplish the applicant’s cybersecurity objectives. After selection for participation Pilot, participants shall submit to USAC a second part to the FCC Form 484, including by completing appropriate certifications. The second part will require that participants provide more detailed cybersecurity data and Pilot project information, including a description of the Pilot participant’s current cybersecurity posture, information about the participant’s planned use(s) for other Federal, state, or local cybersecurity funding (*i.e.*, funding obtained outside of the Pilot), and information about a participant’s history of cybersecurity threats and attacks within a year of the date of its application. Moreover, the Commission requires applications to be submitted through an online Pilot portal on USAC’s website and direct the Bureau to issue a Public Notice that includes details and instructions on how to submit an application using the Pilot portal on USAC’s website.

140. *Competitive Bidding, Requests for Services, and Invoicing and Reimbursement Processes.* The Commission requires Pilot participants to provide information related to competitive bidding, requests for services and invoice and reimbursement information, including associated and appropriate certifications, using new Pilot Program forms that will mirror existing E-Rate and ECF forms: (1) FCC Form 470 (Description of Services Requested and Certification Form); (2) FCC Form 471 (Description of Services Ordered and Certification Form); (3) FCC Form 472 (Billed Entity Applicant Reimbursement (BEAR) Form); and (4)

FCC Form 474 (Service Provider Invoice (SPI) Form).

141. *Reporting Requirements.* The Commission requires Pilot participants to submit initial, annual, and final reports. Applicants must provide an initial baseline assessment using information that includes the reporting requirements for the second part of the application process described.

142. *Document Retention Requirements.* The Commission requires Pilot participants to retain all documents related to their participation in the Pilot Program sufficient to demonstrate compliance with all program rules for at least 10 years from the last date of service or delivery of equipment and to maintain asset and inventory records of services and equipment purchased sufficient to verify the actual location of such services and equipment for a period of 10 years after purchase. This rule requires that Pilot participants must retain documents regarding participation in the Pilot, including asset and inventory records, accumulated during the Pilot, for a period of 10 years. The Commission also requires Pilot participants to present such records upon request of any representative (including any auditor) appointed by a state education department, the Administrator, the Commission, its Inspector General, or any local, state, or Federal agency with jurisdiction over the entity.

143. *Pilot Program Certifications.* As noted, the Commission requires participants to provide several certifications as part of their FCC Form 484 application, competitive bidding requirements, requests for services, and invoicing processes. Similarly, the Commission requires their selected service providers to provide certifications related to invoicing processes. The Commission also requires Pilot participants and service providers to certify that they are not seeking support or reimbursement for Pilot-eligible services and equipment that has been purchased and reimbursed from other Federal, state, Tribal, or local funding sources or that is eligible for discounts from E-Rate or another universal service program. Pilot participants and service providers must certify that they are seeking funding for only Pilot-eligible services and equipment.

144. *Other Delegations.* As part of the Order, the Commission also delegates to Bureau the authority to address and resolve a number of procedural or administrative matters, including unforeseen administrative issues or problems, provided that doing so is

consistent with the decisions it reached in the Order.

145. The record does not include a detailed cost/benefit analysis that would allow the Commission to quantify the costs of compliance for small entities, including whether it will be necessary for small entities to hire professionals to comply with the adopted rules. However, as program participation by applicants and service providers is voluntary, and the Commission expects that Pilot participants will carefully weigh the benefits, costs, and burdens of participation to ensure that the benefits outweigh their costs. The Commission expects that there may be additional benefits that cannot be easily quantified, such as a reduction in learning downtime caused by cyberattacks, reputational benefits from increased trust in school and library systems, increased digital and cybersecurity literacy among students and staff, and the safeguarding of intellectual property. This limited Pilot Program will enable the Commission to evaluate the benefits of using universal service funding to fund cybersecurity services and equipment against the costs before deciding whether to support it on a permanent basis.

146. The RFA requires an agency to provide, “a description of the steps the agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.”

147. In the Order, the Commission takes multiple steps that minimize economic impact on small entities related to the final rules it adopted. The Commission has sought to minimize economic impact on eligible small schools, libraries and consortia by dividing the process of completing the application form for participation in the Pilot (FCC Form 484) into two parts. By requiring that an applicant only complete the first part of the application form, which seeks more general information, with their initial application (*i.e.*, prior to its decision about whether to approve the entity as a participant in the Pilot), the Commission minimizes the economic impacts associated with filling out the second part of the form in at least two ways. First, applicants that are not selected for participation in the Pilot will never be required to fill out the second portion of the form. Second, applicants that are selected will have

additional time to gather and prepare their answers, as compared to an alternate approach where it could have required that the entire form be completed with the initial application.

148. The Commission has also significantly minimized economic impacts on eligible small schools, libraries, consortia and service providers by modeling the Pilot processes and forms, including those related to competitive bidding, requests for services, and invoicing and reimbursement processes, on existing E-Rate and ECF processes and forms. This includes submitting applications using the Pilot portal on USAC's website. The Commission expects this action will meaningfully reduce any economic impact on small entities associated with completing information requested via these forms. First, the Commission expects that many small entity participants, including their potential consultants and advisors, and service providers will be familiar with the substance of the forms from their involvement with the Commission's E-Rate and ECF processes and forms. Second, the Commission expects that even those small entities that may not be involved with the E-Rate and ECF programs may benefit from the significant guidance and information that the Commission and USAC have issued over the years in those programs (*e.g.*, trainings and instructions materials), that could also be relevant to the Pilot, including future guidance the Bureau will provide about the Pilot Program requirements through a Public Notice. Third, the Commission expects that these forms will generally be easy to use and efficient to complete based on its observation, made over many years, that forms with similar substance have proven effective in the Commission's E-Rate and ECF programs. The Commission thus expect its actions will significantly minimize any economic impact on small entities compared to an alternative approach where it developed Pilot processes and forms that were not related to those already developed in the Commission's E-Rate and ECF programs.

149. The Commission has also designed its reporting requirements to minimize the economic impact on small entities while ensuring that it gathers the information necessary to achieve the goals and ensure the success of the Pilot. In particular, have required only annual reporting from participants during the duration of the Pilot rather than alternate approaches where it could have required either per-incident “real-time” reports based on the occurrence of certain notable cyber

events or regular but more frequent (e.g., quarterly) reporting. To further reduce economic impacts on small entities the Commission has also directed the Bureau to consider the development of a standardized reporting form for use by Pilot participants.

150. Additionally, the Commission has also delegated authority to the Bureau to address and resolve a number of matters, including unforeseen administrative issues or problems, provided that doing so is consistent with the decisions it reached in the Order. The Commission expects that these delegations of authority will permit the Bureau and Administrator to take procedural actions, based on their experience gained managing the Pilot Program, to further reduce, wherever possible, economic impacts on small entities while still ensuring that all Pilot Program goals are effectively and efficiently satisfied.

151. The Commission also will not require the use of specific Federal Government tools and resources in the Pilot as initially suggested in the *Cybersecurity NPRM*. Further, while several commenters support a shortened Pilot duration of either one year or eighteen months, the Commission adopts its proposed three-year Pilot Program because it will allow us a better opportunity to evaluate whether universal service support should be used to fund cybersecurity services and equipment on a permanent basis. In determining the share of costs, participants will use their category one discount rate to determine the non-discount share of costs, instead of the category two discount proposed in the *Cybersecurity NPRM*, allowing participants with the highest discount rate to be eligible for support for 90 percent of their costs.

152. The Commission considered, but declined to adopt, proposals to abandon the traditional E-Rate reimbursement structure and instead provide “seed” money at the start of the Pilot, because requiring participants to contribute their funds toward eligible equipment and services helps to safeguard the integrity of the program and is consistent with processes in E-Rate and other universal service programs. However, for the Pilot, the Commission modifies the time to request appeal and waiver of an action by USAC to 30 days instead of the 60-day timeframe in the existing programs. Though commenters assert this will limit flexibility for participants, the Commission thinks the change is appropriate for the Pilot Program because it will allow for faster decisions in a program that has a limited duration.

153. The Commission will send a copy of the Order, including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Order, including the FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

154. *OPEN Government Data Act*. The OPEN Government Data Act, requires agencies to make “public data assets” available under an open license and as “open Government data assets,” i.e., in machine-readable, open format, unencumbered by use restrictions other than intellectual property rights, and based on an open standard that is maintained by a standards organization. This requirement is to be implemented “in accordance with guidance by the Director” of OMB. The term “public data asset” means “a data asset, or part thereof, maintained by the Federal Government that has been, or may be, released to the public, including any data asset, or part thereof, subject to disclosure under [the Freedom of Information Act (FOIA)].” A “data asset” is “a collection of data elements or data sets that may be grouped together,” and “data” is “recorded information, regardless of form or the media on which the data is recorded.” The Commission delegates authority, including the authority to adopt rules, to the Bureau, in consultation with the agency’s Chief Data and Analytics Officer and after seeking public comment to the extent it deems appropriate, to determine whether any data assets maintained or created by the Commission pursuant to the rules adopted herein are “public data assets” and if so, to determine when and to what extent such information should be made publicly available to the extent the Commission has not done so. In doing so, the Bureau shall take into account the extent to which such data assets should not be made publicly available because they are not subject to disclosure under the FOIA.

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

IV. Ordering Clauses

156. *Accordingly, it is ordered*, that pursuant to the authority contained in sections 1 through 4, 201 through 202, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–202,

254, 303(r), and 403, the Report and Order *is adopted* effective August 29, 2024.

157. *It is further ordered*, that pursuant to the authority contained in sections 1 through 4, 201 through 202, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–202, 254, 303(r), and 403, part 54 of the Commission’s rules, 47 CFR part 54, is *amended*, and such rule amendments shall be effective August 29, 2024, except for §§ 54.2004, 54.2005, 54.2006, and 54.2008, which are delayed indefinitely. The Commission will publish a document in the **Federal Register** announcing the effective date for those sections after approved by the Office of Management and Budget as required by the Paperwork Reduction Act.

List of Subjects in 47 CFR Part 54

Communications common carriers, Cybersecurity, Internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends part 54 of title 47 of the Code of Federal Regulations as follows:

PART 54—UNIVERSAL SERVICE

- 1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601–1609, and 1752, unless otherwise noted.

- 2. Add subpart T to read as follows:

Subpart T—Schools and Libraries Cybersecurity Pilot Program

Sec.	
54.2000	Terms and definitions.
54.2001	Cap, budgets, and duration.
54.2002	Eligible recipients.
54.2003	Eligible services and equipment.
54.2004–54.2006	[Reserved]
54.2007	Discounts.
54.2008	[Reserved]
54.2009	Audits, inspections, and investigations.
54.2010	Records retention and production.
54.2011	Administrator of the Schools and Libraries Cybersecurity Pilot Program.
54.2012	Appeal and waiver requests.
54.2013	Children’s internet Protection Act certifications.

§ 54.2000 Terms and definitions.

Administrator. The term “Administrator” means the Universal Service Administrative Company.

Applicant. An “applicant” is a school, library, or consortium of schools and/or libraries that applies to participate in the Schools and Libraries Cybersecurity Pilot Program.

Billed entity. A “billed entity” is the entity that remits payment to service providers for services rendered to eligible schools, libraries, or consortia of eligible schools and libraries.

Commission. The term “Commission” means the Federal Communications Commission (FCC).

Connected device. The term “connected device” means a laptop or desktop computer, or a tablet.

Consortium. A “consortium” is any local, Tribal, statewide, regional, or interstate cooperative association of schools and/or libraries eligible for Schools and Libraries Cybersecurity Pilot Program support that seeks competitive bids for eligible services or funding for eligible services on behalf of some or all of its members. A consortium may also include health care providers eligible under subpart G of this part, and public sector (governmental) entities, including, but not limited to, state colleges and state universities, state educational broadcasters, counties, and municipalities, although such entities are not eligible for support.

Cyber incident. An occurrence that actually or potentially results in adverse consequences to an information system or the information that the system processes, stores, or transmits and that may require a response action to mitigate or eliminate the consequences.

Cyber threat. A circumstance or event that has or indicates the potential to exploit vulnerabilities and to adversely impact organizational operations, organizational assets (including information and information systems), individuals, other organizations, or society.

Cyberattack. An attempt to gain unauthorized access to system services, resources, or information, or an attempt to compromise system or information integrity.

Doxing. The act of compiling or publishing personal information about an individual on the internet, typically with malicious intent.

Educational purposes. For purposes of this subpart, activities that are integral, immediate, and proximate to the education of students, or in the case of libraries, integral, immediate, and proximate to the provision of library

services to library patrons, qualify as “educational purposes.”

Elementary school. An “elementary school” means an elementary school as defined in 20 U.S.C. 7801(18), a non-profit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under state law.

Library. A “library” includes:

- (1) A public library;
- (2) A public elementary school or secondary school library;
- (3) A Tribal library;
- (4) An academic library;
- (5) A research library, which for the purpose of this subpart means a library that:

(i) Makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and

(ii) Is not an integral part of an institution of higher education; and

(6) A private library, but only if the state in which such private library is located determines that the library should be considered a library for the purposes of this definition.

Library consortium. A “library consortium” is any local, statewide, Tribal, regional, or interstate cooperative association of libraries that provides for the systematic and effective coordination of the resources of schools, and public, academic, and special libraries and information centers, for improving services to the clientele of such libraries. For the purposes of this subpart, references to library will also refer to library consortium.

National School Lunch Program. The “National School Lunch Program” is a program administered by the U.S. Department of Agriculture and state agencies that provides free or reduced price lunches to economically disadvantaged children. A child whose family income is between 130 percent and 185 percent of applicable family size income levels contained in the nonfarm poverty guidelines prescribed by the Office of Management and Budget (OMB) is eligible for a reduced price lunch. A child whose family income is 130 percent or less of applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by OMB is eligible for a free lunch.

Pilot participant. A “Pilot participant” is an eligible school, library, or consortium of eligible schools and/or libraries selected to participate in the Schools and Libraries Cybersecurity Pilot Program.

Pre-discount price. The “pre-discount price” means, in this subpart, the price

the service provider agrees to accept as total payment for its eligible services and equipment. This amount is the sum of the amount the service provider expects to receive from the eligible school, library, or consortium, and the amount it expects to receive as reimbursement from the Schools and Libraries Cybersecurity Pilot Program for the discounts provided under this subpart.

Secondary school. A “secondary school” means a secondary school as defined in 20 U.S.C. 7801(38), a non-profit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under state law except that the term does not include any education beyond grade 12.

Tribal. An entity is “Tribal” if it is a school operated by or receiving funding from the Bureau of Indian Education (BIE), or if it is a school or library operated by any Tribe, Band, Nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

§ 54.2001 Cap, budgets, and duration.

(a) *Cap.* The Schools and Libraries Cybersecurity Pilot Program shall have a cap of \$200 million.

(b) *Pilot participant budgets.* Each Pilot participant will be subject to a specific budget. Budgets are specified in terms of annualized dollar amounts, but participants’ expenses are capped based on the full three-year duration of the Pilot and participants may seek reimbursement for more than the annual budget for any given Pilot Program year, so long as the total amount disbursed over the three-year term does not exceed three times the applicable annual budget.

(1) *Schools.* At a minimum, each eligible school or school district will receive a pre-discount budget of \$15,000 annually. Schools and school districts with 1,100 students or fewer will be eligible to receive the annual pre-discount \$15,000 funding floor. For schools and school districts with more than 1,100 students, the annual budget is calculated using the pre-discount \$13.60 per-student multiplier, subject to an annual pre-discount budget maximum of \$1.5 million.

(2) *Libraries.* Each eligible library will receive a pre-discount budget of \$15,000

annually up to 11 libraries/sites. For library systems with more than 11 libraries/sites, the budget will be up to \$175,000 pre-discount annually.

(3) *Consortia*. Consortia comprised of eligible schools and libraries will be eligible to receive funding based on student count, using the pre-discount \$13.60 per-student multiplier and \$1.5 million pre-discount funding caps, and the number of library sites, using the pre-discount \$15,000 annual per-library budget and \$175,000 pre-discount funding caps. Consortia solely comprised of eligible schools or comprised of both eligible schools and libraries are subject to the pre-discount annual \$1.5 million budget maximum for schools and school districts. Consortia solely comprised of eligible libraries will be subject to the pre-discount annual \$175,000 budget maximum for library systems.

(c) *Duration*. The Schools and Libraries Cybersecurity Pilot Program shall make funding available to applicants selected to participate in the Pilot for three years, to begin when the applicants selected to participate in the Pilot are first eligible to receive eligible services and equipment (*i.e.*, from the date of the first funding commitment decision letter).

(d) *Rules of prioritization*. If total demand for the Schools and Libraries Cybersecurity Pilot Program exceeds the Pilot Program cap of \$200 million, funding will be made available as follows:

(1) Schools and libraries eligible for a 90 percent discount shall receive first priority for funds, as determined by the schools and libraries discount matrix in § 54.2007. Funding shall next be made available for schools and libraries eligible for an 80 percent discount, then for a 70 percent discount, and continuing at each descending discount level until there are no funds remaining.

(2) If funding is not sufficient to support all of the funding requests within a particular discount level, funding will be allocated at that discount level using the percentage of students eligible for the National School Lunch Program (NSLP). Thus, if there is not enough support to fund all requests at the 90 percent discount level, funding shall be allocated beginning with those applicants with the highest percentage of NSLP eligibility for that discount level, and shall continue at each descending percentage of NSLP until there are no funds remaining.

§ 54.2002 Eligible recipients.

