FEDERAL REGISTER

Vol. 89 Friday,

No. 183 September 20, 2024

Pages 77011–77444

OFFICE OF THE FEDERAL REGISTER

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

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

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

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

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

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

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

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

How To Cite This Publication: Use the volume number and the page number. Example: 89 FR 12345.

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

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

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

Single copies/back copies:

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

FEDERAL AGENCIES

Subscriptions:

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

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

Contents

Federal Register

Vol. 89, No. 183

Friday, September 20, 2024

Separate Parts In This Issue

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Federal Register
Vol. 89, No. 183
Friday, September 20, 2024

Presidential Documents

Title 3—

The President

Notice of September 18, 2024

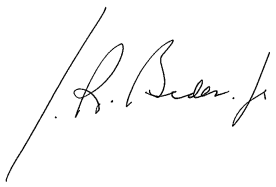
Continuation of the National Emergency With Respect to Persons Who Commit, Threaten To Commit, or Support Terrorism

On September 23, 2001, by Executive Order 13224, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks on September 11, 2001, in New York and Pennsylvania and against the Pentagon, and the continuing and immediate threat of further attacks against United States nationals or the United States.

On September 9, 2019, the President signed Executive Order 13886 to strengthen and consolidate sanctions to combat the continuing threat posed by international terrorism and to take additional steps to deal with the national emergency declared in Executive Order 13224, as amended.

The actions of persons who commit, threaten to commit, or support terrorism continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared in Executive Order 13224 of September 23, 2001, as amended, and the measures adopted to deal with that emergency, must continue in effect beyond September 23, 2024. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to persons who commit, threaten to commit, or support terrorism declared in Executive Order 13224, as amended.

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



THE WHITE HOUSE,
September 18, 2024.

[FR Doc. 2024–21722
Filed 9–19–24; 8:45 am]
Billing code 3395–F4–P

Rules and Regulations

Federal Register
Vol. 89, No. 183
Friday, September 20, 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.

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2146; Project Identifier AD–2024–00464–E; Amendment 39–22849; AD 2024–19–07]

RIN 2120–AA64

Airworthiness Directives; CFM International, S.A. Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain CFM International, S.A. (CFM) Model LEAP–1A32 engines. This AD was prompted by a report of multiple events of loss of thrust control during go-around. This AD requires replacement of the full set of fuel nozzles. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 7, 2024.

The FAA must receive comments on this AD by November 4, 2024.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–2146; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Mehdi Lamnyi, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7743; email: *mehdi.lamnyi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2024–2146; Project Identifier AD–2024–00464–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov*, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Mehdi Lamnyi, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

On January 11, 2024, an Airbus Model A321neo airplane powered by CFM Model LEAP–1A engines experienced a loss of thrust control on engine 1 during a go-around. On February 4, 2024, the same Airbus Model A321neo airplane experienced N1 fluctuation/reduction on engine 2 during a go-around. A manufacturer investigation determined that significantly higher than expected fuel nozzle coking was creating back pressure in the fuel system that then triggered the fuel pump relief valve to open, reducing fuel flow to the engine and resulting in a reduction in thrust. This condition, if not addressed, could result in loss of engine thrust control and reduced control of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

FAA's Determination

The FAA is issuing this AD because the agency determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires replacement of the full set of fuel nozzles.

Interim Action

The FAA considers this AD to be an interim action. The unsafe condition is still under investigation by the manufacturer and, depending on the results of that investigation, the FAA may consider further rulemaking action.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment

prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

The FAA justifies waiving notice and comment prior to adoption of this rule because no domestic operators use this product. It is unlikely that the FAA will receive any adverse comments or useful information about this AD from any U.S. operator. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b). In addition, for the foregoing reason(s), the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 0 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace the full set of fuel nozzles	40 work-hours × $85 per hour = $3,400	$126,000	$129,400	$0

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–19–07 CFM International, S.A.: Amendment 39–22849; Docket No. FAA–2024–2146; Project Identifier AD–2024–00464–E.

(a) Effective Date

This airworthiness directive (AD) is effective October 7, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to CFM International, S.A. (CFM) Model LEAP–1A32 engines installed on Airbus SAS Model A321–251NX airplanes having any of the following airplane serial numbers: 11200, 11420, 11473, 11609, 11698, 11791, 11815, 12136, 12314, and 12370.

(d) Subject

Joint Aircraft System Component (JASC) Code 7300, Engine Fuel and Control.

(e) Unsafe Condition

This AD was prompted by a report of multiple events of loss of thrust control during go-around. The FAA is issuing this AD to prevent the loss of engine thrust control. The unsafe condition, if not addressed, could result in reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) At the applicable times specified in paragraphs (g)(1)(i) and (ii) of this AD, replace the full set of fuel nozzles, on each engine, with parts eligible for installation.

(i) On either affected engine installed on the airplane: Before accumulating 600 flight cycles (FCs) since new or since last replacement of the full set of fuel nozzles, or within 10 FCs after the effective date of this AD, whichever occurs later.

(ii) On the other affected engine installed on the same airplane: Before accumulating 800 FCs since new or since last replacement of the full set of fuel nozzles, or within 10 FCs after the effective date of this AD, whichever occurs later.

(2) Thereafter, on each affected engine installed on the airplane, at intervals not to exceed 600 FCs since last replacement of the full set of fuel nozzles, replace the full set of fuel nozzles with parts eligible for installation.

(h) Definition

For the purpose of this AD, ''parts eligible for installation'' are new fuel nozzles or fuel nozzles made serviceable using CFM Component Maintenance Manual (CMM) 73–11–30 (CFM–TP.CM.056.), any revision.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520 Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of AIR–520 Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j)(1) of this AD and email to: *AMOC@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager

of the local flight standards district office/certificate holding district office.

(j) Additional Information

(1) For more information about this AD, contact Mehdi Lamnyi, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7743; email: *mehdi.lamnyi@faa.gov*.

(2) Material identified in this AD that is not incorporated by reference is available at CFM International, S.A., GE Aviation Fleet Support, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45215; phone: (877) 432–3272; email: *aviation.fleetsupport@ge.com*.

(k) Material Incorporated by Reference

None.

Issued on September 13, 2024.

Peter A. White,

Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2024–21408 Filed 9–19–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–0053; Airspace Docket No. 23–AWA–5]

RIN 2120–AA66

Amendment of Class C Airspace; Fort Lauderdale-Hollywood International Airport, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Fort Lauderdale-Hollywood International Airport, FL (FLL), Class C airspace by subdividing the southwest corner of Area E to reduce the lateral boundary of the FLL Class C airspace by creating a new ''Area H'' southwest of the existing Area E with a floor of 2,600 feet mean sea level (MSL) and a ceiling of 4,000 feet MSL. The FAA is making this amendment to enhance safety and enable more efficient operations for non-participating aircraft operations at North Perry Airport, FL (HWO). Additionally, this action makes multiple minor editorial amendments to the airspace description.

DATES: Effective date 0901 UTC, December 26, 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 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 7400.11J, 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, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Brian Vidis, Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies terminal airspace as required to preserve the safe and efficient flow of air traffic in the Fort Lauderdale, FL area.

History

The FAA published a NPRM for Docket No. FAA–2024–0053 in the **Federal Register** (89 FR 27691; April 18, 2024) proposing to amend the FLL, Class C airspace. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. Ten comments were received.

Discussion of Comments

The FAA received nine comments supporting the amendment of the Fort Lauderdale-Hollywood International Airport Class C airspace. One comment was received that was outside of the scope of this rulemaking.

Differences From the NPRM

Subsequent to publication of the NPRM, the FAA identified inconsistent boundary area language used in the Area A, B, D, E, F, and G descriptions to describe boundaries aligned with either Oakland Park Boulevard or Hollywood Boulevard. This action makes minor editorial amendments to clearly indicate the affected area description boundaries alignment with the roads by inserting the words ''aligned with'' to each description referencing the roads.

In the Area A description, ''(the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach)'' is changed to read ''(aligned with the easternmost portion of Oakland Park Boulevard located in Lauderdale Beach)''; and ''(the eastern most portion of Hollywood Boulevard located in Hollywood)'' is changed to read ''(aligned with the easternmost portion of Hollywood Boulevard located in Hollywood).'' In the Area B description, ''(the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach)'' is changed to read ''(aligned with the easternmost portion of Oakland Park Boulevard located in Lauderdale Beach).'' In the Area D description, ''(the eastern most portion of Hollywood Boulevard located in Hollywood)'' is changed to read ''(aligned with the easternmost portion of Hollywood Boulevard located in Hollywood).'' In the Area E description, ''(the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach)'' is changed to read ''(aligned with the easternmost portion of Oakland Park Boulevard located in Lauderdale Beach).'' In the Area F description, ''(the eastern most portion of Hollywood Boulevard located in Hollywood)'' is changed to read ''(aligned with the easternmost portion of Hollywood Boulevard located in Hollywood)''; and ''(the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach)'' is changed to read ''(aligned with the easternmost portion of Oakland Park Boulevard located in Lauderdale Beach).'' In the Area G description, ''(the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach)'' is changed to read ''(aligned with the easternmost portion of Oakland Park Boulevard located in Lauderdale Beach)''; and ''(the eastern most portion of Hollywood Boulevard located in Hollywood)'' is changed to read ''(aligned with the easternmost portion of Hollywood Boulevard located in Hollywood).''

These minor editorial amendments are administrative and do not affect the airspace boundaries or operating requirements.

Incorporation by Reference

Class C airspace designations are published in paragraph 4000 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 7400.11J, dated July 31, 2024, and effective September 15, 2024. FAA Order JO 7400.11J is publicly available as listed in the **ADDRESSES** section of this document. This amendment will be published in the next update to FAA Order JO 7400.11.

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

The Rule

This action amends 14 CFR part 71 by updating the FLL, Class C airspace description as published in FAA Order JO 7400.11J, Airspace Designations and Reporting Points (see the attached chart).

The FAA subdivides Area E of the FLL Class C airspace into two areas along a line extending between lat. 26°05′22″ N, long. 080°26′02″ W and lat. 26°01′38″ N, long. 080°23′44″ W. The portion of Area E northeast of this subdivision boundary remains with a floor of 1,500 feet MSL and a ceiling of 4,000 feet MSL. The FAA creates a new area southwest of the subdivision boundary with a floor of 2,600 feet MSL and a ceiling of 4,000 feet MSL. This new area is referred to as ''Area H''. As amended, Area E extends upward from 1,500 feet MSL to 4,000 feet MSL, and Area H extends upward from 2,600 feet MSL to 4,000 feet MSL. Additionally, the FAA adds an exclusion to Area H that excludes the overlying Miami Class B airspace from Area H. When flying either below the floor or above the ceiling of Area H, pilots are not required to contact air traffic control.

The FAA also makes a minor correction to the first line of the description's text header, listing just the city and state location of the airport. This change follows the FAA's current airspace description formatting requirements.

The FAA further makes a technical amendment to a geographic coordinate in the description of Area E. This minor amendment to the geographic coordinate more accurately describes the intersection of where Area E meets U.S. Route 27. Updating this coordinate does not change the boundary of Area E, but rather increases the accuracy of the road due to digital precision survey. The geographic coordinate is amended from ''lat. 26°06′02″ N, long. 080°26′27″ W.'' to ''lat. 26°05′22″ N, long. 080°26′02″ W.''

Additionally, the FAA makes a minor editorial change to the Area C description to clarify that Area C excludes the overlying Miami Class B airspace.

Regulatory Notices and Analyses

The FAA considers the impacts of regulatory actions under a variety of executive orders and other requirements. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify the costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year. The current threshold after adjustment for inflation is $183 million using the most current (2023) Implicit Price Deflator for the Gross Domestic Product. This portion of the preamble presents the FAA's analysis of the economic impacts of this rule.

In conducting these analyses, the FAA has determined that this rule: will have a minimal cost impact; is not a ''significant regulatory action'' as defined in section 3(f)(1) of Executive Order 12866 as amended by Executive Order 14094; will not have a significant economic impact on a substantial number of small entities; will not create unnecessary obstacles to the foreign commerce of the United States; and will not impose an unfunded mandate on State, local, or tribal governments, or the private sector.

This final rule made minor editorial changes to the airspace description and clarified the description of Area C. These amendments are administrative and have no economic impact on the industry. In addition, the FAA created the new ''Area H'' southwest of the existing Area E with a floor of 2,600 feet MSL and a ceiling of 4,000 feet MSL. The remaining Area E continues to extend upward from 1,500 feet MSL to 4,000 feet MSL. The new Area H modification to the FLL Class C does not diminish the level of safety for aircraft. The FAA believes the final rule will increase safety and enable more efficient operations for non-participating aircraft operations at HWO. Currently, pilots must fly outside of the existing Area E to avoid communication with the air traffic controller. By doing so, they compete for a small strip of airspace to the south of the existing Area E. The new Area H will provide more airspace for non-participating pilots to remain outside of the FLL Class C airspace where they are not required to contact air traffic control. However, air traffic control services such as traffic advisories and safety alerts are still available to aircraft in that airspace if a pilot chooses to contact air traffic control.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.'' To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines it will, it must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify, and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This final rule made minor editorial changes to the airspace description and clarified the description of Area C. In addition, the FAA created the new ''Area H'' southwest of the existing Area E with a floor of 2,600 feet MSL and a ceiling of 4,000 feet MSL. The FAA is

taking this action to increase safety and enable more efficient operations for non-participating aircraft operations at HWO. Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and determined that it should improve safety and is consistent with the Trade Agreements Act. The FAA has assessed the potential impact of this final rule and determined that it will improve safety and is consistent with the Trade Agreements Act.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a state, local, or tribal government or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. The FAA determined that the final rule will not result in the expenditure of $183 million or more by State, local, or tribal governments, in the aggregate, or the private sector, in any year. This final rule does not contain such a mandate; therefore, the Act does not apply.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that this final rule has no new information collection requirement.

Environmental Review

The FAA has determined that this action of amending Class C airspace at FLL qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points); and paragraph 5–6.5k, which categorically excludes from further environmental review the publication of existing air traffic control procedures that do not essentially change existing tracks, create new tracks, change altitude, or change concentration of aircraft on these tracks. As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact statement.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024, is amended as follows:

Paragraph 4000 Class C Airspace.

* * * * *

ASO FL C Fort Lauderdale, FL [Amended]

Fort Lauderdale-Hollywood International Airport, FL
(Lat. 26°04′18″ N, long. 080°08′59″ W)

Boundaries.

Area A. That airspace extending upward from the surface to and including 4,000 feet MSL within a 7 nautical mile radius of Fort Lauderdale-Hollywood International Airport, excluding the airspace north of lat. 26°10′03″ N, (aligned with the easternmost portion of Oakland Park Boulevard located in Lauderdale Beach), and bounded on the south by a 15 nautical mile radius of Miami International Airport, and on the southeast by lat. 26°00′39″ N, (aligned with the easternmost portion of Hollywood Boulevard located in Hollywood).

Area B. That airspace extending upward from 1,200 feet MSL to and including 4,000 feet MSL beginning at a point northwest of Fort Lauderdale-Hollywood International Airport at the intersection of a 7 nautical mile radius of Fort Lauderdale-Hollywood International Airport and lat. 26°10′03″ N, thence moving west along lat. 26°10′03″ N, (aligned with the easternmost portion of Oakland Park Boulevard located in Lauderdale Beach), to a point that intersects State Road 869/Sawgrass Expressway, thence moving south along State Road 869/Sawgrass Expressway, [continuing south across the intersection of State Road 869/Sawgrass Expressway, Interstate 595, and Interstate 75], and continuing south along Interstate 75 to a point that intersects a 15 nautical mile radius of Miami International Airport, thence moving clockwise along the 15 nautical mile radius to a point that intersects the 7 nautical mile radius of Fort Lauderdale-Hollywood International Airport, thence moving clockwise along the 7 nautical mile radius to the point of beginning.

Area C. That airspace extending upward from 3,000 feet MSL to and including 4,000 feet MSL, excluding the airspace within the Miami, FL, Class B airspace area, within an area bounded on the north by lat. 26°13′53″ N, (aligned with the eastern portion of Atlantic Boulevard located in Pompano Beach), on the west by a 25 nautical mile radius of Fort Lauderdale-Hollywood International Airport, on the south by lat. 25°57′48″ N, on the southeast by a 15 nautical mile radius of Miami International Airport, and on the east by U.S. Route 27.

Area D. That airspace extending upward from 3,000 feet MSL to and including 4,000 feet MSL within an area bounded on the north by lat. 26°13′53″ N, (aligned with the eastern portion of Atlantic Boulevard located in Pompano Beach), on the east by a 25 nautical mile radius of Fort Lauderdale-Hollywood International Airport, on the south by lat. 26°00′39″ N, (aligned with the easternmost portion of Hollywood Boulevard located in Hollywood), and on the west by a 20 nautical mile radius of Fort Lauderdale-Hollywood International Airport.

Area E. That airspace extending upward from 1,500 feet MSL to and including 4,000

feet MSL within an area bounded on the north by lat. 26°10′03″ N, (aligned with the easternmost portion of Oakland Park Boulevard located in Lauderdale Beach), on the east by the north-south portion of Interstate 75 and State Road 869/Sawgrass Expressway, on the south by a 15 nautical mile radius of Miami International Airport, between Interstate 75/State Road 869/Sawgrass Expressway and lat. 26°01′38″ N, long. 080°23′44″ W, on the southwest by a line extending from lat. 26°01′38″ N, long. 080°23′44″ W, to lat. 26°05′22″ N, long. 080°26′02″ W, and on the west by a line beginning at lat. 26°05′22″ N, long. 080°26′02″ W, and follows U.S. Route 27 north to the point of beginning.

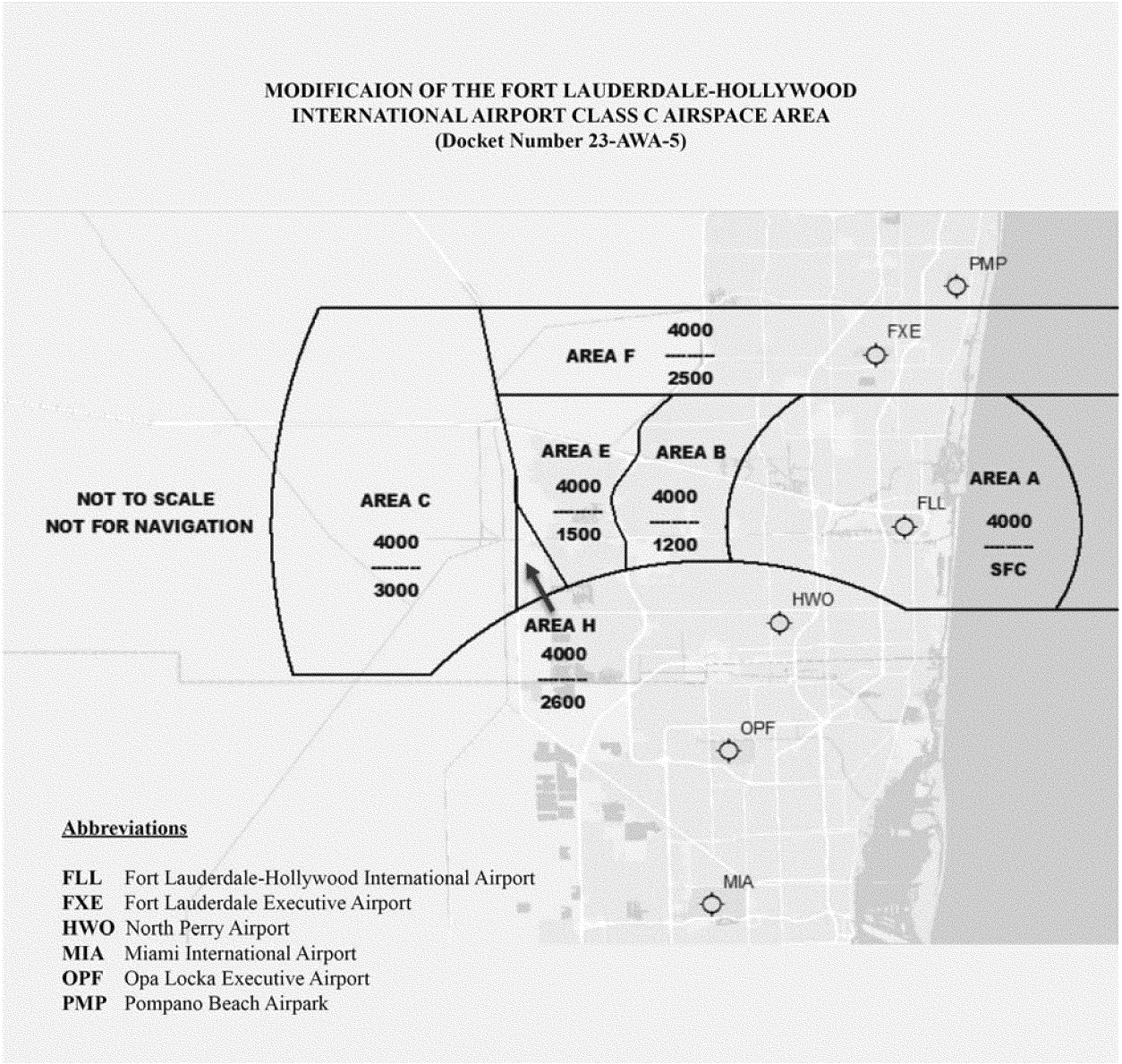
Area F. That airspace extending upward from 2,500 feet MSL to and including 4,000 feet MSL beginning northwest of Fort Lauderdale-Hollywood International Airport at a point that intersects U.S. Route 27 and lat. 26°13′53″ N, (aligned with the eastern portion of Atlantic Boulevard located in Pompano Beach), thence moving east along lat. 26°13′53″ N, to a point that intersects a 20 nautical mile radius of Fort Lauderdale-Hollywood International Airport, thence moving clockwise along the 20 nautical mile radius to a point that intersects lat. 26°00′39″ N, (aligned with the easternmost portion of Hollywood Boulevard located in Hollywood), thence moving west to a point that intersects a 15 nautical mile radius of Fort Lauderdale-Hollywood International Airport, thence moving counter-clockwise along the 15 nautical mile radius to a point that intersects lat. 26°10′03″ N, (aligned with the easternmost portion of Oakland Park Boulevard located in Lauderdale Beach), thence moving west along lat. 26°10′03″ N, to a point that intersects U.S. Route 27, thence moving north along U.S. Route 27 to the point of beginning.

Area G. That airspace extending upward from 1,200 feet MSL to and including 4,000 feet MSL beginning northeast of Fort Lauderdale-Hollywood International Airport at a point that intersects a 7 nautical mile radius of Fort Lauderdale-Hollywood International Airport and lat. 26°10′03″ N, (aligned with the easternmost portion of Oakland Park Boulevard located in Lauderdale Beach), thence moving clockwise along the 7 nautical mile radius to a point that intersects lat. 26°00′39″ N, (aligned with the easternmost portion of Hollywood Boulevard located in Hollywood), thence moving east along lat. 26°00′39″ N, to a point that intersects a 15 nautical mile radius of Fort Lauderdale-Hollywood International Airport, thence moving counter-clockwise along the 15 nautical mile radius to a point that intersects lat. 26°10′03″ N, thence moving west along lat. 26°10′03″ N, to the point of beginning.

Area H. That airspace extending upward from 2,600 feet MSL to and including 4,000 feet MSL, excluding the airspace within the Miami, FL, Class B airspace area. The area is bounded on the west by the north-south portion of U.S. Route 27 beginning at the intersection of a 15 nautical mile radius of Miami International Airport to lat. 26°05′22″ N, long. 080°26′02″ W, on the east by a line beginning at lat. 26°05′22″ N, long. 080°26′02″ W, moving southeast to lat. 26°01′38″ N, long. 080°23′44″ W, and on the south by a 15 nautical mile radius from Miami International Airport between lat. 26°01′38″ N, long. 080°23′44″ W and U.S. Route 27.

* * * * *

BILLING CODE 4910–13–P



Issued in Washington, DC, on September 16, 2024.

Frank Lias,

Manager, Rules and Regulations Group.

[FR Doc. 2024–21465 Filed 9–19–24; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 16

[Docket No. FDA–2024–N–3654]

RIN 0910–AI97

Regulatory Hearing Before the Food and Drug Administration; General Provisions; Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is issuing a direct final rule amending the Scope section of our regulation that provides for a regulatory hearing before the Agency in order to clarify when such hearings are available. We are revising the list of statutory provisions enumerated in the Scope section of the regulation by adding one statutory reference and removing a different statutory reference. The Agency is issuing these amendments directly as a final rule because we believe they are noncontroversial and FDA anticipates no significant adverse comments.

DATES: This rule is effective February 3, 2025. Either electronic or written comments on the direct final rule or its companion proposed rule must be submitted by December 4, 2024. If FDA receives no significant adverse comments within the specified comment period, the Agency intends to publish a document confirming the effective date of the final rule in the

Federal Register within 30 days after the comment period on this direct final rule ends. If timely significant adverse comments are received, the Agency will publish a document in the **Federal Register** withdrawing this direct final rule within 30 days after the comment period on this direct final rule ends.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of December 4, 2024. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2024–N–3654 for ''Regulatory Hearing Before the Food and Drug Administration; General Provisions; Amendments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Robert Schwartz, Center for Tobacco Products, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 1–877–287–1373, *CTPRegulations@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary

A. Purpose of the Direct Final Rule

FDA is issuing this direct final rule to amend § 16.1 (21 CFR 16.1) to revise the list of statutory provisions enumerated in the Scope section of the regulation and thus clarify the circumstances under which the Agency intends to use the procedures in part 16 (21 CFR part 16) for regulatory hearings. This rule revises the list in § 16.1 by removing one statutory reference and adding a different statutory reference under the same section of the same statute. Because we believe the rule contains noncontroversial changes and we do not expect significant adverse comment on the rulemaking, we are using direct final rulemaking procedures, as described in this document.

B. Summary of the Major Provisions of the Direct Final Rule

The direct final rule revises § 16.1, Scope, in order to clarify the circumstances under which the Agency intends to use the procedures in part 16 for regulatory hearings. The rule amends the list of statutory provisions enumerated in § 16.1. Specifically, the rule removes the reference to section 906(e)(1)(B) of the Federal Food, Drug, & Cosmetic Act (FD&C Act) (21 U.S.C. 387f(e)(1)(B)) (the statutory provision that requires FDA to afford an opportunity for an oral hearing prior to promulgating a tobacco product manufacturing practice (TPMP) requirements regulation) and adds a reference to section 906(e)(2)(E) of the FD&C Act (the statutory provision that provides a petitioner an opportunity for an informal hearing on an order issued on the petitioner's request for temporary or permanent exemption or variance from TPMP requirements).

C. Legal Authority

FDA is issuing this rule under provisions of the FD&C Act related to

regulations and hearings (21 U.S.C. 371), and general provisions respecting control of tobacco products, (21 U.S.C. 387f(e)).

D. Costs and Benefits

This direct final rule clarifies the circumstances under which the Agency intends to use the procedures in part 16 for a regulatory hearing. Potentially affected entities would include manufacturers of finished and bulk tobacco products who choose to request an exemption or variance from TPMP requirements and are afforded an opportunity for a hearing on orders regarding such requests. Because this rule merely clarifies which of its existing procedures FDA intends to use when conducting certain types of hearings under the FD&C Act, costs and benefits of this rule are expected to be minimal.

II. Direct Final Rulemaking Procedures

In the document titled ''Guidance for FDA and Industry: Direct Final Rule Procedures,'' announced and provided in the **Federal Register** of November 21, 1997 (62 FR 62466), FDA described its procedures on when and how we will employ direct final rulemaking. The guidance may be accessed at *https://www.fda.gov/RegulatoryInformation/Guidances/ucm125166.htm.* We have determined that this rule is appropriate for direct final rulemaking because we believe that it includes only noncontroversial amendments and we anticipate no significant adverse comments. Consistent with our procedures on direct final rulemaking, FDA is also publishing elsewhere in this issue of the **Federal Register** a companion proposed rule to clarify when the Agency intends to use the procedures under the regulation for regulatory hearings before the Food and Drug Administration. The companion proposed rule provides a procedural framework within which the rule may be finalized in the event that the direct final rule is withdrawn because of any significant adverse comments. The comment period for the direct final rule runs concurrently with the comment period for the companion proposed rule. Any comments received in response to the companion proposed rule will be considered as comments regarding the direct final rule.

We are providing a comment period on the direct final rule of 75 days after the date of publication in the **Federal Register**. If we receive any significant adverse comments, we intend to withdraw this direct final rule before its effective date by publication of a notice in the **Federal Register**. A significant adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. In determining whether an adverse comment is significant and warrants terminating a direct final rulemaking, we will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered significant or adverse under this procedure. A comment recommending a regulation change in addition to those in this direct final rule would not be considered a significant adverse comment unless the comment states why the rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to part of this rule and that part can be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not subject to the significant adverse comment.

If any significant adverse comments are received during the comment period, FDA will publish, before the effective date of this direct final rule, a notice of significant adverse comment and withdraw the direct final rule. If we withdraw the direct final rule, any comments received will be applied to the proposed rule and will be considered in developing a final rule using the usual notice-and-comment procedures.

If FDA receives no significant adverse comments during the specified comment period, FDA intends to publish a document confirming the effective date within 30 days after the comment period ends.

III. Background

Part 16 provides procedures for regulatory hearings held before FDA. The procedures in part 16 apply, among other circumstances, when a statute or regulation provides a person an opportunity for a hearing on a regulatory action. In 2012, FDA amended part 16 [1] to add several statutory and regulatory provisions throughout 21 CFR parts 1, 7, and 16, to include reference to tobacco products, where appropriate, so that tobacco products would be subject to the same general requirements that apply to other FDA-regulated products. The 2012 amendments revised § 16.1, which governs the scope of part 16, to include references to certain sections of the FD&C Act that provide an opportunity for a hearing. Among other changes, the 2012 amendments added a reference to section 906(e)(1)(B) of the FD&C Act to § 16.1. This rule further amends § 16.1, as described below.

The Agency is amending the list of statutory provisions enumerated in § 16.1(b)(1) by removing the reference to section 906(e)(1)(B) and adding a reference to section 906(e)(2)(E) of the FD&C Act. The list of statutory provisions enumerated in § 16.1(b)(1) included section 906(e)(1)(B) of the FD&C Act, which requires FDA to afford the public an opportunity for an oral hearing before issuing any TPMP requirements regulation. The purpose of an oral hearing under section 906(e)(1)(B) of the FD&C Act is to allow the public to provide viewpoints, opinions, and information on proposed TPMP rules. The procedures under part 16 are not in alignment with the purpose and goals of the oral hearing required under section 906(e)(1)(B) of the FD&C Act. For example, part 16 includes procedures to resolve a ''genuine and substantial issue of fact'' that is in dispute and the right to confront and cross-examine witnesses, which are not well suited for allowing the public to provide viewpoints, opinions, and information to FDA regarding TPMP rules. Accordingly, FDA is removing the reference to section 906(e)(1)(B) of the FD&C Act from part 16 as other available procedures are better suited to achieve its purposes.

The Agency is also adding a reference to section 906(e)(2)(E) of the FD&C Act to § 16.1(b)(1). Section 906(e)(2)(E) of the FD&C Act provides an opportunity for an informal hearing after the issuance of an order related to a petitioner's request for a temporary or permanent exemption or variance from TPMP requirements. The list of statutory provisions in § 16.1(b)(1) that specifies the statutory and regulatory provisions under which regulatory hearings under part 16 are available did not previously include section 906(e)(2)(E) of the FD&C Act. FDA is adding this reference to clarify that it intends to use the procedures in part 16 when conducting such hearings.

FDA is amending § 16.1 to clarify when it intends to use the procedures in part 16 for regulatory hearings. The amended rule is more consistent with the statute as it aligns the purposes of the two hearings referenced above with more appropriate hearing procedures

[1] ''Further Amendments to General Regulations of the Food and Drug Administration to Incorporate Tobacco Products,'' Food and Drug Administration, 77 FR 5171, February 2, 2012.

under FDA's regulations. It also clarifies the availability of hearings under part 16 to tobacco product manufacturers.

IV. Legal Authority

FDA is issuing this rule under provisions of the FD&C Act related to regulations and hearings (21 U.S.C. 371), and general provisions respecting control of tobacco products (21 U.S.C. 387f). Section 701 (21 U.S.C. 371) vests FDA with ''the authority to promulgate regulations for the efficient enforcement of [the FD&C Act].'' Section 906(e) of the FD&C Act includes provisions regarding TPMP requirements regulations and temporary and permanent exemptions and variances from TPMP requirements.

V. Description of the Direct Final Rule

We are revising § 16.1, Scope, to remove a reference to ''Section 906(e)(1)(B) of the FD&C Act relating to the establishment of good manufacturing practice requirements for tobacco products'' and add a reference to ''Section 906(e)(2)(E) of the FD&C Act relating to exemptions or variances from tobacco product manufacturing practice requirements.'' The amended rule clarifies the availability of the procedures in part 16 for regulatory hearings to include situations when a petitioner has requested a temporary or permanent exemption or variance from TPMP requirements.

VI. Economic Analysis of Impacts

We have examined the impacts of the final rule under Executive Order 12866, Executive Order 13563, Executive Order 14094, the Regulatory Flexibility Act (5 U.S.C. 601–612), the Congressional Review Act/Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801, Pub. L. 104–121), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Orders 12866, 13563, and 14094 direct us to assess all benefits, costs, and transfers of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Rules are ''significant'' under Executive Order 12866 Section 3(f)(1) (as amended by Executive Order 14094) if they ''have an annual effect on the economy of $200 million or more (adjusted every 3 years by the Administrator of [the Office of Information and Regulatory Affairs (OIRA)] for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or tribal governments or communities.'' OIRA has determined that this final rule is not a significant regulatory action under Executive Order 12866 Section 3(f)(1).

Because this rule is not likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in the Congressional Review Act/Small Business Regulatory Enforcement Fairness Act, OIRA has determined that this rule does not fall within the scope of 5 U.S.C. 804(2).

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this rule merely clarifies which of its existing procedures FDA intends to use when conducting certain types of hearings under the FD&C Act, we certify that the final rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes estimates of anticipated impacts, before issuing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $183 million, using the most current (2023) Implicit Price Deflator for the Gross Domestic Product. This final rule will not result in an expenditure in any year that meets or exceeds this amount.

This rule clarifies the procedures FDA intends to use when conducting certain types of hearings under the FD&C Act. When the TPMP rule becomes final and effective, potentially affected entities, including manufacturers of finished and bulk tobacco products, who choose to request an exemption or variance from TPMP requirements would be afforded an opportunity for a hearing on orders regarding such requests.

We do not know how many manufacturers would pursue petitioning for an exemption or variance from TPMP requirements, once the Agency has published a final TPMP rule to establish such requirements and that rule is in effect, nor do we know how many requirements may be included in each petition. We reason that a manufacturer would petition for an exemption or variance from a TPMP requirement only if compliance with said requirement is not a financially viable choice compared to the cost of a filing a petition. Because this rule merely clarifies which of its existing procedures FDA intends to use when conducting certain types of hearings under the FD&C Act, costs and benefits of this rule are expected to be minimal.

VII. Analysis of Environmental Impact

We have determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Paperwork Reduction Act of 1995

This direct final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

IX. Federalism

We have analyzed this direct final rule in accordance with the principles set forth in Executive Order 13132. We have determined that this direct final rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

X. Consultation and Coordination With Indian Tribal Governments

We have analyzed this direct final rule in accordance with the principles set forth in Executive Order 13175. We have determined that the rule does not contain policies that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Accordingly, we conclude that the rule does not contain policies that have tribal implications as defined in the Executive Order and, consequently, a tribal summary impact statement is not required.

List of Subjects in 21 CFR Part 16

Administrative practice and procedure.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 16 is amended as follows:

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

■ 1. The authority citation for part 16 continues to read as follows:

Authority: 15 U.S.C. 1451–1461; 21 U.S.C. 141–149, 321–394, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201–262, 263b, 364.

■ 2. Amend § 16.1 by revising paragraph (b)(1) to read as follows:

§ 16.1 Scope.

* * * * *

(b) * * *

(1) The statutory provisions are as follows:

TABLE 1 TO PARAGRAPH (b)(1)

Section 304(g) of the Federal Food, Drug, and Cosmetic Act relating to the administrative detention of devices and drugs (see §§ 800.55(g) and 1.980(g) of this chapter).
Section 304(h) of the Federal Food, Drug, and Cosmetic Act relating to the administrative detention of food for human or animal consumption (see part 1, subpart k of this chapter).
Section 419(c)(2)(D) of the Federal Food, Drug, and Cosmetic Act relating to the modification or revocation of a variance from the requirements of section 419 (see part 112, subpart P of this chapter).
Section 515(e)(1) of the Federal Food, Drug, and Cosmetic Act relating to the proposed withdrawal of approval of a device premarket approval application.
Section 515(e)(3) of the Federal Food, Drug, and Cosmetic Act relating to the temporary suspension of approval of a premarket approval application.
Section 515(f)(6) of the Federal Food, Drug, and Cosmetic Act relating to a proposed order revoking a device product development protocol or declaring a protocol not completed.
Section 515(f)(7) of the Federal Food, Drug, and Cosmetic Act relating to revocation of a notice of completion of a product development protocol.
Section 516(b) of the Federal Food, Drug, and Cosmetic Act regarding a proposed regulation to ban a medical device with a special effective date.
Section 518(b) of the Federal Food, Drug, and Cosmetic Act relating to a determination that a device is subject to a repair, replacement, or refund order or that a correction plan, or revised correction plan, submitted by a manufacturer, importer, or distributor is inadequate.
Section 518(e) of the Federal Food, Drug, and Cosmetic Act relating to a cease distribution and notification order or mandatory recall order concerning a medical device for human use.
Section 520(f)(2)(D) of the Federal Food, Drug, and Cosmetic Act relating to exemptions or variances from device current good manufacturing practice requirements (see § 820.1(d)).
Section 520(g)(4) and (g)(5) of the Federal Food, Drug, and Cosmetic Act relating to disapproval and withdrawal of approval of an application from an investigational device exemption (see §§ 812.19(c), 812.30(c), 813.30(d), and 813.35(c) of this chapter).
Section 903(a)(8)(B)(ii) of the Federal Food, Drug, and Cosmetic Act relating to the misbranding of tobacco products.
Section 906(e)(2)(E) of the Federal Food, Drug, and Cosmetic Act relating to exemptions or variances from tobacco product manufacturing practice requirements.
Section 910(d)(1) of the Federal Food, Drug, and Cosmetic Act relating to the withdrawal of an order allowing a new tobacco product to be introduced or delivered for introduction into interstate commerce.
Section 911(j) of the Federal Food, Drug, and Cosmetic Act relating to the withdrawal of an order allowing a modified risk tobacco product to be introduced or delivered for introduction into interstate commerce.

* * * * *

§ 16.1 [Amended]

■ 3. Effective December 18, 2025, in § 16.1, amend paragraph (b)(2) by redesignating table 1 to paragraph (b)(2) as table 2 to paragraph (b)(2).

Dated: September 6, 2024.

Robert M. Califf,

Commissioner of Food and Drugs.

[FR Doc. 2024–21231 Filed 9–19–24; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2024–0032; FRL–11685–02–R9]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

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

DATES: This rule is effective October 21, 2024.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2024–0032. All documents in the docket are listed on the *https://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 *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

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

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

Table of Contents

I. Proposed Action

On April 2, 2024 (89 FR 22648), the EPA proposed to approve the following rule into the California SIP.

TABLE 1—SUBMITTED RULE

Local agency	Rule	Rule title	Adopted	Submitted
SDCAPCD	45	Federally Mandated Ozone Nonattainment Fees.	06/09/2022	07/20/2022

We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received two comments from members of the public. One comment was supportive of our proposed action. We thank the commenter for their support and input. The other comment was not germane to this action.

III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is approving this rule into the California SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of SDCAPCD Rule 45, ''Federally Mandated Ozone Nonattainment Fees,'' adopted on June 9, 2022, which addresses the CAA section 185 fee program requirements. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

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

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

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

The State did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898 of achieving EJ for communities with EJ concerns.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 19, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and

recordkeeping requirements, Volatile organic compounds.

Dated: September 16, 2024.

Martha Guzman Aceves,

Regional Administrator, Region IX.

For the reasons stated in the preamble, the Environmental Protection Agency amends part 52, chapter I, title 40 of the Code of Federal Regulations as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(615) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(615) The following regulation was submitted electronically on July 20, 2022, by the Governor's designee as an attachment to a letter of the same date.

(i) *Incorporation by reference.*

(A) San Diego County Air Pollution Control District.

(*1*) Rule 45, ''Federally Mandated Ozone Nonattainment Fees,'' adopted on June 9, 2022.

(*2*) [Reserved]

(B) [Reserved]

(ii) [Reserved]

* * * * *

[FR Doc. 2024–21494 Filed 9–19–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 1068

General Compliance Provisions for Highway, Stationary, and Nonroad Programs

CFR Correction

This rule is being published by the Office of the Federal Register to correct an editorial or technical error that appeared in the most recent annual revision of the Code of Federal Regulations.

■ In Title 40 of the Code of Federal Regulations, Part 1060 to End, revised as of July 1, 2024, amend § 1068.250 by reinstating paragraph (i) to read as follows:

§ 1068.250 Extending compliance deadlines for small businesses under hardship.

* * * * *

(i) We may include reasonable requirements on an approval granted under this section, including provisions to recover or otherwise address the lost environmental benefit. For example, we may require that you meet a less stringent emission standard or buy and use available emission credits.

* * * * *

[FR Doc. 2024–21640 Filed 9–19–24; 8:45 am]

BILLING CODE 0099–10–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 300–3, 301–11, 301–50, 301–52, 301–70, 301–71, and 301–73

[FTR Case 2023–03; Docket No. GSA–FTR–2023–0023, Sequence No. 2]

RIN 3090–AK66

Federal Travel Regulation; Updating Glossary of Terms and E-Gov Travel Service Requirements

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: GSA is issuing a final rule amending the Federal Travel Regulation (FTR) to remove outdated information on deployment of the original E-Gov Travel Service (ETS) contract as agencies prepare for the next generation of ETS, known as ETSNext, to provide updated policy, and make miscellaneous editorial corrections.

DATES: Effective October 21, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Cheryl D. McClain-Barnes, Office of Government-wide Policy at 202–208–4334 or email at *travelpolicy@gsa.gov* for clarification of content. For information pertaining to the status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov*. Please cite FTR case 2023–03.

SUPPLEMENTARY INFORMATION:

I. Background

In November 2003, GSA's Federal Acquisition Service awarded master contracts for the first iteration of ETS, a web-based end-to-end travel management service. GSA published FTR Amendment 2003–07 (68 FR 71026) in December 2003, to amend the FTR on the required use of the new travel service. The original ETS implementation policies included timelines with specific dates for agencies to deploy ETS and migrate to the new platform. This information regarding ETS implementation is no longer needed because all mandatory users have deployed ETS (either initially, or upon expiration of an exception to its use) since it became available to civilian agencies in the first quarter of 2004.

Contracts awarded under ETS2, the second iteration of ETS, are set to expire in June 2027. GSA published a proposed rule (88 FR 89650) on December 28, 2023, seeking to amend the FTR to remove outdated policy and provide updated policy as agencies prepare for the implementation of the next generation of ETS known as ''E-Gov Travel Service, Next Generation'' or ''ETSNext'' for short. Accordingly, this rule finalizes the proposed changes to FTR parts 300–3, 301–11, 301–50, 301–52, 301–70, 301–71, and 301–73. GSA is also amending the FTR to make minor editorial changes for clarity.

Specifically, GSA is relocating a definitional term at § 301–50.6, namely ''online self-service booking tool,'' to part 300–3, ''Glossary of Terms,'' and updating the definition; renaming the term ''Online booking tool (OBT);'' and renumbering sections in part 301–50 in logical order. GSA is further updating the ''Glossary of Terms'' by capitalizing the initialism ''ETS'' in the body of the definition of ''E-Gov Travel Service (ETS)'' to be consistent with the definition heading.

GSA is also removing and reserving § 301–73.101 and relocating relevant language from note 1 of the section regarding agency funding responsibility for ETS to a note to § 301–73.2. Further, GSA is revising the note to § 301–73.106 to remove duplicate text regarding travel agent services that align with present requirements for ETS2, but may not align with the terms of successor travel management service contract(s). Finally, GSA is adding a reference to the ''extenuating circumstances'' exception to the use of ETS and Travel Management Service (TMS) to existing exceptions at §§ 301–50.4 and 301–73.102.

II. Discussion of the Final Rule

A. Summary of Significant Changes

GSA has not made any significant changes to the regulatory language from the proposed to final rule. However, of note, the proposed rule duplicated some technical changes to an FTR final rule that took effect on April 16, 2024 (89 FR 12250); GSA removed these duplicate technical changes from this final rule as

they are already in effect under the other rule.

B. Analysis of Public Comments

GSA received one comment to the proposed rule. The commenter wants GSA to retain the original ETS deployment date in the FTR for ease of reference. A major purpose of this amendment is to remove the deployment date for the original ETS contract because it is no longer relevant as all mandatory users have deployed ETS (either initially, or upon expiration of an exception to its use) since it became available to civilian agencies in the first quarter of 2004. GSA also notes that the commenter can access historical versions of the FTR on the web. Accordingly, GSA will not change the final rule based on this comment.

C. Expected Cost Impact to the Public

This rule will not result in an expected cost impact to the public.

III. Executive Orders 12866, 13563, and 14094

Executive Order (E.O.) 12866 (Regulatory Planning and Review) directs 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 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. E.O. 14094 (Modernizing Regulatory Review) amends section 3(f) of E.O. 12866 and supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in E.O. 12866 and E.O. 13563. The Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) has determined that this rulemaking is not a significant regulatory action and, therefore, it was not reviewed under section 6(b) of E.O. 12866.

IV. Congressional Review Act

OIRA has determined that this rule is not a ''major rule'' under 5 U.S.C. 804(2). Title II, Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (codified at 5 U.S.C. 801–808), also known as the Congressional Review Act or CRA, generally provides that before a rule may take effect, unless excepted, 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. This rule is excepted from CRA reporting requirements prescribed under 5 U.S.C. 801 as it relates to agency management or personnel under 5 U.S.C. 804(3)(B).

V. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* This final rule is also exempt from Administrative Procedure Act pursuant to 5 U.S.C. 553(a)(2) because it applies to agency management or personnel. Therefore, an Initial Regulatory Flexibility Analysis was not performed.

VI. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FTR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 41 CFR Parts 300–3, 301–11, 301–50, 301–52, 301–70, 301–71, and 301–73

Administrative practice and procedure, Government contracts, Government employees, Individuals with disabilities, Travel and transportation expenses.

Robin Carnahan,

Administrator.

Therefore, GSA amends 41 CFR parts 300–3, 301–11, 301–50, 301–52, 301–70, 301–71, and 301–73 as set forth below:

PART 300–3—GLOSSARY OF TERMS

■ 1. The authority citation for part 300–3 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 121(c); 49 U.S.C. 40118; 5 U.S.C. 5738; 5 U.S.C. 5741–5742; 20 U.S.C. 905(a); 31 U.S.C. 1353; E.O 11609, as amended, 3 CFR, 1971–1975 Comp., p. 586, Office of Management and Budget Circular No. A–126, Revised May 22, 1992.

■ 2. Amend § 300–3.1 by—
■ a. Revising the definition of ''E-Gov Travel Service (ETS)''; and
■ b. Adding in alphabetical order the definition ''Online booking tool (OBT)''.

The revision and addition read as follows:

§ 300–3.1 What do the following terms mean?

* * * * *

E-Gov Travel Service (ETS)—The Government-contracted, end-to-end travel management service that automates and consolidates the Federal travel process in a self-service environment, covering all aspects of official travel, including travel planning, authorization, reservations, ticketing, expense reimbursement, and travel management reporting. The ETS provides the services of a Federal travel management program as specified in § 301–73.1(a), (b), and (e) of this title.

* * * * *

Online booking tool (OBT)—An internet-based system that permits travelers to make reservations for transportation (*e.g.,* air, rail, and car rental) and lodging. ETS and agency Travel Management Service providers incorporate an OBT.

* * * * *

PART 301–11—PER DIEM EXPENSES

■ 3. The authority citation for part 301–11 continues to read as follows:

Authority: 5 U.S.C. 5707.

■ 4. Amend § 301–11.25 by—
■ a. Designating the note to § 301–11.25 as note 1 to § 301–11.25; and
■ b. Revising newly designated note 1 to § 301–11.25.

The revision reads as follows:

§ 301–11.25 Must I provide receipts to substantiate my claimed travel expenses?

* * * * *

Note 1 to § 301–11.25: Hard copy receipts should be electronically scanned and submitted with your electronic travel claim.

PART 301–50—ARRANGING FOR TRAVEL SERVICES

■ 5. The authority citation for part 301–50 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 121(c).

■ 6. Revise § 301–50.3 to read as follows:

§ 301–50.3 Must I use the ETS or TMS to arrange my travel?

Yes, if you are an employee of an agency as defined in § 301–1.1 of this chapter, you must use the ETS, or your agency's TMS (if an exception to ETS use is granted), to make your travel arrangements. If you are an employee of the Department of Defense, the legislative branch, or the Government of the District of Columbia, you must arrange your travel in accordance with your agency's TMS. Your agency may grant, or be granted, an exception to required use of TMS or ETS under § 301–50.4 or § 301–73.102 or § 301–73.104 of this chapter.

■ 7. Revise § 301–50.4 to read as follows:

§ 301–50.4 May I be granted an exception to the required use of TMS or ETS?

Yes, your agency head or their designee may grant an individual case exception to required use of your agency's TMS or to required use of ETS, but only when your travel meets one of the following conditions:

(a) Such use would result in an unreasonable burden on mission accomplishment (*e.g.,* emergency travel is involved and TMS or ETS is not accessible; you are performing invitational travel; or you have special needs or require disability accommodations under part 301–13 of this chapter).

(b) Such use would compromise a national security interest.

(c) Such use might endanger your life (*e.g.,* you are traveling under the Federal witness protection program, or you are a threatened law enforcement or investigative officer traveling under part 301–31 of this chapter).

(d) Such use is prevented due to extenuating circumstances (see § 301–50.6).

§ 301–50.5 [Amended]

■ 8. Amend § 301–50.5 by—

■ a. Removing from the section heading the words ''the E-Gov Travel Service'' and adding in their place ''ETS'';

■ b. Removing the citations ''§ 301–50.4 or § 301–73.104'' and adding ''§ 301–50.4 or § 301–73.102 or § 301–73.104'' in their place; and

■ c. Removing the words ''E-Gov Travel Service'' and adding in their place ''ETS''.

§ 301–50.6 [Removed]

■ 9. Remove § 301–50.6.

§ 301–50.7 [Redesignated as § 301–50.6]

■ 10. Redesignate § 301–50.7 as § 301–50.6.

■ 11. Revise newly redesignated § 301–50.6 to read as follows:

§ 301–50.6 Am I required to use the OBT offered by ETS?

Yes, you are required to use the OBT offered by ETS, or your agency's TMS (if an exception to ETS use is granted), unless extenuating circumstances prevent such use. Some extenuating circumstances for which you may not be able to use an OBT are:

(a) When you are attending a conference where the conference sponsor has negotiated with one or more lodging facilities to set aside a specific number of rooms for conference attendees and to ensure that a set aside room is available to you, you are required to book lodging directly with the lodging facility;

(b) When your travel is to a remote location and it is not possible to book lodging accommodations through the TMS or ETS; or

(c) When such travel arrangements are so complex and circumstances will not allow you to book your travel through an OBT.

PART 301–52—CLAIMING REIMBURSEMENT

■ 12. The authority citation for part 301–52 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 121(c); Sec. 2., Pub. L. 105–264, 112 Stat. 2350 (5 U.S.C. 5701 note).

■ 13. Revise § 301–52.3 to read as follows:

§ 301–52.3 Am I required to file a travel claim (voucher) in a specific format, and must the claim be signed?

You must use the format prescribed by ETS to file all your travel claims unless your agency has been granted, or has granted you, an exception from required use of the ETS in accordance with § 301–50.4, § 301–73.102, or § 301–73.104 of this chapter. If the prescribed travel claim is hardcopy, the claim must be signed in ink. Any alterations or erasures to your hardcopy travel claim must be initialed. If your agency has electronic document processing, use your electronic signature where required.

PART 301–70—INTERNAL POLICY AND PROCEDURE REQUIREMENTS

■ 14. The authority citation for part 301–70 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 121(c); Sec. 2, Pub. L. 105–264, 112 Stat. 2350 (5 U.S.C. 5701, note); OMB Circular No. A–126, revised May 22, 1992; OMB Circular A–123, Appendix B, revised August 27, 2019.

■ 15. Amend § 301–70.1 by revising paragraph (d) to read as follows:

§ 301–70.1 How must we administer the authorization and payment of travel expenses?

* * * * *

(d) Must require employees to use the ETS to process travel authorizations and claims for travel expenses, unless an exception has been granted under § 301–50.4, § 301–73.102, or § 301–73.104 of this chapter.

PART 301–71—AGENCY TRAVEL ACCOUNTABILITY REQUIREMENTS

■ 16. The authority citation for part 301–71 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 121(c); Sec. 2, Pub. L. 105–264, 112 Stat. 2350 (5 U.S.C. 5701 note).

■ 17. Amend § 301–71.201 by revising paragraph (e) to read as follows:

§ 301–71.201 What are the reviewing official's responsibilities?

* * * * *

(e) The required receipts, statements, justifications, etc., are attached to the travel claim and the electronic travel claim includes scanned electronic images of such documents.

PART 301–73—TRAVEL PROGRAMS

■ 18. The authority citation for part 301–73 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 121(c).

■ 19. Amend § 301–73.1 by revising paragraph (e) to read as follows:

§ 301–73.1 What does the Federal travel management program include?

* * * * *

(e) A Travel Management Reporting System that covers financial and other travel characteristics required by the Agency Payments for Employee Travel, Transportation, and Relocation annual report (see §§ 300–70.1 through 300–70.4 of this title).

* * * * *

■ 20. Revise § 301–73.2 to read as follows:

§ 301–73.2 What are our responsibilities as participants in the Federal travel management program?

As a participant in the Federal travel management program, you must—

(a) Designate an authorized representative to administer the program;

(b) Ensure that you have internal policies and procedures in place to govern use of the program;

(c) Require employees in your agency to use ETS in lieu of TMS (unless an exception has been granted in accordance with § 301–50.4 of this chapter or § 301–73.102 or § 301–73.104); and

(d) Ensure that any agency-contracted TMS complements and supports ETS and data exchange in an efficient and cost effective manner.

Note 1 to § 301–73.2: Your agency is responsible for providing the funds and personnel resources required to support ETS transition and data exchange, and for establishing interfaces between the ETS standard data output and applicable business systems (*e.g.,* financial, human resources, etc.).

■ 21. Revise the heading of subpart B to read as follows:

Subpart B—E-Gov Travel Service and Travel Management Service

■ 22. Revise § 301–73.100 to read as follows:

§ 301–73.100 Are agencies and their employees required to use the ETS?

Yes, unless you have an exception to the use of the ETS (see § 301–50.4 of the chapter and §§ 301–73.102 and 301–73.104), agencies and employees must use the ETS for all temporary duty travel. The Department of Defense, the legislative branch, and the Government of the District of Columbia are not subject to this requirement.

§ 301–73.101 [Removed and Reserved]

■ 23. Remove and reserve § 301–73.101.

■ 24. Revise § 301–73.102 to read as follows:

§ 301–73.102 May we grant a traveler an exception from required use of TMS or ETS?

(a) Yes, your agency head or their designee may grant an individual case by case exception to required use of your agency's TMS or to required use of ETS, but only when travel meets one of the following conditions:

(1) Such use would result in an unreasonable burden on mission accomplishment (*e.g.,* emergency travel is involved and TMS or ETS is not accessible; the traveler is performing invitational travel; or the traveler has special needs or requires disability accommodations in accordance with part 301–13 of this chapter).

(2) Such use would compromise a national security interest.

(3) Such use might endanger the traveler's life (*e.g.,* the individual is traveling under the Federal witness protection program, or is a threatened law enforcement or investigative officer traveling under part 301–31 of this chapter).

(4) Such use is prevented due to extenuating circumstances (see § 301–50.6 of this chapter).

(b) Any exception granted must be consistent with any contractual terms applicable to your TMS or ETS, and must not cause a breach of contract terms.

■ 25. Revise § 301–73.103 to read as follows:

§ 301–73.103 What must we do when we approve an exception to the use of the ETS?

The head of your agency or their designee must approve an exception to the use of the ETS under § 301–50.4 of this chapter or § 301–73.102 in writing or through electronic means.

■ 26. Amend § 301–73.104 by—

■ a. Removing from the section heading the words ''E-Gov Travel Service'' and adding in their place ''ETS''; and

■ b. Revising paragraphs (a)(1), (2), and (4), (b), and (c).

The revisions read as follows:

§ 301–73.104 May further exceptions to the required use of the ETS be approved?

(a) * * *

(1) The agency has presented a business case analysis to the General Services Administration that proves that it has an alternative TMS to the ETS that is in the best interest of the Government and the taxpayer (*i.e.,* the agency has evaluated the economic and service values offered by the ETS contractor(s) compared to those offered by the agency's current or proposed TMS and has determined that the agency's current or proposed TMS is a better value);

(2) The agency has security, secrecy, or protection of information issues that cannot be mitigated through security provided by the ETS contractor(s);

* * * * *

(4) The agency has critical and unique technology or business requirements that cannot be accommodated by the ETS contractor(s) at all or at an acceptable and reasonable price (*e.g.,* majority of travel is group-travel).

(b) As a condition of receiving an exception, the agency must agree to conduct annual business case reviews of its TMS and must provide to the ETS Program Management Office (PMO) data elements required by the ETS PMO in a format prescribed by the ETS PMO.

(c) Requests for exceptions should be addressed to the Administrator of General Services and sent to *travelpolicy@gsa.gov* with full justification and/or analysis addressing paragraphs (a)(1) through (4) of this section.

■ 27. Revise § 301–73.105 to read as follows:

§ 301–73.105 What are the consequences of an employee not using the ETS or TMS?

If an employee does not use the ETS (or your agency's designated TMS where an exception to ETS applies), the employee is responsible for any additional costs (see § 301–50.5 of this chapter) resulting from the failure to use the ETS or your TMS. In addition, you may take appropriate disciplinary actions.

■ 28. Amend § 301–73.106 by—

■ a. Designating the note to § 301–73.106 as note 1 to § 301–73.106; and

■ b. Revising newly designated note 1 to § 301–73.106.

The revision reads as follows:

§ 301–73.106 What are the basic services that should be covered by a TMS?

* * * * *

Note 1 to § 301–73.106: The ETS fulfills the basic services of a TMS.

[FR Doc. 2024–21467 Filed 9–19–24; 8:45 am]

BILLING CODE P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 23–234; FCC 24–63]

Schools and Libraries Cybersecurity Pilot Program

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, an information collection associated with the rules for the Schools and Libraries Cybersecurity Pilot Program contained in the Commission's *Schools and Libraries Cybersecurity Pilot Program Report and Order,* WC Docket No. 23–234; FCC 24–63. This document is consistent with the *Schools and Libraries Cybersecurity Pilot Program Report and Order,* which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of the new information collection requirements.

DATES: The amendments to §§ 54.2004, 54.2005, 54.2006 and 54.2008 published at 89 FR 61282, July 30, 2024 are effective September 20, 2024.

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. For additional information concerning the Paperwork Reduction Act information collection requirements contact Nicole Ongele at (202) 418–2991 or via email: *Nicole.Ongele@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Commission submitted revised information collection requirements for review and approval by OMB, as required by the Paperwork Reduction Act (PRA) of 1995, on August 14, 2024, which were approved by OMB on September 13, 2024. The information collection requirements are contained in the Commission's *Schools and Libraries*

Cybersecurity Pilot Program Report and Order, WC Docket No. 23–234; FCC 24–63 published at 89 FR 61282, July 30, 2024. The OMB Control Number is 3060–1323. If you have any comments on the burden estimates listed in the following, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, Room 3.310, 45 L Street NE, Washington, DC 20554. Please include the OMB Control Number, 3060–1323, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

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 and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received OMB approval on September 13, 2024, for the information collection requirements contained in 47 CFR 54.2004, 54.2005, 54.2006 and 54.2008 published at 89 FR 61282, July 30, 2024.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number.

The foregoing notification is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1323.

OMB Approval Date: September 13, 2024.

OMB Expiration Date: September 30, 2027.

Title: Schools and Libraries Cybersecurity Pilot Program.

Form Number: FCC Forms 470, 471, 472, 474—Cybersecurity, 484 and 488—Cybersecurity.

Type of Review: New information collection.

Respondents: State, local or tribal government institutions, and other not-for-profit institutions.

Number of Respondents and Responses: 23,000 respondents; 201,100 responses.

Estimated Time per Response: 4 hours for FCC Form 470—Cybersecurity, 5 hours for FCC Form 471—Cybersecurity, 1.75 hours for FCC Forms 472/474—Cybersecurity, 15 hours for FCC Form 484, and 1 hour for FCC Form 488—Cybersecurity.

Frequency of Response: On occasion and annual reporting requirements, and recordkeeping requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 1–4, 201–202, 254, 303(r), and 403 of the Communications Act, 47 U.S.C. 151–154, 201–202, 254, 303(r), and 403.

Total Annual Burden: 743,900 hours.

Total Annual Cost: No cost.

Needs and Uses: The information collected is designed to obtain information from applicants and service providers that will be used by the Commission and/or USAC to evaluate the applications and select participants to receive funding under the Cybersecurity Pilot Program, make funding determinations and disburse funding in compliance with applicable federal laws for payments made through the Pilot program.

The Commission will begin accepting applications to participate in the Cybersecurity Pilot Program after publication of its Report and Order and notice of OMB approval of the Cybersecurity Pilot Program information collection in the **Federal Register**.

On June 11, 2024, the Commission adopted the *Schools and Libraries Cybersecurity Pilot Program Report and Order* in WC Docket No. 23–234, 89 FR 61282, July 30, 2024. The Commission adopted a three-year pilot program within the Universal Service Fund to provide up to $200 million available to support cybersecurity and advanced firewall services for eligible schools and libraries. Accordingly, the Commission adopted and added subpart T to part 54 of its rules.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–21466 Filed 9–19–24; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 240916–0238]

RIN 0648–BN13

Atlantic Highly Migratory Species; Adjustments to the 2024 North Atlantic Albacore Tuna, North and South Atlantic Swordfish, and Atlantic Bluefin Tuna Reserve Category Quotas

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

ACTION: Final rule; temporary quota adjustment.

SUMMARY: NMFS modifies the baseline annual U.S. North Atlantic albacore tuna (northern albacore) quota, effective until changed, in accordance with the baseline quota adjustment process. NMFS also adjusts the 2024 baseline quotas for U.S. North Atlantic albacore tuna (northern albacore), North and South Atlantic swordfish, and the Atlantic bluefin tuna Reserve category based on the 2023 underharvest and applicable international quota transfer. These temporary adjustments are effective through December 31, 2024. Full annual baseline allocations will be available to U.S. harvesters starting January 1, 2025. These actions are necessary to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT) as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: The final rule is effective September 20, 2024. The temporary quota adjustments are effective September 20, 2024, through December 31, 2024.

ADDRESSES: Supporting documents, including environmental assessments and environmental impact statements, as well as the 2006 Consolidated Atlantic HMS Fishery Management Plan (FMP) and its amendments, may be downloaded from the Highly Migratory Species (HMS) website at *https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species.* These documents also are available upon request from Anna Quintrell or Steve Durkee at the email addresses and telephone numbers below.

FOR FURTHER INFORMATION CONTACT: Anna Quintrell (301–427–8503, *anna.quintrell@noaa.gov*) or Steve Durkee (301–427–8503, *steve.durkee@noaa.gov*).

SUPPLEMENTARY INFORMATION: Atlantic HMS northern albacore, swordfish, and bluefin tuna fisheries, are managed under the authority of ATCA (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). The HMS FMP and its amendments are implemented by regulations at 50 CFR part 635. Section 635.27(a) implements the ICCAT-recommended quota and describes the annual quota adjustment process for bluefin tuna. Section 635.27(c) implements the ICCAT-recommended quotas and describes the quota adjustment process for both North and South Atlantic swordfish. Section 635.27(e) implements the northern albacore annual quota recommended by ICCAT and describes the annual northern albacore quota adjustment process. NMFS is required under the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements such as the International Convention for the Conservation of Atlantic Tunas, which is implemented domestically pursuant to ATCA.

Note that, consistent with how the quotas are established, weight information for northern albacore and bluefin tuna below is shown in metric tons (mt) whole weight (ww), and weight information for swordfish is shown in both dressed weight (dw) and ww.

Northern Albacore Annual Quota and Adjustment Process

As described below, in accordance with the recent ICCAT Recommendation 23–05, this final rule sets the U.S. allocation and annual baseline quota for northern albacore at 889.4 mt NOAA conducted the analysis supporting this rule and described the findings in the Environmental Assessment (EA). This final rule further adjusts that baseline quota to 1,067.3 mt for 2024 based on an underharvest of the 2023 adjusted quota.

At its 2021 annual meeting, under Recommendation 21–04, ICCAT adopted a management procedure for northern albacore. The management procedure was domestically implemented via a 2022 final rule (87 FR 33049, June 1, 2022). At that time, NMFS considered different quota alternatives in an environmental assessment (EA). NOAA analyzed the effects of the maximum possible quota pursuant to the northern albacore management procedure in the EA, and the preferred alternative was selected based on that analysis. In other words, NOAA analyzed and preferred an alternative in the EA where the maximum annual baseline quota could be up to 950 mt if adopted by ICCAT through application of the management procedure within Recommendation 21–04. Additionally, the 2022 final rule that NMFS would implement any new annual baseline quotas through final rulemaking, assuming no new management measures are adopted or other relevant changes in circumstances occur; that NMFS annually would provide notice to the public in the **Federal Register** of the baseline northern albacore quota with any annual adjustments as allowable for over- and underharvest, as appropriate; and that NMFS would evaluate the need for any additional environmental analyses or for proposed and final rulemaking when a new quota is adopted by ICCAT and then implemented by NMFS. Because the U.S northern albacore allocation under Recommendation 23–05 is within the range analyzed in the 2022 EA, and because there are no new management measures other than the change in the baseline quota, this action is consistent with the 2022 final rule. Therefore, NMFS is proceeding directly to a final rule to implement this change in annual baseline quota.

Consistent with the northern albacore quota regulations at § 635.27(e), in this final rule and temporary quota adjustment, NMFS adjusts the U.S. annual northern albacore quota for allowable underharvest in the previous year. NMFS makes such adjustments consistent with ICCAT carryover limits, and when complete catch information for the prior year is available and finalized. The maximum underharvest that an ICCAT Contracting Party may carry forward from one year to the next is 25 percent of its baseline quota, which, for the 2023 baseline quota (711.5 mt), was 177.9 mt for the United States. For 2023, the adjusted quota was 889.4 mt (711.5 mt plus 177.9 mt of 2022 underharvest). In 2023, U.S. landings of northern albacore were 180.5 mt, which is an underharvest of 708.9 mt of the 2023 adjusted quota. This underharvest exceeds the 177.9-mt underharvest carryover limit allowed under Recommendation 21–04, which applied for 2023; therefore, only 177.9 mt may be carried forward to the 2024 fishing year. Thus, the adjusted 2024 northern albacore quota will be 1,067.3 mt (889.4 mt plus 177.9 mt underharvest) (table 1).

TABLE 1—2024 NORTHERN ALBACORE QUOTA

Northern albacore quota (mt ww)	2023	2024
Baseline Quota	711.5	889.4
Underharvest from Previous Year	578.8	708.9
Underharvest Carryover from Previous Year †	(+)177.9	(+)177.9
Adjusted Quota (Baseline + Underharvest)	889.4	1,067.3

† Allowable underharvest carryover is capped at 25 percent of the 2023 baseline quota allocation (177.9 mt ww).

North and South Atlantic Swordfish Annual Quota and Adjustment Process

North Atlantic Swordfish

Consistent with the North Atlantic swordfish quota regulations at § 635.27(c), in this final rule, NMFS adjusts the U.S. annual North Atlantic swordfish quota for allowable underharvest in the previous year. NMFS makes such adjustments consistent with ICCAT carryover limits and when complete catch information for the prior year is available and finalized. Consistent with ICCAT Recommendation 17–02 as amended by Recommendation 23–04, the U.S. North Atlantic swordfish baseline annual quota through 2024 is 2,937.6 mt dw (3,907 mt ww).

Relevant to the North Atlantic swordfish quota adjustment in this action, and as codified at § 635.27(c)(3), the maximum underharvest that the United States may carry forward from one year to the next is 15 percent of the baseline quota, which equates to 440.6

mt dw (586 mt ww). For 2023, the adjusted North Atlantic swordfish quota was 3,378.2 mt dw (2,937.6 mt dw baseline quota plus 440.6 mt dw of 2022 underharvest). In 2023, U.S. landings of North Atlantic swordfish, which includes landings and dead discards, was 1,008.3 mt dw, which is an underharvest of 2,369.9 mt dw of the 2023 adjusted quota. This underharvest exceeds the 440.6-mt dw underharvest carryover limit allowed under Recommendation 23–04; therefore, only 440.6 mt dw may be carried forward to the 2024 fishing year.

Additionally, in accordance with ICCAT Recommendation 23–04, the United States will transfer 150.4 mt dw (200 mt ww) of its North Atlantic swordfish quota to Morocco, which serves to facilitate cooperative management efforts between ICCAT contracting parties. Morocco agreed to adhere to ICCAT management measures, reporting requirements, and monitoring of the transferred quota.