(a) *Schools*. (1) Only schools meeting the definition of “elementary school” or “secondary school”, as defined in

§ 54.2000, and not excluded under paragraph (a)(2) or (3) of this section, shall be eligible for discounts on supported services under this subpart.

(2) Schools operating as for-profit businesses shall not be eligible for discounts under this subpart.

(3) Schools with endowments exceeding \$50,000,000 shall not be eligible for discounts under this subpart.

(b) *Libraries*. (1) Only libraries eligible for assistance from a State library administrative agency under the Library Services and Technology Act (20 U.S.C. 9122) and not excluded under paragraph (b)(2) or (3) of this section shall be eligible for discounts under this subpart.

(2) Except as provided in paragraph (b)(4) of this section, a library’s eligibility for discounts under this subpart shall depend on its funding as an independent entity. Only libraries whose budgets are completely separate from any schools (including, but not limited to, elementary and secondary schools, colleges, and universities) shall be eligible for discounts as libraries under this subpart.

(3) Libraries operating as for-profit businesses shall not be eligible for discounts under this subpart.

(4) A Tribal college or university library that serves as a public library by having dedicated library staff, regular hours, and a collection available for public use in its community shall be eligible for discounts under this subpart.

(c) *Consortia*—(1) *Consortium Leader*. Each consortium seeking support under this subpart must identify an entity or organization that will lead the consortium (the “Consortium Leader”). The Consortium Leader may be an eligible school or library participating in the consortium; a state organization; public sector governmental entity, including a Tribal government entity; or a non-profit entity that is ineligible for support under this subpart. Ineligible state organizations, public sector entities, or non-profit entities may serve as Consortium Leaders or provide consulting assistance to consortia only if they do not participate as potential service providers during the competitive bidding process. An ineligible entity that serves as the Consortium Leader must pass through the full value of any discounts, funding, or other program benefits secured to the eligible schools and libraries that are members of the consortium.

(2) For consortia, discounts under this subpart shall apply only to the portion of eligible services and equipment used by eligible schools and libraries.

(3) Service providers shall keep and retain records of rates charged to and

discounts allowed for eligible schools and libraries on their own or as part of a consortium. Such records shall be available for public inspection.

§ 54.2003 Eligible services and equipment.

(a) *Supported services and equipment*. All supported services and equipment are identified in the Schools and Libraries Cybersecurity Pilot Program Eligible Services List (see § 54.502(a)), available on the FCC’s website at <https://www.fcc.gov/cybersecurity-pilot/cybersecurity-pilot-eligible-services-list>. The services and equipment in this subpart will be supported in addition to all reasonable charges that are incurred by taking such services, such as state and Federal taxes. Charges for termination liability, penalty surcharges, and other charges not included in the cost of taking such service shall not be covered by universal service support.

(b) *Prohibition on resale*. Eligible supported services and equipment shall not be sold, resold, or transferred in consideration of money or any other thing of value, until the conclusion of the Schools and Libraries Cybersecurity Pilot Program, as provided in § 54.2001.

§§ 54.2004–54.2006 [Reserved]

§ 54.2007 Discounts.

(a) *Discount mechanism*. Discounts for participants in the Schools and Libraries Cybersecurity Pilot Program shall be set as a percentage discount from the pre-discount price.

(b) *Discount percentages*. The discounts available to participants in the Schools and Libraries Cybersecurity Pilot Program shall range from 20 percent to 90 percent of the pre-discount price for all eligible services provided by eligible providers. The discounts available shall be determined by indicators of poverty and urban/rurality designation.

(1) For schools and school districts, the level of poverty shall be based on the percentage of the student enrollment that is eligible for a free or reduced price lunch under the National School Lunch Program (NSLP) or a federally-approved alternative mechanism. School districts shall divide the total number of students eligible for the NSLP within the school district by the total number of students within the school district to arrive at a percentage of students eligible. This percentage rate shall then be applied to the discount matrix to set a discount rate for the supported services purchased by all schools within the school district. Independent charter schools, private schools, and other eligible educational facilities should

calculate a single discount percentage rate based on the total number of students under the control of the central administrative agency.

(2) For libraries and library consortia, the level of poverty shall be based on the percentage of the student enrollment that is eligible for a free or reduced price lunch under the NSLP or a federally-approved alternative mechanism in the public school district in which they are located and should use that school district's level of poverty to determine their discount rate when applying as a library system or as an individual library outlet within that system. When a library system has branches or outlets in more than one public school district, that library system and all library outlets within that system should use the address of the central outlet or main administrative office to determine which school district the library system is in, and should use that school district's level of poverty to determine its discount rate when applying as a library system or as one or more library

outlets. If the library is not in a school district, then its level of poverty shall be based on an average of the percentage of students eligible for the NSLP in each of the school districts that children living in the library's location attend.

(3) The Administrator shall classify schools and libraries as "urban" or "rural" according to the following designations. The Administrator shall designate a school or library as "urban" if the school or library is located in an urbanized area or urban cluster area with a population equal to or greater than 25,000, as determined by the most recent rural-urban classification by the Bureau of the Census. The Administrator shall designate all other schools and libraries as "rural."

(4) Participants in the Schools and Libraries Cybersecurity Pilot Program shall calculate discounts on supported services described in § 54.2003 that are shared by two or more of their schools, libraries, or consortia members by calculating an average discount based on the applicable district-wide

discounts of all member schools and libraries. School districts, library systems, or other billed entities shall ensure that, for each year in which an eligible school or library is included for purposes of calculating the aggregate discount rate, that eligible school or library shall receive a proportionate share of the shared services for which support is sought. For schools, the discount shall be a simple average of the applicable district-wide percentage for all schools sharing a portion of the shared services. For libraries, the average discount shall be a simple average of the applicable discounts to which the libraries sharing a portion of the shared services are entitled.

(c) *Discount matrix.* The Administrator shall use the following matrix to set the discount rate to be applied to eligible services purchased by participants in the Schools and Libraries Cybersecurity Pilot Program based on the participant's level of poverty and location in an "urban" or "rural" area.

TABLE 1 TO PARAGRAPH (C)

% of students eligible for national school lunch program	Discount level	
	Urban discount	Rural discount
<1	20	25
1-19	40	50
20-34	50	60
35-49	60	70
50-74	80	80
75-100	90	90

(d) *Payment for the non-discount portion of supported services and equipment.* A participant in the Schools and Libraries Cybersecurity Pilot Program must pay the non-discount portion of costs for the services or equipment purchased with universal service discounts, and may not receive rebates for services or equipment purchased with universal service discounts. For the purpose of this subpart, the provision, by the provider of a supported service or equipment, of free services or equipment unrelated to the supported service or equipment constitutes a rebate of the non-discount portion of the costs for the supported services and equipment.

§ 54.2008 [Reserved]

§ 54.2009 Audits, inspections, and investigations.

(a) *Audits.* Schools and Libraries Cybersecurity Pilot Program participants and service providers shall be subject to audits and other investigations to evaluate their compliance with the

statutory and regulatory requirements in this chapter of the Schools and Libraries Cybersecurity Pilot Program, including those requirements pertaining to what services and equipment are purchased, what services and equipment are delivered, and how services and equipment are being used.

(b) *Inspections and investigations.* Schools and Libraries Cybersecurity Pilot Program participants and service providers shall permit any representative (including any auditor) appointed by a state education department, the Administrator, the Commission, its Office of Inspector General, or any local, state, or Federal agency with jurisdiction over the entity to enter their premises to conduct inspections for compliance with the statutory and regulatory requirements in this subpart of the Schools and Libraries Cybersecurity Pilot Program.

§ 54.2010 Records retention and production.

(a) *Recordkeeping requirements.* All Schools and Libraries Cybersecurity

Pilot Program participants and service providers shall retain all documents related to their participation in the program sufficient to demonstrate compliance with all program rules for at least ten years from the last date of service or delivery of equipment. All Schools and Libraries Cybersecurity Pilot Program applicants shall maintain asset and inventory records of services and equipment purchased sufficient to verify the actual location of such services and equipment for a period of ten years after purchase.

(b) *Production of records.* All Schools and Libraries Cybersecurity Pilot Program participants and service providers shall produce such records upon request of any representative (including any auditor) appointed by a state education department, the Administrator, the Commission, its Office of Inspector General, or any local, state, or Federal agency with jurisdiction over the entity.

§ 54.2011 Administrator of the Schools and Libraries Cybersecurity Pilot Program.

(a) The Universal Service Administrative Company is appointed the Administrator of the Schools and Libraries Cybersecurity Pilot Program and shall be responsible for administering the Schools and Libraries Cybersecurity Pilot Program.

(b) The Administrator shall be responsible for reviewing applications for funding, recommending funding commitments, issuing funding commitment decision letters, reviewing invoices and recommending payment of funds, as well as other administration-related duties.

(c) The Administrator may not make policy, interpret unclear provisions of statutes or rules, or interpret the intent of Congress. Where statutes or the Commission's rules in this subpart are unclear, or do not address a particular situation, the Administrator shall seek guidance from the Commission.

(d) The Administrator may advocate positions before the Commission and its staff only on administrative matters relating to the Schools and Libraries Cybersecurity Pilot Program.

(e) The Administrator shall create and maintain a website, as defined in § 54.5, on which applications for services will be posted on behalf of schools and libraries.

(f) The Administrator shall provide the Commission full access to the data collected pursuant to the administration of the Schools and Libraries Cybersecurity Pilot Program.

(g) The Administrator shall provide performance measurements pertaining to the Schools and Libraries Cybersecurity Pilot Program as requested by the Commission by order or otherwise.

(h) The Administrator shall have the authority to audit all entities reporting data to the Administrator regarding the Schools and Libraries Cybersecurity Pilot Program. When the Commission, the Administrator, or any independent auditor hired by the Commission or the Administrator conducts audits of the participants of the Schools and Libraries Cybersecurity Pilot Program, such audits shall be conducted in accordance with generally accepted government auditing standards.

(i) The Administrator shall establish procedures to verify support amounts provided by the Schools and Libraries Cybersecurity Pilot Program and may suspend or delay support amounts if a party fails to provide adequate verification of the support amounts provided upon reasonable request from the Administrator or the Commission.

(j) The Administrator shall make available to whomever the Commission directs, free of charge, any and all intellectual property, including, but not limited to, all records and information generated by or resulting from its role in administering the support mechanisms, if its participation in administering the Schools and Libraries Cybersecurity Pilot Program ends. If its participation in administering the Schools and Libraries Cybersecurity Pilot Program ends, the Administrator shall be subject to close-out audits at the end of its term.

§ 54.2012 Appeal and waiver requests.

(a) *Parties permitted to seek review of Administrator decision.* (1) Any party aggrieved by an action taken by the Administrator must first seek review from the Administrator.

(2) Any party aggrieved by an action taken by the Administrator under paragraph (a)(1) of this section may seek review from the Commission as set forth in paragraph (b) of this section.

(3) Parties seeking waivers of the Commission's rules in this subpart shall seek relief directly from the Commission and need not first file an action for review from the Administrator under paragraph (a)(1) of this section.

(b) *Filing deadlines.* (1) An affected party requesting review of a decision by the Administrator pursuant to paragraph (a)(1) of this section shall file such a request within thirty (30) days from the date the Administrator issues a decision.

(2) An affected party requesting review by the Commission pursuant to paragraph (a)(2) of this section of a decision by the Administrator under paragraph (a)(1) of this section shall file such a request with the Commission within thirty (30) days from the date of the Administrator's decision. Further, any party seeking a waiver of the Commission's rules under paragraph (a)(3) of this section shall file a request for such waiver within thirty (30) days from the date of the Administrator's initial decision, or, if an appeal is filed under paragraph (a)(1) of this section, within thirty days from the date of the Administrator's decision resolving such an appeal.

(3) Parties shall adhere to the time periods for filing oppositions and replies set forth in § 1.45 of this chapter.

(c) *General filing requirements.* (1) Except as otherwise provided in this section, a request for review of an Administrator decision by the Commission shall be filed with the Commission's Office of the Secretary in accordance with the general requirements set forth in part 1 of this chapter. The request for review shall be

captioned "In the Matter of Request for Review by (name of party seeking review) of Decision of Universal Service Administrator" and shall reference the applicable docket numbers.

(2) A request for review pursuant to paragraphs (a)(1) through (3) of this section shall contain:

(i) A statement setting forth the party's interest in the matter presented for review;

(ii) A full statement of relevant, material facts with supporting affidavits and documentation;

(iii) The question presented for review, with reference, where appropriate, to the relevant Commission rule, Commission order, or statutory provision; and;

(iv) A statement of the relief sought and the relevant statutory or regulatory provision pursuant to which such relief is sought.

(3) A copy of a request for review that is submitted to the Commission shall be served on the Administrator consistent with the requirement for service of documents set forth in § 1.47 of this chapter.

(4) If a request for review filed pursuant to paragraphs (a)(1) through (3) of this section alleges prohibitive conduct on the part of a third party, such request for review shall be served on the third party consistent with the requirement for service of documents set forth in § 1.47 of this chapter. The third party may file a response to the request for review. Any response filed by the third party shall adhere to the time period for filing replies set forth in § 1.45 of this chapter and the requirement for service of documents set forth in § 1.47 of this chapter.

(d) *Review by the Wireline Competition Bureau or the Commission.*

(1) Requests for review of Administrator decisions that are submitted to the Commission shall be considered and acted upon by the Wireline Competition Bureau; provided, however, that requests for review that raise novel questions of fact, law, or policy shall be considered by the full Commission.

(2) An affected party may seek review of a decision issued under delegated authority by the Wireline Competition Bureau pursuant to the rules set forth in part 1 of this chapter.

(e) *Standard of review.* (1) The Wireline Competition Bureau shall conduct a *de novo* review of requests for review of decisions issued by the Administrator.

(2) The Commission shall conduct a *de novo* review of requests for review of decisions by the Administrator that involve novel questions of fact, law, or policy; provided, however, that the

Commission shall not conduct a *de novo* review of decisions issued by the Wireline Competition Bureau under delegated authority.

(f) *Schools and Libraries Cybersecurity Pilot Program disbursements during pendency of a request for review and Administrator decision.* When a party has sought review of an Administrator decision under paragraphs (a)(1) through (3) of this section, the Commission shall not process a request for the reimbursement of eligible equipment and/or services until a final decision has been issued either by the Administrator or by the Commission; provided, however, that the Commission may authorize disbursement of funds for any amount of support that is not the subject of an appeal.

§ 54.2013 Children's internet Protection Act certifications.

(a) *Definitions*—(1) *School.* For the purposes of the certification requirements of this section, *school* means school, school board, school district, local education agency, or other authority responsible for administration of a school.

(2) *Library.* For the purposes of the certification requirements of this section, *library* means library, library board, or authority responsible for administration of a library.

(3) *Billed entity.* Billed entity is defined in § 54.2000. In the case of a consortium, the billed entity is the lead member of the consortium.

(b) *Certifications required.* A school or library that receives support for eligible services and equipment through the Schools and Libraries Cybersecurity Pilot Program must make the certifications as described in paragraph (c) of this section.

(c) *CIPA certifications.* (1) A Schools and Libraries Cybersecurity Pilot Program participant need not complete additional Children's internet Protection Act (CIPA) (47 U.S.C. 254(h) and (l)) compliance certifications if the participant has already certified its CIPA compliance for the schools and libraries universal service support mechanism funding year preceding the start of the Schools and Libraries Cybersecurity Pilot Program (*i.e.*, has certified its compliance in an FCC Form 486 or FCC Form 479).

(2) Schools and Libraries Cybersecurity Pilot Program participants that have not already certified their CIPA compliance for the schools and libraries universal service support mechanism funding year preceding the start of the Schools and Libraries Cybersecurity Pilot Program (*i.e.*, have

not completed a FCC Form 486 or FCC Form 479), will be required to certify:

(i) That they are in compliance with CIPA requirements under 47 U.S.C. 254(h) and (l);

(ii) That they are undertaking the actions necessary to comply with CIPA requirements under 47 U.S.C. 254(h) and (l) as part of their request for support through the Schools and Libraries Cybersecurity Pilot Program, and will come into compliance within one year from the date of the submission of its FCC Form 471; or

(iii) That they are not required to comply with CIPA requirements under 47 U.S.C. 254(h) and (l) because they are purchasing services to be used only in conjunction with student-, school staff- or library patron-owned computers.

(d) *Failure to provide certifications*—(1) *Schools and libraries.* A school or library that knowingly fails to submit certifications as required by this section shall not be eligible for support through the Schools and Libraries Cybersecurity Pilot Program until such certifications are submitted.

(2) *Consortia.* A billed entity's knowing failure to collect the required certifications from its eligible school and library members or knowing failure to certify that it collected the required certifications shall render the entire consortium ineligible for support through the Schools and Libraries Cybersecurity Pilot Program.

(3) *Reestablishing eligibility.* At any time, a school or library deemed ineligible for equipment and services under the Schools and Libraries Cybersecurity Pilot Program because of failure to submit certifications required by this section may reestablish eligibility for support by providing the required certifications to the Administrator and the Commission.

(e) *Failure to comply with the certifications*—(1) *Schools and libraries.* A school or library that knowingly fails to comply with the certifications required by this section must reimburse any funds and support received under the Schools and Libraries Cybersecurity Pilot Program for the period in which there was noncompliance.

(2) *Consortia.* In the case of consortium applications, the eligibility for support of consortium members who comply with the certification requirements of this section shall not be affected by the failure of other school or library consortium members to comply with such requirements.

(3) *Reestablishing compliance.* At any time, a school or library deemed ineligible for support through the Schools and Libraries Cybersecurity Pilot Program for failure to comply with

the certification requirements of this section and that has been directed to reimburse the program for support received during the period of noncompliance may reestablish compliance by complying with the certification requirements under this section. Upon submittal to the Commission of a certification, the school or library shall be eligible for support through the Schools and Libraries Cybersecurity Pilot Program.

(f) *Waivers based on state or local procurement rules and regulations and competitive bidding requirements.* Waivers shall be granted to schools and libraries when the authority responsible for making the certifications required by this section cannot make the required certifications because its state or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required. The waiver shall be granted upon the provision, by the authority responsible for making the certifications on behalf of schools or libraries, that the schools or libraries will be brought into compliance with the requirements of this section within one year from the date the waiver was granted.

■ 3. Delayed indefinitely, add §§ 54.2004 through 54.2006 to read as follows:

§ 54.2004 Application for Pilot Program selection and reporting of information.

(a) *Selection window.* The Wireline Competition Bureau shall announce the opening of the Pilot Participant Selection Application Window for applicants to submit a Schools and Libraries Pilot Participant Selection Application.

(b) *Participant announcement.* The Wireline Competition Bureau shall announce those eligible applicants who have been selected to participate in the Schools and Libraries Cybersecurity Pilot Program following the close of the Pilot Participant Selection Application Window.

(c) *Filing the FCC Form 484 to be considered for selection in the Pilot Program.* (1) Schools, libraries, or consortia of eligible schools and libraries to be considered for participation in the Schools and Libraries Cybersecurity Pilot Program shall submit the first part of an FCC Form 484 to the Administrator, via a portal established by the Administrator, that contains, at a minimum, the following information:

(i) Name, entity number, FCC registration number, employer identification number, addresses, and

telephone number for each school, library, and consortium member that will participate in the proposed Pilot project, including the identity of the lead site for any proposals involving a consortium.

(ii) Contact information for the individual(s) who will be responsible for the management and operation of the proposed Pilot project, including name, title or position, telephone number, mailing address, and email address.

(iii) Applicant number(s) and entity type(s), including Tribal information, if applicable, and current E-Rate participation status and discount percentage, if applicable.

(iv) A broad description of the proposed Pilot project, including a description of the applicant's goals and objectives for the proposed Pilot project, a description of how Pilot funding will be used for the proposed project, and the cybersecurity risks the proposed Pilot project will prevent or address.

(v) The cybersecurity equipment and services the applicant plans to request as part of its proposed project, the ability of the project to be self-sustaining once established, and whether the applicant has a cybersecurity officer or other senior-level staff member designated to be the cybersecurity officer for its Pilot project.

(vi) Whether the applicant has previous experience implementing cybersecurity protections or measures, how many years of prior experience the applicant has, whether the applicant has experienced a cybersecurity incident within a year of the date of its application, and information about the applicant's participation or planned participation in cybersecurity collaboration and/or information-sharing groups.

(vii) Whether the applicant has implemented, or begun implementing, any U.S. Department of Education (Education Department) or Cybersecurity and Infrastructure Security Agency (CISA) best practices recommendations, a description of any Education Department or CISA free or low-cost cybersecurity resources that an applicant currently utilizes or plans to utilize, or an explanation of what is preventing an applicant from utilizing these available resources.

(viii) An estimate of the total costs for the proposed Pilot project, information about how the applicant will cover the non-discount share of costs for the Pilot-eligible services, and information about other cybersecurity funding the applicant receives, or expects to receive, from other Federal, state, local, or Tribal programs or sources.

(ix) Whether any of the ineligible services and equipment the applicant will purchase with its own resources to support the eligible cybersecurity equipment and services it plans to purchase with Pilot funding will have any ancillary capabilities that will allow it to capture data on cybersecurity threats and attacks, any free or low-cost cybersecurity resources that the applicant will require service providers to include in their bids, and whether the applicant will require its selected service provider(s) to capture and measure cost-effectiveness and cyber awareness/readiness data.

(x) A description of the applicant's proposed metrics for the Pilot project, how they align with the applicant's cybersecurity goals, how those metrics will be collected, and whether the applicant is prepared to share and report its cybersecurity metrics as part of the Pilot Program.

(2) The first part of the FCC Form 484 shall be signed by a person authorized to submit the application to participate in the Schools and Libraries Cybersecurity Pilot Program on behalf of the eligible school, library, or consortium including such entities. The person authorized to submit the first part of the FCC Form 484 application on behalf of the entities listed on an FCC Form 484 shall also certify under oath that:

(i) "I am authorized to submit this application on behalf of the above-named applicant and that based on information known to me or provided to me by employees responsible for the data being submitted, I hereby certify that the data set forth in this form has been examined and is true, accurate, and complete. I acknowledge that any false statement on this application or on any other documents submitted by this applicant can be punished by fine or forfeiture under the Communications Act (47 U.S.C. 502, 503(b)), or fine or imprisonment under Title 18 of the United States Code (18 U.S.C. 1001), or can lead to liability under the False Claims Act (31 U.S.C. 3729–3733)."

(ii) "In addition to the foregoing, this applicant is in compliance with the rules and orders governing the Schools and Libraries Cybersecurity Pilot Program, and I acknowledge that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of funding, cancellation of funding commitments, and/or recoupment of past disbursements. I acknowledge that failure to comply with the rules and orders governing the Schools and Libraries Cybersecurity Pilot Program could result in civil or criminal

prosecution by law enforcement authorities."

(iii) "By signing this application, I certify that the information contained in this form is true, complete, and accurate, and the projected expenditures, disbursements, and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (U.S. Code Title 18, §§ 1001, 286–287, and 1341, and Title 31, §§ 3729–3730 and 3801–3812)."

(iv) The applicant recognizes that it may be audited pursuant to its application, that it will retain for ten years any and all records related to its application, and that, if audited, it shall produce such records at the request of any representative (including any auditor) appointed by a state education department, the Administrator, the Commission and its Office of Inspector General, or any local, state, or Federal agency with jurisdiction over the entity.

(v) "I certify and acknowledge, under penalty of perjury, that if selected, the schools, libraries, and consortia in the application will comply with all applicable Schools and Libraries Cybersecurity Pilot Program rules, requirements, and procedures, including the competitive bidding rules and the requirement to pay the required share of the costs for the supported items from eligible sources."

(vi) "I certify under penalty of perjury, to the best of my knowledge, that the schools, libraries, and consortia listed in the application are not already receiving or expecting to receive other funding (from any source, federal, state, Tribal, local, private, or other) that will pay for the same equipment and/or services, or the same portion of the equipment and/or services, for which I am seeking funding under the Schools and Libraries Cybersecurity Pilot Program."

(vii) "I certify under penalty of perjury, to the best of my knowledge, that all requested equipment and services funded by the Schools and Libraries Cybersecurity Pilot Program will be used for their intended purposes."

(d) *Filing the FCC Form 484 once selected to be in the Pilot Program.* (1) Schools, libraries, or consortia of eligible schools and libraries selected for participation in the Schools and Libraries Cybersecurity Pilot Program shall submit to the Administrator, via a

portal established by the Administrator, a second part to the FCC Form 484 that contains, at a minimum, the following information, as applicable:

(i) Information about correcting known security flaws and conducting routine backups, developing and exercising a cyber incident response plan, and any cybersecurity changes or advancements the participant plans to make outside of the Pilot-funded services and equipment.

(ii) A description of the participant's current cybersecurity posture, including how the school or library is currently managing and addressing its current cybersecurity risks through prevention and mitigation tactics.

(iii) Information about a participant's planned use(s) for other Federal, state, or local cybersecurity funding (*i.e.*, funding obtained outside of the Pilot).

(iv) Information about a participant's history of cybersecurity threats and attacks within a year of the date of its application; the date range of the incident, a description of the unauthorized access; a description of the impact to the school or library, a description of the vulnerabilities exploited and the techniques used to access the system, and identifying information for each actor responsible for the incident, if known.

(v) A description of the specific U.S. Department of Education or Cybersecurity and Infrastructure Security Agency best practices recommendations that the participant has implemented or begun to implement.

(vi) Information about a participant's current cybersecurity training policies and procedures, such as the frequency with which a participant trains its school and library staff and, separately, information about student cyber training sessions, and participation rates.

(vii) Information about any non-monetary or other challenges a participant may be facing in developing a more robust cybersecurity posture.

(2) The second part of the FCC Form 484 shall be signed by a person authorized to submit the second part as a participant in the Schools and Libraries Cybersecurity Pilot Program on behalf of the eligible school, library, or consortium including such entities. The person authorized to submit the second part of the FCC Form 484 application on behalf of the Pilot participants listed on an FCC Form 484 shall also certify under oath that:

(i) "I am authorized to submit this application on behalf of the above-named participant and that based on information known to me or provided to me by employees responsible for the

data being submitted, I hereby certify that the data set forth in this form has been examined and is true, accurate, and complete. I acknowledge that any false statement on this application or on other documents submitted by this participant can be punished by fine or forfeiture under the Communications Act (47 U.S.C. 502, 503(b)), or fine or imprisonment under Title 18 of the United States Code (18 U.S.C. 1001), or can lead to liability under the False Claims Act (31 U.S.C. 3729–3733)."

(ii) "In addition to the foregoing, this participant is in compliance with the rules and orders governing the Schools and Libraries Cybersecurity Pilot Program, and I acknowledge that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of funding, cancellation of funding commitments, and/or recoupment of past disbursements. I acknowledge that failure to comply with the rules and orders governing the Schools and Libraries Cybersecurity Pilot Program could result in civil or criminal prosecution by law enforcement authorities."

(iii) "By signing this application, I certify that the information contained in this form is true, complete, and accurate, and the projected expenditures, disbursements, and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (U.S. Code Title 18, §§ 1001, 286–287, and 1341, and Title 31, §§ 3729–3730 and 3801–3812)."

(iv) The participant recognizes that it may be audited pursuant to its application, that it will retain for ten years any and all records related to its application, and that, if audited, it shall produce such records at the request of any representative (including any auditor) appointed by a state education department, the Administrator, the Commission and its Office of Inspector General, or any local, state, or Federal agency with jurisdiction over the entity.

(v) "I certify and acknowledge, under penalty of perjury, that if selected, the schools, libraries, and consortia in the application will comply with all applicable Schools and Libraries Cybersecurity Pilot Program rules, requirements, and procedures, including the competitive bidding rules and the requirement to pay the required

share of the costs for the supported items from eligible sources."

(vi) "I certify under penalty of perjury, to the best of my knowledge, that the schools, libraries, and consortia listed in the application are not already receiving or expecting to receive other funding (from any source, federal, state, Tribal, local, private, or other) that will pay for the same equipment and/or services, or the same portion of the equipment and/or services, for which I am seeking funding under the Schools and Libraries Cybersecurity Pilot Program."

(vii) "I certify under penalty of perjury, to the best of my knowledge, that all requested equipment and services funded by the Schools and Libraries Cybersecurity Pilot Program will be used for their intended purposes."

(3) In order for a school, library, or consortia of eligible schools and libraries selected for participation in the Schools and Libraries Cybersecurity Pilot Program to retain its status as a Pilot participant and receive Pilot Program support, it will be required to submit the information required by the second part of the FCC Form 484 in the form specified by the Wireline Competition Bureau.

(4) The Wireline Competition Bureau may waive, reduce, modify, or eliminate from the second part of the FCC Form 484, information requirements that prove unnecessary for the sound and efficient administration of the Pilot.

(5) Failure to submit the information required by the second part of the FCC Form 484 may result in removal as a participant in the Pilot Program and/or a referral to the Enforcement Bureau.

(e) *Data reporting requirements for participants.* (1) In order for a Pilot participant to receive and continue receiving Pilot Program support and retain its status as a Pilot participant, it will be required to submit initial and annual reports, followed by a final report at the completion of the program with the information and in the form specified by the Wireline Competition Bureau.

(2) Prior to the start of the Pilot Program, the Wireline Competition Bureau shall announce the timing and form of the initial, annual, and final reports that Pilot participants must submit.

(3) The Wireline Competition Bureau may waive, reduce, modify, or eliminate Pilot participant reporting requirements that prove unnecessary and require additional reporting requirements that the Bureau deems necessary to the sound and efficient administration of the Pilot.

(4) Failure to submit initial, annual, and final reports may result in a referral to the Enforcement Bureau, a hold on future disbursements, recission of committed funds, and/or recovery of disbursed funds.

§ 54.2005 Competitive bidding requirements.

(a) *Fair and open competitive bidding process.* All participants in the Schools and Libraries Cybersecurity Pilot Program must conduct a fair and open competitive bidding process, consistent with all requirements set forth in this subpart.

Note to Paragraph (a): The following is an illustrative list of activities or behaviors that would not result in a fair and open competitive bidding process: the participant seeking supported services has a relationship with a service provider that would unfairly influence the outcome of a competition or would furnish the service provider with inside information; someone other than the participant or an authorized representative of the participant prepares, signs, and submits the FCC Form 470 and certification; a service provider representative is listed as the FCC Form 470 contact person and the participant allows that service provider to participate in the competitive bidding process; the service provider prepares the participant's FCC Form 470 or participates in the bid evaluation or vendor selection process in any way; the participant turns over to a service provider the responsibility for ensuring a fair and open competitive bidding process; a participant employee with a role in the service provider selection process also has an ownership interest in the service provider seeking to participate in the competitive bidding process; and the participant's FCC Form 470 does not describe the supported services with sufficient specificity to enable interested service providers to submit responsive bids.

(b) *Competitive bid requirements.* All participants in the Schools and Libraries Cybersecurity Pilot Program shall seek competitive bids, pursuant to the requirements established in this subpart, for all services and equipment eligible for support under § 54.2003, except as provided in paragraph (f) of this section. These competitive bidding requirements apply in addition to any applicable state, Tribal, and local competitive bidding requirements and are not intended to preempt such state, Tribal, or local requirements.

(c) *Posting of FCC Form 470.* (1) Participants in the Schools and Libraries Cybersecurity Pilot Program shall submit a completed FCC Form 470 to

the Administrator to initiate the competitive bidding process. The FCC Form 470 shall include, at a minimum, the following information:

(i) A list of specified services and/or equipment for which the school, library, or consortium requests bids; and

(ii) Sufficient information to enable bidders to reasonably determine the needs of the applicant.

(2) The FCC Form 470 shall be signed by a person authorized to request bids for eligible services and equipment for the eligible school, library, or consortium, including such entities, and shall include that person's certification under penalty of perjury that:

(i) "I am authorized to submit this application on behalf of the above-named participant in the Schools and Libraries Cybersecurity Pilot Program and that based on information known to me or provided to me by employees responsible for the data being submitted, I hereby certify that the data set forth in this form has been examined and is true, accurate, and complete. I acknowledge that any false statement on this application or on other documents submitted by this participant can be punished by fine or forfeiture under the Communications Act (47 U.S.C. 502, 503(b)), or fine or imprisonment under Title 18 of the United States Code (18 U.S.C. 1001), or can lead to liability under the False Claims Act (31 U.S.C. 3729–3733)."

(ii) "In addition to the foregoing, this participant is in compliance with the rules and orders governing the Schools and Libraries Cybersecurity Pilot Program, and I acknowledge that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of funding, cancellation of funding commitments, and/or recoupment of past disbursements. I acknowledge that failure to comply with the rules and orders governing the Schools and Libraries Cybersecurity Pilot Program could result in civil or criminal prosecution by law enforcement authorities."

(iii) "By signing this application, I certify that the information contained in this form is true, complete, and accurate. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (U.S. Code Title 18, §§ 1001, 286–287, and 1341, and Title 31, §§ 3729–3730 and 3801–3812)."

(iv) The schools meet the definition of "elementary school" or "secondary school", as defined in § 54.2000, do not

operate as for-profit businesses, and do not have endowments exceeding \$50,000,000.

(v) Libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 do not operate as for-profit businesses and, except for the limited case of Tribal college or university libraries, have budgets that are completely separate from any school (including, but not limited to, elementary and secondary schools, colleges, and universities).

(vi) The services and/or equipment that the school, library, or consortium purchases at discounts will not be sold, resold, or transferred in consideration for money or any other thing of value, except as allowed by § 54.2003(b).

(vii) The school(s) and/or library(ies) listed on this FCC Form 470 will not accept anything of value, other than services and equipment sought by means of this form, from the service provider, or any representatives or agent thereof, or any consultant in connection with this request for services.

(viii) All bids submitted for eligible equipment and services will be carefully considered, with price being the primary factor, and the bid selected will be for the most cost-effective service offering consistent with paragraph (e) of this section.

(ix) The school, library, or consortium acknowledges that support under the Schools and Libraries Cybersecurity Pilot Program is conditional upon the school(s) and/or library(ies) securing access, separately or through this program, to all of the resources necessary to effectively use the requested equipment and services. The school, library, or consortium recognizes that some of the aforementioned resources are not eligible for support and certifies that it has considered what financial resources should be available to cover these costs.

(x) "I will retain required documents for a period of at least 10 years (or whatever retention period is required by the rules in effect at the time of this certification) after the later of the last day of the applicable Pilot Program year or the service delivery deadline for the associated funding request. I also certify that I will retain all documents necessary to demonstrate compliance with the statute (47 U.S.C. 254) and Commission rules regarding the form for, receipt of, and delivery of equipment and services receiving Schools and Libraries Cybersecurity Pilot Program discounts. I acknowledge that I may be audited pursuant to participation in the Pilot Program."

(xi) “I certify that the equipment and services that the participant purchases at discounts will be used primarily for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the Commission’s rules at 47 CFR 54.2003(b). Additionally, I certify that the entity or entities listed on this form will not accept anything of value or a promise of anything of value, other than services and equipment sought by means of this form, from the service provider, or any representative or agent thereof, or any consultant in connection with this request for services.”