Thus, the adjusted 2024 North Atlantic swordfish quota will be 3,227.8 mt dw (2,937.6 mt dw baseline quota, plus 440.6 mt dw carryover, minus 150.4 mt dw transfer to Morocco). In accordance with regulations at § 635.27(c)(1)(i), 50 mt dw of the adjusted quota will be allocated to the Reserve category for inseason adjustments and research, 300 mt dw of the adjusted quota will be allocated to the incidental category, which covers recreational landings and landings by incidental swordfish permit holders, and the remainder of the adjusted quota (2,877.8 mt dw) will be allocated to the directed category, which will be split equally between two seasons in 2024 (January through June, and July through December) (table 2).

South Atlantic Swordfish

Consistent with the South Atlantic swordfish quota regulations at § 635.27(c), NMFS adjusts the U.S. annual South Atlantic swordfish quota for allowable underharvest, if any, in the previous year. NMFS makes such adjustments, if needed, consistent with ICCAT carryover limits and when complete catch information for the prior year is available and finalized. Consistent with ICCAT Recommendation 17–03 as amended by Recommendation 22–04, the U.S. South Atlantic swordfish baseline annual quota through 2026 is 75.2 mt dw (100 mt ww), and the amount of underharvest that the United States can carry forward from one year to the next is 75.2 mt dw (100 mt ww) (table 2). In 2023 there were no landings of South Atlantic swordfish by U.S. fishermen, which is an underharvest of 75.2 mt dw of the 2023 adjusted quota. Of that underharvest, 75.2 mt dw may be carried forward to the 2024 fishing year. Under Recommendations 17–03 and 22–04, the United States continues to transfer a total of 75.2 mt dw (100 mt ww) to other countries. These transfers are 37.6 mt dw (50 mt ww) to Namibia, 18.8 mt dw (25 mt ww) to Côte d'Ivoire, and 18.8 mt dw (25 mt ww) to Belize. Thus, the adjusted 2024 South Atlantic swordfish quota will be 75.2 mt dw.

TABLE 2—2024 NORTH AND SOUTH ATLANTIC SWORDFISH QUOTAS

North Atlantic swordfish quota (mt dw)	2023	2024
Baseline Quota	2,937.6	2,937.6
International Quota Transfers *	N/A	(−)150.4
Underharvest from Previous Year	2,371.3	2,369.9
Underharvest Carryover from Previous Year †	(+)440.6	(+)440.6
Adjusted Quota (Baseline + Carryover + Transfer)	3,378.2	3,227.8
Quota Allocation:		
Directed Category	3,028.2	2,877.8
Incidental Category	300	300
Reserve Category	50	50
South Atlantic swordfish quota (mt dw)	**2023**	**2024**
Baseline Quota	75.2	75.2
International Quota Transfers **	(−)75.2	(−)75.2
Underharvest from Previous Year	75.2	75.2
Underharvest Carryover from Previous Year †	75.2	75.2
Adjusted quota (Baseline + Transfers + Carryover)	75.2	75.2

* Under ICCAT Recommendation 23–04, the United States transferred 150.4 mt dw (200 mt ww) to Morocco.

† Allowable underharvest carryover is capped at 15 percent of the baseline quota allocation (440.6 mt dw) for the North Atlantic and 75.2 dw (100 mt ww) for the South Atlantic.

** Under ICCAT Recommendations 17–03 and 22–04, the United States transfers 75.2 mt dw (100 mt ww) annually to Namibia (37.6 mt dw, 50 mt ww), Côte d'Ivoire (18.8 mt dw, 25 mt ww), and Belize (18.8 mt dw, 25 mt ww).

Bluefin Tuna Annual Quota and Adjustment Process

Consistent with the regulations regarding annual bluefin tuna quota adjustment at § 635.27(a), in this final rule, NMFS announces the addition of available underharvest in the bluefin tuna Reserve category. Specifically, the adjusted 2024 Reserve category quota is now 161.5 mt.

In 2022, NMFS implemented relevant provisions of an ICCAT western Atlantic bluefin tuna recommendation (Recommendation 21–07) in a final rule (87 FR 33049, June 1, 2022). That rulemaking implemented the annual U.S. baseline quota of 1,316.1 mt, plus an additional 25 mt to account for bycatch related to pelagic longline fisheries in the Northeast Distant gear restricted area (NED), for a total quota of 1,341.1 mt. At the 2022 annual meeting, a management procedure was implemented for bluefin tuna (Recommendation 22–09). This management procedure set the western Atlantic bluefin tuna TAC for 2023 through 2025 at the same level as 2021 (Recommendation 22–10). As such, the total annual U.S. bluefin tuna quota for 2024 remains 1,341.1 mt (see § 635.27(a)). Consistent with Recommendation 22–10, the maximum underharvest that the United States can carry forward from one year to the next is 10 percent of its total annual quota, which equates to 134.1 mt.

In 2023, the adjusted U.S. quota was 1,447.7 mt, and the U.S. catch, including landings and dead discards, totaled 1,311.3 mt. Thus, the 2023 underharvest was 136.4 mt, which exceeds the underharvest carryover limit (134.1 mt). As such, the United States is carrying forward the allowable 134.1 mt underharvest to 2024. Per § 635.27(a) this underharvest augments the Reserve category quota. The 2024 Reserve category quota of 38.2 mt was recently adjusted to 27.4 mt (89 FR 58074, July 17, 2024). Thus, the adjusted 2024 Reserve category quota is now, through this action, 161.5 mt (27.4 mt plus 134.1 mt underharvest) (table 3).

TABLE 3—2024 BLUEFIN TUNA QUOTA

Bluefin tuna quota (mt ww)	2023	2024
Baseline Quota	1,316.1	1,316.1
Total Quota (Baseline Quota + Bycatch Allocation) *	1,341.1	1,341.1
Underharvest from Previous Year	106.5	136.4
Underharvest Carryover from Previous Year †	(+)106.5	(+)134.1
Adjusted Quota (Total quota + Carryover)	1,447.7	1,475.2
Baseline Reserve Category Quota	‡ 38.2	** 38.2
Adjusted Reserve Category Quota (Reserve quota + Carryover)	133.9	161.5

Values in this table are subject to rounding error.
* The United States is allocated an additional 25 mt to account for bycatch related to pelagic longline fisheries in the Northeast Distant gear restricted area (NED).
† Allowable underharvest carryover is capped at 10 percent of the total annual quota (134.1 mt ww).
‡ The 2023 baseline Reserve category quota of 38.2 mt was adjusted to 27.4 mt (88 FR 48136, July 26, 2023).
** The 2024 baseline Reserve category quota of 38.2 mt was adjusted to 27.4 mt (89 FR 58074, July 17, 2024).

Classification

NMFS is issuing this rule pursuant to 305(d) of the Magnuson-Stevens Act (16 U.S.C. 1855(d)) and regulations at 50 CFR part 635. This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Assistant Administrator for NMFS (AA) has determined that this final rule is consistent with the 2006 Consolidated HMS FMP and its amendments, ATCA, and other applicable law.

The AA finds that pursuant to 5 U.S.C. 553(b)(B), it is unnecessary to provide prior notice of, and an opportunity for public comment on, this action for the following reasons. The rulemaking processes for amendment 13 to the 2006 Consolidated HMS FMP (87 FR 59966, October 3, 2022), the 2022 Atlantic bluefin tuna and northern albacore quota rule (87 FR 33049, June 1, 2022), and the 2016 North and South Atlantic Swordfish Quota Adjustment Rule (81 FR 48719, July 26, 2016) specifically provided prior notice of, and accepted public comment on, the formulaic quota adjustment processes for the northern albacore, Atlantic bluefin tuna, and swordfish fisheries and the manner in which they occur. The June 1, 2022, final rule also anticipated that NMFS would implement U.S. northern albacore quotas as recommended by ICCAT in accordance with the management procedure, up to the analyzed maximum baseline quota of 950 mt. The baseline quota would remain at 711.5 mt annually until changed by ICCAT. NMFS anticipated implementing any new baseline quotas through final rulemaking, assuming no new management measures are adopted or other relevant changes in circumstances occur. Additionally, consistent with current practice, NMFS annually would provide notice to the public in the **Federal Register** of the baseline northern albacore quota with any annual adjustments as allowable for over- and underharvest, as appropriate. NMFS would evaluate the need for any additional environmental analyses or for proposed and final rulemaking when a new quota is adopted by ICCAT and implemented by NMFS. These processes have not changed, and the application of these formulas to the relevant quotas in this temporary final rule is a routine action that does not have discretionary aspects requiring additional agency consideration. Additionally, similar actions to adjust the quotas based on the previous year's underharvest occur annually, and the regulated community expects such adjustments in 2024. For all of these reasons, it is unnecessary to provide prior notice and an additional opportunity for public comment on this action.

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the date of effectiveness and to make the rule effective upon the date of publication in the **Federal Register**. As described above, this rule is a routine action that applies existing quota adjustment formulas, and that the regulated community anticipates annually and does not need time to prepare for. The 2024 fisheries for northern albacore, North and South Atlantic swordfish, and bluefin tuna opened on January 1, 2024. NMFS monitors northern albacore, North and South Atlantic swordfish, and bluefin tuna annual catch and uses the previous year's catch data to calculate the legally allowable quotas for the current year. However, these adjustments to the 2024 quotas could not occur earlier in the year because the final 2023 landings data—which first must collected, compiled, and submitted in accordance with ICCAT reporting requirements—were not available until late July. Given that these fisheries are currently open and permit-holders are actively fishing, delaying the effective date of this rule's quota adjustments could lead to premature closure of one or more affected fisheries if the unadjusted quota limit is reached within the next 30 days. Such an event would negatively affect the regulated fisheries' reasonable opportunity to catch the available quotas, contrary to Magnuson-Stevens Act requirements and overall purpose of sound conservation and management of fisheries—including highly migratory species—in a manner that achieves optimum yield. Furthermore, delaying the effective date of this rule would delay the application of North and South Atlantic swordfish quota transfers pursuant to ICCAT obligations for U.S. quota limits, contrary to requirements under ATCA. It would also delay NMFS' ability to transfer quota inseason, as needed, from the bluefin Reserve category to other fishing categories to ensure fishing opportunities and avoid premature fishery closures. As with the quota adjustments, such a delay would be contrary to the Magnuson-Stevens Act requirement to allow U.S. vessels

reasonable opportunity to harvest highly migratory species allocations and quotas under relevant international fishery agreements such as the International Convention for the Conservation of Atlantic Tunas.

This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

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

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: September 16, 2024.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, NMFS amends 50 CFR part 635 as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

■ 2. In § 635.27, revise paragraph (e)(1) to read as follows:

§ 635.27 Quotas.

* * * * *

(e) * * *

(1) *Annual quota.* Consistent with ICCAT recommendations, the ICCAT northern albacore management procedure, and domestic management objectives, the baseline annual quota, before any adjustments, is 889.4 mt. The total quota, after any adjustments made per paragraph (e)(2) of this section, is the fishing year's total amount of northern albacore tuna that may be landed by persons and vessels subject to U.S. jurisdiction.

* * * * *

[FR Doc. 2024–21507 Filed 9–19–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 240327–0090; RTID 0648–XE271]

Pacific Halibut Fisheries of the West Coast; 2024 Catch Sharing Plan; Inseason Action

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

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: NMFS announces inseason action for the Pacific halibut recreational fishery in the International Pacific Halibut Commission's (IPHC) regulatory Area 2A off Washington, Oregon, and California. Specifically, this action transfers 12,000 pounds (lb; 5.4 metric tons (mt)) of the Area 2A Pacific halibut recreational allocation, in net pounds, from the Oregon recreational fishery to the Washington recreational fishery. This action is intended to provide opportunity for anglers to achieve the total Area 2A recreational fishery allocation.

DATES:

Effective: September 20, 2024, through December 31, 2024.

Comments due date: Comments will be accepted on or before October 7, 2024.

ADDRESSES: Submit your comments, identified by NOAA–NMFS–2024–0014, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2024–0014 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Jennifer Quan, Regional Administrator, c/o Melissa Mandrup, West Coast Region, NMFS, 501 W Ocean Blvd., Long Beach, CA 90802.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post them for public viewing on *https://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Docket: This rule is accessible via the internet at the Office of the Federal Register website at *https://www.federalregister.gov/.* Background information and documents are available at the NOAA Fisheries website at *https://www.fisheries.noaa.gov/action/2024-pacific-halibut-recreational-fishery* and at the Pacific Fishery Management Council's website at *https://www.pcouncil.org.* Other comments received may be accessed through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Melissa Mandrup, phone: 562–980–3231 or email: *melissa.mandrup@noaa.gov.*

SUPPLEMENTARY INFORMATION: On April 3, 2024, NMFS published a final rule approving changes to the Pacific halibut Area 2A Catch Sharing Plan (CSP) and implementing recreational (sport) management measures for the 2024 Area 2A recreational fisheries (89 FR 22966), as authorized by the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773–773(k)). The Pacific Fishery Management Council's (Council) 2024 CSP provides a recommended framework for NMFS' annual management measures and subarea allocations based on the 2024 Area 2A Pacific halibut catch limit also known as the fishery constant exploitation yield (FCEY) of 1.47 million lb (666.8 mt) set by the IPHC. The Area 2A catch limit and recreational fishery allocations were adopted by the IPHC and were published in the **Federal Register** on March 18, 2024 (89 FR 19275), after acceptance by the Secretary of State, with concurrence from the Secretary of Commerce, in accordance with 50 CFR 300.62. The final rule published on April 3, 2024 (89 FR 22966), established 50 CFR 300.63(c)(6)(i)(F), which allows NMFS to transfer portions of state recreation allocations inseason to another state under certain circumstances (*e.g.,* if a state is projected to not utilize its respective recreational allocation by the end of the fishing season and another state could utilize additional pounds to avoid closing a fishing season early).

NMFS has determined that, due to lower than expected landings through September 5, 2024, and projected catches for the remainder of the season off Oregon (October 31), Oregon is projected to not utilize its full recreational allocation by the end of the

fishing season. Therefore, inseason action to transfer a portion of the Oregon recreational fishery allocation to another state is warranted at this time to provide additional opportunity for fishery participants to achieve the total Area 2A fishery allocations. As stated above, inseason transfers of a portion of state recreational allocations to another state are authorized by Federal regulations at 50 CFR 300.63(c)(6)(i)(F) and the final rule (89 FR 22966, April 3, 2024).

Catch projections as of September 5, 2024, indicate that Washington is likely to reach their statewide recreational fishery allocation before their season closure date (September 30), and California is projected to stay within their State recreation allocation through their season closure dates (November 15 for the Northern California subarea and December 31 for the South of Point Arena subarea). After consulting with Council staff, the Washington Department of Fish and Wildlife (WDFW), the Oregon Department of Fish and Wildlife (ODFW), and the California Department of Fish and Wildlife, it was determined that inseason action transferring a portion of Oregon's recreational allocation to Washington is necessary in order to allow the Area 2A allocation objectives to be met, by providing anglers additional opportunity to achieve the coastwide recreational allocation, with little risk of that allocation being exceeded. Additionally, this action is necessary to meet the management objectives of the 2024 CSP and is consistent with the inseason management provisions allowing the transfer of portions of a state's recreational allocations to another state. California is, at this time, unlikely to use any additional net pounds in recreational Pacific halibut allocation.

Catch monitoring reports for the recreational fisheries in Washington, Oregon, and California are available on their respective State Fish and Wildlife agency websites. NMFS will continue to monitor recreational catch obtained via state sampling procedures. The recreational fisheries will close on September 30 in Washington, October 31 in Oregon, and November 15 or December 31 in California, or when there is not sufficient allocation for another full day of fishing in each State (or relevant area within California). Should future catch projections indicate that there are additional unused pounds in the Area 2A recreational allocation available to transfer from one state to another, and that there is a need for such a transfer to allow an area to remain open for its full fishing season, then NMFS may take future inseason action to reallocate that unused allocation. Any inseason action, including closures, will be announced in accordance with Federal regulations at 50 CFR 300.63(c) and on the NMFS hotline at (206) 526–6667 or (800) 662–9825.

Pacific Halibut Reallocation

For 2024, the Area 2A Pacific halibut CSP allocated 290,158 lb (131.6 mt) to the Washington recreational fishery, 283,784 lb (128.7 mt) to the Oregon recreational fishery, and 38,220 lb (17.3 mt) to the California recreational fishery. The best available information on September 5, 2024, indicated that the Oregon recreational fishery would not harvest their full allocation by the end of their season (October 31); the Washington recreational fishery is projected to reach their allocation prior to the end of their season (September 30) and would need 12,000 lb (5.4 mt) to remain open until September 30; and the California recreational fishery is projected to stay within their allocation through the end of their respective seasons (November 15 and December 31).

To allow for increased utilization of the resource, with this inseason action, NMFS will transfer 12,000 lb (net weight, [5.4 mt]) of Pacific halibut from the Oregon recreational fishery allocation to the Washington recreational fishery allocation to allow the fishery to remain open through September 30. At this time, NMFS has determined that the California recreational subarea will not receive additional pounds through this action as the fishery is not projected to exceed their allocation before or by the end of their seasons on November 15 and December 31. Reallocating 12,000 lb (5.4 mt) to the Washington recreational fishery is expected to allow for greater attainment of the total Area 2A recreational allocation while not limiting recreational harvest opportunities off Oregon for the remainder of the season. Should future catch projections indicate there are additional pounds available to transfer from one state to another, NMFS may take future inseason action to reallocate that unused allocation.

Classification

NMFS issues this action pursuant to the Northern Pacific Halibut Act of 1982. This action is taken under the regulatory authority at 50 CFR 300.63(c)(6), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(3)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. WDFW provided updated landings data to NMFS on September 6, 2024, showing that through September 2, approximately 93 percent of the State fishery allocation has been attained and the fishery is projected to need 12,000 lb (5.4 mt) to remain open through the end of their season (September 30). Also, on September 6, 2024, ODFW provided updated landings data to NMFS, showing that through September 2, approximately 70 percent of the state fishery allocation has been attained and the fishery is projected to end their season (October 31) without fully attaining their state fishery allocation. NMFS uses fishing rates from previous years to project attainment through the end of current fishing seasons. With the lower than expected catch rates in the Oregon recreational fishery, the transfer of a portion of the Oregon State allocation to the Washington State allocation allows for the Area 2A management objectives to be met by providing anglers additional opportunity to achieve the coastwide recreational allocation with little risk of that allocation being exceeded. It is necessary that this rule be implemented in a timely manner both to allow the Washington State fishery access to the additional unused allocation without delay in order to remain open through the end of the season (September 30), and to allow for business and personal decision making by the regulated public impacted by this action, which includes recreational charter fishing operations, associated port businesses, and private anglers who do not live near the coastal access points for this fishery, among others. Without an allocation transfer to the Washington recreational fishery, coastwide allocations in Area 2A are unlikely to be harvested, thus limiting the economic benefits to the fishery participants and obstructing the goals of the 2024 CSP. Additionally, this action does not alter public expectations in that recreational Pacific halibut fishing in Oregon and Washington is projected to continue until the last prescribed fishing date for each State. To ensure the regulated public is fully aware of this action, notice of this regulatory action will be provided to anglers through a telephone hotline, news release, and by the relevant State Fish and Wildlife agencies. NMFS will receive public comments for 15 days after publication of this action, in accordance with 50 CFR 300.63(c)(6)(iv). No aspect of this action

is controversial, and changes of this nature were anticipated in the process described in regulations at 50 CFR 300.63(c).

For the reasons discussed above, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date and make this action effective immediately upon filing for public inspection, as a delay in effectiveness of this action would constrain fishing opportunity and be inconsistent with the goals of the CSP, as well as potentially limit the economic opportunity intended by this rule to the associated fishing communities. This inseason action is not expected to result in exceeding the total Area 2A recreational fishery allocation. NMFS regulations allow the Regional Administrator to modify state recreational allocations, including a transfer in recreational allocation from one state to another; provided that the action allows allocation objectives to be met and will not result in exceeding the catch limit for Area 2A. NMFS received information on the progress of landings in the recreational fisheries in Area 2A on September 6, 2024, indicating that modifying the State recreational fishery allocations for Oregon and Washington should be implemented to ensure optimal harvest in the recreational fisheries in Area 2A. As stated above, it is in the public interest that this action is not delayed, because a delay in the effectiveness would obstruct the ability for the allocation objectives of the recreational Pacific halibut fishery to be met.

Authority: 16 U.S.C. 773–773k.

Dated: September 12, 2024.

Karen H. Abrams,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2024–21517 Filed 9–17–24; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket Number: 240916–0239]

RIN 0648–BN21

Fisheries of the Exclusive Economic Zone Off Alaska; Amendment 80 Sector Annual BSAI Pacific Halibut PSC Limits; Correction

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

ACTION: Correcting amendment.

SUMMARY: On November 24, 2023, NMFS published a final rule to implement amendment 123 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands (BSAI) Management Area (BSAI FMP). The final rule included a formatting error in table 58 that caused the column headings to be incorrectly aligned with the column contents in the table. This correction fixes the error.

DATES: Effective on September 20, 2024.

FOR FURTHER INFORMATION CONTACT: Alicia M. Miller, 907–586–7228.

SUPPLEMENTARY INFORMATION: On November 24, 2023, NMFS published a final rule to implement amendment 123 to the BSAI FMP (88 FR 82740). That final rule added table 58 to part 679 (Amendment 80 Sector Annual BSAI Pacific Halibut Prohibited Species Catch (PSC) Limits) to establish the International Pacific Halibut Commission (IPHC) index and the NMFS Eastern Bering Sea (EBS) index ranges in a table with the corresponding PSC limit at the intercepts of each index range. The final rule included an error in the formatting of table 58 to part 679 that caused the column headings to be incorrectly aligned with the column contents. This correction fixes the error.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive prior notice and opportunity for additional public comment because it would be unnecessary and contrary to the public interest. This correcting amendment corrects the formatting of table 58 to part 679 as depicted in the **Federal Register** and does not substantively change the contents of the table. The public was provided prior notice and comment on the proposed table as well as all supporting documents, which included the correctly formatted table with the column headings properly aligning with the column contents in table 58 to part 679. Therefore, providing prior notice and opportunity for public comment on this correction is unnecessary and contrary to the public interest because this is a non-substantive change and retaining the incorrect formatted table may cause confusion.

For the reasons stated above, the Assistant Administrator also finds good cause, pursuant to 5 U.S.C. 553(d), to waive the 30-day delay in effective date for this correcting amendment (*i.e.,* it is unnecessary and contrary to the public interest since it is a non-substantive change, the public was provided prior notice and comment on the correctly formatted proposed table 58 to part 679).

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

This final rule has been found to be not significant pursuant to E.O. 12866.

List of Subjects for 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: September 16, 2024.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NMFS corrects 50 CFR part 679 by making the following correcting amendment:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

■ 2. Revise table 58 to part 679 to read as follows:

TABLE 58 TO PART 679—AMENDMENT 80 SECTOR ANNUAL BSAI PACIFIC HALIBUT PSC LIMITS

	Survey index ranges	Eastern Bering Sea shelf trawl survey index (t)	
		Low <150,000	High ≥150,000
IPHC setline survey index in Area 4ABCDE (WPUE)	High ≥11,000	1,745 mt	1,745 mt
	Medium 8,000–10,999	1,396 mt	1,571 mt
	Low 6,000–7,999	1,309 mt	1,396 mt
	Very Low <6,000	1,134 mt	1,134 mt

[FR Doc. 2024–21516 Filed 9–19–24; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 89, No. 183
Friday, September 20, 2024

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 915 and 944

[Doc. No. AMS–SC–23–0084]

Avocados Grown in South Florida and Imported Avocados; Change in Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rulemaking would implement a recommendation from the Avocado Administrative Committee (Committee) to change the maturity requirements under the marketing order for avocados grown in South Florida. This action would update the avocado maturity shipping schedule to allow certain sizes and weights of the Beta avocado variety to be shipped earlier. A corresponding change would be made to the avocado import regulation as required under the Agricultural Marketing Agreement Act of 1937.

DATES: Comments must be received by November 19, 2024.

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

FOR FURTHER INFORMATION CONTACT: Jennie M. Varela, Marketing Specialist, or Christian D. Nissen, Branch Chief, Southeast Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 291–8614, or Email: *Jennie.Varela@usda.gov* or *Christian.Nissen@usda.gov.*

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

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rulemaking is issued under Marketing Order No. 915, as amended (7 CFR part 915), regulating the handling of avocados grown in South Florida. Part 915 referred to as the ''Order'' is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of growers and handlers of avocados operating within the production area, and one public member.

This proposed rulemaking is also issued under section 8e of the Act (7 U.S.C. 608e–1), which provides that whenever certain specified commodities, including avocados, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for domestically produced commodities.

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

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

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act (7 U.S.C. 608c(15)(A)), any handler subject to an order may file with the U.S. Department of Agriculture (USDA) a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

This proposed rulemaking would change the maturity requirements prescribed under the Order. This action would update the avocado maturity shipping schedule to allow certain sizes and weights of the Beta avocado variety to be shipped to the fresh market earlier than presently allowable. With this change, the maturity schedule would better reflect the current maturity rate for the Beta variety, facilitating the shipment of this variety as it matures. The proposal was unanimously recommended by the Committee at its August 9, 2023, meeting.

Section 915.51 of the Order provides, in part, authority to establish maturity requirements for avocados. Section 915.52 of the Order provides authority for the modification, suspension, or termination of established regulations. Section 915.332 of the Order's rules and regulations establishes the maturity requirements for avocados grown in Florida. These requirements are specified in table I of § 915.332(a) and establish minimum weights and diameters to delineate specific shipping time frames for avocados shipped under the Order. Maturity requirements for avocados imported into the United States are currently in effect under § 944.31.

The maturity requirements are designed to prevent the shipment of immature avocados and to include the annual shipping schedule to help ensure only mature fruit reaches the market. This helps to provide buyer confidence and consumer satisfaction essential for the successful marketing of the crop. Avocado varieties mature at different times, and varieties can vary considerably in terms of size and weight. The maturity requirements for the various varieties of avocados are different, as each variety has different growing and maturation characteristics. These maturity dates and requirements are established based on a testing procedure developed in conjunction with USDA.

The shipping schedule in table I specifies the individual maturity requirements for the numerous avocado varieties shipped each season. As larger fruit within a variety matures earliest, the schedule makes the larger sized fruit available for market first, followed by other dates to incrementally release smaller sizes for shipment as they mature. As such, the maturity schedule is usually divided into A, B, C, and D dates, which are associated with specific weights and sizes reflecting when a particular variety matures.

Avocados may not be shipped until the earliest date, the A date, specified for that variety on the shipping schedule so that only mature fruits are available for market for each variety early in its season. The D date marks the end of a variety's season when all fruit of that variety should be mature and releases all sizes and weights for shipment.

The Committee staff regularly tests the maturity level of different varieties based on reported changes in maturity. The Committee also has a maturity subcommittee that reviews this, other information, and trends in maturity. Using this information, this subcommittee recommends which varieties may need to be tested to see if adjustments need to be made to the dates on the maturity schedule. The subcommittee heard from growers that the Beta variety was maturing ahead of the established schedule and recommended to the full Committee that the Beta variety be tested for changes in maturity. At the direction of the Committee, Committee staff began sampling the Beta variety across different farms and testing the level of maturity.

After three years of testing, the Committee staff provided the subcommittee with the maturity data they had collected. Based on their review of the data, the subcommittee agreed the fruit was maturing before the current shipping dates. They reported to the full Committee that due to changes in climate conditions and cultural practices the Beta variety was maturing earlier than the dates in the schedule.

The Committee met on August 9, 2023, and reviewed the report from the subcommittee. The subcommittee recommended, and the full Committee agreed, that the A, B, C, and D dates for the Beta should each be moved up two weeks, respectively. The Committee concluded these revised dates would better reflect the current maturity rate for Beta. The Committee believes this change would allow growers to send mature quality fruit of this variety to the market earlier. It would also reduce limb breakage and fruit loss by enabling timely harvesting, allowing the larger, heavier fruit to be removed from the tree sooner. Consequently, the Committee unanimously approved this recommendation.

This rule would change the A and the B date for Beta listed on the maturity schedule from August 8 to July 25 and from August 15 to August 1, respectively. This rule would also change the C date for Beta from August 29 to August 15, and the D date from September 5 to August 22. The corresponding sizes and weights associated with these dates will remain unchanged. The dates on the maturity schedule are the basis for calculating the actual shipping dates (A, B, C, D dates) for each individual season. The actual shipping dates for an individual year are established as the Monday nearest to the date listed in the maturity schedule as specified in § 915.332.

Section 8e of the Act provides that when certain domestically produced commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Maturity requirements for avocados imported into the United States are currently in effect under § 944.31. As this rule would revise the maturity requirements for the Beta variety under the domestic handling regulations, a corresponding change to the import regulations must also be considered.

This action would update the avocado maturity shipping schedule to allow certain sizes and weights of the Beta avocado variety to be shipped to the fresh market up to two weeks earlier than presently allowed. This change should facilitate moving mature fruit to the market, benefitting domestic growers and handlers as well as importers. This proposed change would only impact the maturity requirements under the Order and the import regulation and would make no change to the current grade requirements.

The Hass, Fuerte, Zutano, and Edranol varieties of avocados are currently exempt from the maturity requirements under the Order and the import regulation and continue to be exempt under this rule. However, these varieties are not exempt from the grade regulations specified under the Order and import regulation, which are not being changed by this action.

Initial Regulatory Flexibility Analysis

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

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

small entities acting on their own behalf.

There are 201 growers of Florida avocados in the production area and 21 handlers subject to regulation under the Order. The Small Business Administration (SBA) defines small agricultural growers as those having annual receipts of no more than $3,500,000 for Other Noncitrus Fruit Farming (NAICS code 111339), and small agricultural service firms, including handlers, are defined as those whose annual receipts are less than $34,000,000 for Postharvest Crop Activities (NAICS code 115114) (13 CFR 121.201).

According to the National Agricultural Statistical Service (NASS), the average grower price paid for Florida avocados in 2022 was $22.00 per 55-pound bushel container. Utilized production was equivalent to 648,727 55-pound bushels for a total value of $14,272,000 ($22.00 multiplied by 648,727 55-pound bushels equals $14,272,000). Dividing the crop value by the estimated number of growers yields an estimated average receipt per grower of $71,005 ($14,272,000 divided by 201), so the majority of growers would have annual receipts of less than $3,500,000.

USDA Market News reported average shipping point prices for green skinned avocados were $57.29 per 55-pound bushel equivalent in October of 2022. Using this price and the total utilization, the total 2022 handler crop value is estimated at $37,165,570 ($57.29 multiplied by 648,727 55-pound bushels equals $37,165,570). Dividing this figure by the number of handlers yields estimated average annual handler receipts of $1,769,790 ($37,165,570 divided by 21), which is below the SBA threshold for small agricultural service firms.

In 2022, the Dominican Republic, Peru, Columbia, Mexico, and Jamaica were the major countries exporting avocado varieties other than Hass to the United States. In 2020, shipments of these types of avocados imported into the United States totaled around 33,454 metric tons. Of that amount, about 33,075 metric tons were imported from the Dominican Republic. Information from USDA's Global Agricultural Trade System database indicates the dollar value of these avocados to be approximately $48,386,000. There are approximately 20 importers of green skin avocados. Using the total value and the number of importers, the average importer would have annual receipts of less than $34 million.

Based on these estimates, the majority of Florida avocado producers and handlers, and importers may be classified as small entities.

This proposed rulemaking would update the avocado maturity shipping schedule to allow certain sizes and weights of the Beta avocado variety to be shipped to the fresh market up to two weeks earlier than presently allowed. With this change, the maturity schedule would better reflect the current maturity rate for the Beta variety, facilitating the shipment of this variety as it matures, which would benefit growers, handlers, importers, and consumers. A corresponding change would be made to the import regulations. This proposed rulemaking would revise § 915.332. Authority for this change is provided in §§ 915.51 and 915.52. This proposed rulemaking would also change § 944.31 in the avocado import regulation, as is required by section 8e of the Act. This proposed change would only impact the maturity requirements under the Order and import regulation and would make no change to the current grade requirements.

This action is not expected to increase the costs associated with the Order's requirements or the avocado import regulation. Rather, it is anticipated that this action would have a beneficial impact. Based on three seasons of maturity testing, the Committee recommended moving the A, B, C, and D dates on the maturity schedule forward two weeks, respectively, for the Beta variety allowing the associated sizes and weights to be shipped to the fresh market earlier. The revised dates better reflect the current maturity rate for Beta and would facilitate the shipment of this variety as it matures, while continuing to ensure that only mature fruit is shipped to the fresh market. It would also help reduce limb breakage and fruit loss and their associated costs by enabling timely harvesting, allowing the bigger, heavier fruit to be removed from the tree sooner. The benefits of this rule are expected to be equally available to all fresh avocado growers, handlers, and importers, regardless of their size.

One alternative to this action would be to maintain the current maturity requirements for the Beta variety. However, the Committee recognized that growing conditions and practices have changed over the years and the data indicates this fruit is maturing ahead of the current dates on the schedule. The Committee believes establishing the changes in this proposed rulemaking, rather than the alternative, would reflect current maturation and help ensure a quality product reaches consumers. Therefore, the Committee rejected this alternative.

The Committee's meetings are widely publicized throughout the Florida avocado industry and all interested persons are invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the August 9, 2023, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rulemaking, including the regulatory impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0189 Fruit Crops. No changes in those requirements would be necessary as a result of this proposed rulemaking. Should any changes become necessary, they would be submitted to OMB for approval.

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

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

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

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

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

In accordance with section 8e of the Act, the United States Trade

Representative has concurred with the issuance of this proposed rulemaking.

A 60-day comment period is provided to allow interested persons to comment on this proposed rulemaking. All written comments timely received will be considered before a final determination is made on this rule.

List of Subjects

7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges, Plums, Prunes.

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR parts 915 and 944 as follows:

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

■ 1. The authority citation for 7 CFR part 915 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In § 915.332, Table I, the entry for ''Beta'' is revised to read as follows:

§ 915.332 Florida avocado maturity regulation.

(a) * * *

(2) * * *

TABLE I

Variety	A date	Min. wt.	Min. diam.	B date	Min. wt.	Min. diam.	C date	Min. wt.	Min. diam.	D date
*	*		*		*	*		*		*
Beta	7–25	18	38/16	8–01	16	35/16	8–15	14	33/	8–22
*	*		*		*	*		*		*

* * * * *

■ 3. In § 944.31, Table I, the entry for ''Beta'' is revised to read as follows:

§ 944.31 Avocado import maturity regulation.

(a) * * *

(2) * * *

TABLE I

Variety	A date	Min. wt.	Min. diam.	B date	Min. wt.	Min. diam.	C date	Min. wt.	Min. diam.	D date
*	*		*		*	*		*		*
Beta	7–25	18	38/16	8–01	16	35/16	8–15	14	33/16	8–22
*	*		*		*	*		*		*

* * * * *

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024–21522 Filed 9–19–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

10 CFR Part 1008

[DOE–HQ–2023–0058]

RIN 1903–AA16

Privacy Act of 1974: Implementation of Exemptions

AGENCY: U.S. Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE, the Department) is proposing to revise its regulations to exempt certain records maintained under a newly established system of records—DOE–42 Nondiscrimination in Federally Assisted Programs Files—from the notification and access provisions of the Privacy Act of 1974. The Department proposes to exempt portions of this system of records from these subsections of the Privacy Act because of requirements related to investigatory material compiled for law enforcement purposes.