(xii) “I acknowledge that support under this Pilot Program is conditional upon the school(s) and/or library(ies) I represent securing access, separately or through this program, to all of the resources necessary to effectively use the requested equipment and services. I recognize that some of the aforementioned resources are not eligible for support. I certify that I have considered what financial resources should be available to cover these costs.”

(xiii) “I certify that I have reviewed all applicable Commission, state, Tribal, and local procurement/competitive bidding requirements and that the participant will comply with all applicable requirements.”

(3) The Administrator shall post each FCC Form 470 that it receives from a participant in the Schools and Libraries Cybersecurity Pilot Program on its website designated for this purpose.

(4) After posting on the Administrator’s website an FCC Form 470, the Administrator shall send confirmation of the posting to the participant requesting services and/or equipment. The participant shall then wait at least 28 days from the date on which its description of services and/or equipment is posted on the Administrator’s website before making any commitments with the selected providers of services and/or equipment. The confirmation from the Administrator shall include the date after which the participant may sign a contract with its chosen provider(s).

(d) *Gift restrictions.* (1) Subject to paragraphs (d)(3) and (4) of this section, a participant in the Schools and Libraries Cybersecurity Pilot Program may not directly or indirectly solicit or accept any gift, gratuity, favor, entertainment, loan, or any other thing of value from a service provider participating in or seeking to participate in the Schools and Libraries Cybersecurity Pilot Program. No such service provider shall offer or provide

any such gift, gratuity, favor, entertainment, loan, or other thing of value except as otherwise provided in this paragraph (d). Modest refreshments not offered as part of a meal, items with little intrinsic value intended solely for presentation, and items worth \$20 or less, including meals, may be offered or provided, and accepted by any individuals or entities subject to this subpart, if the value of these items received by any individual does not exceed \$50 from any one service provider per year. The \$50 amount for any service provider shall be calculated as the aggregate value of all gifts provided during a year by the individuals specified in paragraph (d)(2)(ii) of this section.

(2) For purposes of this paragraph (d):

(i) The term “participant in the Schools and Libraries Cybersecurity Pilot Program” includes all individuals who are on the governing boards of such entities (such as members of a school committee), and all employees, officers, representatives, agents, consultants, or independent contractors of such entities involved on behalf of such school, library, or consortium with the Schools and Libraries Cybersecurity Pilot Program, including individuals who prepare, approve, sign, or submit applications, or other forms related to the Schools and Libraries Cybersecurity Pilot Program, or who prepare bids, communicate, or work with Schools and Libraries Cybersecurity Pilot Program service providers, Schools and Libraries Cybersecurity Pilot Program consultants, or with the Administrator, as well as any staff of such entities responsible for monitoring compliance with the Schools and Libraries Cybersecurity Pilot Program; and

(ii) The term “service provider” includes all individuals who are on the governing boards of such an entity (such as members of the board of directors), and all employees, officers, representatives, agents, consultants, or independent contractors of such entities.

(3) The restrictions set forth in this paragraph (d) shall not be applicable to the provision of any gift, gratuity, favor, entertainment, loan, or any other thing of value, to the extent given to a family member or a friend working for an eligible school, library, or consortium that includes an eligible school or library, provided that such transactions:

(i) Are motivated solely by a personal relationship;

(ii) Are not rooted in any service provider business activities or any other business relationship with any such participant in the Schools and Libraries Cybersecurity Pilot Program; and

(iii) Are provided using only the donor’s personal funds that will not be reimbursed through any employment or business relationship.

(4) Any service provider may make charitable donations to a participant in the Schools and Libraries Cybersecurity Pilot Program in the support of its programs as long as such contributions are not directly or indirectly related to Schools and Libraries Cybersecurity Pilot Program procurement activities or decisions and are not given by service providers to circumvent competitive bidding and other Schools and Libraries Cybersecurity Pilot Program rules in this subpart.

(e) *Selecting a provider of eligible services and/or equipment.* In selecting a provider of eligible services and equipment, participants in the Schools and Libraries Cybersecurity Pilot Program shall carefully consider all bids submitted and must select the most cost-effective service and equipment offerings. In determining which service and equipment offering is the most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers, but price must be the primary factor considered.

(f) *Exemption to competitive bidding requirements.* Participants in the Schools and Libraries Cybersecurity Pilot Program are not required to file an FCC Form 470 when seeking support for services and equipment purchased from Master Service Agreements negotiated by Federal, state, Tribal, or local governmental entities on behalf of such Pilot participants, if such Master Service Agreements were awarded pursuant to the E-Rate program FCC Form 470 process, as well as applicable Federal, state, Tribal, or local competitive bidding requirements.

§ 54.2006 Requests for funding.

(a) *Filing of the FCC Form 471.* (1) A participant in the Schools and Libraries Cybersecurity Pilot Program shall, upon entering into a signed contract or other legally binding agreement for eligible services and/or equipment, submit a completed FCC Form 471 to the Administrator.

(2) The FCC Form 471 shall be signed by the person authorized to order eligible services or equipment for the participant in the Schools and Libraries Cybersecurity Pilot Program and shall include that person’s certification under penalty of perjury that:

(i) “I am authorized to submit this application on behalf of the above-named participant and that based on information known to me or provided to me by employees responsible for the data being submitted, I hereby certify

that the data set forth in this application has been examined and is true, accurate, and complete. I acknowledge that any false statement on this application or on any other documents submitted by this participant can be punished by fine or forfeiture under the Communications Act (47 U.S.C. 502, 503(b)), or fine or imprisonment under Title 18 of the United States Code (18 U.S.C. 1001), or can lead to liability under the False Claims Act (31 U.S.C. 3729–3733).”

(ii) “In addition to the foregoing, this participant is in compliance with the rules and orders governing the Schools and Libraries Cybersecurity Pilot Program, and I acknowledge that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of funding, cancellation of funding commitments, and/or recoupment of past disbursements. I acknowledge that failure to comply with the rules and orders governing the Schools and Libraries Cybersecurity Pilot Program could result in civil or criminal prosecution by law enforcement authorities.”

(iii) “By signing this application, I certify that the information contained in this application is true, complete, and accurate, and the projected expenditures, disbursements, and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (U.S. Code Title 18, §§ 1001, 286–287, and 1341, and Title 31, §§ 3729–3730 and 3801–3812).”

(iv) The school meets the definition of “elementary school” or “secondary school”, as defined in § 54.2000, does not operate as a for-profit business, and does not have endowments exceeding \$50,000,000.

(v) The library or library consortia is eligible for assistance from a State library administrative agency under the Library Services and Technology Act, does not operate as a for-profit business and, except for the limited case of Tribal college and university libraries, have budgets that are completely separate from any school (including, but not limited to, elementary and secondary schools, colleges, and universities).

(vi) The school, library, or consortium listed on the FCC Form 471 application will pay the non-discount portion of the costs of the eligible services and/or equipment to the service provider(s).

(vii) The school, library, or consortium listed on the FCC Form 471 application has conducted a fair and open competitive bidding process and has complied with all applicable state, Tribal, or local laws regarding procurement of the equipment and services for which support is being sought.

(viii) An FCC Form 470 was posted and that any related request for proposals (RFP) was made available for at least 28 days before considering all bids received and selecting a service provider. The school, library, or consortium listed on the FCC Form 471 application carefully considered all bids submitted and selected the most-cost-effective bid for services and equipment in accordance with § 54.2005(e), with price being the primary factor considered.

(ix) The school, library, or consortium listed on the FCC Form 471 application is only seeking support for eligible services and/or equipment.

(x) The school, library, or consortia is not seeking Schools and Libraries Cybersecurity Pilot Program support or reimbursement for the portion of eligible services and/or equipment that have been purchased and reimbursed in full or in part with other Federal, state, Tribal, or local funding, or are eligible for discounts from the schools and libraries universal service support mechanism or another universal service support mechanism.

(xi) The services and equipment the school, library, or consortium purchases using Schools and Libraries Cybersecurity Pilot Program support will be used primarily for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as allowed by § 54.2003(b).

(xii) The school, library, or consortium will create and maintain an equipment and service inventory as required by § 54.2010(a).

(xiii) The school, library, or consortium has complied with all program rules in this chapter and acknowledges that failure to do so may result in denial of funding and/or recovery of funding.

(xiv) The school, library, or consortium acknowledges that it may be audited pursuant to its application, that it will retain for ten years any and all records related to its application, and that, if audited, it shall produce such records at the request of any representative (including any auditor) appointed by a state education department, the Administrator, the Commission and its Office of Inspector

General, or any local, state, or Federal agency with jurisdiction over the entity.

(xv) No kickbacks, as defined in 41 U.S.C. 8701, were paid to or received by the participant, including, but not limited to, their employees, officers, representatives, agents, independent contractors, consultants, family members, and individuals who are on the governing boards, from anyone in connection with the Schools and Libraries Cybersecurity Pilot Program or the schools and libraries universal service support mechanism.

(xvi) The school, library, or consortium acknowledges that Commission rules in this chapter provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the universal service support mechanisms are subject to suspension and debarment from the program. The school, library, or consortium will institute reasonable measures to be informed, and will notify the Administrator should it be informed or become aware that any of the entities listed on this application, or any person associated in any way with this entity and/or the entities listed on this application, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the universal service support mechanisms.

(b) *Service or equipment substitution.*

(1) A request by a Schools and Libraries Cybersecurity Pilot Program participant to substitute a service or piece of equipment for one identified in its FCC Form 471 must be in writing and certified under penalty of perjury by an authorized person.

(2) The Administrator shall approve such written request where:

(i) The service or equipment has the same functionality;

(ii) The substitution does not violate any contract provisions or state, Tribal, or local procurement laws; and

(iii) The Schools and Libraries Cybersecurity Pilot Program participant certifies that the requested change is within the scope of the controlling FCC Form 470.

(3) In the event that a service or equipment substitution results in a change in the pre-discount price for the supported service or equipment, support shall be based on the lower of either the pre-discount price of the service or equipment for which support was originally requested or the pre-discount price of the new, substituted service or equipment after the Administrator has approved a written request for the substitution.

(c) *Mixed eligibility services and equipment.* A request for discounts for

services or equipment that includes both eligible and ineligible components must remove the cost of the ineligible components of the service or equipment from the request for funding submitted to the Administrator.

(d) *Application filing window.* The Wireline Competition Bureau will announce the opening of the Pilot Participant Selection Application Window for participants to submit FCC Form 471 applications. The filing period shall begin and conclude on dates to be determined by the Wireline Competition Bureau. The Wireline Competition Bureau may implement additional filing periods as it deems necessary.

■ 4. Delayed indefinitely, add § 54.2008 to read as follows:

§ 54.2008 Requests for reimbursement.

(a) *Submission of request for reimbursement (FCC Form 472 or FCC Form 474).* Consistent with the invoicing selection made by the Pilot participant, reimbursement for the costs associated with eligible services and equipment shall be provided directly to the participant, or its service provider(s), seeking reimbursement from the Schools and Libraries Cybersecurity Pilot Program upon submission and approval of a completed FCC Form 472 (Billed Entity Applicant Reimbursement Form) or a completed FCC Form 474 (Service Provider Invoice) to the Administrator.

(1) The FCC Form 472 shall be signed by the person authorized to submit requests for reimbursement for the eligible school, library, or consortium and shall include that person's certification under penalty of perjury that:

(i) "I am authorized to submit this request for reimbursement on behalf of the above-named school, library, or consortium and that based on information known to me or provided to me by employees responsible for the data being submitted, I hereby certify that the data set forth in this request for reimbursement has been examined and is true, accurate, and complete. I acknowledge that any false statement on this request for reimbursement or on other documents submitted by this school, library, or consortium can be punished by fine or forfeiture under the Communications Act (47 U.S.C. 502, 503(b)), or fine or imprisonment under Title 18 of the United States Code (18 U.S.C. 1001), or can lead to liability under the False Claims Act (31 U.S.C. 3729–3733)."

(ii) "In addition to the foregoing, the school, library, or consortium is in compliance with the rules and orders governing the Schools and Libraries

Cybersecurity Pilot Program, and I acknowledge that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of funding, cancellation of funding commitments, and/or recoupment of past disbursements. I acknowledge that failure to comply with the rules and orders governing the Schools and Libraries Cybersecurity Pilot Program could result in civil or criminal prosecution by law enforcement authorities."

(iii) "By signing this request for reimbursement, I certify that the information contained in this request for reimbursement is true, complete, and accurate, and the expenditures, disbursements, and cash receipts are for the purposes and objectives set forth in the terms and conditions of the federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (U.S. Code Title 18, sections §§ 1001, 286–287, and 1341, and Title 31, §§ 3729–3730 and 3801–3812)."

(iv) The funds sought in the request for reimbursement are for eligible services and/or equipment that were purchased in accordance with the Schools and Libraries Cybersecurity Pilot Program rules and requirements in this subpart and received by the school, library, or consortium. The equipment and/or services being requested for reimbursement were determined to be eligible and approved by the Administrator.

(v) The non-discounted share of costs amount(s) were billed by the Service Provider and paid in full by the Billed Entity Applicant on behalf of the eligible schools, libraries, and consortia of those entities.

(vi) The school, library, or consortium is not seeking Schools and Libraries Cybersecurity Pilot Program reimbursement for the portion of eligible services and/or equipment that have been purchased and reimbursed in full or in part with other Federal, state, Tribal, or local funding or are eligible for discounts from the schools and libraries universal service support mechanism or other universal service support mechanisms.

(vii) The school, library, or consortium acknowledges that it must submit invoices detailing the items purchased and received along with the submission of its request for reimbursement as required by paragraph (b) of this section.

(viii) The equipment and/or services the school, library, or consortium

purchased will not be sold, resold, or transferred in consideration for money or any other thing of value, except as allowed by § 54.2003(b).

(ix) The school, library, or consortium acknowledges that it may be subject to an audit, inspection, or investigation pursuant to its request for reimbursement, that it will retain for ten years any and all records related to its request for reimbursement, and will make such records and equipment purchased with Schools and Libraries Cybersecurity Pilot Program reimbursement available at the request of any representative (including any auditor) appointed by a state education department, the Administrator, the Commission and its Office of Inspector General, or any local, state, or Federal agency with jurisdiction over the entity.

(x) No kickbacks, as defined in 41 U.S.C. 8701, were paid to or received by the participant, including, but not limited to, their employees, officers, representatives, agents, independent contractors, consultants, family members, and individuals who are on the governing boards, from anyone in connection with the Schools and Libraries Cybersecurity Pilot Program or the schools and libraries universal service support mechanism.

(xi) The school, library, or consortium acknowledges that Commission rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the universal service support mechanisms are subject to suspension and debarment from the program. The school, library, or consortium will institute reasonable measures to be informed, and will notify the Administrator should it be informed or become aware that any of the entities listed on this application, or any person associated in any way with this entity and/or the entities listed on this application, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the universal service support mechanisms.

(xii) No universal service support has been or will be used to purchase, obtain, maintain, improve, modify, or otherwise support any equipment or services produced or provided by any company designated by the Commission as posing a national security threat to the integrity of communications networks or the communications supply chain since the effective date of the designations.

(xiii) No Federal subsidy made available through a program administered by the Commission that provides funds to be used for the capital expenditures necessary for the provision of advanced communications services

has been or will be used to purchase, rent, lease, or otherwise obtain, any covered communications equipment or service, or maintain, any covered communications equipment or service, or maintain any covered communications equipment or service previously purchased, rented, leased, or otherwise obtained, as required by § 54.10.

(2) The FCC Form 474 shall be signed by the person authorized to submit requests for reimbursement for the service provider and shall include that person's certification under penalty of perjury that:

(i) "I am authorized to submit this request for reimbursement on behalf of the above-named Service Provider and that based on information known to me or provided to me by employees responsible for the data being submitted, I hereby certify that the data set forth in this request for reimbursement has been examined and is true, accurate, and complete. I acknowledge that any false statement on this request for reimbursement or on other documents submitted by this Service Provider can be punished by fine or forfeiture under the Communications Act (47 U.S.C. 502, 503(b)), or fine or imprisonment under Title 18 of the United States Code (18 U.S.C. 1001), or can lead to liability under the False Claims Act (31 U.S.C. 3729–3733)."

(ii) "In addition to the foregoing, the Service Provider is in compliance with the rules and orders governing the Schools and Libraries Cybersecurity Pilot Program, and I acknowledge that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of funding, cancellation of funding commitments, and/or recoupment of past disbursements. I acknowledge that failure to comply with the rules and orders governing the Schools and Libraries Cybersecurity Pilot Program could result in civil or criminal prosecution by law enforcement authorities."

(iii) "By signing this request for reimbursement, I certify that the information contained in this request for reimbursement is true, complete, and accurate, and the expenditures, disbursements, and cash receipts are for the purposes and objectives set forth in the terms and conditions of the federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (U.S. Code Title 18, §§ 1001, 286–287,

and 1341, and Title 31, §§ 3729–3730 and 3801–3812)."

(iv) The funds sought in the request for reimbursement are for eligible services and/or equipment that were purchased in accordance with the Schools and Libraries Cybersecurity Pilot Program rules and requirements in this subpart and received by the school, library, or consortium.

(v) The Service Provider is not seeking Schools and Libraries Cybersecurity Pilot Program reimbursement for eligible equipment and/or services for which the Service Provider has already been paid.