DATES: To be assured of consideration, written comments on this proposed rulemaking must be received at one of the addresses listed in the **ADDRESSES** section, on or before October 21, 2024. Comments received following the aforementioned date may be considered if it is practical to do so.

ADDRESSES: Please refer to section V (Public Participation—Submission of Comments) for additional information on the comment period. To comment on the System of Records Notice (SORN) associated with this proposed rulemaking, which is published elsewhere in this issue of the **Federal Register**, please refer to that SORN's own **Federal Register** Notice, using docket number DOE–HQ–2023–0058.

You may submit comments identified by docket number DOE–HQ–2023–0058, as follows:

Federal eRulemaking Portal: www.regulations.gov. Include the docket number DOE–HQ–2023–0058 in the ''Enter Keyword or ID'' field and click on ''Search.'' On the next web page, click on ''Submit a Comment'' action and follow the instructions in the portal.

Mail/Hand Delivery/Courier [For paper, disk, or CD-ROM submissions] to: Ken Hunt, U.S. Department of Energy, 1000 Independence Avenue SW, Office 8H–085, Washington, DC 20585.

Comments received, including any personal information, will be posted without change to *www.regulations.gov.*

Docket: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However,

some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available. The *www.regulations.gov* web page contains instructions on how to access all documents, including public comments, in the docket. See section V of this document for further information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kyle David, U.S. Department of Energy, 1000 Independence Avenue SW, Office 8H–085, Washington, DC 20585; facsimile: (202) 586–8151; email: *kyle.david@hq.doe.gov;* telephone: (240) 686–9485.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Authority and Background

A. Authority

DOE has broad authority to manage the agency's collection, use, processing, maintenance, storage, and disclosure of Personally Identifiable Information (PII) pursuant to the following authorities: 42 United States Code (U.S.C.) 7101 *et seq.,* 50 U.S.C. 2401 *et seq.,* 5 U.S.C. 1104, 5 U.S.C. 552, 5 U.S.C. 552a, 42 U.S.C. 7254, 5 U.S.C. 301, and 42 U.S.C. 405 note.

B. Background

The Privacy Act of 1974 (the Act) (5 U.S.C. 552a) embodies fair information practice principles in a statutory framework governing the means by which the U.S. Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents.

The Privacy Act includes two sets of provisions that allow agencies to claim exemptions from certain requirements in the statute. These provisions allow agencies in certain circumstances to promulgate rules to exempt a system of records from certain provisions of the Privacy Act. For this system of records, pursuant to 5 U.S.C. 552a(k)(2), the Department exempts this system of records from subsections (c)(3); (d); and (e)(1) of the Privacy Act. This exemption is needed to protect from disclosure investigatory material compiled for law enforcement purposes. Pursuant to the Privacy Act and Office of Management and Budget (OMB) Circular A–108, *Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,* DOE is issuing this notice of proposed rulemaking to make clear to the public the reasons why this particular exemption is being proposed and to seek public comment.

II. Discussion

DOE is claiming exemptions from certain requirements of the Privacy Act for a new system of records: DOE–42 Nondiscrimination in Federally Assisted Programs Files.

The Department is giving notice of its intention to exempt portions of a newly established system of records—DOE–42 Nondiscrimination in Federally Assisted Programs Files—from subsections (c)(3); (d); and (e)(1) of the Privacy Act of 1974. To claim this exemption, DOE is amending 10 CFR 1008.12 by adding a new paragraph, (b)(2)(ii)(R). The Department proposes to exempt portions of this system of records from these subsections of the Privacy Act because of requirements related to the compilation of investigatory material for law enforcement purposes.

DOE–42 Nondiscrimination in Federally Assisted Programs Files will provide a central electronic repository to: (i) maintain all records used by OCR–EEO personnel in making Federal civil rights compliance determinations with accuracy, relevance, timeliness, and completeness to assure fairness to the individual(s) in the determination; (ii) create appropriate administrative, technical, and physical safeguards that ensure the security and confidentiality of records and protect against any anticipated threats to their security or integrity and; (iii) create rules of conduct for authorized OCR–EEO personnel involved in the operation, maintenance, and routine uses for this system records.

For this system of records, DOE claims exemptions to subsections (c)(3); (d); and (e)(1) of the Privacy Act. In addition, the system has been exempted from the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). These exemptions are needed to protect information relating to DOE activities from disclosure to subjects or others related to these activities. Specifically, the exemptions are required to preclude subjects of these activities from frustrating these processes; to avoid disclosure of activity techniques; to protect the identities and physical safety of confidential informants and law enforcement personnel; to ensure DOE's ability to obtain information from third parties and other sources; and to protect the privacy of third parties. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

The exemptions proposed here are standard law enforcement and national security exemptions exercised by many Federal law enforcement and intelligence agencies. In appropriate circumstances, where compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and overall law enforcement process, the applicable exemptions may be waived on a case-by-case basis.

Exemptions for DOE–42 Nondiscrimination in Federally Assisted Programs Files from these particular subsections of the Act are justified, on a case-by-case basis to be determined at the time a request is made for the following reasons:

From subsections (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DOE as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or

apprehension, which would undermine the entire investigative process.

From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DOE or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to nuclear or energy sector security.

From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

III. Section 1008.12 Analysis

This notice of proposed rulemaking proposes adding line item paragraph (b)(1)(ii)(R), referencing ''Nondiscrimination in Federally Assisted Program Files (DOE–42)''. This addition will demonstrate that SORN DOE–42 is included among the other SORNs taking a (k)(2) exemption under the Privacy Act of 1974. Per current regulations located at 10 CFR 1008.12(b)(2)(ii), this exemption allows DOE to ''prevent subjects of investigation from frustrating the investigatory process through access to records about themselves or as a result of learning the identities of confidential informants; to prevent disclosure of investigative techniques; to maintain the ability to obtain necessary information; and thereby to insure the proper functioning and integrity of law enforcement activities.''

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866, 13563, and 14094

Executive Order (''E.O.'') 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review,'' 76 FR 3821 (Jan. 21, 2011) and amended by E.O. 14094, ''Modernizing Regulatory Review,'' 88 FR 21879 (April 11, 2023), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (OIRA) has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in this preamble, this proposed regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 requires agencies to submit ''significant regulatory actions'' to OIRA for review. OIRA has determined that this proposed regulatory action is not a ''significant regulatory action'' within the scope of E.O. 12866. Accordingly, this action is not subject to review under E.O. 12866 by OIRA of the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires that an agency prepare an initial regulatory flexibility analysis for any regulation for which a general notice of proposed rulemaking is required, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605(b)). As required by Executive Order 13272, *Proper Consideration of Small Entities in Agency Rulemaking,* 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (*www.energy.gov/gc/office-general-counsel*).

DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE certifies that the proposed rule, if adopted, would not have significant economic impact on a substantial number of small entities. The factual basis for this certification is set forth below.

This proposed rule would update DOE's policies and procedures concerning the disclosure of records held within a system of records pursuant to the Privacy Act of 1974. This proposed rule would apply only to activities conducted by DOE's Federal employees and contractors, who would be responsible for implementing the rule requirements. DOE does not expect there to be any potential economic impact of this proposed rule on small businesses. Small businesses, therefore, should not be adversely impacted by the requirements in this proposed rule. For these reasons, DOE certifies that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities, and therefore, no regulatory flexibility analysis has been prepared.

C. Review Under the Paperwork Reduction Act of 1995

This proposed rule does not impose a collection of information requirement subject to review and approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969

(NEPA), DOE has analyzed this proposed action in accordance with NEPA and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include a categorical exclusion (CX) for rulemakings interpreting or amending an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended. 10 CFR part 1021, subpart D, appendix A5. DOE has determined that this proposed rule is covered under the CX found in DOE's NEPA regulations at paragraph A.5 of appendix A to subpart D, 10 CFR part 1021, because it is an amendment to an existing regulation that does not change the environmental effect of the amended regulation and, therefore, meets the requirements for the application of this CX. *See* 10 CFR 1021.410. Therefore, DOE has determined that this proposed rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA and does not require an Environmental Assessment or an Environmental Impact Statement.

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for the affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; (6) specifies whether administrative proceedings are to be required before parties may file suit in court and, if so, describes those proceedings and requires the exhaustion of administrative remedies; and (7) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met, or it is unreasonable to meet one or more of the standards. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

F. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 10, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has tentatively determined that it would not preempt State law and would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

G. Review Under Executive Order 13175

Under Executive Order 13175 (65 FR 67249, November 6, 2000) on ''Consultation and Coordination with Indian Tribal Governments,'' DOE may not issue a discretionary rule that has ''Tribal'' implications and imposes substantial direct compliance costs on Indian Tribal governments. DOE has determined that this proposed rule would not have such effects and concluded that Executive Order 13175 does not apply to this proposed rule.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 104–4) requires each Federal agency to assess the effects of a Federal regulatory action on State, local, and Tribal governments, and the private sector. (Pub. L. 104–4, sec. 201 *et seq.* (codified at 2 U.S.C. 1531 *et seq.*)). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant Federal intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. (62 FR 12820) (This policy is also available at: *www.energy.gov/gc/guidance-opinions* under ''Guidance & Opinions'' (Rulemaking)). DOE examined the proposed rule according to UMRA and its statement of policy and has determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year. Accordingly, no further assessment or analysis is required under UMRA.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this proposed regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001) requires Federal agencies to prepare and submit to the OIRA, which is part of OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1)(i) is a significant regulatory action under Executive Order 12866, or any successor order; and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or

(2) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. This proposed regulatory action is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

K. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

L. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516) provides for Federal agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). Pursuant to OMB Memorandum M–19–15, *Improving Implementation of the Information Quality Act* (April 24, 2019), DOE published updated guidelines which are available at: *www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.*

DOE has reviewed this proposed rule and will ensure that information produced under this regulation remains consistent with the applicable OMB and DOE guidelines.

V. Public Participation—Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule before or no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested individuals are invited to participate in this proceeding by submitting data, views, or arguments with respect to this proposed rule using the method described in the **ADDRESSES** section at the beginning of this proposed rule. To help the Department review the submitted comments, commenters are requested to reference the paragraph(s), (*e.g.,* § 1008.22(d)), to which they refer where possible. Individuals that want to comment on this proposed rulemaking may do so by following the directions below. To comment on the System of Records Notice (SORN) associated with this proposed rulemaking, which is also published elsewhere in this issue of the **Federal Register**, please refer to that SORN's own **Federal Register** notice, using docket number DOE–HQ–2023–0058.

1. *Submitting comments www.regulations.gov.* The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable by DOE's Office of Privacy Management and Compliance staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment. However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through *www.regulations.gov* will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

2. *Confidential Business Information.* Pursuant to the provisions of 10 CFR 1004.11, anyone submitting information or data he or she believes to be confidential and exempt by law from public disclosure should submit two well-marked copies: one copy of the document marked ''CONFIDENTIAL'' including all the information believed to be confidential, and one copy of the document marked ''NON–CONFIDENTIAL'' with the information believed to be confidential deleted. Submit these documents via email. DOE will make its own determination as to the confidentiality of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

3. *Campaign form letters.* Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

VI. Approval by the Office of the Secretary of Energy

The Secretary of Energy has approved publication of this notice of proposed rulemaking.

List of Subjects in 10 CFR Part 1008

Administration practice and procedure, Freedom of information, Privacy, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on September 9, 2024, by Ann Dunkin, Senior Agency Official for Privacy, pursuant to delegated authority from the Secretary of Energy. That 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 Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 10, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons set forth in the preamble, the Department of Energy proposes to amend part 1008 of chapter X of title 10 of the Code of Federal Regulations as set forth below:

PART 1008—RECORDS MAINTAINED ON INDIVIDUALS (PRIVACY ACT)

■ 1. The authority citation for part 1008 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq.;* 50 U.S.C. 2401 *et seq.;* 5 U.S.C. 552; 5 U.S.C. 552a; 42 U.S.C. 7254; and 5 U.S.C. 301. Section 1008.22(c) also issued under 42 U.S.C. 405 note.

■ 2. Section 1008.12, as proposed to be amended at 88 FR 82788 (November 27, 2023), is further amend by adding paragraph (b)(2)(ii)(R) to read as follows:

§ 1008.12 Exemptions.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(R) Nondiscrimination in Federally Assisted Program Files (DOE–42).

* * * * *

[FR Doc. 2024–20838 Filed 9–19–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2145; Project Identifier MCAI–2024–00077–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2023–13–10 and AD 2024–04–03, which apply to certain Airbus SAS Model A318, A319, A320, and A321 series airplanes. AD 2023–13–10 and AD 2024–04–03 require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2023–13–10 and AD 2024–04–03, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would continue to require certain actions in AD 2023–13–10 and all actions in AD 2024–04–03 and would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by November 4, 2024.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–2145; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For EASA material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* It is also available at *regulations.gov* under Docket No. FAA–2024–2145.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3667; email *Timothy.P.Dowling@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2024–2145; Project Identifier MCAI–2024–00077–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov*, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM

contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3667; email *Timothy.P.Dowling@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2023–13–10, Amendment 39–22495 (88 FR 50005, August 1, 2023) (AD 2023–13–10), for certain Airbus SAS Model A318, A319, A320, and A321 series airplanes. AD 2023–13–10 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD 2023–0008, dated January 16, 2023 (EASA AD 2023–0008) and AD 2022–0085, dated May 12, 2022 (EASA AD 2022–0085) (which correspond to FAA AD 2023–13–10), to correct an unsafe condition.

AD 2023–13–10 requires revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations. The FAA issued AD 2023–13–10 to address fatigue cracking, accidental damage, or corrosion in principal structural elements, which could result in reduced structural integrity of the airplane.

The FAA issued AD 2024–04–03, Amendment 39–22682 (89 FR 18769, March 15, 2024) (AD 2024–04–03), for certain Airbus SAS Model A318, A319, A320, and A321 series airplanes. AD 2024–04–03 was prompted by an MCAI originated by EASA. EASA issued AD 2023–0151, dated July 25, 2023 (EASA AD 2022–0151) (which corresponds to FAA AD 2024–04–03), to correct an unsafe condition.

AD 2024–04–03 requires revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations. The FAA issued AD 2024–04–03 to address fatigue cracking, accidental damage, or corrosion in principal structural elements, which could result in reduced structural integrity of the airplane. AD 2024–04–03 specifies that accomplishing the revision required by that AD terminates certain requirements of AD 2023–13–10.

Actions Since AD 2023–13–10 and AD 2024–04–03 Were Issued

Since the FAA issued AD 2023–13–10 and AD 2024–04–03, EASA superseded AD 2022–0085, AD 2023–0008, and AD 2023–0151 and issued EASA AD 2024–0031, dated January 31, 2024; corrected February 1, 2024 (EASA AD 2024–0031) (referred to after this as the MCAI), for all Airbus SAS Model A318–111, –112, –121, and –122; A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, and –171N; A320–211, –212, –214, –215, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N; and A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –251NX, –252N, –252NX, –253N, –253NX, –271N, –271NX, –272N, and –272NX airplanes. Model A320–215 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability. The MCAI states that new or more restrictive airworthiness limitations have been developed.

The FAA is proposing this AD to address the unsafe condition on these products. You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA–2024–2145.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2024–0031. This material specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This proposed AD would also require the following material, which the Director of the Federal Register approved for incorporation by reference as of September 5, 2023 (88 FR 50005, August 1, 2023):

- EASA AD 2022–0085
- EASA AD 2023–0008

This proposed AD would also require EASA AD 2023–0151, which the Director of the Federal Register approved for incorporation by reference as of April 19, 2024 (89 FR 18769, March 15, 2024).

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

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would retain all requirements of AD 2024–04–03 and certain requirements of AD 2023–13–10. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, which are specified in EASA AD 2024–0031 already described, as proposed for incorporation by reference. Any differences with EASA AD 2024–0031 are identified as exceptions in the regulatory text of this proposed AD.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections) and Critical Design Configuration Control Limitations (CDCCLs). Compliance with these actions and CDCCLs is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) according to paragraph (q)(1) of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to retain the IBR of EASA AD 2022–0085, EASA AD 2023–0008, and EASA AD 2023–0151, and incorporate EASA AD 2024–0031 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with

EASA AD 2022–0085, EASA AD 2023–0008, EASA AD 2023–0151, and EASA AD 2024–0031 through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0085, EASA AD 2023–0008, EASA AD 2023–0151, or EASA AD 2024–0031 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2022–0085, EASA AD 2023–0008, EASA AD 2023–0151, or EASA AD 2024–0031. Material required by EASA AD 2022–0085, EASA AD 2023–0008, EASA AD 2023–0151, and EASA AD 2024–0031 for compliance will be available at *regulations.gov* by searching for and locating Docket No. FAA–2024–2145 after the FAA final rule is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

The previous format of the airworthiness limitation ADs included a paragraph that specified that no alternative actions (*e.g.,* inspections), intervals, or CDCCLs may be used unless the actions, intervals, and CDCCLs are approved as an AMOC in accordance with the procedures specified in the AMOCs paragraph under ''Additional AD Provisions.'' This new format includes a ''New Provisions for Alternative Actions, Intervals, and CDCCLs'' paragraph that does not specifically refer to AMOCs, but operators may still request an AMOC to use an alternative action, interval, or CDCCL.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 1,898 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD2023–13–10 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA estimates the total cost per operator for the retained actions from AD 2024–04–03 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate.

The FAA estimates the total cost per operator for the new proposed actions to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directives (AD) 2023–13–10, Amendment 39–22495 (88 FR 50005, August 1, 2023); and AD 2024–04–03, Amendment 39–22682 (89 FR 18769, March 15, 2024) and

■ b. Adding the following new AD:

Airbus SAS: Docket No. FAA–2024–2145; Project Identifier MCAI–2024–00077–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 4, 2024.

(b) Affected ADs

(1) This AD replaces AD 2023–13–10, Amendment 39–22495 (88 FR 50005, August 1, 2023) (AD 2023–13–10).

(2) This AD replaces AD 2024–04–03, Amendment 39–22682 (89 FR 18769, March 15, 2024) (AD 2024–04–03).

(c) Applicability

This AD applies to Airbus SAS airplanes specified in paragraphs (c)(1) through (4), certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before December 19, 2023.

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, and –171N airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –252N, 253N, –271N, –272N, –251NX, –252NX, –253NX, –271NX, and –272NX airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address fatigue cracking, accidental damage, or corrosion in principal structural elements, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program From AD 2023–13–10, With New Terminating Action

This paragraph restates the requirements of paragraph (o) of AD 2023–13–10, with new terminating action. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before November 10, 2022: Except as specified in paragraph (h) of this AD, comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0085, dated May 12, 2022 (EASA AD 2022–0085) and EASA AD 2023–0008, dated January 16, 2023 (EASA AD 2023–0008). Where EASA AD 2023–0008 affects the same airworthiness limitations as those in EASA AD 2022–0085, the airworthiness limitations referenced in EASA AD 2023–0008 prevail. Accomplishing the revision of the existing maintenance or inspection program required by paragraph (n) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2022–0085 and EASA AD 2023–0008, With No Changes

This paragraph restates the exceptions specified in paragraph (p) of AD 2023–13–10, with no changes.

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2022–0085 and of EASA AD 2023–0008 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2022–0085 and of EASA AD 2023–0008 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after September 5, 2023 (the effective date of AD 2023–13–10).

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2022–0085 and of EASA AD 2023–0008 is at the applicable ''thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2022–0085 and of EASA AD 2023–0008, respectively, or within 90 days after September 5, 2023 (the effective date of AD 2023–13–10), whichever occurs later. Where EASA AD 2023–0008 affects the same airworthiness limitations as those in EASA AD 2022–0085, the airworthiness limitations referenced in EASA AD 2023–0008 prevail.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2022–0085 and of EASA AD 2023–0008 do not apply to this AD.

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2022–0085 and of EASA AD 2023–0008.

(i) Retained Restrictions on Alternative Actions and Intervals From AD 2023–13–10, With a New Exception

This paragraph restates the requirements of paragraph (q) of AD 2023–13–10, with a new exception. Except as required by paragraphs (j) and (n) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2022–0085 or EASA AD 2023–0008, as applicable.

(j) Retained Revision of the Existing Maintenance or Inspection Program From AD 2024–04–03, With New Terminating Action

This paragraph restates the requirements of paragraph (g) of AD 2024–04–03, with new terminating action. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before May 12, 2023: Except as specified in paragraph (k) of this AD, comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2023–0151, dated July 25, 2023 (EASA AD 2023–0151). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (n) of this AD terminates the requirements of this paragraph.

(k) Retained Exceptions to EASA AD 2023–0151 With No Changes

This paragraph restates the exceptions specified in paragraph (h) of AD 2024–04–03, with no changes.

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2023–0151.

(2) Where paragraph (3) of EASA AD 2023–0151 specifies ''Within 12 months after the effective date of this AD, revise the approved AMP,'' this AD requires replacing that text with ''Within 90 days after April 19, 2024 (the effective date of AD 2024–04–03), revise the existing maintenance or inspection program, as applicable.''

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2023–0151 is at the applicable ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2023–0151, or within 90 days after April 19, 2024 (the effective date of AD 2024–04–03), whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraph (4) of EASA AD 2023–0151.

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0151.

(l) Retained Restrictions on Alternative Actions and Intervals From AD 2024–04–03, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2024–04–03, with no changes. Except as required by paragraph (n) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2023–0151.

(m) Retained Terminating Action for Certain Tasks Required by AD 2023–13–10, With No Changes

This paragraph restates the provisions of paragraph (j) of AD 2024–04–03, with no changes. Accomplishing the actions required by paragraph (j) of this AD terminates the corresponding requirements of paragraph (g) of this AD for the tasks identified in the service information referenced in EASA AD 2023–0151 only.

(n) New Revision of the Existing Maintenance or Inspection Program

Except as specified in paragraph (o) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2024–0031, dated January 31, 2024; corrected February 1, 2024 (EASA AD 2024–0031). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraphs (g) and (j) of this AD.

(o) Exceptions to EASA AD 2024–0031

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2024–0031.

(2) Paragraph (3) of EASA AD 2024–0031 specifies revising ''the approved AMP,'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2024–0031 is at the applicable ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2024–0031, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4), (5), and (6) of EASA AD 2024–0031.

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2024–0031.

(p) New Provisions for Alternative Actions, Intervals, and Critical Design Configuration Control Limitations (CDCCLs)

After the existing maintenance or inspection program has been revised as required by paragraph (n) of this AD, no alternative actions (*e.g.,* inspections), intervals, and CDCCLs are allowed unless they are approved as specified in the

provisions of the ''Ref. Publications'' section of EASA AD 2024–0031.

(q) Additional AD Provisions

The following provisions also apply to this AD:

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

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(ii) AMOCs approved previously for AD 2023–13–10 and AD 2024–04–03 are approved as AMOCs for the corresponding provisions of EASA AD 2024–0031 that are required by paragraph (n) of this AD.

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

(r) Additional Information

For more information about this AD, contact Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3667; email *Timothy.P.Dowling@faa.gov.*

(s) Material Incorporated by Reference

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

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

(3) The following material was approved for IBR on [DATE 35 DAYS AFTER PUBLICATION OF THE FINAL RULE].

(i) European Union Aviation Safety Agency (EASA) AD 2024–0031, dated January 31, 2024; corrected February 1, 2024.

(ii) [Reserved]

(4) The following material was approved for IBR on April 19, 2024 (89 FR 18769, dated March 15, 2024).

(i) EASA AD 2023–0151, dated July 25, 2023.

(ii) [Reserved]

(5) The following material was approved for IBR on September 5, 2023 (88 FR 50005, dated August 1, 2023).

(i) EASA AD 2022–0085, dated May 12, 2022.

(ii) EASA AD 2023–0008, dated January 16, 2023.

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

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

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

Issued on September 12, 2024.

Peter A. White,

Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2024–21212 Filed 9–19–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–2151; Project Identifier AD–2023–00984–T]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: The FAA is revising a notice of proposed rulemaking (NPRM) that would apply to all The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes. This action revises the NPRM by changing certain proposed actions from ultrasonic inspections (UT) to open hole high frequency eddy current (HFEC) inspections. The FAA is proposing this airworthiness directive (AD) to address the unsafe condition on these products. Since these actions would impose an additional burden over that in the NPRM, the FAA is requesting comments on this SNPRM.

DATES: The FAA must receive comments on this SNPRM by November 4, 2024.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–2151; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, this SNPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Boeing material identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2023–2151.

FOR FURTHER INFORMATION CONTACT: Luis Cortez-Muniz, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3958; email: *Luis.A.Cortez-Muniz@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2023–2151; Project Identifier AD–2023–00984–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may again revise this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this proposed AD.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this SNPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this SNPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this SNPRM. Submissions containing CBI should be sent to Luis Cortez-Muniz, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3958; email: *Luis.A.Cortez-Muniz@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued an NPRM to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes. The NPRM published in the **Federal Register** on November 17, 2023 (88 FR 80216). The NPRM was prompted by a report of a 5-inch crack on the right wing upper wing skin at wing station (WSTA) 460. In the NPRM, the FAA proposed to require repetitive inspections for cracking of the upper wing skin common to certain fasteners and applicable on-condition actions, including repair.

Actions Since the NPRM Was Issued

Since the FAA issued the NPRM, Boeing advised the FAA that there have been two events of cracking at the fastener 6 and 7 locations where the cracks initiated in the spanwise (inboard/outboard) direction. These events were detected only because of a repair for an adjacent fastener; the repaired fastener 6 and 7 locations were subsequently inspected with an open hole HFEC inspection, and not with the UT inspection. UT inspections can only detect cracking growth in a particular direction if certain inspection procedures are performed. The Model 777 non-destructive testing (NDT) procedures, which are specified in Boeing Alert Requirements Bulletin 777–57A0125 RB, dated July 25, 2023, include inspections for cracks initiating in the chordwise (forward/aft) direction, which was how cracking was expected to initiate based on Boeing analysis. A UT inspection at the fastener 6 and 7 locations would not have adequately detected the cracks found by the open hole HFEC inspection. As a result, the existing inspections will not provide a sufficient assessment of the structure before a crack reaches critical length. An open hole HFEC inspection, however, can detect cracking initiating from any direction.

Comments

The FAA received comments from two individuals who supported the NPRM without change.

The FAA received additional comments from seven commenters, including Air France, American Airlines, Air New Zealand, Boeing, Etihad Airways, FedEx Express (FedEx), and United Airlines (United). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request for Defined Repairs

Air France requested that a predefined preventive repair that includes required parts and instructions be developed, approved by the FAA, and provided as optional terminating action for the repetitive inspections.

Air France also requested that a permanent repair be developed. The commenter is concerned with the difficulty of anticipating the repair process and unscheduled aircraft ground time.

The FAA does not concur with this request because the agency has not yet received a permanent repair procedure from Boeing. However, the FAA will review and consider approval of repair procedures and issue an alternative method of compliance (AMOC) if they are acceptable.

Requests for Extension of Repeat Inspection Interval

Air France requested that the repeat inspection interval for Groups 4 and 6 be increased based on the results of the initial inspections and on the age of the airplane. Air France added that the intervals are shorter than the interval of appropriate maintenance checks for some operators.

FedEx requested that less-frequent inspections be permitted because Boeing Alert Requirements Bulletin 777–57A0125 RB, dated July 25, 2023, does not account for the average mission length, which FedEx asserted is a dominant factor. FedEx stated that Boeing analysis indicated that crack initiation on high gross weight airplanes with an average mission length of six flight hours per flight cycle is not expected to occur until a significantly higher number of flight cycles than on an airplane with an average mission length of eight flight hours per flight cycle. FedEx stated that excessively conservative inspection intervals will increase the probability of unnecessary removal of fasteners due to false indications, creating an added risk of incidental damage. FedEx proposed revised compliance times for airplanes with an average mission length of six flight hours per flight cycle.

The FAA does not concur with the request to extend the repeat inspection interval required by this proposed AD. The FAA notes that the commenters did not provide sufficient supporting data and analysis to show that revised inspection intervals would provide an adequate level of safety. Further, the analysis FedEx mentioned was an informal analysis from 2023 before most operators began performing the required inspections. Since that analysis, there have been numerous additional findings, including some on airplanes with an average mission length of less than six flight hours per flight cycle. However, the FAA may consider changes in the compliance time provided that sufficient data is submitted in the future and in accordance with paragraph (i) of this proposed AD.

Request for Corrections to NDT Manual Sections

American Airlines requested corrections to several discrepancies in the 777 NDT Manual Part 4, sections 57–20–13 and 57–20–14, which provide ultrasonic inspection procedures. For section 57–20–13, American Airlines coordinated with Boeing to correct issues in the NDT procedure. American Airlines added that in Section 57–20–14, the figure was oriented incorrectly. American Airlines provided images of how the figure should be illustrated.

The FAA agrees with the corrections requested by American Airlines. The FAA contacted Boeing to review changes planned in a later revision of 777 NDT Manual Part 4, sections 57–20–13 and 57–20–14. These revisions have since been released as 777 NDT Manual Part 4, Temporary Revisions 04–64 and 04–65, both dated March 30, 2024. The temporary revisions correct the necessary changes requested by the commenter. However, the inspection instructions are unchanged. It would not result in an unsafe condition if an operator were to follow a previous

revision; therefore, no changes are necessary in this proposed AD.

Requests To Clarify Terminating Action

United requested that paragraph (i) of the proposed AD be amended to clarify that only a permanent repair will be considered a terminating action for the repetitive inspection on the repaired wing. United added that since there is no defined repair in the requirements bulletin at this time, the requirement of the repair note in note (a) of Boeing Alert Requirements Bulletin 777–57A0125 RB, dated July 25, 2023, and paragraph (i) of the proposed AD is unclear. United also requested clarification of the terminating action based on Boeing Alert Requirements Bulletin 777–57A0125 RB, dated July 25, 2023, which states that repair for any crack found on the (left or right) wing is terminating action to the repeat inspections ''for the affected wing only,'' compared to paragraph (i) of the proposed AD, which stated that a repair terminates the inspections ''at the repaired location only.''

Air New Zealand (ANZ) requested greater clarification of paragraph (i) of the proposed AD. ANZ has inspected one airplane (applicable to Group 4 effectivity) and found a crack on the left wing. ANZ had a repair completed to a single fastener location, although six additional fasteners in the inspection area of the repair were also replaced at that time. ANZ noted that the repair instructions include inspection times that are different than those specified in the service information for fasteners that are inspected without a crack finding. ANZ believed the terminating action statement in the proposed AD referred to the repaired fastener only, and not the other fastener locations identified in the service information.

Etihad Airways requested that paragraphs (i) and (j) of the proposed AD be amended to state that only permanent repairs terminate the repetitive inspections required by paragraph (g) of the proposed AD. Etihad Airways noted that it had two airplanes with crack findings, which were temporarily repaired under FAA Form 8100–9 with statements that the repairs are Category C and must be replaced by a Category A or B repair within a certain time limit, and do not terminate the repeat inspection requirements of the service information.

The FAA partially agrees with the requests to amend paragraph (i) of the proposed AD for clarity. The affected area is the area covered by the repair. If a crack was found at one fastener location and the subject repair extends to additional fasteners, the affected repair area would include the initial cracked fastener location and the additional fasteners that are now within the repair. Follow-on repair inspections would affect the repair region. Areas outside of the repair would still be subject to the repetitive inspection requirements of paragraph (g) of this proposed AD. However, the FAA disagrees with the need to distinguish between temporary repairs and permanent repairs for terminating action because AMOC approvals are required for all temporary repairs and permanent repairs. Additionally, the FAA acknowledges that paragraph (i) that was in the proposed AD is not necessary, as Boeing Alert Requirements Bulletin 777–57A0125 RB, dated July 25, 2023, does not specify any standard repairs. Therefore, the FAA has removed paragraph (i) of the proposed AD and added an exception in paragraph (h)(3) of this proposed AD to clarify the requirements of the terminating action.

Request To Allow Certain Temporary Repairs as AMOCs

Etihad Airways requested that the proposed AD be revised to allow previously performed repairs approved under FAA Form 8100–9 that require continued inspections in the repaired area be approved as AMOCs to paragraph (g) of the proposed AD. The commenter noted that it had temporary repairs that do not terminate repeat inspections but are considered deviations to the inspection requirements.

The FAA agrees to clarify. AMOCs cannot be issued against proposed ADs. Any repairs, whether temporary or permanent, must be accomplished as specified in paragraph (h)(2) of this proposed AD. The provisions specified in paragraph (h)(3) of this proposed AD would then also apply to that repair.

Request for Change to Applicability

Boeing requested amending paragraph (c), ''Applicability,'' of the proposed AD to reflect the specific minor models of the 777 that are affected by the unsafe condition. Boeing noted that the proposed AD listed all of the Boeing Model 777 airplanes without aligning with the applicability of the requirements bulletin.

The FAA agrees with the request. Paragraph (c) of this proposed AD has been revised to reflect the requested change.

Requests for Alternative Part Number Options

United requested that alternative part number options be approved and communicated to operators to allow the inspections to be completed within the required time frame. United explained that certain parts within kits, required for inspection tasks for airplanes in groups 3 through 6, are not readily available from Boeing.

Air France reported that Boeing is unable to support the global need for parts, which would be a significant operational strain. Operators are obliged to work with very limited kits and support the high number of airplanes to be inspected. Air France suggested approval of a list of alternative parts that are readily available.

The FAA acknowledges the concerns regarding the parts not being readily available from Boeing. However, the FAA has not yet received an alternative part request from Boeing. The FAA will consider the approval of alternative parts or an extended compliance time in accordance with the procedures specified in paragraph (i) of this proposed AD, provided sufficient substantiation is provided to show an acceptable level of safety is maintained. The FAA has not changed this proposed AD as a result of these comments.

FAA's Determination

The FAA is proposing this AD after determining the unsafe condition described previously is likely to exist or develop in other products of the same type design. Certain changes described above expand the scope of the NPRM. As a result, it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 777–57A0125 RB, dated July 25, 2023. This material specifies procedures for repetitive inspections for cracking of the upper wing skin common to certain fasteners and applicable on-condition actions. On-condition actions include repair.

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

Proposed AD Requirements in This SNPRM

This proposed AD would require accomplishing the actions specified in the material already described, except as discussed under ''Differences Between this Proposed AD and the Referenced Material,'' and except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this material at *regulations.gov* by searching for and locating Docket No. FAA–2023–2151.

Difference Between This Proposed AD and the Referenced Material

For certain conditions, Boeing Requirements Bulletin 777–57A0125 RB, dated July 25, 2023, specifies UT inspections. For the reasons explained under ''Actions Since the NPRM was Issued,'' this proposed AD would require open hole HFEC inspections instead of UT inspections for those conditions, as specified in paragraphs (h)(4) through (7) of this proposed AD.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 323 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	40 work-hours × $85 per hour = $3,400 per inspection cycle.	*$1,480	$4,880 per inspection cycle	$1,576,240 per inspection cycle.

* An inspection kit is required.

The FAA has received no definitive data on which to base the cost estimates for the on-condition repairs specified in this proposed AD.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2023–2151; Project Identifier AD–2023–00984–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 4, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by a report of a 5-inch crack on the right wing upper wing skin at wing station (WSTA) 460. The FAA is issuing this AD to address the possibility of an undetected upper wing skin crack. The unsafe condition, if not addressed, could result in the inability of the primary structural element to sustain limit load and could adversely affect the structural integrity of the airplane, resulting in loss of control of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 777–57A0125 RB, dated July 25, 2023, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 777–57A0125 RB, dated July 25, 2023.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 777–57A0125, dated July 25, 2023, which is referred to in Boeing Alert Requirements Bulletin 777–57A0125 RB, dated July 25, 2023.

(h) Exceptions to Service Information Specifications

(1) Where Boeing Alert Requirements Bulletin 777–57A0125 RB, dated July 25, 2023, uses the phrase ''the original issue date of Requirements Bulletin 777–57A0125 RB,'' this AD requires using the effective date of this AD.

(2) Where Boeing Alert Requirements Bulletin 777–57A0125 RB, dated July 25, 2023, specifies contacting Boeing for repair instructions: This AD requires doing the repair before further flight using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(3) Where note (a) of the tables in the ''Compliance'' paragraph and Accomplishment Instructions of Boeing Alert Requirements Bulletin 777–57A0125 RB, dated July 25, 2023, specifies that a ''repair

for any crack found on the left wing is terminating action to the repeat inspection on the left wing only,'' or that a ''repair for any crack found on the right wing is terminating action to the repeat inspection on the right wing only,'' for this AD, performing a repair for any crack in accordance with the procedures specified in paragraph (i) of this AD terminates the repetitive inspections required by (g) of this AD at the repaired area only.

(4) For Model 777–300 (Group 3) airplanes, where Boeing Alert Requirements Bulletin 777–57A0125 RB, dated July 25, 2023, specifies an ultrasonic (UT) inspection of the upper wing skin common to fasteners 11 and 12, this AD requires an open hole high frequency eddy current (HFEC) inspection of fasteners 11 and 12 in accordance with Figures 5 and 6 (for the left wing) or Figures 18 and 19 (for the right wing), as applicable.

(5) For Model 777–300ER (Group 4) airplanes, where Boeing Alert Requirements Bulletin 777–57A0125 RB, dated July 25, 2023, requires a UT inspection of the upper wing skin common to fasteners 6 and 7, this AD requires an open hole HFEC inspection of fasteners 6 and 7 in accordance with Figures 30 and 34 (for the left wing) or Figures 39 and 43 (for the right wing), as applicable.

(6) For Model 777–200LR (Group 5) airplanes, where Boeing Alert Requirements Bulletin 777–57A0125 RB, dated July 25, 2023, requires a UT inspection of the upper wing skin common to fasteners 6 and 7, this AD requires an open hole HFEC inspection of fasteners 6 and 7 in accordance with Figures 30 and 34 (for the left wing) or Figures 39 and 43 (for the right wing), as applicable.

(7) For Model 777F (Group 6) airplanes, where Boeing Alert Requirements Bulletin 777–57A0125 RB, dated July 25, 2023, requires a UT inspection of the upper wing skin common to fasteners 6 and 7, this AD requires an open hole HFEC inspection of fasteners 6 and 7 in accordance with Figures 30 and 34 (for the left wing) or Figures 39 and 43 (for the right wing), as applicable.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: *AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, AIR–520, Continued Operational Safety Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(j) Related Information

(1) For more information about this AD, contact Luis Cortez-Muniz, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3958; email: *Luis.A.Cortez-Muniz@faa.gov.*

(2) Material identified in this AD that is not incorporated by reference is available at the address specified in paragraph (k)(3) this AD.

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin 777–57A0125 RB, dated July 25, 2023.

(ii) [Reserved]

(3) For the material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*

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

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

Issued on September 12, 2024.

Suzanne Masterson,

Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2024–21211 Filed 9–19–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–2226; Airspace Docket No. 24–ASW–1]

RIN 2120–AA66

Amendment of RNAV Route Q–33 in the Vicinity of Winnfield, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend United States Area Navigation (RNAV) Route Q–33. The FAA is proposing this action due to the planned decommissioning of the Very High Frequency Omnidirectional Range (VOR) portion of the Sawmill, LA (SWB), VOR/Distance Measuring Equipment (VOR/DME) navigational aid (NAVAID). The Sawmill VOR is being decommissioned in support of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Comments must be received on or before November 4, 2024.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2024–2226 and Airspace Docket No. 24–ASW–1 using any of the following methods:

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

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

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

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

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

FAA Order JO 7400.11J, 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, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

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

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

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

Availability of Rulemaking Documents

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Central Service Center, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Incorporation by Reference

United States Area Navigation Routes are published in paragraph 2006 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 proposes to amend the current version of that order, FAA Order JO 7400.11J, dated July 31, 2024, and effective September 15, 2024. These updates would be published in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

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

Background

The FAA is planning to decommission the VOR portion of the Sawmill, LA, VOR/DME in April 2025. The Sawmill VOR is one of the candidate VORs identified for discontinuance by the FAA's VOR MON program and listed in the Final policy statement notice, ''Provision of Navigation Services for the Next Generation Air Transportation System (NextGen) Transition to Performance-Based Navigation (PBN) (Plan for Establishing a VOR Minimum Operational Network),'' published in the **Federal Register** on July 26, 2016 (81 FR 48694), Docket No. FAA–2011–1082.

Although the VOR portion of the Sawmill VOR/DME is planned for decommissioning, the co-located DME is being retained to continue providing service supporting current and future NextGen PBN flight procedure requirements.

The Air Traffic Service (ATS) routes affected by the planned decommissioning of the Sawmill VOR are Jet Route J–180 and RNAV Route Q–33. Proposed amendments to J–180 have been published previously in a separate NPRM so that route is not addressed further in this action. With the planned decommissioning of the VOR portion of the Sawmill VOR/DME, the remaining ground-based NAVAID coverage in the area is insufficient to enable the continuity of RNAV route Q–33. As such, proposed modifications to Q–33 would result in the existing route being retained by replacing the Sawmill VOR/DME route point with a Waypoint (WP) in the immediate vicinity of the NAVAID. Additionally, the FAA is proposing to replace the Daisetta, TX, VOR/Tactical Air Navigation (VORTAC) route point with a WP in the immediate vicinity of that NAVAID, as well.

RNAV-equipped aircraft operating under Instrument Flight Rules (IFR) would continue to be able to navigate using Q–33 to transit the area affected by the planned decommissioning of the Sawmill VOR and the changed Daisetta VORTAC route point or receive radar vectors from air traffic control (ATC).

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to amend RNAV Route Q–33 due to the planned decommissioning of the VOR portion of the Sawmill, LA, VOR/DME. The proposed Q–33 amendment is described below.

Q–33: Q–33 currently extends between the Humble, TX, VORTAC and the PROWL, MO, WP. The FAA proposes to replace the Sawmill, LA, VOR/DME route point with the SWEUP, LA, WP and replace the Daisetta, TX, VORTAC route point with the TAYUR, TX, WP. Both WPs would be established in the immediate vicinity of the NAVAIDs they are replacing and result in extremely minor alignment changes of the route. As amended, the route would continue to extend between the Humble VORTAC and the PROWL WP.

Regulatory Notices and Analyses

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

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 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 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024, is amended as follows:

Paragraph 2006 United States Area Navigation Routes.

* * * * *

Q–33 Humble, TX (IAH) to PROWL, MO [Amended]

Humble, TX (IAH)	VORTAC	(Lat. 29°57′24.90″ N, long. 095°20′44.59″ W)
TAYUR, TX	WP	(Lat. 30°11′23.40″ N, long. 094°38′41.48″ W)
SWEUP, LA	WP	(Lat. 31°58′23.07″ N, long. 092°40′38.00″ W)
LITTR, AR	WP	(Lat. 34°40′39.90″ N, long. 092°10′49.26″ W)
PROWL, MO	WP	(Lat. 37°02′00.00″ N, long. 091°15′00.00″ W)

* * * * *

Issued in Washington, DC, on September 16, 2024,

Frank Lias,

Manager, Rules and Regulations Group.

[FR Doc. 2024–21454 Filed 9–19–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–2221; Airspace Docket No. 24–AWP–107]

RIN 2120–AA66

Amendment of Class D and Class E Airspace and Establishment of Class E Airspace; Flagstaff, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class D and Class E airspace and establish Class E airspace at Flagstaff Pullman Airport, Flagstaff, AZ. The FAA is proposing this action as the result of a biennial airspace review. This action will bring the airspace into compliance with FAA orders and to support instrument flight rule (IFR) operations.

DATES: Comments must be received on or before November 4, 2024.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2024–2221 and Airspace Docket No. 24–AWP–107 using any of the following methods:

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

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

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

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

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

FAA Order JO 7400.11J, 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 would amend the Class D airspace and Class E airspace extending upward from 700 feet above the surface and establish a Class E airspace area designated as an extension to the Class D airspace at Flagstaff Pullman Airport, Flagstaff, AZ, to support IFR operations at this airport.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments,

commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

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

Privacy: In accordance with 5USC 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT post 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–14FDMS), which can be reviewed at *www.dot.gov/privacy.*

Availability of Rulemaking Documents

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Incorporation by Reference

Class D and E airspace is published in paragraphs 5000, 6004, 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 proposes to amend the current version of that order, FAA Order JO 7400.11J, dated July 31, 2024, and effective September 15, 2024. These updates would be published subsequently in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

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

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by:

Modifying the Class D airspace to within a 4.3-mile (decreased from a 5-mile) radius of the Flagstaff Pullman Airport, Flagstaff, AZ; removing the extension southeast of the airport as it is no longer required; and replacing the outdated terms ''Notice to Airmen'' and ''Airport/Facility Directory'' with ''Notice to Air Missions'' and ''Chart Supplement'';

Establishing a Class E airspace area designated as an extension to the Class D airspace extending from the 4.3-mile radius of Flagstaff Pullman Airport beginning at the point lat 35°12′33″ N, long 111°38′42″ W, to lat 35°16′44″ N, long 111°34′17″ W, then following the 9.6-mile radius from the airport clockwise to lat 35°02′27″ N, long 111°49′20″ W, to lat 35°06′38″ N, long 111°44′56″ W, then counterclockwise following the 4.3-mile radius to the point of origination;

And modifying the Class E airspace extending upward from 700 feet above the surface to within a 16.8-mile radius (previously defined by coordinates) of Flagstaff Pullman Airport; and removing the Class E airspace extending upward from 1,200 feet above the surface from the airspace legal description as it is no longer required.

This action is the result of a biennial airspace review and supports IFR at this airport.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 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 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AWP AZ D Flagstaff, AZ [Amended]

Flagstaff Pulliam Airport, AZ
(Lat 35°08′25″ N, long 111°40′09″ W)

That airspace extending upward from the surface to and including 9,500 feet MSL within a 4.3-mile radius of Flagstaff Pulliam Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

* * * * *

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

AWP AZ E4 Flagstaff, AZ [Establish]

Flagstaff Pulliam Airport, AZ
(Lat 35°08′25″ N, long 111°40′09″ W)

That airspace extending upward from the surface at Flagstaff Pullman Airport extending from the 4.3-mile radius of the airport beginning at the point lat 35°12′33″ N, long 111°38′42″ W, to lat 35°16′44″ N, long 111°34′17″ W, then following the 9.6-mile radius from the airport clockwise to lat 35°02′27″ N, long 111°49′20″ W, to lat 35°06′38″ N, long 111°44′56″ W, then following the 4.3-mile radius of the airport

counterclockwise to the point of origination. 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.

* * * * *

AWP AZ E5 Flagstaff, AZ [Amended]

Flagstaff Pulliam Airport, AZ
(Lat 35°08′25″ N, long 111°40′09″ W)

That airspace extending upward from 700 feet above the surface within a 16.8-mile radius of the Flagstaff Pulliam Airport.

* * * * *

Issued in Fort Worth, Texas, on September 16, 2024.

Steven T. Phillips,

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

[FR Doc. 2024–21430 Filed 9–19–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 908

Notice of Receipt and Request for Public Comment on Petition for Rulemaking Regarding Maintaining Records and Submitting Reports on Weather Modification Activities

AGENCY: Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Receipt of petition for rulemaking; request for comments.

SUMMARY: On March 12, 2024, the National Oceanic and Atmospheric Administration (''NOAA'') received a petition from the Environment, Energy & Natural Resources Center at the University of Houston Law Center, the Institute for Responsible Carbon Management, and a collection of environmental law professors and environmental policy experts (collectively ''Petitioners'') to amend NOAA's reporting regulations under the Weather Modification Reporting Act of 1972. Through this notification, NOAA seeks comment on the topics contained in the petition, as well as any data or information that could be used in the Agency's determination whether to grant the petition. By seeking comment on whether to grant this petition, NOAA takes no position at this time regarding the merits of the suggested rulemaking or the assertions in the petition.

DATES: Comments must be received by November 19, 2024.

ADDRESSES: You may submit comments on this document, identified by NOAA–OAR–2024–0091, by Electronic Submission. Submit all electronic comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–OAR–2024–0091 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NOAA. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name and address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NOAA will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

An electronic copy of the petition is available in the docket on *regulations.gov* by searching NOAA–OAR–2024–0091.

FOR FURTHER INFORMATION CONTACT: Jessie Carman, 202–381–7037.

SUPPLEMENTARY INFORMATION:

Background

The Weather Modification Reporting Act of 1972, 15 U.S.C. 330 *et seq.* (Pub. L. 92–205), requires that all persons who ''engage, or attempt to engage, in any weather modification activity in the United States'' report such activities to the U.S. Secretary of Commerce ''in such form and containing such information, as the Secretary may by rule prescribe.'' 15 U.S.C. 330a; *see also* 15 CFR part 908.

The National Weather Modification Policy Act of 1976, 15 U.S.C. 330 note (Pub. L. 94–490), directed the Secretary to study ''the state of scientific knowledge concerning weather modification, the present state of development of weather modification technology, the problems impeding effective implementation of weather modification technology, and other related matters.'' 15 U.S.C. 330 note. It was the declared purpose of Congress ''to develop a comprehensive and coordinated national weather modification policy and a national program of weather modification research and development[.]'' *Id.*

The Administrative Procedure Act (''APA''), 5 U.S.C. 551 *et seq.,* provides that ''[e]ach agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.'' 5 U.S.C. 553(e). On March 12, 2024, NOAA received a request from Petitioners to amend NOAA's reporting regulations under the Weather Modification Reporting Act of 1972 ''to expand and clarify their application to [ ] private Solar Radiation Modification (SRM) activities.'' The petition describes SRM as including, but not limited to, the injection of aerosol and aerosol precursors into the stratosphere or into marine stratocumulus clouds in efforts to cool Earth's surface by increasing Earth's albedo.

Request for Information

NOAA solicits public comment on the petition for rulemaking to amend NOAA's reporting regulations under the Weather Modification Reporting Act. NOAA is particularly interested in (1) how NOAA should update 15 CFR part 908 reporting requirements to account for solar radiation modification experiments, (2) what reporting requirements NOAA should include regarding potential and/or measured environmental impacts of weather modification experiments given the state of the science and current detection capabilities, (3) the spatial scale of weather modification experiments and their intended effects for which NOAA should request in submitted reports, and (4) whether, under existing statutory authorities, NOAA should pursue a broader regulatory strategy for solar radiation modification research and experimentation. NOAA will consider public comments received in determining whether to proceed with the petition's requested revisions. Upon determining whether to initiate the requested rulemaking, NOAA will publish in the **Federal Register** the Agency's notice of proposed rulemaking with a request for public comment.

Dated: July 30, 2024.

David Holst,

CFO/CAO for Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

Editorial Note: The Office of the Federal Register received this document on September 17, 2024.

[FR Doc. 2024–21567 Filed 9–19–24; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 16

[Docket No. FDA–2024–N–3654]

RIN 0910–AI97

Regulatory Hearing Before the Food and Drug Administration; General Provisions; Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is proposing to amend the Scope section of our regulation that provides for a regulatory hearing before the Agency to clarify when such hearings are available. We are proposing to revise the list of statutory provisions enumerated in the Scope section of the regulation by removing one statutory reference and adding a different statutory reference.

DATES: Either electronic or written comments on the proposed rule or its companion direct final rule must be submitted by December 4, 2024. If FDA receives any timely significant adverse comments on the direct final rule with which this proposed rule is associated, we will publish a document withdrawing the direct final rule within 30 days after the comment period ends, and we will then proceed to respond to comments under this proposed rule using the usual notice and comment procedures.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of December 4, 2024. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2024–N–3654 for ''Regulatory Hearing Before the Food and Drug Administration; General Provisions; Amendments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents, the plain language summary of the proposed rule of not more than 100 words as required by the ''Providing Accountability Through Transparency Act,'' or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Robert Schwartz, Center for Tobacco Products, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 1–877–287–1373, *CTPRegulations@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary

A. Purpose of the Proposed Rule

We are proposing to amend § 16.1 (21 CFR 16.1) to revise the list of statutory provisions enumerated in the Scope section of the regulation and thus clarify the circumstances under which the Agency intends to use the procedures in part 16 (21 CFR part 16) for regulatory hearings. We are also issuing a direct

final rule revising the list in § 16.1 by removing one statutory reference and adding a different statutory reference under the same section of the same statute. Because we believe the rule contains noncontroversial changes and we do not expect significant adverse comment on the direct final rule, we are using direct final rulemaking procedures, as described in this document.

B. Summary of the Major Provisions of the Proposed Rule

The proposed rule, if finalized, would revise § 16.1, Scope, in order to clarify the circumstances under which the Agency intends to use the procedures in part 16 for regulatory hearings. The proposed rule amends the list of statutory provisions enumerated in § 16.1. Specifically, the proposed rule removes the reference to section 906(e)(1)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 387f(e)(1)(B) (FD&C Act) (the statutory provision that requires FDA to afford an opportunity for an oral hearing prior to promulgating a tobacco product manufacturing practice (TPMP) requirements regulation) and adds a reference to section 906(e)(2)(E) of the FD&C Act (the statutory provision that provides a petitioner an opportunity for an informal hearing on an order issued on the petitioner's request for temporary or permanent exemption or variance from TPMP requirements).

C. Legal Authority

FDA is issuing this rule under provisions of the FD&C Act related to regulations and hearings (21 U.S.C. 371), and general provisions respecting control of tobacco products (21 U.S.C. 387f(e)).

D. Costs and Benefits

If finalized, this proposed rule would clarify the circumstances under which the Agency intends to use the procedures in part 16 for a regulatory hearing. Potentially affected entities would include manufacturers of finished and bulk tobacco products who choose to request an exemption or variance from TPMP requirements and are afforded an opportunity for a hearing on orders regarding such requests. Because this rule would merely clarify which of its existing procedures FDA intends to use when conducting certain types of hearings under the FD&C Act, costs and benefits of this rule are expected to be minimal.

II. Companion Document to Direct Final Rulemaking

This proposed rule is a companion to the direct final rule published in the rule section in this issue of the **Federal Register**. This companion proposed rule provides the procedural framework to finalize the rule in the event the direct final rule receives any significant adverse comment and is withdrawn. The comment period for this companion proposed rule runs concurrently with the comment period for the direct final rule. Any comments received in response to this companion proposed rule will also be considered as comments regarding the direct final rule. FDA is publishing the direct final rule because we believe the rule contains noncontroversial changes and there is little likelihood that there will be significant adverse comments opposing the rule.

A significant adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. In determining whether an adverse comment is significant and warrants terminating a direct final rulemaking, we will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and comment process. Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered significant or adverse under this procedure. A comment recommending a regulation change in addition to those in the direct final rule would not be considered a significant adverse comment unless the comment states why the rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to a part of the direct final rule and that part can be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of the significant adverse comment.

If any significant adverse comments to the direct final rule are received during the comment period, FDA will publish, within 30 days after the comment period ends, a notice of significant adverse comment and withdraw the direct final rule. If we withdraw the direct final rule, any comments received will be considered comments on the proposed rule and will be considered in developing a final rule using the usual notice-and-comment procedure.

If no significant adverse comment is received in response to the direct final rule during the comment period, no further action will be taken related to this proposed rule. Instead, we will publish a document confirming the effective date of the final rule within 30 days after the comment period ends. Additional information about direct final rulemaking procedures is set forth in the document entitled ''Guidance for FDA and Industry: Direct Final Rule Procedures,'' announced and provided in the **Federal Register** of November 21, 1997 (62 FR 62466). The guidance may be accessed at: *https://www.fda.gov/RegulatoryInformation/Guidances/ucm125166.htm.*

III. Background

Part 16 provides procedures for regulatory hearings held before FDA. The procedures in part 16 apply, among other circumstances, when a statute or regulation provides a person an opportunity for a hearing on a regulatory action. In 2012, FDA amended part 16 [1] to add several statutory and regulatory provisions throughout 21 CFR parts 1, 7, and 16, to include reference to tobacco products, where appropriate, so that tobacco products would be subject to the same general requirements that apply to other FDA-regulated products. The 2012 amendments revised § 16.1, which governs the scope of part 16, to include references to certain sections of the FD&C Act that provide an opportunity for a hearing. Among other changes, the 2012 amendments added a reference to section 906(e)(1)(B) of the FD&C Act to § 16.1. This rule further amends § 16.1, as described below.

The Agency is amending the list of statutory provisions enumerated in § 16.1(b)(1) by removing the reference to section 906(e)(1)(B) and adding a reference to section 906(e)(2)(E) of the FD&C Act. The list of statutory provisions enumerated in § 16.1(b)(1) currently includes section 906(e)(1)(B) of the FD&C Act, which requires FDA to afford the public an opportunity for an oral hearing before issuing any TPMP requirements regulation. The purpose of an oral hearing under section 906(e)(1)(B) is to allow the public to provide viewpoints, opinions, and information on proposed TPMP rules. The procedures under part 16 are not aligned with the purpose and goals of the oral hearing required under section 906(e)(1)(B) of the FD&C Act. For example, part 16 includes procedures to resolve a ''genuine and substantial issue

[1] ''Further Amendments to General Regulations of the Food and Drug Administration to Incorporate Tobacco Products,'' Food and Drug Administration, 77 FR 5171, February 2, 2012.

of fact'' that is in dispute and the right to confront and cross-examine witnesses, which are not well suited for allowing the public to provide viewpoints, opinions, and information to FDA regarding TPMP rules. Accordingly, FDA is removing the reference to section 906(e)(1)(B) of the FD&C Act from part 16 as other available procedures are better suited to achieve its purposes.

The Agency is also adding a reference to section 906(e)(2)(E) of the FD&C Act to § 16.1(b)(1). Section 906(e)(2)(E) of the FD&C Act provides an opportunity for an informal hearing after the issuance of an order related to a petitioner's request for a temporary or permanent exemption or variance from TPMP requirements. The list of statutory provisions in § 16.1(b)(1) that specifies the statutory and regulatory provisions under which regulatory hearings under part 16 are available does not currently include section 906(e)(2)(E) of the FD&C Act. FDA is adding this reference to clarify that it intends to use the procedures in part 16 when conducting such hearings.

FDA is proposing to amend § 16.1 to clarify when it intends to use the procedures in part 16 for regulatory hearings. If finalized, the amended rule would be more consistent with the statute by aligning the purposes of the two hearings referenced above with more appropriate hearing procedures under FDA's regulations. It also clarifies the availability of hearings under part 16 to tobacco product manufacturers.

IV. Legal Authority

FDA is issuing this rule under provisions of the FD&C Act related to regulations and hearings (21 U.S.C. 371) and general provisions respecting control of tobacco products (21 U.S.C. 387f). Section 701 (21 U.S.C. 371) vests FDA with ''the authority to promulgate regulations for the efficient enforcement of [the FD&C Act].'' Section 906(e) of the FD&C Act includes provisions regarding TPMP requirements regulations, and temporary and permanent exemptions and variances from TPMP requirements.

V. Description of the Proposed Rule

We are proposing to revise § 16.1, Scope, to remove a reference to ''Section 906(e)(1)(B) of the FD&C Act relating to the establishment of good manufacturing practice requirements for tobacco products'' and to add a reference to ''Section 906(e)(2)(E) of the FD&C Act relating to exemptions or variances from tobacco product manufacturing practice requirements.'' The proposed rule would clarify the availability of the procedures in part 16 for regulatory hearings to include situations when a petitioner has requested a temporary or permanent exemption or variance from TPMP requirements.

VI. Preliminary Economic Analysis of Impacts

We have examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, Executive Order 14094, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Orders 12866, 13563, and 14094 direct us to assess all benefits, costs, and transfers of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Rules are ''significant'' under Executive Order 12866 Section 3(f)(1) (as amended by Executive Order 14094) if they ''have an annual effect on the economy of $200 million or more (adjusted every 3 years by the Administrator of [the Office of Information and Regulatory Affairs (OIRA)] for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local territorial, or tribal governments or communities.'' OIRA has determined that this proposed rule is not a significant regulatory action under Executive Order 12866 Section 3(f)(1).

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this rule merely clarifies which of its existing procedures FDA intends to use when conducting certain types of hearings under the FD&C Act, we propose to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes estimates of anticipated impacts, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $183 million, using the most current (2023) Implicit Price Deflator for the Gross Domestic Product. This proposed rule would not result in an expenditure in any year that meets or exceeds this amount.

If finalized, this proposed rule would clarify the procedures FDA intends to use when conducting certain types of hearings under the FD&C Act. When the TPMP rule becomes final and effective, potentially affected entities, including manufacturers of finished and bulk tobacco products, who choose to request an exemption or variance from TPMP requirements would be afforded an opportunity for a hearing on orders regarding such requests.

We do not know how many manufacturers would pursue petitioning for an exemption or variance from TPMP requirements, once the Agency has published a final TPMP rule to establish such requirements and that rule is in effect, nor do we know how many requirements may be included in each petition. We reason that a manufacturer would petition for an exemption or variance from a TPMP requirement only if compliance with said requirement is not a financially viable choice compared to the cost of a filing a petition. Because this rule merely clarifies which of its existing procedures FDA intends to use when conducting certain types of hearings under the FD&C Act, costs and benefits of this rule are expected to be minimal.

VII. Analysis of Environmental Impact

We have determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

IX. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. We have determined that this proposed rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, we conclude that the rule does not contain policies that have federalism

implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

X. Consultation and Coordination With Indian Tribal Governments

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13175. We have tentatively determined that the rule does not contain policies that would 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. The Agency solicits comments from tribal officials on any potential impact on Indian Tribes from this proposed action.

List of Subjects in 21 CFR Part 16

Administrative practice and procedure.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, we propose that 21 CFR part 16 be amended as follows:

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

■ 1. The authority citation for part 16 continues to read as follows:

Authority: 15 U.S.C. 1451–1461; 21 U.S.C. 141–149, 321–394, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201–262, 263b, 364.

■ 2. Amend § 16.1 by revising paragraph (b)(1) to read as follows:

§ 16.1 Scope.

* * * * *

(b) * * *

(1) The statutory provisions are as follows:

TABLE 1 TO PARAGRAPH (b)(1)

Section 304(g) of the Federal Food, Drug, and Cosmetic Act relating to the administrative detention of devices and drugs (see §§ 800.55(g) and 1.980(g) of this chapter).
Section 304(h) of the Federal Food, Drug, and Cosmetic Act relating to the administrative detention of food for human or animal consumption (see part 1, subpart K of this chapter).
Section 419(c)(2)(D) of the Federal Food, Drug, and Cosmetic Act relating to the modification or revocation of a variance from the requirements of section 419 (see part 112, subpart P of this chapter).
Section 515(e)(1) of the Federal Food, Drug, and Cosmetic Act relating to the proposed withdrawal of approval of a device premarket approval application.
Section 515(e)(3) of the Federal Food, Drug, and Cosmetic Act relating to the temporary suspension of approval of a premarket approval application.
Section 515(f)(6) of the Federal Food, Drug, and Cosmetic Act relating to a proposed order revoking a device product development protocol or declaring a protocol not completed.
Section 515(f)(7) of the Federal Food, Drug, and Cosmetic Act relating to revocation of a notice of completion of a product development protocol.
Section 516(b) of the Federal Food, Drug, and Cosmetic Act regarding a proposed regulation to ban a medical device with a special effective date.
Section 518(b) of the Federal Food, Drug, and Cosmetic Act relating to a determination that a device is subject to a repair, replacement, or refund order or that a correction plan, or revised correction plan, submitted by a manufacturer, importer, or distributor is inadequate.
Section 518(e) of the Federal Food, Drug, and Cosmetic Act relating to a cease distribution and notification order or mandatory recall order concerning a medical device for human use.
Section 520(f)(2)(D) of the Federal Food, Drug, and Cosmetic Act relating to exemptions or variances from device current good manufacturing practice requirements (see § 820.1(d)).
Section 520(g)(4) and (g)(5) of the Federal Food, Drug, and Cosmetic Act relating to disapproval and withdrawal of approval of an application from an investigational device exemption (see §§ 812.19(c), 812.30(c), 813.30(d), and 813.35(c) of this chapter).
Section 903(a)(8)(B)(ii) of the Federal Food, Drug, and Cosmetic Act relating to the misbranding of tobacco products.
Section 906(e)(2)(E) of the Federal Food, Drug, and Cosmetic Act relating to exemptions or variances from tobacco product manufacturing practice requirements.
Section 910(d)(1) of the Federal Food, Drug, and Cosmetic Act relating to the withdrawal of an order allowing a new tobacco product to be introduced or delivered for introduction into interstate commerce.
Section 911(j) of the Federal Food, Drug, and Cosmetic Act relating to the withdrawal of an order allowing a modified risk tobacco product to be introduced or delivered for introduction into interstate commerce.

* * * * *

§ 16.1 [Amended]

■ 3. Effective December 18, 2025, in § 16.1, amend paragraph (b)(2) by redesignating table 1 to paragraph (b)(2) as table 2 to paragraph (b)(2).

Dated: September 6, 2024.

Robert M. Califf,

Commissioner of Food and Drugs.

[FR Doc. 2024–21232 Filed 9–19–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 26

[Docket No. FDA–2024–N–4016]

RIN 0910–AI92

Revocation of Regulations Regarding the Mutual Recognition of Pharmaceutical Good Manufacturing Practice Reports, Medical Device Quality System Audit Reports, and Certain Medical Device Product Evaluation Reports: United States and The European Community

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is proposing to revoke the regulations entitled ''Mutual Recognition of Pharmaceutical Good Manufacturing Practice Reports, Medical Device Quality System Audit Reports, and Certain Medical Device Product Evaluation Reports: United States and The European Community.'' FDA is proposing this action because the existing regulations have been superseded in part by the ''United States-European Union Amended Sectoral Annex for Pharmaceutical Good Manufacturing Practices (GMPs)'' that entered into force in 2017 (2017 Amended Pharmaceutical Annex), are outdated, do not reflect current Agency practice, and are unnecessary.

DATES: Either electronic or written comments on the proposed rule must be submitted by November 19, 2024.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 19, 2024. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2024–N–4016 for ''Revocation of Mutual Recognition of Pharmaceutical Good Manufacturing Practice Reports, Medical Device Quality System Audit Reports, and Certain Medical Device Product Evaluation Reports: United States and The European Community.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Perlesta Hollingsworth, Office of Regulatory Affairs, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20903, 240–402–5874, *Perlesta.Hollingsworth@fdahhs.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary

A. Purpose of the Proposed Rule

FDA proposes to revoke the regulations at part 26 (21 CFR part 26), which substantially reflect certain

provisions of the ''Agreement on Mutual Recognition Between the United States of America and the European Community'' that was signed in 1998 (1998 MRA). These regulations have been superseded in part by the 2017 Amended Pharmaceutical Annex, do not reflect current Agency practice, and are unnecessary.

B. Summary of the Major Provisions of the Proposed Rule

The proposed rule would revoke part 26—Mutual Recognition of Pharmaceutical Good Manufacturing Practice Reports, Medical Device Quality System Audit Reports, and Certain Medical Device Product Evaluation Reports: United States and The European Community. This part substantially reflects the 1998 MRA between the United States and the European Community that was created to better utilize the inspectional resources of each signatory by recognizing one another's inspection reports. Part 26 consists of 3 subparts: Subpart A—Specific Sector Provisions for Pharmaceutical Good Manufacturing Practices (which substantially reflects the 1998 MRA's ''pharmaceutical sectoral annex''), Subpart B—Specific Sector Provisions for Medical Devices (which substantially reflects the 1998 MRA's ''medical device sectoral annex''), and Subpart C—''Framework'' Provisions (which substantially reflects the 1998 MRA's ''umbrella'' agreement that contained general provisions applicable to the operation of all of the sectoral annexes).

C. Legal Authority

FDA is taking this action under the general administrative provisions of the Federal Food, Drug, and Cosmetic Act (FD&C Act). We discuss our legal authority in greater detail in part III.

D. Costs and Benefits

Because this proposed rule would not impose any additional regulatory burdens, this regulation is not anticipated to result in any compliance costs and the economic impact is expected to be minimal.

II. Table of Abbreviations/Acronyms

Abbreviation/ acronym	What it means
EC	European Community.
E.O	Executive Order.
FD&C Act	Federal Food, Drug, and Cosmetic Act.
GMP	Good Manufacturing Practice.
MRA	Mutual Recognition Agreement.

III. Background

A. Introduction

Part 26 was issued in response to the 1998 MRA between the United States and the European Community (EC), whereby both parties would recognize certain drug and device inspections/evaluation reports of the other, in order to more effectively allocate limited inspection resources (Mutual Recognition of Pharmaceutical Good Manufacturing Practice Inspection Reports, Medical Device Quality System Audit Reports, and Certain Medical Device Product Evaluation Reports Between the United States and the European Community, 63 FR 60122 at 60141 (November 6, 1998)). Subparts A and B of part 26 substantially reflect the 1998 MRA's pharmaceutical and medical device sectoral annexes, respectively. Subpart C of part 26 sets forth the framework provisions by which subparts A and B can be implemented. Subpart A governs ''the exchange between the parties and normal endorsement by the receiving regulatory authority of official [pharmaceutical] good manufacturing practices (GMP) inspection reports[.]'' (21 CFR 26.2) Subpart B specifies ''the conditions under which a party will accept the results of quality system-related evaluations and inspections and premarket evaluations of the other party with regard to medical devices as conducted by listed conformity assessment bodies (CAB's) and to provide for other related cooperative activities.'' (21 CFR 26.31(a))

The pharmaceutical sectoral annex to the 1998 MRA was superseded by the 2017 Amended Pharmaceutical Annex (*https://www.fda.gov/international-programs/international-arrangements/mutual-recognition-agreements-mra*). The 2017 Amended Pharmaceutical Annex included new terms, rendering Subpart A obsolete. The medical device sectoral annex was not addressed in the 2017 Amended Pharmaceutical Annex, but since the 1998 MRA went into effect, it has never been fully implemented. As other mechanisms (*e.g.,* Medical Device Single Audit Program) now exist for mutual recognition with Europe with respect to medical device inspections, Subpart B is no longer necessary.