(vi) The Service Provider certifies that the school's, library's, or consortium's non-discount portion of costs for the eligible equipment and services has not been waived, paid, or promised to be paid by this Service Provider. The Service Provider acknowledges that the provision of a supported service or free services or equipment unrelated to the supported equipment or services constitutes a rebate of the non-discount portion of the costs as stated in § 54.2007(d).

(vii) The Service Provider acknowledges that it must submit invoices detailing the items purchased and provided to the school, library, or consortium, along with the submission of its request for reimbursement as required by paragraph (b) of this section.

(viii) The Service Provider certifies that it is compliant with the Commission's rules and orders regarding gifts and this Service Provider has not directly or indirectly offered or provided any gifts, gratuities, favors, entertainment, loans, or any other thing of value to any eligible school, library, or consortium, except as provided for in this subpart.

(ix) The Service Provider acknowledges that it may be subject to an audit, inspection, or investigation pursuant to its request for reimbursement, that it will retain for ten years any and all records related to its request for reimbursement, and will make such records and equipment purchased with Schools and Libraries Cybersecurity Pilot Program reimbursement available at the request of any representative (including any auditor) appointed by a state education department, the Administrator, the Commission and its Office of Inspector General, or any local, state, or Federal agency with jurisdiction over the entity.

(x) No kickbacks, as defined in 41 U.S.C. 8701, were paid by the Service Provider to anyone in connection with the Schools and Libraries Cybersecurity Pilot Program or the schools and

libraries universal service support mechanism.

(xi) The Service Provider is not debarred or suspended from any Federal programs, including the universal service support mechanisms.

(xii) No universal service support has been or will be used to purchase, obtain, maintain, improve, modify, or otherwise support any equipment or services produced or provided by any company designated by the Commission as posing a national security threat to the integrity of communications networks or the communications supply chain since the effective date of the designations.

(xiii) No Federal subsidy made available through a program administered by the Commission that provides funds to be used for the capital expenditures necessary for the provision of advanced communications services has been or will be used to purchase, rent, lease, or otherwise obtain, any covered communications equipment or service, or maintain any covered communications equipment or service, or maintain any covered communications equipment or service previously purchased, rented, leased, or otherwise obtained, as required by § 54.10.

(b) *Required documentation.* Along with the submission of a completed FCC Form 472 or FCC Form 474, a participant or service provider seeking reimbursement from the Schools and Libraries Cybersecurity Pilot Program must submit invoices detailing the items purchased and received to the Administrator at the time the FCC Form 472 or FCC Form 474 is submitted.

(c) *Reimbursement and invoice processing.* The Administrator shall accept and review requests for reimbursement and invoices subject to the invoice filing deadlines provided in paragraph (d) of this section.

(d) *Invoice filing deadline.* Invoices must be submitted to the Administrator within ninety (90) days after the last date to receive service, in accordance with § 54.2001(c).

(e) *Invoice deadline extensions.* In advance of the deadline calculated pursuant to paragraph (d) of this section, billed entities or service providers may request a one-time extension of the invoice filing deadline. The Administrator shall grant a ninety (90) day extension of the invoice filing deadline, if the request is timely filed.

(f) *Choice of payment method.* Service providers providing discounted services under this subpart shall, prior to the submission of the FCC Form 471, permit the Schools and Libraries Cybersecurity Pilot Program participant to choose the method of payment for the discounted

services from those methods offered by the Administrator, including making a

full undiscounted payment and receiving subsequent reimbursement of

the discount amount from the Administrator.

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48 CFR Chapter 1

Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2024–0051, Sequence No. 4]

Federal Acquisition Regulation; Federal Acquisition Circular 2024–06; Introduction

AGENCY: Department of Defense (DoD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2024–06. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC.

DATES: For effective dates see the separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov.

RULES LISTED IN FAC 2024–06

Item	Subject	FAR case	Analyst
I	Reverse Auction Guidance	2015–038	Jackson.
II	Protests of Orders Set Aside for Small Business	2021–009	Bowman.
III	Limitation of Authority Regarding Extraordinary Contractual Actions	2023–007	Jones.
IV	Technical Amendments .....	.....

ADDRESSES: The FAC, including the SECG, is available at <https://www.regulations.gov>.

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2024–06 amends the FAR as follows:

Item I—Reverse Auction Guidance (FAR Case 2015–038)

This final rule amends the FAR to provide guidance on the use of reverse auctions. When participating in a reverse auction, offerors see competing offerors’ price(s), without disclosure of the competing offerors’ identities, and have the opportunity to submit lower priced offers until the close of the auction. Agencies may use reverse auctions to obtain competitive prices for an acquisition. The rule is intended to address concerns identified in two Government Accountability Office reports and an Office of Federal Procurement Policy memorandum. The final rule provides guidance for contracting officers on the appropriate use of reverse auctions and ensures reverse auction service providers are given the Government’s access, use, disclosure, and disposition requirements for Government data and Government-related data. The final rule is not expected to have a significant economic impact on a substantial number of small entities because the

rule will not impact an entity’s participation in a reverse auction.

Item II—Protests of Orders Set Aside for Small Business (FAR Case 2021–009)

This final rule amends the FAR to update and clarify requirements associated with size and socioeconomic status protests in connection with multiple-award contract set-asides and reserves and orders placed under multiple-award contracts, except for orders and blanket purchase agreements placed under a Federal Supply Schedule contract in accordance with FAR 8.405.

Item III—Limitation of Authority Regarding Extraordinary Contractual Actions (FAR Case 2023–007)

This final rule amends the FAR to increase the Congressional committee notification threshold at FAR 50.102–3(b)(4) to \$150 million. This change will reflect the new threshold in 50 U.S.C. 1431.

Item IV—Technical Amendments

Administrative changes are made at FAR 2.101, 11.602, 17.104, 19.202–1, 19.702, 23.301, 25.403, 25.701, 52.207–6, 52.213–4, 52.223–11, 52.223–21, 52.244–5, 52.246–26, and 53.236–2.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2024–06 is issued under the authority of

the Secretary of Defense, the Administrator of General Services, and the Administrator of National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2024–06 is effective July 30, 2024 except for Items I through IV, which are effective August 29, 2024.

John M. Tenaglia,
Principal Director, Defense Pricing and Contracting, Department of Defense.

Jeffrey A. Koses, Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

Karla Smith Jackson,
Assistant Administrator for Procurement, Senior Procurement Executive/Deputy CAO, National Aeronautics and Space Administration.

[FR Doc. 2024–16286 Filed 7–29–24; 8:45 am]

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DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 2, 3, 7, 13, 15, 17, and 52**

[FAC 2024–06; FAR Case 2015–038, Item I; Docket No. FAR–2015–0038; Sequence No. 1]

RIN 9000–AN31

**Federal Acquisition Regulation:
Reverse Auction Guidance**

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to provide guidance on the use of reverse auctions.

DATES: Effective August 29, 2024.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Michael O. Jackson, Procurement Analyst, at 202–208–4949 or by email at michael.o.jackson@gsa.gov. For information pertaining to status or publication schedules contact the Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov. Please cite FAC 2024–06, FAR Case 2015–038.

SUPPLEMENTARY INFORMATION:**I. Background**

DoD, GSA, and NASA published a proposed rule in the *Federal Register* at 85 FR 78815 on December 7, 2020, in response to Government Accountability Office (GAO) report GAO–14–108, *Reverse Auctions: Guidance is Needed to Maximize Competition and Achieve Cost Savings*, dated December 2013, and GAO report 18–446, *Reverse Auctions: Additional Guidance Could Help Increase Benefits and Reduce Fees*, dated July 2018. GAO recommended that the Director of the Office of Management and Budget amend the FAR to address agencies' use of reverse auctions and issue Governmentwide guidance to maximize competition and savings when using reverse auctions. In response, the Office of Federal Procurement Policy issued a memorandum on June 1, 2015, entitled *Effective Use of Reverse Auctions*. The preamble to the proposed rule contained a detailed description of Reverse Auctions and the use of a reverse

auction to obtain competitive prices for an acquisition.

This final rule addresses concerns reported in both GAO reports and implements the resulting OFPP policy memorandum.

Twenty-three respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes

Several changes were made to the final rule as a result of public comments.

New definitions are added at FAR 17.801 for Government data and Government-related data to identify the information subject to the access, use, and disclosure limitations on reverse auction providers added to the final rule. Conforming changes are made in the contract clause, FAR 52.217–12, Reverse Auction Services.

The final rule provides new guidance at FAR 17.802(c)(4) for contracting officers to ensure offerors and reverse auction service providers are aware of the Government's access, use, and disclosure requirements. Conforming changes are made in the contract clause, FAR 52.217–12, Reverse Auction Services.

Guidance at FAR 17.802(d)(5)(iii) is revised to remove text that required all documentation received from offerors in response to a reverse auction be removed from the reverse auction service provider's business and computer systems upon completion of the reverse auction. Instead, contracting officers shall provide disposition instructions in a solicitation and resulting contract for reverse auction services, see FAR 17.802(c)(4).

A prohibition on the use of reverse auctions for procurements of architect-engineer (A/E) services that are subject to the Brooks Act (40 U.S.C. chapter 11) is added to FAR 17.803, Applicability, because reverse auctions do not comply with the qualifications-based selection processes required by statute and implemented at FAR subpart 36.6.

The point of contact requirements at FAR 17.804(c)(1) are revised to clarify that a contracting officer's name and email address are required for every reverse auction.

The contract clause, FAR 52.217–12, Reverse Auction Services, is revised to incorporate the new definitions at FAR 17.801, and the Government's access, use, disclosure and disposition requirements.

B. Analysis of Public Comments**1. Support for the Rule**

Comment: Several respondents voiced support for the proposed rule.

Response: The Councils acknowledge support for the rule.

2. Removal of Reverse Auction Data

Comment: Several respondents were concerned that the proposed FAR changes requiring the removal of all documentation received from offerors in response to the reverse auction from its business and computer systems will impact the Government's ability to carry out audits and other activities. The respondents believed that the data received and housed by the service providers is essential to conventional investigations and in the use of data analytics.

Response: The final rule is revised to address concerns regarding contractor use and access to Government data and Government-related data. The text that required the removal of the reverse auction information is deleted. New text is added to provide guidance to contracting officers on the use, access, disclosure, and disposition of Government data and Government-related data at FAR 17.802(c)(4) and (d)(4). FAR clause 52.217–12 is revised to clarify direction to contractors.

Comment: A respondent asserted that reverse auction service providers should be able to do basic spend analysis.

Response: The final rule protects against the unauthorized use of Government data and Government-related data. A reverse auction service provider may be able to conduct basic spend analysis for an agency if the contracting officer specifically authorizes such analysis in the terms of the contract, task order, or delivery order (see FAR 52.217–12(b)(3)(i) and (b)(4)). This authority is specific to the issuing agency data and may not be used for comparison to other Government agencies.

3. Applicability of Reverse Auctions

Comment: Several respondents requested that the rule not apply to construction and construction-related services in accordance with the prohibitions in HR 133, Consolidated Appropriations Act, 2021, Title IV, Construction Consensus Procurement Improvement Act of 2020.

Response: Subsequent to the proposed rule, section 402 of the Construction Consensus Procurement Improvement Act of 2020 (Pub. L. 116–260, December 27, 2020) was enacted. However, the Construction Consensus Procurement Act of 2021 (Pub. L. 117–28, July 26, 2021) superseded the 2020 statute. The new statute requires rulemaking to establish a definition for complex, specialized, or substantial design and construction services to include many of the original prohibitions from the 2020 statute and limits the prohibition to procurements valued above the simplified acquisition threshold. The Councils have opened a new FAR case 2023–003, Prohibition on the Use of Reverse Auctions for Complex, Specialized, or Substantial Design and Construction Services, to implement the 2021 statute.

Comment: Some respondents requested the rule prohibit the use of reverse auctions for A/E services including for surveying and mapping, as these are subject to the qualifications-based selection process codified in the Brooks Act (40 U.S.C. chapter 11) and implemented at FAR subpart 36.6. A respondent recommended a revision at FAR 17.803, Applicability.

Response: The final rule is revised to exclude A/E professional services subject to 40 U.S.C. chapter 11 from FAR 17.803, Applicability.

4. Expansion of Reverse Auctions

Comment: Some respondents requested that the rule be expanded to allow the reverse auctioning of construction projects and materials, in addition to personal protective equipment (PPE), asserting that these products/services have been successfully reverse auctioned. A respondent suggested the rule could contain an exception that allows reverse auctions at the discretion of the contracting officer. Another respondent, however, supported the prohibition on PPE because of concerns associated with the medical supply chain.

Response: The final rule is revised to prohibit the use of reverse auctions for certain construction and A/E services to comply with existing statute. New FAR case 2023–003 has been opened to implement new statutory prohibitions and guidance regarding the use of reverse auctions for construction services. Sections 813 and 814 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328), as amended by section 882 of the NDAA for FY 2018 (Pub. L. 115–91), and section 880 of the John S. McCain National Defense Authorization Act for FY 2019 (Pub. L. 115–232, 41

U.S.C. 3701 note) prohibit the use of reverse auctions for PPE.

5. Market Research

Comment: Some respondents were concerned that the requirement at FAR 17.804(a) to conduct market research and execute a determination and finding when considering the use of a reverse auction service provider will cause confusion and significant delays in awarding actions when using reverse auctions. While the respondents agree with the requirements when awarding the initial agency-wide contract or for individual actions with non-contracted providers, the respondents do not believe it is necessary for each action, when an agency has an existing agency-wide contract with a reverse auction provider.

Response: Contracting officers conduct market research for new requirements in accordance with FAR part 10. The decision regarding the use of a reverse auction provider would be addressed during that process. A decision to use a reverse auction must be documented in the contract file; however, it is not a requirement to issue a determination and finding as defined at FAR subpart 1.7. As a result, the text has been revised to clarify the intent.

6. Display of Proposed Price

Comment: Some respondents expressed concern that the proposed rule requires the auction service provider to display the offeror's proposed prices. The respondents stated that requiring that pricing be shared with other offerors may increase the risk of protest in cases where an agency selects an offer other than the lowest price.

Response: A reverse auction requires prices to be displayed in order to provide offerors the opportunity to submit a lower price. Use of reverse auctions should be used in circumstances where a lowest price, technically acceptable source selection method is contemplated.

Comment: A respondent raised the issue that some providers do not actually reveal the other bidder's price(s), but instead just state whether the bidder has the lowest price.

Response: At a minimum, reverse auction service providers must provide all offerors with the lowest price offered, without disclosure of the competing offerors' identity, in order to have the opportunity to submit lower priced offers until the close of the auction.

7. Disclosure of Fees

Comment: Some respondents had concerns that the proposed rule required the breakout of the purchase price from the reverse auction service provider fee. One respondent questioned the purpose of the disclosure if the agency had already negotiated the fee and determined that it was a best value to the Government when the contract with the reverse auction service provider was first established. One respondent also expressed concerns that a contracting officer will have to evaluate the fee during the evaluation of price reasonableness, resulting in delayed contract awards.

Response: The rule requires contracting officers to evaluate a reverse auction provider fee when considering whether to use a reverse auction, regardless of whether the agency has an existing contract with the reverse auction provider. The contracting officer is not expected to evaluate the fee when determining price reasonableness of the offer but is required at FAR 17.804(c)(2) to verify that the fee is in accordance with the reverse auction provider's fee structure.

Comment: A respondent expressed concerns that disclosure of the provider's fee is not a standard commercial practice for e-Commerce marketplace providers and would create an unequal playing field if only applied to reverse auctions. For example, GSA's commercial e-Commerce pilot does not require its e-marketplace providers to list the fees associated with each purchase separately.

Response: The disclosure of fees is required to address the recommendations from the GAO on increasing transparency with regard to the fee. Contracting officers, at the end of the auction, are required to verify that the fee is in accordance with the reverse auction provider's fee structure.

Comment: A respondent stated that fees paid by an offeror can be provided before bidding, as an effective way to ensure no surprises to the offeror and also to make the bidding inclusive of all costs, including the reverse auction provider fee.

Response: Reverse auction service providers may structure their fee arrangements as they see fit as long as the provider complies with the terms of the contract.

8. Use of Reverse Auctions

Comment: One respondent recommended that agencies not use reverse auctions for small procurements or those for which there are limited sources of supplies because it deters

competition. The respondent recommends only using reverse auctions for actions greater than \$1 million and/or with longer periods of performance because that will increase competition and agency savings.

Response: Contracting officers conduct market research commensurate with the scope and breadth of each requirement to determine the best method of procurement. The rule provides guidance on when a reverse auction may be appropriate.

Comment: One respondent recommends that the FAR expressly state that reverse auctions should not be limited to the SAT.

Response: The final rule does not limit reverse auctions to procurements below the SAT.

9. Exclusion of Offerors

Comment: A respondent expressed concerns that only the contracting officer may exclude an offeror from a reverse auction and recommends that reverse auction providers be granted the authority to exclude an offeror if the offeror is in breach of contract with the auction provider.

Response: Only an agency official may exclude an offeror from participating in an auction. (See Office of Federal Procurement Policy Memorandum, "Effective Use of Reverse Auctions", dated June 1, 2015).

10. Indefinite Delivery Indefinite Quantity (IDIQ) Contract and Blanket Purchase Agreement (BPA) Applicability

Comment: A respondent expressed concern that the new clause FAR 52.217-11 will create a barrier to using reverse auctions for Governmentwide acquisition contracts if it has not been included in the basic contract.

Response: The IDIQ or BPA contracting officer has the discretion to determine whether a reverse auction is an appropriate method of procurement for task orders, delivery orders, or orders under a BPA.