Moreover, we do not believe it is required or would be beneficial for us to issue regulations that substantially reflect the 2017 Amended Pharmaceutical Annex with the European Union. The 2017 Amended Pharmaceutical Annex is in force and has been successfully implemented without regulations that substantially reflect it. The same is true for the MRAs that FDA entered into subsequently with Switzerland and the United Kingdom (*https://www.fda.gov/international-programs/international-arrangements/mutual-recognition-agreements-mra*). FDA's proposed revocation of part 26 should not be interpreted as FDA retreating from our commitment to working with our foreign counterparts, including through mutual recognition agreements, to achieve greater efficiencies and increase our inspectional reach.

B. Need for Regulation

The Agency believes the regulations in part 26 should be revoked because they have been superseded in part by the 2017 Amended Pharmaceutical Annex, do not reflect current Agency practice, and are unnecessary.

IV. Legal Authority

We are issuing this proposed rule under the drugs, medical devices, and general administrative provisions of the FD&C Act (21 U.S.C. 321, 331, 351, 352, 355, 360, 360b, 360c, 360d, 360e, 360f, 360g, 360h, 360i, 360j, 360l, 360m, 371, 374, 381, 382, 383, 384e, and 393) and under certain provisions of the Public Health Service Act (42 U.S.C. 216, 241, 242l, 262, 264, and 265). Under section 701(a) of the FD&C Act (21 U.S.C. 371(a)), FDA has the authority to issue regulations, and under section 809 of the FD&C Act (21 U.S.C. 384e), FDA has the authority to ''enter into arrangements and agreements with a foreign government or an agency of a foreign government to recognize the inspection of foreign establishments registered under section 510(i) in order to facilitate preapproval or risk-based inspections in accordance with the schedule established in paragraph (2) or (3) of section 510(h)[.]''

V. Description of the Proposed Rule

The proposed rule revokes part 26, which substantially reflects a 1998 agreement between the United States and the EC created to better utilize the inspectional resources of each signatory by recognizing one another's inspection reports. Revocation would eliminate regulations that have been superseded in part by the 2017 Amended Pharmaceutical Annex, do not reflect current Agency practice, and are unnecessary.

FDA is proposing this action because the pharmaceutical sectoral annex to the 1998 MRA which subpart A substantially reflects has been superseded by the 2017 Amended Pharmaceutical Annex, and the medical device sectoral annex to the 1998 MRA,

which subpart B substantially reflects, was never fully implemented. Subpart C contains general provisions applicable to both subparts A and B that will be unnecessary once subparts A and B are revoked.

VI. Proposed Effective Date

FDA is proposing that any final rule based on this proposed rule become effective 30 days after the date of its publication in the **Federal Register**.

VII. Preliminary Economic Analysis of Impacts

We have examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, Executive Order 14904, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Orders 12866, 13563, and 14094 direct us to assess all benefits, costs, and transfers of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Rules are ''significant'' under Executive Order 12866 section 3(f)(1) (as amended by Executive Order 14094) if they ''have an annual effect on the economy of $200 million or more (adjusted every 3 years by the Administrator [of the Office of Information and Regulatory Affairs (OIRA)] for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or tribal governments or communities.'' OIRA has determined that this proposed rule is not a significant regulatory action under Executive Order 12866 section 3(f)(1).

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this proposed rule does not add any new regulatory burden on the pharmaceutical or medical device industries, we propose to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated impacts, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $183 million, using the most current (2023) Implicit Price Deflator for the Gross Domestic Product. This proposed rule would not result in an expenditure in any year that meets or exceeds this amount.

We believe industry will maintain their current practices following the removal of part 26. FDA will also maintain its current practices, similarly generating no quantifiable costs or cost savings. Therefore, we expect this proposed rule to be cost neutral. Table 1 summarizes the estimated benefits and costs of the proposed rule, if finalized.

TABLE 1—SUMMARY OF BENEFITS, COSTS AND DISTRIBUTIONAL EFFECTS OF PROPOSED RULE

Category	Primary estimate	Low estimate	High estimate	Units			Notes
				Year dollars	Discount rate (%)	Period covered (years)	
Benefits:							
Annualized Monetized $millions/year	$0	$0	$0	2024	7	10	
	0	0	0	2024	3	10	
Annualized Quantified							
Qualitative	Avoid confusion created by outdated and unnecessary regulations that do not reflect current Agency practice						
Costs:							
Annualized Monetized millions/year	0	0	0	2024	7	10	Qualified reduction in inspection reports reporting costs per industry. Affected firms would not incur costs to develop and submit inspection reports.
	0	0	0	2024	3	10	
Annualized Quantified					7		
					3		
Qualitative							
Transfers:							
Federal Annualized Monetized millions/year					7		
					3		
From/To	From:			To:			
Other Annualized Monetized millions/year					7		
					3		
From/To	From:			To:			

Effects:
State, Local or Tribal Government: No estimated effect.
Small Business: No estimated effect.
Wages: No estimated effect.
Growth: No estimated effect.

We have developed a comprehensive Preliminary Economic Analysis of Impacts that assesses the impacts of the proposed rule. The full preliminary analysis of economic impacts is available in the docket for this proposed rule (Ref. 1) and at *https://www.fda.gov/about-fda/economics-staff/regulatory-impact-analyses-ria.*

VIII. Analysis of Environmental Impact

We have determined under 21 CFR 25.31(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IX. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

X. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. We have determined that this proposed rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

XI. Consultation and Coordination With Indian Tribal Governments

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13175. We have tentatively determined that the rule does not contain policies that would have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The Agency solicits comments from tribal officials on any potential impact on Indian Tribes from this proposed action.

XII. Reference

The following reference is on display at the Dockets Management Staff (see **ADDRESSES**) and is available for viewing by interested persons between 9 a.m. and 4 p.m. Monday through Friday; it is also available electronically at *https://www.regulations.gov.* Although FDA verified the website addresses in this document, please note that websites are subject to change over time.

1. FDA/Economics Staff, ''Revocation of Regulations Regarding the Mutual Recognition of Pharmaceutical Good Manufacturing Practice Reports, Medical Device Quality System Audit Reports, and Certain Medical Device Product Evaluation Reports: United States and The European Community Preliminary Regulatory Impact Analysis, Preliminary Regulatory Flexibility Analysis, Unfunded Mandates Reform Act Analysis,'' 2020. (Available at: *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*)

List of Subjects in 21 CFR Part 26

Animal, Animal drugs, Biologics, Drugs, Exports, Imports.

For reasons stated in the preamble, and under the authority of 21 U.S.C. 393 and delegated to the Commissioner of Food and Drugs, FDA proposes to remove 21 CFR part 26.

Dated: September 12, 2024.

Robert M. Califf,

Commissioner of Food and Drugs.

[FR Doc. 2024–21559 Filed 9–19–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 3

[Docket ID: DoD–2024–OS–0099]

RIN 0790–AK98

Transactions Other Than Contracts, Grants, or Cooperative Agreements for Prototype Projects; Correction

AGENCY: Office of the Under Secretary of Defense for Acquisition and Sustainment (OUSD(A&S)), Department of Defense (DoD).

ACTION: Proposed rule; correction.

SUMMARY: On September 4, 2024, the DoD published a proposed rule titled Transactions Other Than Contracts, Grants, or Cooperative Agreements for Prototype Projects. Subsequent to publication of the proposed rule, DoD discovered that the docket identifier in the published proposed rule was incorrect. All other information in the September 4, 2024, remains the same.

DATES: This correction is effective on September 20, 2024.

FOR FURTHER INFORMATION CONTACT: Patricia Toppings, 571–372–0485.

SUPPLEMENTARY INFORMATION:

Correction

In proposed rule FR Doc. 2024–19457, published in the **Federal Register** on September 4, 2024 (89 FR 71865) make the following correction:

On page 71865, in the first column, in the document heading, the docket number ''Docket ID: DoD–2021–OS–0071'' is corrected to read ''Docket ID: DoD–2024–OS–0099''.

Dated: September 17, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–21551 Filed 9–19–24; 8:45 am]

BILLING CODE 6001–FR–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket Nos. 12–375, 23–62; FCC 24–75; FR ID 237560]

Incarcerated People's Communication Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission (Commission) seeks additional comment on establishing permanent rate caps for video incarcerated people's communications services (IPCS) that are just and reasonable, and will fairly compensate IPCS providers, including comment on the video IPCS marketplace and the types of data needed to support its efforts to adopt permanent video IPCS rate caps in the future. It also seeks comment on the possibly of further disaggregating the very small jail rate tier and the types of cost or other data that would identify any additional distinctions within this rate tier. The Commission seeks comment on its authority to address quality of service issues raised in this proceeding and whether it should develop minimum Federal quality of service standards. It again seeks comment on whether to expand the definitions of ''Prison'' and ''Jail'' to capture the full universe of confinement facilities and specifically, the costs providers incur in providing service to confinement facilities that are not correctional institutions. It also seeks comment on whether to

incorporate into its inactive account rules a requirement that providers allow account holders to designate a third party to receive refunds from IPCS accounts. Finally, the Commission seeks comment on possibly adopting a uniform additive to the IPCS rate caps to account for correctional facility costs.

DATES: Comments are due on or before October 21, 2024; and reply comments are due on or before November 19, 2024.

ADDRESSES: You may submit comments, identified by WC Docket Nos. 12–375 and 23–62, by either of the following methods:

Electronic filers: Comments may be filed electronically using the internet by accessing the Commission's Electronic Comment Filing System (ECFS): *https://www.fcc.gov/ecfs.*

Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission. Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8 a.m. and 4 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Stephen Meil, Pricing Policy Division of the Wireline Competition Bureau, at (202) 418–7233 or via email at *stephen.meil@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM), document FCC 24–75, adopted on July 18, 2024, and released on July 22, 2024, in WC Docket Nos. 12–375 and 23–62. This summary is based on the public redacted version of the FCC 24–75 document, the full text of which can be accessed electronically via the FCC's Electronic Document Management System (EDOCS) website at *www.fcc.gov/edocs,* or via the FCC's Electronic Comment Filing System (ECFS) website at *www.fcc.gov/ecfs,* or is available at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-24-75A1.pdf.*

Synopsis

I. Further Notice of Proposed Rulemaking

A. Establishing Permanent Rate Caps for Video Services

1. In the 2024 IPCS Report and Order, published elsewhere in this issue of the **Federal Register**, we determine that we do not have a sufficient record or sufficiently reliable data from the 2023 Mandatory Data Collection to set permanent rate caps for video IPCS. The Commission identified anomalies in the video cost data (both industry-wide and for Securus in particular) that suggest that there is significant room for growth in this nascent market and that these data were unlikely to be representative of longer term trends in the video IPCS market. For these reasons, in the 2024 IPCS Report and Order, we establish interim rates based on the best data available and delegate authority to the Wireline Competition Bureau (WCB) and the Office of Economics and Analytics (OEA) to conduct an additional mandatory data collection to obtain updated cost and other data and information from providers concerning their video IPCS offerings, among other things. We now seek further comment on establishing permanent rate caps for video IPCS that are just and reasonable, and will fairly compensate IPCS providers. We emphasize that we will keep a close eye on developments in the video IPCS marketplace, including how changes in it affect people with disabilities. We anticipate receiving detailed information on those developments as part of the IPCS providers' annual reports once WCB and Consumer and Governmental Affairs Bureau (CGB) revise the requirement for those reports in response to the 2024 IPCS Report and Order. We also will be receiving detailed information regarding video IPCS costs and demand and (to the extent practicable) how those costs might change over time, once WCB and OEA implement the additional data collection we require today. We ask interested parties to supplement the record in this proceeding with any information they have regarding the types of video communications services that providers offer incarcerated people, the demand for those services, the used and useful costs providers and facilities incur in the provision of those services, and other information that might help us set just and reasonable, and fairly compensatory, permanent rate caps for video IPCS. While the course of this proceeding, including the Commission's efforts regarding inmate calling services prior to the enactment of the Martha Reed-Wright Act, make us acutely aware of all the steps involved in determining just and reasonable, and fairly compensatory, permanent rate caps, we intend to move quickly to complete that task with regard to video IPCS once we have the requisite information.

2. In 2023, the Commission sought comment on how it could best ensure that the rates and charges for video IPCS are just and reasonable (88 FR 27850, May 3, 2023). We now invite further comment on the video IPCS marketplace, including the types of costs incurred by video IPCS providers and the pricing and other associated practices under which such providers presently offer video services to incarcerated people. What types of video communications services are currently being offered to incarcerated people and what additional video services are likely to be offered in the near future? Is there a difference between video communications depending on the technology used? For example, are kiosks the primary means of video IPCS or are tablets more prevalent? What role does application-based video IPCS play in the IPCS market and how is that role likely to change in the future with increased deployment of tablets? Do providers use third-party applications, or develop applications internally? Do providers that develop such applications internally offset their development costs by selling them to other providers? Are there trends favoring the use of one technology over the other, for example, in costs, deployment, or usage? Is there a cost difference between different types of technologies, whether hardware-based or software-based, or among different versions of the same types of technologies? Are these technologies used in different ways? For example, are kiosks used more commonly for on-site video visitation? Do different hardware or software platforms entail differences in the manner in which video IPCS is offered, for example, as to quality of service or the variety of features offered with the service? Within the categories of safety and security services that we identify as used and useful in the 2024 IPCS Report and Order, are any such services or functions particular to video IPCS that—given the developing nature of the market—are still in the process of deployment or development?

3. We also seek comment on trends that may characterize the video IPCS market. What trends are there, if any, in

the costs of providing video IPCS? Are the substantial investments providers reported making in video equipment in the 2023 Mandatory Data Collection continuing or is investment in them trending to more stable, sustainable levels? Under what circumstances would it be appropriate to determine that the market has reached a more mature stage, potentially warranting the adoption of permanent, rather than interim, rates? What trends are there, if any, in demand for video IPCS? To what extent are providers' investments in and deployment of video equipment and network architecture stimulating demand for video IPCS? Are there trends in the costs of deploying these technologies as they become more widely available? Are there trends in the relative usage of these technologies to access video IPCS, including video visitation, versus other services provided via the same technologies or platforms, such as educational or entertainment services? How should we measure the relative use of these technologies among different services? What proportion of equipment and platform costs are devoted to providing video IPCS as compared to providing other services? Given the common usage of these equipment and platforms, what are appropriate methods for allocating costs among video IPCS, audio IPCS, and other non-IPCS that use the same equipment and platforms? What trends are there, if any, in providers' investment in the platforms necessary to support the provision of video IPCS?

4. *Additional Mandatory Data Collection.* In the 2024 IPCS Report and Order, we direct staff to conduct an additional mandatory data collection to obtain updated data on video IPCS and the IPCS industry in general. We seek comment on the types of data that would be most helpful for the Commission to collect to support its efforts to adopt permanent video IPCS rate caps in the future. We invite comment on any changes the Commission should consider making to the 2023 Mandatory Data Collection as it considers developing the additional data collection. Are there any types of data that the Commission should consider adding to that collection to ensure it meets the Commission's needs? We also seek comment on the relative benefits and burdens that collecting additional data would entail. Finally, we seek comment on the appropriate timeframe in which to conduct this data collection to ensure that the data we receive reflect a sufficiently mature video IPCS market to be suitable as the basis for setting permanent video IPCS rate caps.

B. Further Disaggregating the Very Small Jail Tier

5. In the 2024 IPCS Report and Order, we establish five rate cap tiers based on facility type and size, based on the best evidence available, in both the record and the data provided in the 2023 Mandatory Data Collection, reflecting the factors driving providers' costs. Of the four size tiers for jails, the smallest size tier (*i.e.,* for those jails with an average daily population of less than 100) makes up approximately half of all jails for which we had available data. Given the relative share of jail facilities comprising this tier, we recognize that there may be additional distinctions within this tier that are not effectively captured by the available data and that the number of facilities in this tier, of necessity, limits the granularity of the analysis for this smallest jail tier. For example, certain small providers that serve very small jails failed to submit data in response to the 2023 Mandatory Data Collection that we found to be reliable and therefore excluded from our analysis. Although we find that the available data are sufficiently robust for setting permanent audio rate caps at the tiers we adopt in the 2024 IPCS Report and Order, obtaining more reliable data from these providers may establish a better more comprehensive understanding of the costs of serving this smallest tier of jails. Commenters suggest that the smallest facilities are subject to particularly high costs, due to, for example, more frequently being located in rural areas. Accordingly, we seek comment on the types of cost or other data that would be most helpful for the Commission to collect from providers serving this tier of facilities to ascertain whether, and if so how, to further disaggregate this tier to capture any variability that may exist within segments of this tier. Are there any particular types of data that the Commission should consider adding to our subsequent data collection to ensure that it meets the Commission's needs in this regard? We also seek comment on, if the data suggests that this tier should be further disaggregated, how to do so in a manner that accurately reflects providers' costs, but also minimizes the burden on providers to administer or on consumers to understand.

C. Quality of Service

6. Many commenters raise concerns in the record regarding the quality of IPCS. Dropped calls, lack of enough communications devices at facilities, frozen video screens, and other technological shortcomings are ongoing challenges for incarcerated people and their loved ones. As an initial matter, we seek comment on scope of the Commission's authority to address quality of service issues related to these communications services, including to establish and enforce service quality rules or standards for the provision of IPCS. The Commission long has relied on its section 201(b) authority to address traffic delivery and call completion concerns. In addition, the Commission has recognized that ''[a]n inherent part of any rate setting process is not only the establishment of the rate level and rate structure, but the definition of the service or functionality to which the rate will apply.'' We thus believe that quality of service considerations are within the purview of our establishment of a compensation plan to ensure just and reasonable rates for IPCS under section 276(b)(1)(A). Do commenters agree that our traditional sources of statutory authority over these communications and providers—sections 276 and 201—convey jurisdiction for the regulation of service quality? Are there alternative statutory provisions on which we could rely to regulate the service quality of IPCS? Does the source of our authority differ depending on the type of communication, *i.e.,* audio or video IPCS?

7. Assuming the Commission has statutory bases to address service quality issues, we seek comment on whether the Commission should develop minimum Federal quality of service standards. If Federal standards are warranted, how should such standards or rules be developed? Should there be different standards or rules for different types of facilities or providers? Should the Commission establish the same or different standards for audio and video IPCS? Are there technical considerations that may warrant different standards for video services, or for different types of video services? How would the Commission monitor and enforce such standards? Similarly, are there service quality issues caused by factors beyond the control of the IPCS provider, such as broadband congestion or network failures? If so, how would Federal standards account for these factors?

8. We also seek comment on the types of service quality issues that should be addressed by any Federal standards. Should the standards simply address the most common issues reported in the record or attempt to cover any issue that materially impacts the communication service? If the Commission adopted service quality standards, how would

such standards be monitored and enforced and through what procedures? Under what circumstances, if any, should the standards require refunds to IPCS consumers?

9. Finally, are there any existing service quality standards or regulations in the IPCS marketplace today? To the extent that parties support adoption of Federal service quality standards, we anticipate that existing standards or regulations might provide a model for Federal efforts. Do prison and jail facilities currently have rules or regulations in place to address the service quality of IPCS? Do contracts between correctional institutions and providers include service quality standards, and, if so, what kinds of standards and what type of metrics for monitoring such standards are included? Have states adopted any regulations designed to address service quality of communications in correctional facilities? Parties should address these and any additional issues related to the service quality of IPCS.

D. Expanding the Definitions of Prisons and Jails

10. In the 2024 IPCS Report and Order, we modify the definition of ''Jail'' to encompass all immigration detention facilities, but we decline, at this time, to further expand the definitions of ''Prison'' and ''Jail'' in our rules, as requested by some parties, to capture the full universe of confinement facilities such as civil commitment, residential, group and nursing facilities. Several commenters support expanding the definition of ''Jail'' to cover civil commitment facilities, residential facilities, group facilities, and nursing facilities in which people with disabilities, substance abuse problems, or other conditions are routinely detained. In both 2022 and 2023, the Commission sought comment on modifying the definitions of ''Jail'' and ''Prison'' in its rules ''to ensure that they capture the full universe of confinement facilities.'' In addition, the Commission sought comment in 2022 on its authority to apply the inmate calling services rules, ''including those addressing communication disabilities, to these facilities.'' Although we agree that individuals in these facilities should benefit from the protections of just and reasonable rate caps and other consumer protection rules that we adopt here, we conclude that the Commission lacks sufficient information and data to address the requests. For this reason, we seek further comment on the costs providers incur in providing service to confinement facilities that are not correctional institutions.

11. Some parties contend that the definition of payphone service in section 276 of the Communications Act is, in pertinent part, limited to payphone service provided ''in correctional institutions'' and does not extend to confinement facilities that allegedly are not ''correctional'' in nature. Others assert that the protections of our rules should be extended to benefit individuals in confinement facilities generally. We seek comment on whether our statutory authority under section 276 can be interpreted to extend to confinement facilities. Are there other sources of statutory authority that would allow us to extend our regulations to cover these facilities?

12. Some parties contend that IPCS regulations should only apply to ''corrections-type communications systems'' because the various types of confinement facilities may not have the same cost characteristics as correctional facilities. We seek comment on whether confinement facilities outside the scope of facilities historically encompassed by our rules have cost characteristics that are substantially similar to the facilities our rules traditionally have addressed. Do confinement facilities make available communications services and impose similar types of usage restrictions as correctional facilities? Parties addressing these issues should detail any cost and service differences, and how such differences might result in different rate caps for non-correctional confinement facilities.

E. Treatment of Unused Balances In IPCS Accounts

13. In the 2024 IPCS Report and Order, we adopt permanent rules designed to ensure that IPCS account holders receive refunds of any unused funds in their accounts once the accounts are deemed inactive. We invite comment on whether to incorporate into those rules a requirement that providers allow account holders to designate a family member or other individual as an additional person eligible to receive refunds. We ask that commenters address the relative benefits and burdens of such a measure. We also ask how we might tailor such a measure to facilitate timely refunds without unduly burdening providers. Should we, for example, require providers to give account holders the opportunity to provide their designees' contact information, including residential addresses, phone numbers, and email addresses? Should we specify, in addition, that a designee receive any inactivity and refund notices that would be provided to the account holder and be allowed to request refunds on the account holder's behalf?

F. Uniform Additive To Account for Correctional Facility Costs

14. We seek comment on whether we should adopt a uniform additive to our IPCS rate caps to account for correctional facility costs. In the 2024 IPCS Report and Order, we permit IPCS providers to reimburse correctional facilities for the used and useful costs they may incur in allowing access to IPCS. Some commenters express concern that the reimbursement we permit may be difficult for IPCS providers to implement, particularly in determining which costs are used and useful for purposes of reimbursement. As an alternative, some commenters propose the use of an ''explicit additive to the rate caps for audio and video IPCS.'' Under this proposal, rather than permit IPCS providers and correctional facilities to negotiate for reimbursement under our current audio and video IPCS rates caps, the Commission would adopt a uniform facility cost additive. One commenter suggests that this approach ''would properly account for the security needs of facilities (and corresponding costs caused by making IPCS available)'' and would ''help to ensure the continued widespread availability of IPCS.'' We seek comment on this proposal, including the extent to which an additive would be a reasonable method to ensure that correctional facilities are able to recover the used and useful costs they incur in making IPCS available. Is such an additive preferable to the freely-negotiated reimbursement we allow in the 2024 IPCS Report and Order? Why or why not? Would a uniform additive allow correctional facilities to better adapt to the IPCS rate structure the Commission adopts in the 2024 IPCS Report and Order? Why or why not?

15. We seek broad comment on the contours of any possible rate additive. In particular, we seek comment on the appropriate amount of a rate additive for used and useful correctional facility costs. One commenter suggests that $0.02 could be established as a maximum cost recovery amount. This would be consistent with the approach the Commission took for prisons and jails with average daily populations of 1,000 or more in the *2021 ICS* Order (86 FR 40682, July 28, 2021). Pay Tel's outside consultant, estimates, on the basis of an informal survey of 30 correctional facilities with average daily populations below 1,000 that the average used and useful costs may be $0.08 per minute. Which data should the Commission rely on in determining

the appropriate additive and why? To the extent commenters believe more data are needed, should the Commission seek those data through an additional data collection? How can we ensure that we receive reliable data on correctional facilities' used and useful costs for purposes of establishing a rate additive? Obtaining reliable correctional facility cost data has been a perennial problem in these proceedings. In 2021, the Commission sought comment on how to obtain reliable correctional facility data (86 FR 40416, July 28, 2021). The Commission also sought facility cost data in the 2023 Mandatory Data Collection. As we explain above, however, commenters have not provided updated facility cost data. Finally, we invite comment on how the Commission should implement a rate additive within the zones of reasonableness determined in the 2024 IPCS Report and Order.

G. Effect on Small Entities

16. We seek comment on the effect that our proposals to adopt permanent video IPCS rate caps, quality of service rules, and expanded definitions of ''Prison'' and ''Jail'' in our rules would have on small entities, and whether any rules that we adopt should apply differently to small entities. We seek input on the effect, if any, on small entities of any other issues upon which we inquire in this document. We also seek comment on how we should take into account the impact on small businesses and, in particular, any disproportionate impact or unique burdens that small businesses may face, in effectuating the questions and proposals in this document. Parties should also address any alternative proposals that would minimize the burdens on small businesses.

H. Digital Equity and Inclusion

17. The Commission, as part of its continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations and benefits (if any) that may be associated with the proposals and issues discussed herein. Section 1 of the Communications Act provides that the Commission ''regulat[es] interstate and foreign commerce in communication by wire and radio so as to make [such service] available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex.'' Specifically, we seek comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well as the scope of the Commission's relevant legal authority. The term ''equity'' is used here consistent with Executive Order 13985 as the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

I. OPEN Government Data Act

18. We also seek comment on whether any of the information proposed to be collected in this would constitute ''data assets'' for purposes of the OPEN Government Data Act and, if so, whether such information should be published as ''open Government data assets''?

II. Procedural Matters

19. *Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this document. The Commission requests written public comments on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided in this document. The Commission will send a copy of the FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the FNPRM and the IRFA (or summaries thereof) will be published in the **Federal Register**.

20. *Initial Paperwork Reduction Act (PRA) Analysis.* This document may contain new or modified information collection(s) subject to the PRA. If the Commission adopts any new or modified information collection requirements, they 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 are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

21. *Providing Accountability Through Transparency Act.* Consistent with the Providing Accountability Through Transparency Act, Public Law 118–9, a summary of the FNPRM will be available on *https://www.fcc.gov/proposed-rulemakings.*

22. *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 seek comment in the FNPRM on whether any of the information proposed to be collected would constitute ''data assets'' for purposes of the OPEN Government Data Act and, if so, whether such information should be published as ''open Government data assets.''

23. *Comment Period and Filing Procedures.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section of this document. All filings must refer to WC Docket Nos. 23–62 and 12–375. The Protective Order issued in this proceeding permits parties to designate certain material as confidential. Filings which contain confidential information should be appropriately redacted, and filed pursuant to the procedure described therein.

24. *Electronic Filers:* Comments may be filed electronically using the internet by accessing the Commission's Electronic Comment Filing System (ECFS): *https://www.fcc.gov/ecfs. See*

Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

25. *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

26. Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.

27. Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8 a.m. and 4 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

28. Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

29. Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

30. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with § 1.49 and all other applicable sections of the Commission's rules. We direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to use a table of contents, regardless of the length of their submission. We also strongly encourage parties to track the organization set forth in the FNPRM in order to facilitate our internal review process.

31. *Ex Parte Rules.* This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 through 1.1216. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies).

32. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

33. *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 and Governmental Affairs Bureau at 202–418–0530.

34. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be publicly available online via ECFS.

III. Initial Regulatory Flexibility Analysis

35. As required by the RFA, the Commission has prepared this IRFA of the possible significant economic impact on small entities by the policies and rules proposed in this document. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments. The Commission will send a copy of the FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the FNPRM and the IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

36. The Commission seeks additional comment on establishing permanent rate caps for video incarcerated people's communications services (IPCS) that are just and reasonable, and will fairly compensate IPCS providers. Specifically, the Commission requests that parties supplement the record with additional information on the video IPCS marketplace, including the types of video communications services that providers offer incarcerated people, the demand for those services, the used and useful costs providers and facilities incur in the provision of those services, and other information that might help us set just and reasonable, and fairly compensatory, permanent rate caps for video IPCS. It also requests comment on the types of data that would be most helpful for the Commission to collect to support its efforts to adopt permanent video IPCS rate caps.

37. The Commission also seeks comment on quality of service issues that have been raised in this proceeding. This includes comment on the Commission's legal authority to address quality of service issues and whether it should develop minimal quality of service standards. It seeks comment on the types of service quality issues that should be addressed and whether there should be different standards or rules for different types of facilities or providers.

38. The Commission again seeks comment on revisions to its definitions of ''Prison'' and ''Jail,'' and specifically, the costs providers incur in providing service to confinement facilities that are not correctional institutions. The Commission also seeks comment on whether its statutory authority under section 276 can be interpreted to extend to confinement facilities. Finally, the Commission seeks comment on possibly obtaining additional data about serving very small jails, the possible designation of a third party to receive refunds from IPCS accounts and possibly adopting a uniform additive to the IPCS rate caps to account for correctional facility costs.

B. Legal Basis

39. The proposed action is authorized pursuant to sections 1, 2, 4(i)–(j), 201(b), 218, 220, 225, 255, 276, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)–(j), 201(b), 218, 220, 225, 255, 276, 403, and 617 and the Martha Wright-Reed Just and Reasonable Communications Act of 2022, Public Law 117–338, 136 Stat 6156 (2022).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

40. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rule revisions, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A ''small-business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

41. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's 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.

42. 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.

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, we estimate that at least 48,724 entities fall into the category of ''small governmental jurisdictions.''

43. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including Voice over internet Protocol (VoIP) services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry. Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.

44. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were engaged in the provision of fixed local services. Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

45. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were engaged in the provision of fixed local services. Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

46. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include both incumbent and competitive local exchange service providers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were fixed local exchange service providers. Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

47. *Incumbent Local Exchange Carriers (Incumbent LECs).* Neither the Commission nor the SBA have developed a small business size standard specifically for incumbent local exchange carriers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on

Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 1,212 providers that reported they were incumbent local exchange service providers. Of these providers, the Commission estimates that 916 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, the Commission estimates that the majority of incumbent local exchange carriers can be considered small entities.

48. *Competitive Local Exchange Carriers (CLECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include several types of competitive local exchange service providers. Wired Telecommunications Carriers is the closest industry with a SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 3,378 providers that reported they were competitive local service providers. Of these providers, the Commission estimates that 3,230 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

49. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 127 providers that reported they were engaged in the provision of interexchange services. Of these providers, the Commission estimates that 109 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

50. *Local Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Local Resellers. Telecommunications Resellers is the closest industry with an SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 207 providers that reported they were engaged in the provision of local resale services. Of these providers, the Commission estimates that 202 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

51. *Toll Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Toll Resellers. Telecommunications Resellers is the closest industry with an SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. MVNOs are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 457 providers that reported they were engaged in the provision of toll services. Of these providers, the Commission estimates that 438 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

52. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. Wired Telecommunications Carriers is the closest industry with a SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 90 providers that reported they were engaged in the provision of other toll services. Of these providers, the Commission estimates that 87 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

53. *Payphone Service Providers (PSPs).* Neither the Commission nor the SBA have developed a small business size standard specifically for payphone service providers. Telecommunications Resellers is the closest industry with an SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and

infrastructure. MVNOs are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 36 providers that reported they were engaged in the provision of payphone services. Of these providers, the Commission estimates that 32 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

54. *Telecommunications Relay Service (TRS) Providers.* Telecommunications relay services enable individuals who are deaf, hard of hearing, deafblind, or who have a speech disability to communicate by telephone in a manner that is functionally equivalent to using voice communication services. Internet-based TRS connects an individual with a hearing or a speech disability to a TRS communications assistant using an internet Protocol-enabled device via the internet, rather than the public switched telephone network. Video Relay Service (VRS), one form of internet-based TRS, enables people with hearing or speech disabilities who use sign language to communicate with voice telephone users over a broadband connection using a video communication device. Internet Protocol Captioned Telephone Service (IP CTS) another form of internet-based TRS, permits a person with hearing loss to have a telephone conversation while reading captions of what the other party is saying on an internet-connected device. A third form of internet-based TRS, internet Protocol Relay Service (IP Relay), permits an individual with a hearing or a speech disability to communicate in text using an internet Protocol-enabled device via the internet, rather than using a text telephone (TTY) and the public switched telephone network. Providers must be certified by the Commission to provide VRS and IP CTS and to receive compensation from the TRS Fund for TRS provided in accordance with applicable rules. Analog forms of TRS, text telephone (TTY), Speech-to-Speech Relay Service, and Captioned Telephone Service, are provided through state TRS programs, which also must be certified by the Commission.

55. Neither the Commission nor the SBA have developed a small business size standard specifically for TRS Providers. All Other Telecommunications is the closest industry with an SBA small business size standard. Internet Service Providers (ISPs) and VoIP services, via client-supplied telecommunications connections are included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of $35 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than $25 million. Based on Commission data there are 14 certified internet-based TRS providers and two analog forms of TRS providers. The Commission however does not compile financial information for these providers. Nevertheless, based on available information, the Commission estimates that most providers in this industry are small entities.

56. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Providers of internet services (*e.g.,* dial-up ISPs) or VoIP services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of $40 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than $25 million. Based on this data, the Commission estimates that the majority of ''All Other Telecommunications'' firms can be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

57. *Establishing Permanent Rate Caps for Video IPCS.* The Commission seeks comments on establishing permanent video IPCS rates, including updated marketplace and cost data. To the extent that permanent video IPCS rate caps are lower than the interim rate caps and apply to all types of facilities (including jails with average daily populations below 1,000) as detailed in the 2024 IPCS Report and Order, IPCS video providers (including any smaller entities) must comply with the new rate caps.

58. *Compliance with Quality of Service Rules.* The Commission seeks comment on adopting quality of service rules for IPCS. It also seeks comment on whether there should be different standards or rules for different types of facilities or providers. Thus, IPCS providers that are small entities may be subject to any quality of service rules ultimately adopted by the Commission.

59. *Recordkeeping, Reporting, and Certification.* The 2024 IPCS Report and Order directs staff to conduct an additional mandatory data collection to obtain updated data on video IPCS and the IPCS industry in general. The Commission seeks comment on the types of data that would be most helpful for it to collect to support its efforts to adopt permanent video IPCS rate caps that are just and reasonable to consumers, as well as ensuring fair compensation to providers. To the extent the Commission imposes a new mandatory data collection, providers of all sizes must maintain and report their cost data in accordance with the Commission's rules. The Commission also seeks comments on revising its definitions of ''Prison'' and ''Jail'' to capture the full universe of confinement facilities. To the extent the Commission expands these definitions as proposed, providers of communication services to these facilities may be subject to the Commission's regulations. We anticipate the information we receive in comments including where requested, cost and benefit analyses, will help the Commission identify and evaluate relevant compliance matters for small entities, including compliance costs and other burdens that may result from the proposals and inquiries we make herein.