11. Contracting Officer Contact Information

Comment: A respondent recommends that contracting officer contact information be posted in accordance with FAR 5.102(c)(2) to allow original equipment manufacturers to advise the Government if grey market items are being proposed.

Response: The final rule clarifies the required contact information at FAR 17.804(c)(1) to include the name and email address of the contracting officer.

12. Additional Costs of Reverse Auctions

Comment: A respondent recommends that OFPP encourage agencies to cover the increased costs of monitoring reverse auctions for small businesses.

Response: The Councils do not believe that there would be any additional costs associated with a reverse auction over the costs of a non-reverse auction acquisition. The rule does not add any additional requirements for participants on a reverse auction that would increase costs.

13. Rule of Two Requirement

Comment: A respondent requests clarification of how reverse auctions will meet the rule of two requirements for service-disabled veteran-owned small businesses.

Response: As with any procurement, the contracting officer will consider the rule of two as a part of market research and acquisition planning. If the rule of two is satisfied, the contracting officer can then set aside the reverse auction.

14. Out of Scope

Five respondents submitted comments outside the scope of the case.

C. Other Changes

Minor edits were made to the final rule to update text for current FAR drafting conventions. The final rule revises the term "winning" offeror to "successful" offeror to comply with current FAR drafting conventions. Replacement of the term occurs in several instances at FAR 17.802, 17.804, and the contract clause FAR 52.217-12, Reverse Auction Services.

The final rule revises the terms "call" to "order" and "orders under a blanket purchase agreement" in lieu of "against" to comply with current FAR drafting conventions. Replacement of the terms occurs in several instances at FAR 17.802, 17.805 and the contract clauses at FAR 52.217-11, Reverse Auction-Orders and 52.217-12, Reverse Auction Services.

The final rule clarifies text at FAR 17.804(b)(1) to reflect that while an offeror's offered price(s) may be revealed to enable the execution of a reverse auction, an offeror's identity will only be revealed if the offeror is the successful offeror.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT), for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items), or for Commercial Services

The reverse auction provision and clauses are available for use at or below the simplified acquisition threshold, for commercial products, including commercially available off-the-shelf items, and for commercial services.

IV. Expected Impact of the Rule

This final rule amends the FAR to provide guidance on the use of reverse auctions. The final rule provides additional guidance to contracting officers on the information necessary for a reverse auction service provider to comply with the Government's access, use, disclosure, and disposition requirements. This will ensure that Government data and Government-related data is protected from unauthorized access and disclosure.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 (as amended by E.O. 14094) and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Congressional Review Act

Pursuant to the Congressional Review Act, DoD, GSA, and NASA will send this rule to each House of the Congress and to the Comptroller General of the United States. The Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget has determined that this rule does not meet the definition in 5 U.S.C. 804(2).

VII. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601-612. The FRFA is summarized as follows:

DoD, GSA, and NASA are revising the Federal Acquisition Regulation (FAR) in response to Government Accountability Office (GAO) reports GAO-14-108, Reverse

Auctions: Guidance is Needed to Maximize Competition and Achieve Cost Savings, dated December 2013, and 18–446, Reverse Actions: Additional Guidance Could Help Increase Benefits and Reduce Fees, dated July 2018. The rule also implements guidance from the Office of Federal Procurement Policy memorandum, Effective Use of Reverse Auctions, dated June 1, 2015, which resulted from GAO reports.

The objective of the rule is to address concerns raised by GAO regarding transparency and understanding of reverse auction service provider fees.

There were no significant issues raised by the public in response to the initial regulatory flexibility analysis.

The Government does not currently collect data on the number of awards that utilized a reverse auction to obtain pricing. However, GAO report 18–446 indicates that, while the total value of contracts awarded annually that utilize reverse auctions represents less than one percent of all annual Government contract spending, most of the annual contracts awarded that utilize reverse auctions are awarded to small entities.

The final rule does not impose any new reporting or recordkeeping requirements on any small entities.

There are no known alternative approaches to the rule that would accomplish the objectives of the rule.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat Division. The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

List of Subjects in 48 CFR Parts 2, 3, 7, 13, 15, 17, and 52

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA are amending 48 CFR parts 2, 3, 7, 13, 15, 17, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 3, 7, 13, 15, 17, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101 by adding in alphabetical order a definition for “Reverse auction” to read as follows:

2.101 Definitions.

* * * * *

Reverse auction means the process for obtaining pricing, usually supported by an electronic tool, in which offerors see competing offerors’ price(s), without disclosure of the competing offerors’ identity, and have the opportunity to submit lower priced offers until the close of the auction.

* * * * *

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

■ 3. Amend section 3.103–2 by adding paragraph (a)(1)(iv) to read as follows:

3.103–2 Evaluating the certification.

(a) * * *

(1) * * *

(iv) Participating in a reverse auction (see subpart 17.8).

* * * * *

■ 4. Amend section 3.104–4 by revising paragraph (e)(1) to read as follows:

3.104–4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

* * * * *

(e) * * *

(1) A contractor from disclosing its own bid or proposal information or the recipient from receiving that information. During reverse auctions, agencies may reveal to all offerors the offered price(s), but shall not reveal any offeror’s identity except for the awardee’s identity subsequent to an award resulting from the auction (see subpart 17.8);

* * * * *

PART 7—ACQUISITION PLANNING

7.105 [Amended]

■ 5. Amend section 7.105 by removing from paragraph (b)(4) introductory text the words “including” and “pre-award” and adding “including the basis for using a reverse auction (when applicable),” and “preaward” in their places, respectively.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

■ 6. Amend section 13.104 by adding paragraph (c) to read as follows:

13.104 Promoting competition.

* * * * *

(c) When conducting a reverse auction, see subpart 17.8.

PART 15—CONTRACTING BY NEGOTIATION

■ 7. Amend section 15.306 by revising paragraph (e)(3) to read as follows:

15.306 Exchanges with offerors after receipt of proposals.

* * * * *

(e) * * *

(3) Reveals an offeror’s price without that offeror’s permission. However, the contracting officer may inform an offeror that its price is considered by the Government to be too high, or too low, and reveal the results of the analysis supporting that conclusion. It is also permissible, at the Government’s discretion, to indicate to all offerors the cost or price that the Government’s price analysis, market research, and other reviews have identified as reasonable (41 U.S.C. 2102 and 2107). When using reverse auction procedures (see subpart 17.8), it is also permissible to reveal to all offerors the offered price(s), without revealing any offeror’s identity;

* * * * *

PART 17—SPECIAL CONTRACTING METHODS

■ 8. Revise section 17.000 by—

■ a. Removing from paragraph (b) the word “and”;

■ b. Removing from paragraph (c) the text “contracting.” and adding “contracting; and” in its place; and

■ c. Adding paragraph (d).

The addition reads as follows:

17.000 Scope of part.

* * * * *

(d) The use of reverse auctions to obtain competitive pricing.

■ 9. Add subpart 17.8 to read as follows:

Subpart 17.8—Reverse Auctions

Sec.

17.800 Scope of subpart.

17.801 Definitions.

17.802 Policy.

17.803 Applicability.

17.804 Procedures.

17.805 Solicitation provision and contract clauses.

Subpart 17.8—Reverse Auctions

17.800 Scope of subpart.

This subpart prescribes policies and procedures for conducting reverse auctions and utilizing reverse auction service providers.

17.801 Definitions.

As used in this subpart—

Government data means any information, document, media, or machine-readable material regardless of physical form or characteristics, that is created or obtained by the Government, in the course of official Government business.

Government-related data means any information, document, media, or machine-readable material regardless of physical form or characteristics that is created or obtained by a contractor through the storage, processing, or communication of Government data. This does not include a contractor's business records (*e.g.*, financial records, legal records, etc.) or data such as operating procedures, software coding, or algorithms that are not uniquely applied to the Government data.

Reverse auction service provider means a commercial or Government entity that provides a means for conducting reverse auctions when acquiring supplies or services to be used by the Government.

17.802 Policy.

(a) The use of reverse auctions may be appropriate when market research indicates that—

(1) A competitive marketplace exists for the supplies and/or services being acquired;

(2) Multiple offerors can satisfy the agency's requirement; and

(3) The nature of the supplies and/or services being acquired (*e.g.*, clearly defined specifications, less complex requirements) encourages an iterative bidding process (*i.e.*, multiple offerors participate and at least one offeror submits more than one offer during the reverse auction).

(b) The reverse auction process is used to obtain pricing for an acquisition. When using the reverse auction process, contracting officers are still required to follow the acquisition policies and procedures (*e.g.*, those prescribed in subpart 8.4 or 16.5, or part 13 or 15), as appropriate for the particular acquisition.

(c)(1) A service platform for conducting reverse auctions may be provided by a commercial or Government entity.

(2) While some reverse auction service providers are paid directly by the Government for reverse auction services, other providers may incorporate a fee structure that uses an indirect payment method. When using an indirect payment method, the reverse auction service provider adds a fee(s) to the price of the successful offer that is provided to the Government at the close

of an auction. The Government then pays the successful offeror the total price of the offer, which includes the fee(s) added by the reverse auction service provider. The reverse auction service provider then collects its fee(s) from the successful offeror.

(3) When acquiring reverse auction services from a commercial reverse auction service provider, agencies shall—

(i) Use competitive procedures, unless an exception applies;

(ii) Detail the provider's fee structure in the resultant contract or agreement for reverse auction services; and

(iii) Make the details of the contract or agreement for reverse auction services, including the provider's fee structure, available to contracting officers for consideration when determining whether to use a reverse auction service provider, in accordance with 17.804(a).

(4) When acquiring reverse auction services, the contracting officer shall ensure the following information is provided in the solicitation and contract:

(i) Descriptions of Government data and Government-related data.

(ii) Data ownership, licensing, delivery, and disposition instructions specific to the relevant types of Government data and Government-related data (*e.g.*, DD Form 1423, Contract Data Requirements List; work statement task; line item). Disposition instructions shall provide for the transition of data in commercially available, or open and non-proprietary format and for permanent records, in accordance with disposition guidance issued by the National Archives and Records Administration.

(d) Contracting officers shall only use the services of a reverse auction service provider that—

(1) Does not assert or imply that it can or will obtain a Government contract for participants of a reverse auction;

(2) Allows entities to register, at no cost, as potential offerors for reverse auctions conducted on behalf of the Government on the provider's reverse auction platform;

(3) Allows each entity, as part of the registration process, the opportunity to execute a proprietary data protection agreement with the provider; provided that the terms in the agreement do not affect the terms and conditions of a Government solicitation or contract;

(4) Protects from unauthorized use or disclosure and does not release outside of the Government—

(i) All contractor bid or proposal information (see 3.104–1) and source selection information associated with

providing reverse auction services to the Government;

(ii) All information similarly generated to support the issuance of a task order or delivery order or order under a blanket purchase agreement; and

(iii) Information identified by an offeror as restricted from duplication, use, or disclosure—in whole or in part—for any purpose other than to evaluate the reverse auction participant's price or proposal;

(5) Allows offerors to see the successive lowest price(s) offered in the auction without revealing an offeror's identity;

(6) At the close of each auction—

(i) Provides the Government with the successful offer, along with information that separately identifies the offeror's price and the price for each provider fee or charge included in the total price; and

(ii) Provides the Government with all information and documentation received from offerors in response to the reverse auction.

(7) Does not participate as an offeror in any reverse auction which the provider is hosting on behalf of the Government. This prohibition includes participation in a reverse auction by any entity with which the provider has a relationship that raises an actual or potential conflict of interest; and

(8) Asserts no rights or license in the data gathered or generated during a reverse auction.

(e) Only a contracting officer shall—

(1) Exclude an offeror from participating in an auction;

(2) Determine the awardee(s) of any reverse auction; or

(3) Determine that the offeror is a responsible prospective contractor (see 9.103, 9.104–1, and 9.405(d)).

17.803 Applicability.

Reverse auction processes shall not be used for—

(a) Design-build construction contracts (see 36.104);

(b) Procurements for architect-engineer services subject to 40 U.S.C. chapter 11 (see 36.601);

(c) Procurements using sealed bidding procedures (see part 14); or

(d) Acquisition of personal protective equipment, in accordance with—

(1) Sections 813 and 814 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328);

(2) Section 882 of the NDAA for FY 2018 (Pub. L. 115–91); and

(3) Section 880 of the John S. McCain NDAA for FY 2019 (Pub. L. 115–232, 41 U.S.C. 3701 note).

17.804 Procedures.

(a) When considering the use of a reverse auction service provider, the contracting officer shall—

(1) Conduct market research for available sources of reverse auction services (e.g., existing agency contracts or agreements, commercial service providers, or Government service providers);

(2) Evaluate the fee structure for each reverse auction service provider; and

(3) Document the contract file that the use of a reverse auction service provider is cost effective.

(b) When conducting a reverse auction, the contracting officer shall—

(1) Not disclose the identity of the offeror(s) except for the awardee's identity subsequent to an award resulting from the auction (see 3.104–4(a) and (e)(1));

(2) Allow offerors the opportunity to continually revise their prices downward during the reverse auction until the close of the auction; and

(3) Allow an offeror to withdraw an offer from further consideration prior to the close of an auction.

(c) When using the services of a reverse auction service provider, contracting officers shall—

(1) Include contact information, including contracting officer name and email address, in the synopsis and solicitation that will allow offerors to contact the contracting officer directly with any questions;

(2) Upon receipt of a successful offer, verify that any provider fees or charges included in the price are in accordance with the provider's fee structure, as evaluated in accordance with paragraph (a)(2) of this section; and

(3) Include in the contract file any information and/or documentation received by the reverse auction service provider from offerors responding to the reverse auction.

(d) If only one offeror participates in an auction, the contracting officer may—

(1) Cancel the auction and document the contract file with evidence of the participation of only one offeror; or

(2) Accept the offer, only if the price is determined to be fair and reasonable (see 13.106–3(a)(2) and 15.404–1).

17.805 Solicitation provision and contract clauses.

(a) The contracting officer shall insert the provision at 52.217–10, Reverse Auction, in solicitations when using a reverse auction to award a contract or blanket purchase agreement.

(b) The contracting officer shall insert the clause at 52.217–11, Reverse Auction—Orders, in solicitations and

contracts for a multiple-award contract or blanket purchase agreement, when a reverse auction may be used to place orders under the basic contract or blanket purchase agreement.

(c) The contracting officer shall insert the clause at 52.217–12, Reverse Auction Services, in all solicitations and contracts for the purchase of reverse auction services.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 10. Add sections 52.217–10, 52.217–11, and 52.217–12 to read as follows:

52.217–10 Reverse Auction.

As prescribed in 17.805(a), insert the following provision:

Reverse Auction (Aug 2024)

(a) *Definitions.* As used in this provision—
Reverse auction means the process for obtaining pricing, usually supported by an electronic tool, in which offerors see competing offerors' price(s), without disclosure of the competing offerors' identity, and have the opportunity to submit lower priced offers until the close of the auction.

Reverse auction service provider means a commercial or Government entity that provides a means for conducting reverse auctions when acquiring supplies or services to be used by the Government.

(b) *Reverse auction.* The Government intends to conduct a reverse auction under this solicitation to award a contract or blanket purchase agreement.

(c) *Offeror agreement.* By submission of a quote or proposal in response to the solicitation, the Offeror agrees to participate in the reverse auction and agrees that the Government may reveal to all Offerors the offered price(s) in the auction, without revealing any Offeror's identity, except for the awardee's identity subsequent to an award resulting from the auction. The Offeror may withdraw its agreement to further participate in the process by withdrawing its offer before the close of the auction by notifying the Contracting Officer via the contact method identified in the solicitation.

(d) *Only one offer.* If the reverse auction produces only one offer, the Government reserves the right to cancel the auction.

(e) *Release of information.* The Government may use a reverse auction service provider to conduct the reverse auction. Any price or proposal information or source selection information received by the reverse auction service provider in relation to the reverse auction shall not be released, outside of the Government, unless otherwise required by law. However, this does not prevent the Government from revealing to all Offerors the offered price(s) in the auction, without revealing any Offeror's identity. Price or proposal information includes, but is not limited to—

(1) Contractor bid or proposal information, as defined at Federal Acquisition Regulation 3.104–1; and

(2) Information identified by the Offeror as restricted from duplication, use, or

disclosure—in whole or in part—for any purpose other than to evaluate the Offeror's price or proposal.

(End of provision)

52.217–11 Reverse Auction—Orders.

As prescribed in 17.805(b), insert the following clause:

Reverse Auction—Orders (Aug 2024)

(a) *Definitions.* As used in this clause—
Reverse auction means the process for obtaining pricing, usually supported by an electronic tool, in which offerors see competing offerors' price(s), without disclosure of the competing offerors' identity, and have the opportunity to submit lower priced offers until the close of the auction.

Reverse auction service provider means a commercial or Government entity that provides a means for conducting reverse auctions when acquiring supplies or services to be used by the Government.

(b) *Reverse auction.* The Contracting Officer may conduct a reverse auction to award an order under this contract or blanket purchase agreement.

(c) *Contractor agreement.* When a reverse auction is conducted under this contract or blanket purchase agreement, the following applies:

(1) The Contractor's or blanket purchase agreement holder's submission of a quote or proposal in response to the solicitation for an order constitutes agreement to participate in the auction.

(2) The Contractor agrees that the Government may reveal to all Offerors the offered price(s) in the auction, without revealing any Offerors' identity, except for the awardee's identity subsequent to an award resulting from the auction.

(3) The Contractor or blanket purchase agreement holder may withdraw its agreement to further participate in the reverse auction by withdrawing its offer. To withdraw an offer made in response to a reverse auction solicitation issued under this contract or blanket purchase agreement, the Contractor or blanket purchase agreement holder shall notify the Contracting Officer of the request before the close of the auction via the contact method identified in the solicitation.

(4) If the reverse auction produces only one offer, the Government reserves the right to cancel the auction.

(d) *Release of information.* The Government may use a reverse auction service provider to conduct the reverse auction. Any price or proposal information or source selection information received by the reverse auction service provider in relation to the reverse auction shall not be released, outside of the Government, unless otherwise required by law. However, this does not prevent the Government from revealing to all Contractors or blanket purchase agreement holders the offered price(s) in the auction, without revealing any Contractor or blanket purchase agreement holder's identity. Price or proposal information includes, but is not limited to—

(1) Contractor bid or proposal information, as defined at Federal Acquisition Regulation 3.104–1;

(2) Price or proposal information similarly generated for a task order or delivery order or an order under a blanket purchase agreement; and

(3) Information identified by the Contractor or blanket purchase agreement holder as restricted from duplication, use, or disclosure—in whole or in part—for any purpose other than to evaluate the Contractor or blanket purchase agreement holder's price or proposal.

(End of clause)

52.217–12 Reverse Auction Services.

As prescribed in 17.805(c), insert the following clause:

Reverse Auction Services (Aug 2024)

(a) Definitions.

Government data means any information, document, media, or machine-readable material regardless of physical form or characteristics, that is created or obtained by the Government, in the course of official Government business.

Government-related data means any information, document, media, or machine-readable material regardless of physical form or characteristics that is created or obtained by a contractor through the storage, processing, or communication of Government data. This does not include a contractor's business records (e.g., financial records, legal records, etc.) or data such as operating procedures, software coding, or algorithms that are not uniquely applied to the Government data.

Reverse auction means the process for obtaining pricing, usually supported by an electronic tool, in which offerors see competing offerors' price(s), without disclosure of the competing offeror's identity, and have the opportunity to submit lower priced offers until the close of the auction.

(b) *Duties of the reverse auction service provider.* When providing reverse auction services to the Government, the Contractor shall—

(1) Not assert or imply that it can or will obtain a Government contract for the participants of a reverse auction;

(2) Allow entities to register, at no cost, as potential offerors for any reverse auction conducted on behalf of the Government on the provider's reverse auction platform. As part of the registration process, the Contractor shall allow each entity the opportunity to execute a proprietary data protection agreement with the Contractor; however, the Contractor shall not negotiate terms in the agreement that affect the terms and conditions of a Government solicitation or contract;

(3) Limit access to, use of, and disclosure of Government data and Government-related data.

(i) The Contractor shall not access, use, or disclose Government data unless specifically authorized by the terms of this contract or a task order or delivery order issued hereunder.

(ii) If authorized by the terms of this contract or a task order or delivery order issued hereunder, any access to, or use or disclosure of, Government data shall only be

for purposes specified in this contract or task order or delivery order.

(iii) The Contractor shall ensure that its employees are subject to all such access, use, and disclosure prohibitions and obligations.

(iv) These access, use, and disclosure prohibitions and obligations shall survive the expiration or termination of this contract.

(v) The Contractor shall notify the Contracting Officer promptly of any requests from a third party for access to Government data or Government-related data, including any warrants, seizures, or subpoenas it receives, including those from another Federal, State, or local agency. The Contractor shall cooperate with the Contracting Officer to take all measures to protect Government data and Government-related data from any unauthorized disclosure.

(4) Assert no right or license in the data gathered or generated during a reverse auction. Use Government-related data only to manage the operational environment that supports the Government data and for no other purpose unless otherwise permitted with the prior written approval of the Contracting Officer.

(5) Protect from unauthorized use or disclosure and not release outside of the Government any price or proposal information or any source selection information (see Federal Acquisition Regulation (FAR) 2.101) received by the Contractor in relation to a reverse auction. Price or proposal information shall include, but is not limited to—

(i) Contractor bid or proposal information, as defined at FAR 3.104–1;

(ii) Price or proposal information similarly generated for a task order or delivery order or an order under a blanket purchase agreement; and

(iii) Information identified by the reverse auction participant as restricted from duplication, use, or disclosure—in whole or in part—for any purpose other than to evaluate the reverse auction participant's price or proposal;

(6) Allow offerors to see the successive lowest price(s) offered in the auction without revealing an offeror's identity;

(7) Not participate as an offeror in any reverse auction, which the Contractor is hosting on behalf of the Government. This prohibition includes participation in a reverse auction by any entity with which the Contractor has a relationship that raises an actual or potential conflict of interest;

(8) At the close of each auction—

(i) Provide the Contracting Officer with the successful offer, along with information that separately identifies the offeror's price and the price for each provider fee or charge included in the total price; and

(ii) Provide the Contracting Officer with all information and documentation received from reverse auction participants in response to the reverse auction.

(End of clause)

[FR Doc. 2024–16281 Filed 7–29–24; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 19

[FAC 2024–06; FAR Case 2021–009, Item II; Docket No. FAR–2021–0010; Sequence No. 1]

RIN 9000–AO26

Federal Acquisition Regulation: Protests of Orders Set Aside for Small Business

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration to update and clarify requirements associated with size and socioeconomic status protests in connection with multiple-award contract set-asides and reserves, and orders placed under multiple-award contracts.

DATES: Effective August 29, 2024.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Dana Bowman, Procurement Analyst, at 202–803–3188 or by email at dana.bowman@gsa.gov. For information pertaining to status or publication schedules contact the Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov. Please cite FAC 2024–06, FAR Case 2021–009.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 88 FR 68067 on October 3, 2023, to implement regulatory changes made by the Small Business Administration (SBA) in its final rules published in the **Federal Register** on October 2, 2013 (78 FR 61113), October 16, 2020 (85 FR 66146), and on November 29, 2022 (87 FR 73400). For further details, please see the proposed rule. One respondent submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the

development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes

The following significant changes from the proposed rule are made in the final rule: The final rule amends FAR 19.302(d)(1) to add a new paragraph (ii)(C), which reflects language in SBA's October 16, 2020, final rule at 13 CFR 121.1004(a)(2)(ii) and specifies when a protest is due for orders placed under multiple-award contracts where the contracting officer requested rerepresentation for the order. In addition, the final rule FAR text at FAR 19.306(e)(1)(iii), 19.307(e)(1)(v), and 19.308(e)(1)(iii) is amended to clarify when a protest is due when written notification is not required and other communication means are used.

B. Analysis of Public Comments

Comment: The respondent recommended revising the proposed rule text at FAR 19.302(a)(2) to add a reference to SBA's regulations at 13 CFR 121.1001(a)(1) to provide significant clarity to the acquisition community, including small businesses.

Response: The final rule text at FAR 19.302(a)(2) includes a reference to SBA's regulations at 13 CFR 121.1001(a), which specify the parties that may protest the small business representation of an offeror in a specific offer for a contract and the parties that can protest competitive contracts. Therefore, to change the reference at FAR 19.302(a)(2) to 13 CFR 121.1001(a)(1) would omit the inclusion of the remaining paragraphs under paragraph (a), which are relevant to this FAR section.

Comment: The respondent recommended revising the proposed rule FAR text at 19.302(d)(1) to state each of the types of contracts and orders that are subject to the SBA's five-day protest deadline. (See 13 CFR 121.1004(a)(2)).

Response: The final rule FAR text at 19.302(d)(1)(i) and (ii) specifies the types of contracts and orders subject to the SBA five-day protest deadline. In addition, the final rule FAR text at 19.302(d) directs contracting officers to 13 CFR 121.1004 for SBA's regulations on timeliness.

Comment: The respondent stated that the FAR text should capture the language regarding certifications and recertifications that is stated in the SBA rules at 13 CFR 121.1004(a)(2)(ii).

Response: The final rule text has been revised to adopt this recommendation at FAR 19.302(d)(1)(ii)(C).

Comment: The respondent recommended revising the proposed rule FAR text at 19.302(d)(1) to remove the word "special" and the reference to FAR 15.503(a)(2) because 13 CFR 121.1004(a)(2) does not mention either. The respondent stated that this may confuse rather than clarify the timeliness rules for small businesses. The respondent provided an example of an instance when a contracting officer could provide notice of the identity of the apparently successful offeror, but the notice may not meet the requirements of FAR 15.503(a)(2), which could lead to confusion as to whether the five-day clock began.

Response: The special notification at FAR 19.302(d)(1) aligns with FAR 15.503(a)(2), which requires the contracting officer to provide preaward notices to offerors for small business set-asides made pursuant to FAR subpart 19.5, or the procedures in sections 19.1305, 19.1307, 19.1405, or 19.1505. This notification is referred to as a "special notification"; therefore, it is not necessary to modify the text to align with SBA's regulations. The rule did not amend this text or the reference, rather the rule merely moved the reference to immediately follow "special notification from the contracting officer" for clarity. While 13 CFR 121.1004(a)(2) does not use the term "special" or reference FAR 15.503(a)(2), the FAR provides guidance to contracting officers using terminology specific to Federal procurement.

Comment: The respondent stated it is unclear if the text at 19.302(d)(5) refers to protests challenging a firm's size at the time the firm submitted its application for a Schedule contract, or if the text is meant to challenge a firm's size at the time the firm submitted its application for set-aside orders under Multiple Award Schedule contracts. The respondent suggests revising the FAR text at 19.302(d)(5) to add the following language: "A protest under a Multiple Award Schedule will be timely if received by SBA at any time prior to the expiration of the contract period, including renewals." (emphasis added).

Response: The suggested revision to add "at any time" is in the existing FAR text at 19.302(d)(5).

Comment: The respondent recommended revising the FAR text at 19.306, 19.307, and 19.308 to implement SBA regulations at 13 CFR 126.801(d), 13 CFR 134.1004(a), and 13 CFR 127.603(c), respectively, to specify when protests are due for orders placed under multiple-award contracts where the contracting officer requested

rerepresentation. The respondent believes the proposed changes will provide significant clarity to the acquisition community, including small businesses.

Response: The final rule implements SBA's regulations 13 CFR 126.801(d), 13 CFR 134.1004(a), and 127.603(c) at FAR 19.306(e)(1)(ii)(A), 19.307(e)(1)(ii)(A), and 19.308(e)(1)(ii)(A), respectively.

Comment: The respondent recommended revising the proposed rule FAR text at 19.306, 19.307, and 19.308 to make clear that for negotiated procurements, the fifth business day deadline applies to contracts that are set aside for HUBZone, small business firms, Service-Disabled Veteran-Owned Small Business (SDVOSB) firms, Women-Owned Small Business (WOSB) firms, and Economically-Disadvantaged Women-Owned Small Business (EDWOSB) firms, not only for set-aside orders placed under multiple-award contracts, in accordance with 13 CFR 121.1004(a)(2). The respondent states that the FAR text should use similar language and make clear that the five-business day deadline applies to HUBZone, SDVOSB, WOSB, and EDWOSB set-aside contracts.

Response: FAR 19.306, 19.307, and 19.308 address the procedures for protesting a firm's status as a HUBZone small business concern, an SDVOSB concern, an EDWOSB concern or a WOSB concern, respectively. The final rule FAR text at 19.306(e)(1)(ii), 19.307(e)(1)(ii), and 19.308(e)(1)(ii) specifies, for negotiated acquisitions, that an interested party shall submit its written protest to the contracting officer by the close of business on the fifth business day after notification by the contracting officer of the apparently successful offeror.

Comment: The respondent recommended changing the term "rerepresentation" in the FAR text at 19.306(e)(1)(ii)(A), 19.307(e)(1)(ii)(A), and 19.308(e)(1)(ii)(A) to "recertification" to ensure consistency and to avoid confusion. The respondent indicated that the SBA regulations refer to recertification, as opposed to rerepresentation, and that the SBA has developed case law regarding what constitutes a request for recertification.

Response: The FAR does not automatically replicate terminology used in SBA's regulations. In this case, the FAR has long used the terms "representation" and "rerepresentation" in lieu of the terms "certification" and "recertification" to describe how an entity addresses its size status. This difference is consistent with a longstanding policy, set forth at 41 U.S.C. 1304(b) and FAR 1.107, to limit

the use of certification requirements in the FAR.

Comment: The respondent recommended deleting the FAR text at 19.306(e)(1)(iii), FAR 19.307(e)(1)(iii), and FAR 19.308(e)(1)(iii) and adding a new subsection (e)(3) to each for clarity and accuracy.

Response: The final rule FAR text at 19.306(e)(1)(iii), FAR 19.307(e)(1)(v), and FAR 19.308(e)(1)(iii) align with the opening paragraph at 19.306(e)(1) and that of the text at FAR 19.302(d)(1)(iii). Therefore, it is not necessary to add a new subsection (e)(3).

Comment: The respondent recommended revising the proposed rule FAR text at 19.306, 19.307, and 19.308 to implement SBA's regulations at 13 CFR 126.801(d), 13 CFR 134.1004(a), and 13 CFR 127.603(c), respectively, to specify when protests are due for orders that are set aside for HUBZone, SDVOSB, WOSB, and EDWOSB firms under a multiple-award contract that is not itself partially or totally set-aside or reserved for the particular concern. This does not apply to orders and blanket purchase agreements placed under Federal Supply Schedule contracts.

Response: The final rule FAR text at 19.306(e)(1)(ii), 19.307(e)(1)(v), and 19.308(e)(1)(ii) implements SBA's regulations 13 CFR 126.801(d), 13 CFR 134.1004(a), and 13 CFR 127.603(c), respectively.

C. Other Changes

The final rule FAR text at 19.306(e)(1)(ii), 19.307(e)(1)(ii), and 19.308(e)(1)(ii) has been revised to conform with the FAR text at 19.302(d)(1)(ii) regarding the receipt of the special notification from the contracting officer for negotiated acquisitions. In addition, the final rule FAR text at 19.302(d)(1)(ii)(A), (B), and (C), 19.306(e)(1)(ii)(A) and (B), 19.307(e)(1)(ii)(A) and (B), and 19.308(e)(1)(ii)(A) and (B) is revised to remove "indefinite-delivery indefinite-quantity (IDIQ)" and "IDIQ" as it is unnecessary to specify either since the definition of multiple-award contract at FAR 2.101 includes IDIQ contracts.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT), for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items), or for Commercial Services

This rule does not create new solicitation provisions or contract clauses or impact any existing provisions or clauses.

IV. Expected Impact of the Rule

This rule is expected to impact the Government, offerors, and contractors.

This final rule provides processes and procedures for filing size and socioeconomic status protests associated with multiple-award contracts that are partially set-aside for small businesses or that include reserves for small businesses and orders placed under multiple-award contracts, with the exception of orders and blanket purchase agreements placed under Federal Supply Schedule contracts in accordance with FAR 8.405. Prior to this rule, the FAR did not specify unique procedures for protests associated with these types of contract actions.

By clarifying the protest processes and procedures, this rule is expected to help contracting officers and interested parties understand the requirements for filing size and socioeconomic status protests for certain multiple-award contracts and orders placed under multiple-award contracts. Therefore, any impact is expected to be beneficial to the Government, contractors, and offerors.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 (as amended by E.O. 14094) 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Congressional Review Act

Pursuant to the Congressional Review Act, DoD, GSA, and NASA will send this rule to each House of the Congress and to the Comptroller General of the United States. The Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget has determined that this rule does not meet the definition in 5 U.S.C. 804(2).

VII. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601–612. The FRFA is summarized as follows:

DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration (SBA) in its final rules published on October 2, 2013 (78 FR 61113), October 16, 2020, (85 FR 66146), and on November 29, 2022 (87 FR 73400). This rule provides processes and procedures associated with size and socioeconomic protests related to partial set-asides and reserves of multiple-award contracts, and protests related to orders placed against multiple-award contracts, with the exception of blanket purchase agreements and orders placed under Federal Supply Schedule contracts.

There were no significant issues raised by the public comments in response to the initial regulatory flexibility analysis.

This final rule will impact small businesses who are or may become multiple-award contract holders and who may be awarded orders under multiple-award contracts. According to data from the Federal Procurement Data System, in the last three fiscal years (FYs), agencies set aside orders for small businesses under unrestricted multiple-award contracts as follows: 8,336 in FY 2021; 7,463 in FY 2022; and 7,271 in FY 2023; for an average of 7,690 per fiscal year. In the last three fiscal years, agencies also further set aside orders under set-aside multiple-award contracts as follows: 10,641 in FY 2021; 11,635 in FY 2022; and 15,260 in FY 2023; for an average of 12,512 per fiscal year. In addition, in the last three fiscal years, agencies further set-aside orders for small businesses under a socioeconomic category under the set-aside portion of a multiple-award contract, where the socioeconomic category differs from the underlying multiple-award contract, as follows: 2,060 in FY 2021; 1,977 in FY 2022; and 2,213 in FY 2023; for an approximate average of 2,083 per fiscal year. In the last three fiscal years contracting officers required rerepresentation for orders as follows: 453 in FY 2021; 975 in FY 2022; and 938 in FY 2023, which averages out to approximately 789 per fiscal year.

Although we can estimate the number of set-aside orders that may be affected by this rule, it is not possible to estimate the number of protests; therefore, it is not possible to estimate the number of small entities that may be affected by this rule.

This rule clarifies the requirements for filing size and socioeconomic status protests for orders placed under multiple-award contracts resulting in reduced ambiguities of the process and increased efficiencies for small entities.

This rule does not include any new reporting, recordkeeping, or other compliance requirements for small entities.