E. Steps Taken To Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered

60. The RFA requires an agency to describe any significant, alternatives that could minimize impacts to small entities that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or

simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

61. The Commission seeks comments on establishing permanent rate caps for video IPCS. Data are sought from providers servicing different facility types and sizes, and information on how small providers serving jails, which may be smaller, higher-cost facilities, and larger prisons, which often benefit from economies of scale, can recover their legitimate IPCS costs related to video communications services.

62. The Commission seeks comment on adopting quality of service standards for IPCS including whether there should be different standards or rules for different types of facilities or providers. The Commission seeks information on the impact such rules may have on IPCS providers for smaller facilities. The Commission seeks comment on the costs providers incur in providing service to confinement facilities of all sizes that are not correctional institutions. Specifically, whether non-correctional confinement facilities have cost characteristics that are substantially similar to correctional facilities.

63. The Commission seeks comment on whether any of the burdens associated the filing, recordkeeping and reporting requirements described above can be minimized for small entities and whether any of the costs associated with the proposals in this summary document can be alleviated for small entities. The Commission will consider the economic impact on small entities, as identified in comments filed in response to this summary and this IRFA, in reaching its final conclusions and promulgating rules in this proceeding.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

64. None.

IV. Ordering Clauses

65. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 2, 4(i)–(j), 201(b), 218, 220, 225, 255, 276, 403, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)–(j), 201(b), 218, 220, 225, 255, 276, 403, and 617, and the Martha Wright-Reed Just and Reasonable Communications Act of 2022, Public Law 117–338, 136 Stat 6156 (2022), the FNPRM *is adopted.*

66. *It is further ordered* that, pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on the FNPRM on or before 30 days after publication of a summary of the FNPRM in the **Federal Register** and reply comments on or before 60 days after publication of a summary of the FNPRM in the **Federal Register**.

67. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the FNPRM, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2024–19038 Filed 9–18–24; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 89, No. 183
Friday, September 20, 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 whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by October 21, 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.

Food Safety and Inspection Service

Title: Consumer Complaint Monitoring System.

OMB Control Number: 0583–0133.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, and properly labeled. FSIS tracks consumer complaints about meat, poultry, and egg products. Consumer complaints are usually filed because food made the consumer sick, caused an allergic reaction, was not properly labeled (misbranded), or contained a foreign object. The Agency uses a web portal to capture consumer complaint information.

Need and Use of the Information: The Consumer Complaint Monitoring System web portal is used primarily to track consumer complaints regarding meat, poultry, and egg products. FSIS will use the information collected from the web portal. To not collect the information from the web portal would reduce the effectiveness of the meat, poultry, and egg products inspection program.

Description of Respondents: Individuals or households.

Number of Respondents: 3,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 750.

Food Safety and Inspection Service

Title: Voluntary Recalls of Meat and Poultry Products.

OMB Control Number: 0583–0135.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged. A firm that has produced or imported meat or poultry that is adulterated or misbranded and is being distributed in commerce, may voluntarily recall the product in question. Under the FMIA, firms are required to keep such records that fully and correctly disclose all transactions in their business (21 U.S.C. 642). Under the PPIA, firms are required to keep such records as are properly necessary for the effective enforcement of the PPIA (21 U.S.C. 460(b)).

Need and Use of the Information: When meat or poultry in commerce is adulterated or misbranded, FSIS requests that the establishment that produced the product voluntarily recall the product in question. In conducting a recall, the Agency asks the establishment to provide it with some basic information, including the identity of the recalled product, the reason for the recall, and information about the distributors and customers of the product. Industry representatives use the FSIS Form 5020–3 FSIS Preliminary Inquiry Worksheet to provide firm contact information and specific details regarding adulterated or misbranded product in commerce, including product identifiers, product amounts and supplemental information. Recalling firms and distributors then use the FSIS Form 5020–4 FSIS Recall Distribution Information Template to provide the location and contact information of consignees who received recalled product. The FSIS Forms 5020–3 and 5020–4 were developed to assist the respondents in collecting some of the basic information they have always been required to provide FSIS. FSIS uses this information to notify the public concerning product subject to a recall and to check on the effectiveness of the recall.

Description of Respondents: Business or other for-profit.

Number of Respondents: 6,090.

Frequency of Responses: Reporting: On Occasion.

Total Burden Hours: 6,600.

Food Safety and Inspection Service

Title: Animal Disposition Reporting.

OMB Control Number: 0583–0139.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection

Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, and properly labeled. FSIS also inspects exotic animals and rabbits under the authority of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*). In accordance with 9 CFR 320.6, 381.180, 352.15, and 354.91, establishments that slaughter meat, poultry, exotic animals, and rabbits are required to maintain certain records regarding their business operations and to report this information to the Agency as required.

Need and Use of the Information: FSIS uses this information to plan inspection activities, to develop sampling plans, to target establishments for testing, to develop the Agency budget, and to develop reports to Congress. FSIS also provides this data to other USDA agencies, including the National Agricultural Statistics Service (NASS), the Animal and Plant Health Inspection Service (APHIS), the Agricultural Marketing Service (AMS), and the Grain Inspection, Packers and Stockyards Administration (GIPSA), for their publications and for other functions.

Description of Respondents: Business or other for-profit.

Number of Respondents: 1,159.

Frequency of Responses: Reporting: On Occasion; Daily.

Total Burden Hours: 23.180.

Food Safety and Inspection Service

Title: Requirements to Notify FSIS of Adulterated or Misbranded Product, Prepare and Maintain Written Recall Procedures, and Document Certain HACCP Plan Reassessments.

OMB Control Number: 0583–0144.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged. Section 11017 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246, 112 Stat. 1651, 448–49), amended the FMIA and the PPIA by adding sections 12 and 13 to the FMIA and by amending section 10 of the PPIA (21 U.S.C. 459). These sections require official establishments that believe they have shipped into commerce or received adulterated or misbranded product to notify the Secretary of Agriculture. In addition, establishments are to prepare and maintain current recall procedures, document each reassessment of its HACCP plan, and make the recall procedures and written records of the establishment's HACCP plan reassessments available for official review and copying.

Need and Use of the Information: Official establishments are to document each time they reassess their HACCP plans and make the reassessments available to FSIS officials for review and copying. Official establishments are to notify the FSIS District Office that they have received or have shipped into commerce misbranded or adulterated product. The information collected will permit FSIS officials to monitor closely establishments HACCP plan reassessments and to facilitate recalls or adulterated or misbranded product.

Description of Respondents: Business or other for-profit.

Number of Respondents: 6,300.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 9,960.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024–21601 Filed 9–19–24; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Census Bureau

2030 Census Advisory Committee

AGENCY: Census Bureau, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Census Bureau is giving notice of a meeting of the 2030 Census Advisory Committee (2030 CAC or Committee). The Committee will assist the Census Bureau in devising strategies to increase awareness of and participation in the next decennial census, reduce barriers to response, and enhance the public's trust and willingness to respond. Last minute changes to the schedule are possible, which could prevent giving advance public notice of schedule adjustments.

DATES: The meeting will be held on:

- Thursday, October 17, 2024, from 8:30 a.m. to 5 p.m. EDT; and
- Friday, October 18, 2024, from 8:30 a.m. to 2:30 p.m. EDT.

ADDRESSES: Please visit the Census Advisory Committee website at *https://www.census.gov/about/cac/2030cac/meetings/2024-10-meeting.html,* for the 2030 CAC fall meeting information, including the agenda, and how to attend the meeting.

FOR FURTHER INFORMATION CONTACT: Shana Banks, Advisory Committee Branch Chief, Office of Program, Performance and Stakeholder Integration (PPSI), *shana.j.banks@census.gov,* Department of Commerce, Census Bureau, telephone 301–763–3815. For TTY callers, please use the Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Committee will provide insight, perspectives, and expertise through recommendations on planning and implementation of the 2030 Census. The members of the 2030 CAC are appointed by the Director of the Census Bureau. The Committee has been established in accordance with the Federal Advisory Committee Act (5 U.S.C. 1001 *et seq.*).

All meetings are open to the public. Public comments will be accepted in writing only to *shana.j.banks@census.gov* (subject line ''2030 CAC Fall Meeting Public Comment''). A brief period will be set aside during the meeting to read public comments received in advance of 12 p.m. EDT, October 17, 2024. Any public comments received after the deadline will be posted to the website listed in the **ADDRESSES** section.

Robert L. Santos, Director, Census Bureau, approved the publication of this Notice in the **Federal Register**.

Dated: September 16, 2024.

Shannon Wink,

Program Analyst, Policy Coordination Office, U.S. Census Bureau.

[FR Doc. 2024–21489 Filed 9–19–24; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

[Docket No. 240906–0232]

Membership of the Performance Review Boards

AGENCY: Department of Commerce, Office of the Secretary.

ACTION: Notice of Membership on the Office of the Secretary (OS) Performance Review Board, International Trade Administration (ITA) Performance Review Board, and the Bureau of Industry and Security (BIS), Economic Development Administration (EDA), Minority Business Development Agency (MBDA), and National Telecommunications and Information Administration (NTIA) Performance Review Board.

SUMMARY: The Department of Commerce (DOC), announces the appointment of those individuals who have been selected to serve as members of the Office of the Secretary (OS) Performance Review Board, International Trade Administration (ITA) Performance Review Board, and the Bureau of Industry and Security (BIS), Economic Development Administration (EDA), Minority Business Development Agency (MBDA), and National Telecommunications and Information Administration (NTIA) Performance Review Board.

DATES: The appointment for those individuals selected for the Performance Review Boards begins immediately upon publication of this notice. Service is expected to last through Fiscal Years 2025 and 2026, which begins on October 1, 2024, and ends on September 30, 2026.

FOR FURTHER INFORMATION CONTACT: Luis A. Figueroa, U.S. Department of Commerce, Office of Human Resources Management, Office of Executive Resources, 14th and Constitution Avenue NW, Washington, DC 20230, at (202) 482–3956.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314 (c) (4), the Department of Commerce (DOC), Office of the Secretary, announces the appointment of those individuals who have been selected to serve as members of the OS Performance Review Board, ITA Performance Review Board, and the BIS, EDA, MBDA, and NTIA Performance Review Board. The Performance Review Boards are responsible for (1) reviewing performance appraisals and ratings of Senior Executive Service (SES) and (SL) members; and (2) making recommendations to the appointing authority on other performance management issues, such as pay adjustments and bonuses. The members listed in this notice can serve on any of the three boards mentioned if alternate members are needed. Additionally, all members listed in this notice may be selected to participate in ad-hoc Performance Review Boards as needed.

This notice supersedes the list published in the **Federal Register** on October 20, 2023 (Docket No. 231005–0239).

OS Performance Review Board Members: The name, position title, and type of appointment of each member of the Office of the Secretary Performance Review Board are set forth below:

1. Kurt Bersani, Deputy Director for Planning, Implementation, and Stakeholder Relations (OS), Career SES
2. James Christy, Assistant Director for Field Operations (Census), Career SES
3. Junish Arora, Chief Diversity, Equity, and Inclusion Officer (OCFO/ASA), Career SES
4. Kardesha Bradley, Assistant General Counsel for Transactions and Program Management (OGC), Career SES
5. Paige Herwig, Deputy General Counsel for Technology and Economic Growth (OGC), Non-Career SES
6. Michael Harman, Director for Client Security Services (OCFO/ASA), Career SES
7. Charles Cutshall, Director, Office of Privacy and Open Government (OCFO/ASA), Career SES

ITA Performance Review Board Members: The name, position title, and type of appointment of each member of the International Trade Administration Performance Review Board are set forth below:

1. Laurie Monk, Director of Human Capital (ITA), Career SES
2. Scot Fullerton, Associate Deputy Assistant Secretary for AD/CVD Operations (ITA), Career SES
3. Bart Meroney, Executive Director for Manufacturing (ITA), Career SES
4. Lisle Hannah, Director for Facilities and Environmental Quality (OCFO/ASA), Career SES
5. Kendee Yamaguchi, Deputy Assistant Secretary for U.S. Field (ITA), Non-Career SES
6. David De Falco, Deputy Assistant Secretary for Europe (ITA), Career SES
7. Marti Flacks, Director for Supply Chain (ITA), Career SES

BIS, EDA, MBDA, NTIA Performance Review Board Members: The name, position title, and type of appointment of each member of the BIS, EDA, MBDA, and NTIA Performance Review Board are set forth below:

1. Keven Valentin, Chief Financial Officer and Director of Administration (BIS), Career SES
2. Linda Cruz-Carnall, Philadelphia Regional Director (EDA), Career SES
3. Douglas Kinkoph, Associate Administrator for Telecommunications and Information Applications (NTIA), Career SES
4. LaMarsha DeMarr, Director, Human Resources Services, Enterprise Services (OS), Career SES
5. Keigan Mull, Counselor to the Under Secretary (ITA), Non-Career SES
6. Eric Longnecker, Deputy Assistant Secretary for Technology Security (BIS), Career SES
7. Dan Clutch, Deputy Director, Office of Export Enforcement (BIS), Career SES
8. Susan Brehm, Chicago Regional Director (EDA), Career SES
9. Jorge Ayala, Austin Regional Director (EDA), Career SES
10. Beth Grossman, Assistant General Counsel for Legislation and Regulation (OGC), Career SES
11. James Gwinn, Chief Information Officer (FirstNet), Career SES
12. Phillip Murphy, Senior Advisor (NTIA), Non-Career SES
13. Richard Reed, Chief Customer Officer (FirstNet), Career SES
14. Michael Phelps, Director, Office of Budget (OCFO/ASA), Career SES

Dated: September 17, 2024.

Jessica S. Palatka,

Director, Office of Human Resources Management (OHRM) and Chief Human Capital Officer (CHCO).

[FR Doc. 2024–21568 Filed 9–19–24; 8:45 am]

BILLING CODE 3510–03–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–26–2024]

Foreign-Trade Zone (FTZ) 64; Authorization of Limited Production Activity; USA Big Mountain Paper Inc.; (Disposable Diapers/Underwear/Pads and Wet Wipes); Jacksonville, Florida

On May 20, 2024, USA Big Mountain Paper Inc. submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 64, in Jacksonville, Florida.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (89 FR 46361, May 29, 2024). On September 17, 2024, the applicant was notified of the FTZ Board's decision that further review of part of the proposed activity is warranted. The FTZ Board authorized the production activity described in the notification on a limited basis, subject to the FTZ Act and the Board's regulations, including section 400.14, and further subject to a restriction requiring that spandex fiber be admitted in domestic/duty paid status (19 CFR 146.43).

Dated: September 17, 2024.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2024–21547 Filed 9–19–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–028]

Hydrofluorocarbon Blends From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2022–2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that no companies under review qualify for a separate rate. Therefore, these companies are considered to be part of the People's Republic of China (China)-wide entity during the period of review (POR) August 1, 2022, through July 31, 2023.

DATES: Applicable September 20, 2024.

FOR FURTHER INFORMATION CONTACT: Whitley Herndon, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6274.

SUPPLEMENTARY INFORMATION:

Background

On May 9, 2024, Commerce published in the **Federal Register** the *Preliminary Results* of the 2022–2023 administrative review of the antidumping duty on hydrofluorocarbon (HFC) blends from China.[1] We invited interested parties to comment on the *Preliminary Results;*[2] however, no interested party submitted comments. Accordingly, the final results remain unchanged from the *Preliminary Results,* and thus there is no decision memorandum accompanying this notice. Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order[3]

The products covered by the *Order* are HFC blends from China.[4]

China-Wide Entity

In accordance with Commerce's policy, the China-wide entity will not be reviewed unless a party specifically requests, or Commerce self-initiates, a review of the entity.[5] Because no party requested a review of the China-wide entity, the entity is not under review and the entity's rate of 216.37 percent is not subject to change.[6]

Final Results of Review

In the *Preliminary Results,* Commerce determined that, because none of the companies under review with suspended entries in the U.S. Customs and Border Protection (CBP) data submitted a separate rate application or certification, none of these companies had established eligibility for a separate rate. We received no comments with respect to our preliminary finding. Therefore, for these final results, we continue to determine that companies in the appendix to this notice are part of the China-wide entity, and thus, subject to the China-wide entity rate.

Disclosure

Normally, Commerce will disclose to the parties in a proceeding the calculations performed in connection with the final results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce determined that each of the companies listed in the appendix is part of the China-wide entity, there are no calculations to disclose.

Assessment Rates

Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries in accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b). Commerce will instruct CBP to apply an *ad valorem* assessment rate of 216.37 percent to all entries of subject merchandise during the POR which were exported by the companies considered to be a part of the China-wide entity listed in the Appendix to this notice.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these final results of review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) for previously investigated or reviewed Chinese and non-Chinese exporters for which a review was not requested and that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate published for the most recently-completed period; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity (*i.e.,* 216.37 percent); and (3) for all non-Chinese exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. 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.

Administrative Protective Order

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. 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.

---

[1] *See Hydrofluorocarbon Blends from the People's Republic of China: Preliminary Results and Partial Recission of Antidumping Duty Administrative Review; 2022–2023,* 89 FR 39582 (May 9, 2024) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *Id.,* 89 FR at 39583.

[3] *See Hydrofluorocarbon Blends from the People's Republic of China: Antidumping Duty Order,* 81 FR 55436 (August 19, 2016) (*Order*).

[4] For a complete description of the scope of the *Order, see Preliminary Results* PDM at 3–4.

[5] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[6] *See Order,* 81 FR at 55438.

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 351.221(b)(5).

Dated: September 13, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

Companies Under Review Determined To Be Part of the China-Wide Entity

1. Changzhou Vista Chemical Co., Ltd.
2. Daikin Fluorochemicals (China) Co., Ltd.
3. Dongyang Weihua Refrigerants Co., Ltd.
4. Hanzhou Icetop Refrigeration Co., Ltd.
5. Jiangsu Sanmei Chemicals Co., Ltd.
6. Oasis Chemical Co., Limited
7. Puremann, Inc.
8. Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd.
9. Superfy Industrial Limited
10. Tianjin Synergy Gases Products, Co., Ltd
11. Weitron International Refrigeration Equipment (Kunshan) Co., Ltd.
12. Weitron International Refrigeration Equipment Co., Ltd.
13. Yangfar Industry Co., Ltd.
14. Zhejiang Lantian Environmental Protection Fluoro Material Co. Ltd.
15. Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd.
16. Zhejiang Zhonglan Refrigeration Technology Co., Ltd.

[FR Doc. 2024–21521 Filed 9–19–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

SUMMARY: The U.S. Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping duty (AD) and countervailing duty (CVD) orders with August anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

DATES: Applicable September 20, 2024.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various AD and CVD orders with August anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

Respondent Selection

In the event that Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based either on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review (POR) or questionnaires in which we request the quantity and value (Q&V) of sales, shipments, or exports during the POR. Where Commerce selects respondents based on CBP data, we intend to place the CBP data on the record within five days of publication of the initiation notice. Where Commerce selects respondents based on Q&V data, Commerce intends to place the Q&V questionnaire on the record of the review within five days of publication of the initiation notice. In either case, we intend to make our decision regarding respondent selection within 35 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data (and/or Q&V data (where applicable)) and respondent selection should be submitted within seven days after the placement of the CBP data/submission of the Q&V data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments within five days after the deadline for the initial comments.

In the event that Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Tariff Act of 1930, as amended (the Act), the following guidelines regarding collapsing of companies for purposes of respondent selection will apply. In general, Commerce has found that determinations concerning whether particular companies should be ''collapsed'' (*e.g.,* treated as a single entity for purposes of calculating AD rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this AD proceeding (*e.g.,* investigation, administrative review, new shipper review, or changed circumstances review). For any company subject to this review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection.

Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Q&V Questionnaire for purposes of respondent selection, in general, each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Notice of No Sales

With respect to AD administrative reviews, we intend to rescind the review where there are no suspended entries for a company or entity under review and/or where there are no suspended entries under the company-specific case number for that company or entity. Where there may be suspended entries, if a producer or exporter named in this notice of initiation had no exports, sales, or entries during the POR, it may notify Commerce of this fact within 30 days of publication of this notice in the **Federal Register** for Commerce to consider how to treat suspended entries under that producer's or exporter's company-specific case number.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may

extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of a particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[1] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial responses to section D of the questionnaire.

Separate Rates

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single AD deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a Separate Rate Application or Certification, as described below. In addition, all firms that wish to qualify for separate rate status in the administrative reviews of AD orders in which a Q&V Questionnaire is issued must complete, as appropriate, either a Separate Rate Application or Certification, and respond to the Q&V Questionnaire.

For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at *https://access.trade.gov/Resources/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding[2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Application will be available on Commerce's website at *https://access.trade.gov/Resources/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Application, refer to the instructions contained in the application. Separate Rate Applications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

Exporters and producers must file a timely Separate Rate Application or Certification if they want to be considered for individual examination. Furthermore, exporters and producers who submit a Separate Rate Application or Certification and subsequently are selected as mandatory respondents will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following AD and CVD orders and findings. We intend to issue the final results of these reviews not later than August 31, 2025.

[1] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[3] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
AD Proceedings [4]	
CANADA: Utility Scale Wind Towers, A–122–867	8/1/23–7/31/24
Marmen Energie Inc.	
Marmen Inc.	
INDIA: Finished Carbon Steel Flanges, A–533–871	8/1/23–7/31/24
Balkrishna Steel Forge Pvt. Ltd.	
Bansidhar Chiranjilal	
BFN Forgings Private Limited	
Cetus Engineering Private Limited	
Echjay Industries Pvt. Ltd	
Jai Auto Pvt. Ltd.	
Munish Forge Private Limited	
Norma (India) Limited [5]	
R.N. Gupta & Co. Ltd.Uma Shanker Khandelwal and Co.	
USK Exports Private Limited	
INDONESIA: Utility Scale Wind Towers, A–560–833	8/1/23–7/31/24
GE Indonesia	
GE Renewable Energy	
General Electric Indonesia	
Korindo Wind	
Nordex SE	
PT. Kenertec Power System	
PT. Siemens Gamesa Renewable Energy	
MALAYSIA: Polyethylene Retail Carrier Bags, A–557–813	8/1/23–7/31/24
Euro SME Sdn Bhd/Euro Nature Green Sdn. Bhd.	
MALAYSIA: Silicon Metal, A–557–820	8/1/23–7/31/24
PMB Silicon Sdn. Bhd.	
MEXICO: Light-Walled Rectangular Pipe and Tube, A–201–836	8/1/23–7/31/24
Acro Metal S.A. de C.V.	
Fabricaciones y Servicios de Mexico	
Galvak, S.A. de C.V.	
Grupo Estructuras y Perfiles	
Industrias Monterrey S.A. de C.V.	
Internacional de Aceros, S.A. de C.V.	
Maquilacero S.A. de C.V./Tecnicas de Fluidos S.A. de C.V.	
Nacional de Acero S.A. de C.V.	
PEASA-Productos Especializados de Acero	
Perfiles LM, S.A. de C.V.	
Productos Laminados de Monterrey S.A. de C.V./Aceros Cuatro Caminos S.A. de C.V.	
Regiomontana de Perfiles y Tubos S. de R.L. de C.V.[6]	
Talleres Acero Rey S.A. de C.V.	
Ternium Mexico S.A. de C.V.	
Tuberia Laguna, S.A. de C.V.	
Tuberias Aspe S.A. de C.V.	
Tuberias y Derivados S.A. de C.V.	
REPUBLIC OF KOREA: Dioctyl Terephthalate, A–580–889	8/1/23–7/31/24
Aekyung Chemical Co., Ltd.[7]	
Hanwha Chemical Corporation	
LG Chem, Ltd.	
REPUBLIC OF KOREA: Large Power Transformers, A–580–867	8/1/23–7/31/24
HD Hyundai Electric Co., Ltd.	
Hyosung Heavy Industries Corporation	
Iljin Electric Co., Ltd.	
LS Electric Co., Ltd.	
REPUBLIC OF KOREA: Low Melt Polyester Staple Fiber, A–580–895	8/1/23–7/31/24
Toray Advanced Materials Korea, Inc.	
REPUBLIC OF KOREA: Utility Scale Wind Towers, A–580–902	8/1/23–7/31/24
CS Wind Corporation	
Dongkuk S&C Co., Ltd.	
Enercon Korea Inc.	
Hyosung Heavy Industries	
Nordex SE	
Siemens Gamesa Renewable Energy Limited	
Unison Co., Ltd.	
Vestas Korea Wind Technology Ltd.	
Win&P., Ltd.	
REPUBLIC OF KOREA: Certain Steel Nails,[8] A–580–874	7/1/23–6/30/24
Agl Co., Ltd.	
Americana Express (Shandong) Co., Ltd.	
Duo-Fast Korea Company Limited; Jinheung Steel Corporation; and Jinsco International Corp.[9]	
SPAIN: Chlorinated Isocyanurates,[10] 6/1/23–5/31/24	A–469–814
Ercros, S.A.	
SPAIN: Ripe Olives, A–469–817	8/1/23–7/31/24

	Period to be reviewed
Aceitunas Guadalquivir, S.L.	
Agro Sevilla Aceitunas S.COOP Andalusia	
Agro Sevilla Aceitunas, S.Coop.AND	
Alimentary Group DCOOP, S.Coop.And.	
Angel Camacho Alimentacion S.L.	
SPAIN: Utility Scale Wind Towers, A–469–823	8/1/23–7/31/24
Acciona Energia	
Acciona Windpower S.A.	
Gamesa Energy Transmission S.A.	
GE Renewable Energy	
GRI Renewable Industries S.L.	
Haizea Wind Group	
Iberdrola Renovables Energia S.A.	
Iberdrola, S.A.	
Industrial Barranquesa S.A.	
Nordex Energy Spain S.A.	
Nordex SE	
Siemens Gamesa Renewable Energy Inc.	
Vestas Control Systems Spain S.L.U.	
Vestas Eolica S.A.U.	
Vestas Eolica, S.A.	
Vestas Manufacturing Spain S.L.U.	
Windar Renovables, S.A	
SOCIALIST REPUBLIC OF VIETNAM: Frozen Fish Fillets, A–552–801	8/1/23–7/31/24
An Chau Co., Ltd	
An Giang Agriculture and Food Import-Export Joint Stock Company (also known as Afiex or An Giang Agriculture and Foods Import-Export Joint Stock Company)	
An Hai Fishery Ltd. Co	
An My Fish Joint Stock Company (also known as Anmyfish, Anmyfishco or An My Fish Joint Stock)	
An Phat Import-Export Seafood Co., Ltd. (also known as An Phat Seafood Co. Ltd. or An Phat Seafood, Co., Ltd.)	
An Phu Seafood Corp. (also known as ASEAFOOD or An Phu Seafood Corp.)	
Anchor Seafood Corp	
Anh Vu Seafoods Corporation	
Anvifish Joint Stock Company (also known as Anvifish, Anvifish JSC, or Anvifish Co., Ltd.)	
Asia Commerce Fisheries Joint Stock Company (also known as Acomfish JSC or Acomfish)	
Basa Joint Stock Company (also known as BASACO)	
Ben Tre Aquaproduct Import and Export Joint Stock Company (also known as Bentre Aquaproduct, Bentre Aquaproduct Import & Export Joint Stock Company or Aquatex Bentre)	
Bentre Forestry and Aquaproduct Import Export Joint Stock Company (also known as Bentre Forestry and Aquaproduct Import and Export Joint Stock Company, Ben Tre Forestry and Aquaproduct Import-Export Company, Ben Tre Forestry Aquaproduct Import-Export Company, Ben Tre Frozen Aquaproduct Export Company or Faquimex)	
Bentre Seafood Jsc	
Bien Dong Hau Giang Seafood Joint Stock Company (also known as Bien Dong HG or Bien Dong Hau Giang Seafood Joint Stock Co.)	
Bien Dong Seafood Company Ltd. (also known as Bien Dong, Bien Dong Seafood, Bien Dong Seafood Co., Ltd., Biendong Seafood Co., Ltd., Bien Dong Seafood Limited Liability Company or Bien Dong Seafoods Co., Ltd.)	
Binh An Seafood Joint Stock Company (also known as Binh An or Binh An Seafood Joint Stock Co.)	
Binh Dinh Fisheries Joint Stock	
Binh Dinh Garment Joint Stock Co	
Binh Dinh Import Export Company (also known as Binh Dinh Import Export Joint Stock Company, or Binh Dinh)	
Binh Phu Seafood Co. Ltd	
C.P. Vietnam Corporation	
Ca Mau Frozen Seafood Processing Import Export Corporation	
Cadovimex II Seafood Import-Export and Processing Joint Stock Company (also known as Cadovimex II, Cadovimex II Seafood Import Export and Processing Joint Stock Company, or Cadovimex II Seafood Import-Export)	
Can Tho Animal Fishery Products Processing Export Enterprise (also known as Cafatex Corporation, or Cafatex)	
Cantho Imp. Exp. Seafood	
Cantho Import Export Fishery Limited	
Cantho Import-Export Seafood Joint Stock Company (also known as CASEAMEX, Cantho Import Export Seafood Joint Stock Company, Cantho Import-Export Joint Stock Company, Can Tho Import Export Seafood Joint Stock Company, Can Tho Import-Export Seafood Joint Stock Company, or Can Tho Import-Export Joint Stock Company)	
Cavina Seafood Joint Stock Company (also known as Cavina Fish or Cavina Seafood Jsc)	
Cds Overseas Vietnam Co., Ltd	
Co May Import Export Company Limited (aka Co May Imp. Exp. Co)	
Colorado Boxed Beef Company (also known as CBBC)	
Coral Triangle Processors (dba Mowi Vietnam Co., Limited (Dong Nai))	
Cuu Long Fish Import-Export Corporation (also known as CL Panga Fish or Cuu Long Fish Imp. Exp. Corporation)	
Cuu Long Fish Joint Stock Company (also known as CL-Fish, CL-FISH CORP, or Cuu Long Fish Joint Stock Company)	
Cuu Long Seapro	
Da Nang Seaproducts Import-Export Corporation (also known as SEADANANG, Da Nang or Da Nang Seaproducts Import/Export Corp.)	

	Period to be reviewed
Dai Thanh Seafoods Company Limited (also known as DATHACO, Dai Thanh Seafoods or Dai Thanh Seafoods Co., Ltd.)	
Dai Tien Vinh Co., Ltd	
Dong A Seafood One Member Company Limited (also known as Dong A Seafood Co.)	
Dong Phuong Co., Ltd	
Dong Phuong Import Export Seafood Company Limited (also known as Dong Phuong Export Seafood Limited, Dong Phuong Seafood Company Limited, or aFishDeal)	
Dragonwaves Frozen Food Factory Co., Ltd	
East Sea Seafoods LLC (also known as East Sea Seafoods Limited Liability Company, ESS LLC, ESS, ESS JVC, or East Sea Seafoods Joint Venture Co., Ltd.)	
Europe Trading Co., Ltd	
Fatifish Company Limited (also known as FATIFISH or FATIFISHCO or Fatfish Co., Ltd.)	
GF Seafood Corp	
Gia Minh Co. Ltd	
Go Dang An Hiep One Member Limited Company	
Go Dang Ben Tre One Member Limited Liability Company	
GODACO Seafood Joint Stock Company (also known as GODACO, GODACO Seafood, GODACO SEAFOOD, GODACO_SEAFOOD, or GODACO Seafood J.S.C.)	
Gold Future Imp. Exp/Gold Future Imp. Exp. Development Co. Ltd	
Golden Quality Seafood Corporation (also known as Golden Quality, GoldenQuality, GOLDENQUALITY, or GoldenQuality Seafood Corporation)	
Green Farms Seafood Joint Stock Company (also known as Green Farms, Green Farms Seafood JSC, GreenFarm SeaFoods Joint Stock Company, or Green Farms Seafoods Joint Stock Company)	
GreenFeed Vietnam Corporation	
Ha Noi Can Tho Seafood Jsc	
Hai Huong Seafood Joint Stock Company (also known as HHFish, HH Fish, or Hai Huong Seafood)	
Hai Thuan Nam Co Ltd	
Hai Trieu Co., Ltd	
Hapag Lloyd (America) Inc	
Hasa Seafood Corp. (Hasaco)	
Hiep Thanh Seafood Joint Stock Company (also known as Hiep Thanh or Hiep Thanh Seafood Joint Stock Co.)	
Hoa Phat Seafood Import-Export and Processing J.S.C. (also known as HOPAFISH, Hoa Phat Seafood Import-Export and Processing Joint Stock Company, Hoa Phat Seafood Import-Export and Processing JSC, or Hoa Phat Seafood Imp. Exp. And Processing)	
Hoang Long Seafood Processing Company Limited (also known as HLS, Hoang Long, Hoang Long Seafood, HoangLong Seafood, or Hoang Long Seafood Processing Co., Ltd.)	
Hogiya Seafoods Inc	
Hong Hai International	
Hong Ngoc Seafood Co., Ltd	
Hung Phuc Thinh Food Jsc	
Hung Vuong	
Hung Vuong Corporation; Hung Vuong Joint Stock Company, HVC or HV Corp.; An Giang Fisheries Import and Export Joint Stock Company (also known as Agifish, An Giang Fisheries Import and Export, An Giang Fisheries Import & Export Joint Stock Company); Asia Pangasius Company Limited (also known as ASIA); Europe Joint Stock Company (also known as Europe, Europe JSC or EJS CO.); Hung Vuong Ben Tre Seafood Processing Company Limited (also known as Ben Tre, HVBT, or HVBT Seafood Processing); Hung Vuong Mascato Company Limited (also known as Mascato); Hung Vuong—Sa Dec Co., Ltd. (also known as Sa Dec or Hung Vuong Sa Dec Company Limited); Hung Vuong—Vinh Long Co., Ltd. (also known as Vinh Long or Hung Vuong Vinh Long Company Limited)	
Hung Vuong—Mien Tay Aquaculture Corporation (HVMT or Hung Vuong Mien Tay Aquaculture Joint Stock Company)	
Hung Vuong Seafood Joint Stock Company	
HungCa 6 Corporation	
Hungca Co., Ltd	
I.D.I International Development	
I.D.I International Development and Investment Corporation (also known as IDI, International Development & Investment Corporation, International Development and Investment Corporation, or IDI International Development & Investment Corporation)	
Indian Ocean One Member Company Limited (also known as Indian Ocean Co., Ltd.)	
Jk Fish Jsc	
Lian Heng Trading Co. Ltd. (also known as Lian Heng, Lian Heng Trading, Lian Heng Investment Co. Ltd., or Lian Heng Investment)	
Loc Kim Chi Seafood Joint Stock Company (also known as Loc Kim Chi)	
Mechanics Construction and Foodstuff	
Mekong Seafood Connection Co., Ltd	
Minh Phu Hau Giang Seafood Corp	
Minh Phu Seafood Corp	
Minh Qui Seafood Co., Ltd	
Nam Phuong Seafood Co., Ltd. (also known as Nam Phuong, NAFISHCO, Nam Phuong Seafood, or Nam Phuong Seafood Company Ltd.)	
Nam Viet Corporation (also known as NAVICO)	
New Food Import, Inc	
Ngoc Ha Co. Ltd. Food Processing and Trading (also known as Ngoc Ha or Ngoc Ha Co., Ltd. Foods Processing and Trading)	
Ngoc Tri Seafood Joint Stock	