There are no known significant alternative approaches that would accomplish the stated objectives.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat Division. The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

List of Subjects in 48 CFR Part 19

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 19 as set forth below:

PART 19—SMALL BUSINESS PROGRAMS

■ 1. The authority citation for part 19 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

■ 2. Amend section 19.302 by—

- a. Removing from the end of paragraph (a)(2) the text “or the SBA.” and adding the text “or SBA. See 13 CFR 121.1001(a).” in its place; and
■ b. Revising paragraph (d).

The revision reads as follows:

19.302 Protesting a small business representation or rerepresentation.

* * * * *

(d) In order to affect a specific solicitation, a protest must be timely. SBA’s regulations on timeliness are contained in 13 CFR 121.1004. SBA’s regulations on timeliness related to protests of disadvantaged status are contained in 13 CFR part 124, subpart B.

(1) To be timely, a protest by any concern or other interested party must be received by the contracting officer by the close of business of the fifth business day after—

- (i) Bid opening for sealed bid acquisitions; or
(ii) Receipt of the special notification from the contracting officer (see 15.503(a)(2)) that identifies the apparently successful offeror for negotiated acquisitions, including—
(A) Partial set-asides and reserves of multiple-award contracts;

(B) Orders that are set-aside under an unrestricted multiple-award contract (except for orders and blanket purchase agreements placed under a Federal Supply Schedule contract (see 8.405 and paragraph (d)(5) of this section)); and

(C) Orders placed under multiple-award contracts where the contracting

officer requested rerepresentation for the order; or

(iii) Receipt of notification using other communication means when written notification is not required.

(2) A protest may be made orally if it is confirmed in writing and received by the contracting officer within the 5-day period or by letter postmarked no later than 1 business day after the oral protest.

(3) A protest may be made in writing if it is delivered to the contracting officer by hand, mail, facsimile, email, express or overnight delivery service.

(4) Except as provided in paragraph (d)(6) of this section, a protest filed by the contracting officer or SBA is always considered timely whether filed before or after award.

(5) A protest under a Multiple Award Schedule will be timely if received by SBA at any time prior to the expiration of the contract period, including renewals.

(6) A protest filed before bid opening, or notification to offerors of the selection of the apparent successful offeror, will be dismissed as premature by SBA.

* * * * *

■ 3. Amend section 19.306 by—

- a. Removing from the end of paragraph (e)(1)(i)(B) the word “or”; and
■ b. Revising paragraph (e)(1)(ii) and adding paragraph (e)(1)(iii).

The revision and addition read as follows:

19.306 Protesting a firm’s status as a HUBZone small business concern.

* * * * *

(e) * * *

(1) * * *

(ii) For negotiated acquisitions, by the close of business on the fifth business day after receipt of the special notification from the contracting officer (see 15.503(a)(2)) of the apparently successful offeror, including—

(A) Orders placed under multiple-award contracts where the contracting officer requested rerepresentation for the order (see 13 CFR 126.801(d)(1)); and

(B) Orders set aside for HUBZone small businesses under multiple-award contracts that are not partially or totally set-aside or reserved for HUBZone small business concerns (see 13 CFR 126.801(d)(1)), except for orders and blanket purchase agreements placed under a Federal Supply Schedule contract (see 8.405 and 19.302(d)(5)); or

(iii) By the close of business on the fifth business day after receipt of notification using other communication

means when written notification is not required.

* * * * *

■ 4. Amend section 19.307 by revising paragraph (e)(1) to read as follows:

19.307 Protesting a firm’s status as a service-disabled veteran-owned small business concern.

* * * * *

(e) Protest by an interested party. (1) An interested party (except contracting officers should see paragraph (f)(1) of this section) shall submit its protest to the contracting officer—

(i) To be received by close of business on the fifth business day after bid opening for sealed bid acquisitions;

(ii) To be received by close of business on the fifth business day after receipt of the special notification from the contracting officer (see 15.503(a)(2)) that identifies the apparently successful offeror for negotiated acquisitions, including—

(A) Orders placed under multiple-award contracts where the contracting officer requested rerepresentation for the order (see 13 CFR 134.1004(a)(3)(ii)); and

(B) Orders set aside for service-disabled veteran-owned small businesses under multiple-award contracts that are not partially or totally set aside or reserved for service-disabled veteran-owned small business concerns (see 13 CFR 134.1004(a)(3)(i)), except for orders and blanket purchase agreements placed under a Federal Supply Schedule contract (see 8.405 and 19.302(d)(5));

(iii) To be received by close of business on the fifth business day after notification by the contracting officer of the intended awardee for an order that is set aside for SDVOSBs under a multiple-award contract that was not totally or partially set aside or reserved for SDVOSB concerns. This paragraph (e)(1)(iii) does not apply to an order issued under a Federal Supply Schedule (FSS) contract;

(iv) To be received by the close of the fifth business day after notification by the contracting officer of the intended awardee for a blanket purchase agreement that is set aside for SDVOSBs under a multiple-award contract that was not totally or partially set aside or reserved for SDVOSB concerns. This paragraph (e)(1)(iv) does not apply to a blanket purchase agreement issued under a FSS contract; or

(v) To be received by the close of business on the fifth business day after receipt of notification using other communication means when written notification is not required.

* * * * *

■ 5. Amend section 19.308 by revising paragraph (e)(1) to read as follows:

19.308 Protesting a firm's status as an economically disadvantaged women-owned small business concern or women-owned small business concern eligible under the Women-Owned Small Business Program.

* * * * *

(e) *Protest by an interested party.*(1) An offeror shall submit its protest to the contracting officer—

(i) To be received by the close of business by the fifth business day after bid opening for sealed bid acquisitions;

(ii) To be received by the close of business by the fifth business day after receipt of the special notification from the contracting officer (see 15.503(a)(2)) that identifies the apparently successful offeror for negotiated acquisitions including—

(A) Orders placed under multiple-award contracts where the contracting officer requested rerepresentation for the order (see 13 CFR 127.603(c)(1)); and

(B) Orders set aside for EDWOSB or WOSB concerns under multiple-award contracts that are not partially or totally set aside or reserved for EDWOSB or WOSB concerns (see 13 CFR

127.603(c)(1)), except for orders and blanket purchase agreements placed under a Federal Supply Schedule contract (see 8.405 and 19.302(d)(5)); or

(iii) To be received by the close of business on the fifth business day after receipt of notification using other communication means when written notification is not required.

* * * * *

[FR Doc. 2024-16282 Filed 7-29-24; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 50

[FAC 2024-06; FAR Case 2023-007, Item III; Docket No. FAR-2023-0007, Sequence No. 1]

RIN 9000-AO55

Federal Acquisition Regulation: Limitation of Authority Regarding Extraordinary Contractual Actions

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a section of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, to increase the approval threshold for Congressional committee notification.

DATES: Effective August 29, 2024.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Malissa Jones, Procurement Analyst, at 571-882-4687 or by email at malissa.jones@gsa.gov. For information pertaining to status or publication schedules contact the Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov. Please cite FAC 2024-06, FAR Case 2023-007.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are amending the FAR to implement section 822(a)(3) of the James M. Inhofe National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2023, which increased the Congressional committee notification threshold under Public Law 85-804 (41 U.S.C. 1431) to \$150 million.

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

The statute that applies to the publication of the FAR is 41 U.S.C. 1707. Subsection (a)(1) of 41 U.S.C. 1707 requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it does not have a significant effect or impose any new requirements on contractors or offerors. The rule simply amends FAR 50.102-3(b)(4) to increase the Congressional committee notification threshold to \$150 million. This change will reflect the new threshold in 50 U.S.C. 1431.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items), or for Commercial Services

This rule amends FAR 50.102-3(b)(4) to increase the Congressional committee notification threshold to \$150 million

reflecting the new threshold in 50 U.S.C. 1431. This rule does not impose any new requirements on contracts at or below the SAT, or to acquisitions for commercial products and commercial services, including COTS items.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 (as amended by E.O. 14094) and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

V. Congressional Review Act

Pursuant to the Congressional Review Act, DoD, GSA, and NASA will send this rule to each House of the Congress and to the Comptroller General of the United States. The Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget has determined that this rule does not meet the standards under 5 U.S.C 804(2).

VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section II. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501-3521).

List of Subjects in 48 CFR Part 50

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 50 as set forth below:

PART 50—EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT

■ 1. The authority citation for 48 CFR part 50 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

50.102–3 [Amended]

■ 2. Amend section 50.102–3 in paragraph (b)(4) by removing “\$35 million” and adding “\$150 million” in its place.

[FR Doc. 2024–16283 Filed 7–29–24; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 11, 17, 19, 23, 25, 52, and 53

[FAC 2024–06; Item IV; Docket No. FAR–2024–0052; Sequence No. 2]

Federal Acquisition Regulation; Technical Amendments

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document amends the Federal Acquisition Regulation (FAR) to make needed editorial changes.

DATES: *Effective:* August 29, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Lois Mandell, Regulatory Secretariat Division (MVCB), at 202–501–4755 or GSARegSec@gsa.gov. Please cite FAC 2024–06, Technical Amendments.

SUPPLEMENTARY INFORMATION: This document makes editorial changes to 48 CFR parts 2, 11, 17, 19, 23, 25, 52, and 53.

List of Subjects in 48 CFR Parts 2, 11, 17, 19, 23, 25, 52, and 53

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 11, 17, 19, 23, 25, 52, and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 11, 17, 19, 23, 25, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101 by—

■ a. Removing the definition of “Ozone-depleting substance”; and

■ b. In the definition of “Small Business Teaming Arrangement”, revising paragraph (2)(ii) to read as follows:

2.101 Definitions.

* * * * *

Small Business Teaming Arrangement—

* * * * *

(2) * * *

(ii) For DoD, may include two business concerns in a mentor-protégé relationship in the DoD Mentor-Protégé Program (see 10 U.S.C. 4902) when both the mentor and the protégé are small. There is no exception to joint venture size affiliation for offers received from teaming arrangements under the DoD Mentor-Protégé Program; and

* * * * *

PART 11—DESCRIBING AGENCY NEEDS

11.602 [Amended]

■ 3. Amend section 11.602, in paragraph (b), by removing the web address “www.bis.doc.gov/dpas” and adding the web address “<https://www.bis.doc.gov/index.php/other-areas/strategic-industries-and-economic-security-sies/defense-priorities-a-allocations-system-program-dpas>” in its place.

PART 17—SPECIAL CONTRACTING METHODS

■ 4. Amend section 17.104, in paragraph (c), by revising the first sentence to read as follows:

17.104 General.

* * * * *

(c) Agency funding of multiyear contracts shall conform to the policies in OMB Circular A–11 (Preparation, Submission, and Execution of the Budget) and other applicable guidance regarding the funding of multiyear contracts. * * *

* * * * *

PART 19—SMALL BUSINESS PROGRAMS

■ 5. Amend section 19.202–1 by revising paragraph (b) to read as follows:

19.202–1 Encouraging small business participation in acquisitions.

* * * * *

(b) Plan acquisitions such that, if practicable, more than one small business concern may perform the work, if the work exceeds the amount for which a surety may be guaranteed by SBA against loss under 15 U.S.C. 694b (see definition of “Applicable Statutory Limit” at 13 CFR 115.10).

* * * * *

19.702 [Amended]

■ 6. Amend section 19.702, in paragraph (d), by removing the word “Pilot”.

PART 23—ENVIRONMENT, SUSTAINABLE ACQUISITION, AND MATERIAL SAFETY

23.301 [Amended]

■ 7. Amend section 23.301 by removing “No. 313 (Federal)” and adding “No. 313. Federal” in its place.

PART 25—FOREIGN ACQUISITION

■ 8. Amend section 25.403 by adding paragraph (c)(2) to read as follows:

25.403 World Trade Organization Government Procurement Agreement and Free Trade Agreements.

* * * * *

(c) * * *

(2) This restriction does not apply to purchases of supplies by the Department of Defense from a country with which it has entered into a reciprocal agreement, as provided in departmental regulations.

■

25.701 [Amended]

■ 9. Amend section 25.701, in paragraph (b), by removing the web addresses “<http://www.treas.gov/offices/enforcement/ofac/sdn>” and “<http://www.treas.gov/offices/enforcement/ofac>” and adding the web addresses “<https://ofac.treasury.gov/specially-designated-nationals-and-blocked-persons-list-sdn-human-readable-lists>” and “<https://ofac.treasury.gov/>” in their places, respectively.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 10. Amend section 52.207–6 by revising the date of the provision and paragraph (a)(2)(ii) to read as follows:

52.207–6 Solicitation of Offers from Small Business Concerns and Small Business Teaming Arrangements or Joint Ventures (Multiple-Award Contracts).

* * * * *

Solicitation of Offers From Small Business Concerns and Small Business Teaming Arrangements or Joint Ventures (Multiple-Award Contracts) (Aug 2024)

* * * * *

- (a) * * *
- (2) * * *

(ii) For DoD, may include two business concerns in a mentor-protégé relationship in the Department of Defense Mentor-Protégé Program (see 10 U.S.C. 4902) when both the mentor and the protégé are small. There is no exception to joint venture size affiliation for offers received from teaming arrangements under the DoD Mentor-Protégé Program; and

* * * * *

- 11. Amend section 52.213–4 by:
 - a. Revising the date of the clause; and
 - b. In paragraph (b)(2)(v), removing the date “NOV 1991” and adding “JAN 1991” in its place.

The revision reads as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services) (Aug 2024)

* * * * *

52.223–11 [Amended]

- 12. Amend section 52.223–11, in the introductory text, by removing the text “in in 23.109(d)(1)” and adding the text “in 23.109(d)(1)” in its place.

52.223–21 [Amended]

- 13. Amend section 52.223–21, in the introductory text, by removing the text “in in 23.109(d)(4)” and adding the text “in 23.109(d)(4)” in its place.

- 14. Amend section 52.244–5 by revising the date of the clause and paragraph (b) to read as follows:

52.244–5 Competition in Subcontracting.

* * * * *

Competition in Subcontracting (Aug 2024)

* * * * *

(b) If the Contractor is an approved mentor under the DoD Mentor-Protégé Program (10 U.S.C. 4902), the Contractor may award subcontracts under this contract on a noncompetitive basis to its protégés.

* * * * *

- 15. Amend section 52.246–26 by—

- a. Revising the date of the clause; and
- b. In paragraph (e), removing the web address “<http://www.gidep.org/about/opmanual/opmanual.htm>” and adding the web address “<https://www.gidep.org/login?returnUrl=%2Fdashboard>” in its place.

The revision reads as follows:

52.246–26 Reporting Nonconforming Items.

* * * * *

Reporting Nonconforming Items (Aug 2024)

* * * * *

PART 53—FORMS

- 16. Amend section 53.236–2 by revising paragraph (a) to read as follows:

53.236–2 Architect-engineer services (SF’s 252 and 330).

* * * * *

(a) *SF 252 (Rev. 10/23)*, Architect-Engineer Contract. SF 252 is prescribed for use in awarding fixed-price contracts for architect-engineer services, as specified in 36.702(a).

* * * * *

[FR Doc. 2024–16284 Filed 7–29–24; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2024–0051, Sequence No. 4]

Federal Acquisition Regulation; Federal Acquisition Circular 2024–06; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide (SECG).

SUMMARY: This document is issued under the joint authority of DoD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2024–06, which amends the Federal Acquisition Regulation (FAR). Interested parties may obtain further information regarding these rules by referring to FAC 2024–06, which precedes this document.

DATES: July 30, 2024.

ADDRESSES: The FAC, including the SECG, is available at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2024–06 and the FAR Case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov. An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared.

RULES LISTED IN FAC 2024–06

Item	Subject	FAR Case	Analyst
* I	Reverse Auction Guidance	2015–038	Jackson.
* II	Protests of Orders Set Aside for Small Business	2021–009	Bowman.
III	Limitation of Authority Regarding Extraordinary Contractual Actions	2023–007	Jones.
IV	Technical Amendments.		

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2024–06 amends the FAR as follows:

Item I—Reverse Auction Guidance (FAR Case 2015–038)

This final rule amends the FAR to provide guidance on the use of reverse auctions. When participating in a reverse auction, offerors see competing offerors' price(s), without disclosure of the competing offerors' identities, and have the opportunity to submit lower priced offers until the close of the auction. Agencies may use reverse auctions to obtain competitive prices for an acquisition. The rule is intended to address concerns identified in two Government Accountability Office reports and an Office of Federal Procurement Policy memorandum. The

final rule provides guidance for contracting officers on the appropriate use of reverse auctions and ensures reverse auction service providers are given the Government's access, use, disclosure, and disposition requirements for Government data and Government-related data. The final rule is not expected to have a significant economic impact on a substantial number of small entities because the rule will not impact an entity's participation in a reverse auction.

Item II—Protests of Orders Set Aside for Small Business (FAR Case 2021–009)

This final rule amends the FAR to update and clarify requirements associated with size and socioeconomic status protests in connection with multiple-award contract set-asides and reserves and orders placed under multiple-award contracts, except for orders and blanket purchase agreements placed under a Federal Supply

Schedule contract in accordance with FAR 8.405.

Item III—Limitation of Authority Regarding Extraordinary Contractual Actions (FAR Case 2023–007)

This final rule amends the FAR to increase the Congressional committee notification threshold at FAR 50.102–3(b)(4) to \$150 million. This change will reflect the new threshold in 50 U.S.C. 1431.

Item IV—Technical Amendments

Administrative changes are made at FAR 2.101, 11.602, 17.104, 19.202–1, 19.702, 23.301, 25.403, 25.701, 52.207–6, 52.213–4, 52.223–11, 52.223–21, 52.244–5, 52.246–26, and 53.236–2.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2024–16285 Filed 7–29–24; 8:45 am]

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