	Period to be reviewed
Nguyen Tran Seafood Company (also known as Nguyen Tran J–S Co) Nha Trang Seafoods, Inc. (also known as Nha Trang Seafoods-F89, Nha Trang Seafoods, or Nha Trang Seaproduct Company) NTACO Corporation (also known as NTACO or NTACO Corp.) NTSF Seafoods Joint Stock Company (also known as NTSF, NTSF Seafoods or Ntsf Seafoods Jsc) Pecheries Oceanic Fisheries Inc Phi Long Food Manufacturing Co. Ltd Phu Thanh Co., Ltd Phu Thanh Hai Co. Ltd. (also known as PTH Seafood) Phuc Tam Loi Fisheries Imp Phuong Ngoc Cai Be Ltd. Liability PREFCO Distribution, LLC Pufong Trading And Service Co QMC Foods, Inc Qn Seafood Co., Ltd Quang Minh Seafood Company Limited (also known as Quang Minh, Quang Minh Seafood Co., Ltd., or Quang Minh Seafood Co.) Quirch Foods, LLC QVD Food Co., Ltd.; QVD Dong Thap Food Co., Ltd. (also known as Dong Thap or QVD DT); Thuan Hung Co., Ltd. (also known as THUFICO) Riptide Foods Saigon-Mekong Fishery Co., Ltd. (also known as SAMEFICO or Saigon Mekong Fishery Co., Ltd.) Seafood Joint Stock Company No. 4 (also known as SEAPRIEXCO No. 4) Seafood Joint Stock Company No. 4 Branch Dongtam Fisheries Processing Company (also known as DOTASEAFOODCO or Seafood Joint Stock Company No. 4—Branch Dong Tam Fisheries Processing Company) Seagate Logistics Co., Ltd Seavina Joint Stock Company (also known as Seavina) Sobi Co., Ltd Song Bien Co., Ltd Southern Fishery Industries Company, Ltd. (also known as South Vina, South Vina Co., Ltd., Southern Fishery Industries Co., Ltd., Southern Fisheries Industries Company, Ltd., or Southern Fisheries Industries Company Limited) Sunrise Corporation Tam Le Food Co., Ltd Tan Thanh Loi Frozen Food Co., Ltd TG Fishery Holdings Corporation (also known as TG or Tg Fishery Holdings Corp.) Thanh Dat Food Service And Trading Thanh Hung Co., Ltd. (also known as Thanh Hung Frozen Seafood Processing Import Export Co., Ltd. or Thanh Hung) Thanh Phong Fisheries Corp The Great Fish Company, LLC Thien Ma Seafood Co., Ltd. (also known as THIMACO, Thien Ma, Thien Ma Seafood Company, Ltd., or Thien Ma Seafoods Co., Ltd.) Thinh Hung Co., Ltd Thuan An Production Trading and Service Co., Ltd. (also known as TAFISHCO, Thuan An Production Trading and Services Co., Ltd., or Thuan An Production Trading & Service Co., Ltd.) Thuan Nhan Phat Co., Ltd Thuan Phuoc Seafoods and Trading Corporation To Chau Joint Stock Company (also known as TOCHAU, TOCHAU JSC, or TOCHAU Joint Stock Company) Tran Thai Food Joint Stock Trang Thuy Seafood Co., Ltd Trinity Vietnam Co., Ltd Trong Nhan Seafood Co., Ltd Truong Phat Seafood Jsc Van Van Y Corp Viet Hai Seafood Company Limited (also known as Viet Hai, Viet Hai Seafood Co., Ltd., Viet Hai Seafood Co., Vietnam Fish-One Co., Ltd., or Fish One) Viet Long Seafood Co., Ltd Viet Phat Aquatic Products Co., Ltd Viet Phu Foods & Fish Co., Ltd Viet Phu Foods and Fish Corporation (also known as Vietphu, Viet Phu, Viet Phu Food and Fish Corporation, or Viet Phu Food & Fish Corporation) Viet World Co., Ltd Vietnam Seaproducts Joint Stock Company (also known as Seaprodex or Vietnam Seafood Corporation—Joint Stock Company) Vif Seafood Factory Vinh Hoan Corporation; Van Duc Food Export Joint Stock Company (also known as Van Duc); Van Duc Tien Giang Food Export Company (also known as VDTG or Van Duc Tien Giang Food Exp. Co.); Thanh Binh Dong Thap One Member Company Limited (also known as Thanh Binh Dong Thap or Thanh Binh Dong Thap Ltd.); Vinh Phuoc Food Company Limited (also known as Vinh Phuoc or VP Food) Vinh Long Import-Export Company (also known as Vinh Long, Imex Cuu Long, Vinh Long Import/Export Company) Vinh Quang Fisheries Corporation (also known as Vinh Quang, Vinh Quang Fisheries Corp., Vinh Quang Fisheries Joint Stock Company, or Vinh Quang Fisheries Co., Ltd.) Vietnam-wide Entity	

	Period to be reviewed
SOCIALIST REPUBLIC OF VIETNAM: Raw Honey,[11] A–552–833	6/1/23–5/31/24
Hung Binh Phat/Hung Binh Phat Co., Ltd.	
Hung Thinh Trading Pvt.	
Nhieu Loc Company Limited	
Phong Son Limited Company/Phong Son Co., Ltd.	
Saigon Bees Company Limited/Saigon Bees Co., Limited	
Thai Hoa Viet Mat Bees Raising Co./Thai Hoa Mat Bees Rasing Co., Ltd./Thai Hoa Mat Bees Raising Co., Ltd.	
TNB Foods Co., Ltd.	
Vinawax Producing Trading and Service Company Limited	
SOCIALIST REPUBLIC OF VIETNAM: Seamless Refined Copper Pipe and Tube, A–552–831	8/1/23–7/31/24
Daikin Air Conditioning (Vietnam) Joint Stock Company	
Hailing (Vietnam) Copper Manufacturing Company Ltd.	
Hong Kong Hailing Metal Trading Ltd.	
ICOOL USA Incorporated	
Jintian Copper Industrial (Vietnam) Company Ltd.	
Kami Industry Joint Stock Company	
KBS Taisei Refrigeration Electric Co., Ltd.	
KP Resources Inc.	
LS Metal Vina Limited Liability Company	
THAILAND: Steel Propane Cylinders, A–549–839	8/1/23–7/31/24
Sahamitr Pressure Container Public Company Limited	
THAILAND: Certain Passenger Vehicle and Light Truck Tires,[12] 7/1/23–6/30/24	A–549–842
Deestone International Company Limited	
Deestone Limited	
Siamtruck Radial Company Limited	
Svizz-One Corporation Limited	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Metal Lockers and Parts Thereof, A–570–133	8/1/23–7/31/2
Hangzhou Evernew Machinery & Equipment Company Limited/Zhejiang Yinghong Metalworks Co., Ltd.	
Kunshan Dongchu Precision Machinery Co., Ltd.	
Ningbo Safewell Group Smart Security Products Co., Ltd.	
Ningbo Safewell Safes	
Safewell Group Holdings, Ltd.	
Tianjin Jia Mei Metal Furniture Ltd.	
Xingyi Metalworking Technology (Zhejiang) Co., Ltd.	
Xpedition LLC DBA Safewell Gr	
Zhejiang Safewell Security Technology Co., Ltd.	
Zhejiang Xingyi Metal Products Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Steel Nails, A–570–909	8/1/23–7/31/24
Chuzhou Yueda Nails (Chuzhou) Ltd.	
Hebei Minmetals Co., Ltd.	
Nanjing Yuechang Hardwares Co., Ltd.	
Shanghai Yueda Nails Co., Ltd.	
Shanghai Yueda Nails Industry Co., Ltd.	
Suntec Industries Co., Ltd.	
Tianjin Jinchi Metal Products Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Hydrofluorocarbon Blends, A–570–028	8/1/23–7/31/24
Best Inc. Limited	
Changzhou Vista Chemical Co., Ltd.	
Daikin Fluorochemicals (China) Co., Ltd.	
Dongyang Weihua Refrigerants Co., Ltd.	
Hangzhou Icetop Refrigeration Co., Ltd.	
ICool Chemical Co. Ltd.	
Jiangsu Sanmei Chemicals Co., Ltd.	
Oasis Chemical Co., Limited	
Qingdao Shingchem New Material Co.	
Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd.	
Superfy Industrial Limited	
Tianjin Synergy Gases Products, Co., Ltd.	
Weitron International Refrigeration Equipment (Kunshan) Co., Ltd.	
Weitron International Refrigeration Equipment Co., Ltd.	
Yangfar Industry Co., Ltd.	
Zhejiang Hoating Lighting Co., Ltd.	
Zhejiang Lantian Environmental Protection Fluoro Material Co. Ltd.	
Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd.	
Zhejiang Sanmei Chemical Industry Co., Ltd.	
Zhejiang Yonghe Refrigerant Co., Ltd.	
Zhejiang Zhonglan Refrigeration Technology Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Passenger Vehicle and Light Truck Tires, A–570–016	8/1/23–7/31/24
Dynamic Tire Corp.; Shandong Jinyu Industrial Co.; Sailun Tire International Corp.; Husky Tire Corp.; Seatex PTE. Ltd.; Seatex International Inc.; Sailun Group (HongKong) Co., Limited; Sailun HK; Sailun Jinyu HK; Sailun Group Co., Ltd.; Sailun Group; Sailun Jinyu Group Co., Ltd.; and Sailun Jinyu	
Giti Radial Tire (Anhui) Company, Ltd.; Giti Tire (Anhui) Company, Ltd.; Giti Tire (Chongqing) Company, Ltd.; Giti Tire (Fujian) Company, Ltd.; Giti Tire Global Trading Pte. Ltd.; Giti Tire Greatwall Company, Ltd.; Giti Tire (Hualin) Company, Ltd.; and Giti Tire (Yinchuan) Company, Ltd	

	Period to be reviewed
Hankook Tire China Co., Ltd. Jiangsu General Science Technology Co., Ltd. Jiangsu Hankook Tire Co., Ltd. Pirelli Tyre Co., Ltd. Qingdao Fullrun Tyre Tech Corp., Ltd. Qingdao Fullrun Tyre Corp., Ltd. Qingdao Keter International Co., Limited Qingdao Lakesea Tyre Co., Ltd. Qingdao Powerich Tyre Co., Ltd. Qingdao Transamerica Tire Industrial Co., Ltd. Sailun Tire Americas Inc. Shandong Duratti Rubber Corporation Co., Ltd. Shandong Haohua Tire Co., Ltd. Shandong Linglong Tyre Co., Ltd. Shandong Yongsheng Rubber Group Co., Ltd. Sumitomo Rubber (Changshu) Co., Ltd.; Sumitomo Rubber (Hunan) Co., Ltd.; and Sumitomo Rubber Industries, Ltd. Triangle Tyre Co., Ltd. Zhaoqing Junhong Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Polyethylene Retail Carrier Bags, A–570–886	8/1/23–7/31/24
Crown Polyethylene Products (International) Ltd. Dongguan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd. (collectively Nozawa)	
CVD Proceedings	
CANADA: Utility Scale Wind Towers, C–122–868	1/1/23–12/31/23
Marmen Energie Inc. Marmen Inc.	
INDIA: Finished Carbon Steel Flanges, C–533–872	1/1/23–12/31/23
Balkrishna Steel Forge Pvt. Ltd. Bansidhar Chiranjilal BFN Forgings Private Limited Cetus Engineering Private Limited Echjay Industries Pvt. Ltd Jai Auto Pvt. Ltd. Munish Forge Private Limited Norma (India) Limited R.N. Gupta & Co. Ltd. Uma Shanker Khandelwal USK Exports Private Limited	
MALAYSIA: Utility Scale Wind Towers, C–557–822	1/1/23–12/31/23
CS Wind China Co., Ltd. CS Wind Corporation CS Wind Malaysia Sdn. Bhd. CS Wind Portugal, S. A. CS Wind Taiwan Ltd. CS Wind Turkey Kule İmalatı A.Ş. CS Wind UK Limited CS Wind Vietnam Co., Ltd. GE Renewable Energy GE Renewable Malaysia Sdn. Bhd. Nordex SE Siemens Gamesa Renewable Energy, S.A.	
REPUBLIC OF KOREA: Stainless Steel Sheet and Strip in Coils, C–580–835	1/1/23–12/31/23
Ajubesteel Co., Ltd. Ameri Source Korea Cd Engineering Co., Ltd. Cenit Co., Ltd. Daejin Machinery Co. DK Corporation Dk International Co., Ltd. Dongkuk Steel Mill Co., Ltd. Edentech Co., Ltd. Erae Automotive Systems Co., Ltd. Geumok Tech. Co., Ltd. Hyundai BNG Steel Co., Ltd. Hyundai Steel Co. KG Steel Co., Ltd. Kima Steel (Metal) Corp., Ltd. Kolon Industries Inc. Korinox Co., Ltd. Marubeni Itochu Steel Korea Ltd. Pohang Iron & Steel Co., Ltd. (POSCO) [13] POSCO International Corp. Samjin Metal Co., Ltd.	

	Period to be reviewed
Samshin Metal Co., Ltd.	
Samsung C&T Corp.	
Samsung SNS Co., Ltd.	
Samsung STS Co., Ltd.	
Samusung Electronics Co. Ltd.	
Samyoung Corporation	
Taihan Electric Wire Co., Ltd.	
Topco Global Ltd.	
SPAIN: Ripe Olives, C–469–818	1/1/23–12/31/23
Aceitunas Guadalquivir, S.L.; Coromar Inversiones, S.L.; AG Explotaciones Agricolas, S.L.U.; Grupo Aceitunas Guadalquivir, S.L.[14]	
Agro Sevilla Aceitunas S.Coop.And.	
Alimentary Group DCoop, S.Coop. And.	
Angel Camacho Alimentación, S.L.; Grupo Angel Camacho, S.L., Cuarterola S.L., Cucanoche S.L.[15]	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Metal Lockers and Parts Thereof, C–570–134	1/1/23–12/31/23
Hangzhou Evernew Machinery & Equipment Company, Ltd.	
Hangzhou Xline Machinery	
Kunshan Dongchu Precision Machinery Co., Ltd.	
Pinghu Chenda Storage Office Co., Ltd.	
Tianjin Jia Mei Metal Furniture Ltd.	
Xingyi Metalworking Technology (Zhejiang) Co., Ltd./Zhejiang Xingyi Metal Products Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Passenger Vehicle and Light Truck Tires, C–570–017	1/1/23–12/31/23
Jiangsu General Science Technology Co., Ltd.	
Qingdao Fullrun Tyre Corp., Ltd.	
Qingdao Keter International Co., Limited	
Qingdao Lakesea Tyre Co., Ltd.	
Sailun Group (HongKong) Co., Limited., formerly known as Sailun Jinyu Group (Hong Kong) Co., Limited.	
Sailun Group Co., Ltd., formerly known as Sailun Jinyu Group Co., Ltd.	
Shandong Haohua Tire Co., Ltd.	
Sumitomo Rubber (Hunan) Co., Ltd.; Sumitomo Rubber (Changshu) Co., Ltd.; Sumitomo Rubber (China) Co., Ltd.[16]	
Sumitomo Rubber Industries, Ltd.	
Zhaoqing Junhong Co., Ltd.	

Suspension Agreements

None.

[4] Commerce initiated administrative reviews of Trinity Industries and TXX Company on August 14, 2024. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* August 14, 2024 (89 FR 66035) with respect to certain freight rail couplers and parts thereof from the People's Republic of China (A–570–145) for the period of review of March 13, 2023 through June 30, 2024. We note that the name TXX Company is incorrect and should have been listed as TTX Company in the August 14, 2024 initiation notice. Further, we note that initiating reviews of both Trinity Industries and TXX Company (TTX Company) were done in error, which we hereby correct in this notice.

[5] Commerce has determined that Norma (India) Limited, USK Exports Private Limited, Uma Shanker Khandelwal and Co, and Bansidhar Chiranjilal are a single entity. *See Finished Carbon Steel Flanges from India and Italy: Antidumping Duty Orders,* 82 FR 40136, 40138 (August 24, 2017).

[6] We received a request for review of Regiomontana de Perfiles y Tubos S.A. de C.V. However, Commerce determined that Regiomontana de Perfiles y Tubos S. de R.L. de C.V. is the successor-in-interest to Regiomontana de Perfiles y Tubos S.A. de C.V. Thus, we have not initiated a review of Regiomontana de Perfiles y Tubos S.A. de C.V. *See, e.g., Light-Walled Rectangular Pipe and Tube from Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2018–2019,* 85 FR 83886 (December 23, 2020), and accompanying Preliminary Decision Memorandum at 6, unchanged in *Light Walled Rectangular Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review; 2018–2019,* 86 FR 33646 (June 25, 2021).

[7] We received a request for review of Aekyung Petrochemical. However, Commerce determined that Aekyung Chemical Co., Ltd. is the successor-in-interest to Aekyung Petrochemical. Thus, we have initiated a review of Aekyung Chemical Co., Ltd. *See Dioctyl Terephthalate from the Republic of Korea: Final Results of Antidumping Duty Changed Circumstances Review,* 88 FR 63937 (September 18, 2023).

[8] In the initiation notice that published on August 14, 2024 (89 FR 66035), Commerce inadvertently omitted two of the companies listed above and failed to note relevant information regarding the remaining company group.

[9] While Commerce initiated a review of these companies in the initiation notice that published on August 14, 2024 (89 FR 66035), it failed not note that these companies are part of a collapsed entity that Commerce excluded from the order. *See Certain Steel Nails from the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Antidumping Duty Orders,* 80 FR 39994, 39996 (July 13, 2015). Accordingly, we are initiating this administrative review with respect to this entity only for subject merchandise produced in the Republic of Korea by this entity where the entity acted as either the manufacturer or exporter (but not both).

[10] The name of the company listed below was inadvertently misspelled in the initiation notice that published on

July 29, 2024 (89 FR 60871). We hereby correctly identify this company in this notice.

[11] Commerce inadvertently omitted eight companies from the July 29, 2024 *Initiation Notice* (89 FR 60871) for which review requests were submitted. We hereby correct this mistake and include these eight companies in this notice.

[12] Commerce inadvertently omitted these four companies from the August 14, 2024 *Initiation Notice* (89 FR 66035) for which review requests were requested for these four companies. We hereby correct this mistake and include these four companies in this notice.

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an AD order under 19

[13] Merchandise produced and exported by POSCO is excluded from the order on stainless steel sheet and strip in coils. *See Amended Final Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea; and Notice of Countervailing Duty Orders: Stainless Steel Sheet and Strip in Coils from France, Italy, and the Republic of Korea,* 64 FR 42923, 42925 (August 6, 1999) (*Order*). We are initiating an administrative review of POSCO where it was either the producer or exporter of the subject merchandise, but not both.

[14] Commerce previously determined that Aceitunas Guadalquivir, S.L.; Coromar Inversiones, S.L.; AG Explotaciones Agricolas, S.L.U.; and Grupo Aceitunas Guadalquivir, S.L. are cross-owned. *See, e.g., Ripe Olives from Spain: Final Results of Countervailing Duty Administrative Review; 2020; Correction,* 88 FR 21973 (April 12, 2023).

[15] Commerce previously determined that Angel Camacho Alimentación, S.L.; Grupo Angel Camacho, S.L., Cuarterola S.L., and Cucanoche S.L. are cross-owned. *See Ripe Olives from Spain: Final Results of Countervailing Duty Administrative Review; 2021,* 89 FR 17385 (March 11, 2024).

[16] Commerce previously determined that Sumitomo Rubber (Hunan) Co., Ltd.; Sumitomo Rubber (Changshu) Co., Ltd.; and Sumitomo Rubber (China) Co., Ltd. are cross-owned. *See Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Final Results of Countervailing Duty Administrative Review and Rescission of Review, in Part; 2019,* 87 FR 13704 (March 10, 2022).

CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), Commerce, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether ADs have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant ''gap'' period of the order (*i.e.,* the period following the expiry of provisional measures and before definitive measures were put into place), if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the *Final Rule,*[17] available at *https://www.govinfo.gov/content/pkg/FR-2013-07-17/pdf/2013-17045.pdf,* prior to submitting factual information in this segment. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[18]

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information using the formats provided at the end of the *Final Rule.*[19] Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by Commerce.[20] In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This policy also requires that an extension request must be made in a separate, standalone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. Please review the *Final Rule,* available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: September 16, 2024.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2024–21528 Filed 9–19–24; 8:45 am]

BILLING CODE 3510–DS–P

[17] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[18] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule,* 88 FR 67069 (September 29, 2023).

[19] *See* section 782(b) of the Act; *see also Final Rule;* and the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[20] *See* 19 CFR 351.302.

DEPARTMENT OF COMMERCE

International Trade Administration

United States Travel and Tourism Advisory Board: Request for Applications for Membership

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of an opportunity to apply for membership on the United States Travel and Tourism Advisory Board.

SUMMARY: The Department of Commerce is currently seeking applications for membership on the United States Travel and Tourism Advisory Board (Board). The purpose of the Board is to advise the Secretary of Commerce on matters relating to the U.S. travel and tourism industry.

DATES: Applications for immediate consideration for membership must be received by the National Travel and Tourism Office by 5:00 p.m. Eastern Daylight Time (EDT) on Friday, November 1, 2024. The International Trade Administration (ITA) will continue to accept applications under

this notice for two years from the deadline to fill any vacancies.

ADDRESSES: Please submit application information by email to *TTAB@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Jennifer Aguinaga, National Travel and Tourism Office, U.S. Department of Commerce; telephone: 202–482–2404; email: *TTAB@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Board was established pursuant to Section 607 of the Visit America Act, Subtitle A of title VI of division BB of the Consolidated Appropriations Act, 2023, Public Law 117–328, and in accordance with the provisions of the FACA, 5 U.S.C. 1001 *et seq.* The Board (1) serves as the advisory body to the Secretary of Commerce (Secretary) on matters relating to the travel and tourism industry in the United States; (2) advises the Secretary on government policies and programs that affect the U.S. travel and tourism industry; (3) offers counsel on current and emerging issues; (4) provides a forum for discussing and proposing solutions to problems related to the travel and tourism industry; and (5) provides advice regarding the domestic travel and tourism industry as an economic engine.

Membership: The National Travel and Tourism Office is accepting applications for Board members. Members of the Board will be selected in accordance with applicable Department of Commerce guidelines based on their ability to carry out the objectives of the Board as set forth in the Board's charter and in a manner that ensures that the Board is balanced in terms of geographic diversity, diversity in size of company or organization to be represented, and representation of a broad range of services in the travel and tourism industry. Each member shall serve for two years from the date of the appointment and at the pleasure of the Secretary of Commerce.

Members shall be Chief Executive Officers or senior executives from U.S. companies, U.S. organizations, or U.S. entities in the travel and tourism sectors representing a broad range of products and services, company sizes, and geographic locations.

Members serve in a representative capacity, representing the views and interests of their business sector, and not as Special Government employees. Members will receive no compensation for their participation in Board activities. Members participating in Board meetings and events will be responsible for their travel, living, and other personal expenses. Meetings will be held regularly and, to the extent practical, not less than twice annually, usually in Washington, DC or virtually.

Request for Nominations: All nominations for membership on the Board should provide the following information:

1. Sponsor letter on the company's or organization's letterhead containing the name, title, and relevant contact information (including phone number and email address) of the individual who is applying or being nominated, and containing a brief description of why the nominee should be considered for membership;

2. Short biography of nominee, including credentials;

3. Brief description of the U.S. company or U.S. organization to be represented and its business activities and company size (number of employees and annual sales);

4. An affirmative statement that the nominee meets all Board eligibility requirements for representative members, including that the applicant represents a U.S. company or U.S. organization and that the applicant is not required to register as a foreign agent under the Foreign Agents Registration Act of 1938; and

5. An affirmative statement that the nominee will be able to meet the expected time commitments of the work of the Board, which includes: (1) a commitment to attend quarterly Board meetings (typically, two in-person meetings and two-to-three virtual meetings), (2) undertaking additional work outside of full Board meetings including regular participation in virtual subcommittee meetings, and (3) frequently drafting, preparing, or commenting on proposed recommendations to be evaluated at Board meetings.

For eligibility purposes, a ''U.S. company'' is a for-profit firm that is incorporated in the United States (or an unincorporated U.S. firm with its principal place of business in the United States) that is controlled by U.S. citizens or by other U.S. companies. A company is not a U.S. company if 50 percent plus one share of its stock (if a corporation, or a similar ownership interest of an unincorporated entity) is known to be controlled, directly or indirectly, by non-U.S. citizens or non-U.S. companies. For eligibility purposes, a ''U.S. organization'' is an organization, including trade associations and nongovernmental organizations (NGOs), established under the laws of the United States, that is controlled by U.S. citizens, by another U.S. organization (or organizations), or by a U.S. company (or companies), as determined based on its board of directors (or comparable governing body), membership, and funding sources, as applicable. For eligibility purposes, a U.S. entity is a tourism-related entity that can demonstrate U.S. ownership or control, including but not limited to state and local tourism marketing entities, state government tourism offices, state and/or local government-supported tourism marketing entities, and multi-state tourism marketing entities.

Nominations should be emailed to *TTAB@trade.gov.*

Brian Beall,

Director, National Travel and Tourism Office.

[FR Doc. 2024–21499 Filed 9–19–24; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE202]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Office of Naval Research's Arctic Research Activities in the Beaufort and Chukchi Seas (Year 7)

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 an incidental harassment authorization (IHA) to the Office of Naval Research (ONR) to incidentally harass marine mammals during Arctic Research Activities (ARA) in the Beaufort Sea and eastern Chukchi Sea. The ONR's activities are considered military readiness activities pursuant to the MMPA, as amended by the National Defense Authorization Act for Fiscal Year 2004 (2004 NDAA).

DATES: This authorization is effective from September 14, 2024, through September 13, 2025.

ADDRESSES: 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-military-readiness-activities.* In case of problems accessing

these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Alyssa Clevenstine, 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 monitoring and reporting of the takings. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

The 2004 NDAA (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as applied to a ''military readiness activity.'' The activity for which incidental take of marine mammals is being requested qualifies as a military readiness activity.

Summary of Request

On March 29, 2024, NMFS received a request from the ONR for an IHA to take marine mammals incidental to ARA in the Beaufort and Chukchi Seas. Following NMFS' review of the application, the ONR submitted a revised version on July 23, 2024. The application was deemed adequate and complete on August 5, 2024. The ONR's request is for take of beluga whales and ringed seals by Level B harassment only. Neither the ONR nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

This IHA will cover the seventh year of a larger project for which ONR obtained prior IHAs and renewal IHAs (83 FR 48799, September 27, 2018; 84 FR 50007, September 24, 2019; 85 FR 53333, August 28, 2020; 86 FR 54931, October 5, 2021; 87 FR 57458, September 20, 2022; 88 FR 65657, September 18, 2023). ONR has complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous IHAs. There are no changes from the proposed IHA to the final IHA.

Description of the Specified Activity

Overview

The ONR plans to conduct scientific experiments in support of ARA using active acoustic sources within the Beaufort and Chukchi Seas. Project activities involve acoustic testing and a multi-frequency navigation system concept test using left-behind active acoustic sources. The planned experiments involve the deployment of moored, drifting, and ice-tethered active acoustic sources from the Research Vessel (R/V) Sikuliaq. Recovery of equipment may be from R/V Sikuliaq, U.S. Coast Guard Cutter (CGC) HEALY, or another vessel, and icebreaking may be required. Underwater sound from the active acoustic sources and noise from icebreaking may result in Level B harassment of marine mammals.

Dates and Duration

The planned action will occur from September 2024 through September 2025 and include up to two research cruises. Acoustic testing will take place during the cruises, with the first cruise beginning September 2024, and a potential second cruise occurring in summer or fall 2025, which may include up to 8 days of icebreaking activities.

Geographic Region

The planned action will occur across the U.S. Exclusive Economic Zone (EEZ) in the Beaufort and Chukchi Seas, partially in the high seas north of Alaska, the Global Commons, and within a part of the Canadian EEZ (in which the appropriate permits will be obtained by the Navy) (figure 1). The planned action will primarily occur in the Beaufort Sea but the analysis considers the drifting of active sources on buoys into the eastern portion of the Chukchi Sea. The closest point of the study area to the Alaska coast is 204 kilometers (km; 110 nautical miles (nmi)). The study area is approximately 639,267 square kilometers (km^2).

BILLING CODE 3510–22–P

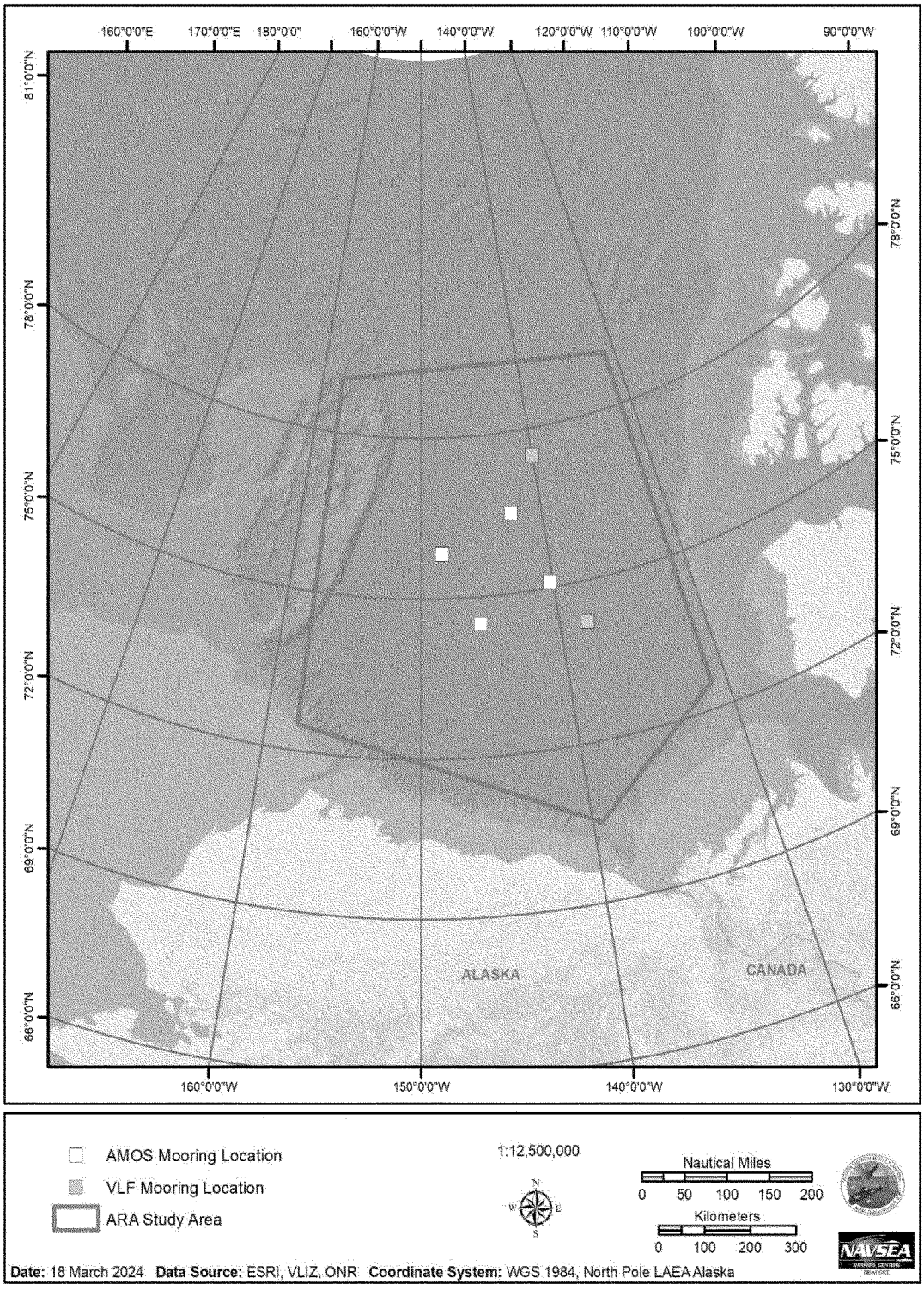


Figure 1 – Arctic Research Activities Study Area and Mooring Locations

BILLING CODE 3510–22–C

Detailed Description of the Specified Activity

A detailed description of the planned ARA is provided in the **Federal Register** notice for the proposed IHA (89 FR 66068, August 14, 2024). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Planned mitigation, monitoring, and reporting measures are described in detail later in this document (please see Mitigation and Monitoring and Reporting).

Comments and Responses

A notice of NMFS' proposal to issue an IHA to ONR was published in the **Federal Register** on August 14, 2024 (89 FR 66068). That notice described, in

detail, ONR's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. In that notice, we requested public input on the request for authorization described therein, our analyses, the proposed authorization, and any other aspect of the notice of proposed IHA, and requested that interested persons submit relevant information, suggestions, and comments. This proposed notice was available for a 30-day public comment period.

In total, NMFS received two comments from one private citizen and from a state government department (Alaska Department of Fish and Game). One comment was out-of-scope or not applicable to the project and is not described herein or discussed further. We do not specifically address comments expressing general opposition to military readiness activities or respond to comments that are out of scope of the proposed IHA (89 FR 66068, August 14, 2024).

All comments received during the public comment period which contained relevant points were considered by NMFS and are described and responded to below. All relevant comment letters are available on NMFS' website (*https://www.fisheries.noaa.gov/action/incidental-take-authorization-office-naval-researchs-arctic-research-activities-year-7*).

Comment: A commenter expressed concern that bowhead whales were not included as a potential species in the area and provided a publication by George and Thewissen (2020), specifically referencing a satellite telemetry study where multiple bowhead whales were detected north of 75 degrees N during the months of July, September, and October. The commenter indicated that the mitigation measures in the proposed IHA (89 FR 66068, August 14, 2024) would minimize disturbance to bowhead whales, but that the proposal should have discussed bowhead whales in more detail.

Response: NMFS refers the commenter to the Description of Marine Mammals in the Area of Specified Activities section of the proposed IHA (89 FR 66068, August 14, 2024), which indicates bowhead whales are expected in the ARA Study Area during the planned action and were considered in the applicant's quantitative modeling of potential effects of acoustic sources on marine mammals expected within the study area. The modeling resulted in no calculated exposures for the bowhead whale due to either active acoustic sources or icebreaking and, as no harassment of the bowhead whale is expected, the species was not discussed further.

In addition to the references used by the applicant in their request for an IHA, the *Overseas Environmental Assessment for Office of Naval Research Arctic Research Activities in the Beaufort and Chukchi Seas 2022–2025,* provided on the project website (*https://www.fisheries.noaa.gov/action/incidental-take-authorization-office-naval-researchs-arctic-research-activities-year-7*), includes information on the distribution of bowhead whales, specifically that their range can expand and contract beyond 75 degrees N depending on ice cover and access to Arctic straits (Rugh *et al.,* 2003),'' which is in agreement with the information provided by the commenter. Importantly, the commenter does not suggest that incidental take of bowhead whales is likely, and following review of the comments and cited information NMFS has determined that no new information is presented and that the commenter's evaluation is consistent with NMFS'. No changes have been made as a result of this comment.

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 lists all species or stocks for which take is expected and authorized for this activity and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or authorized here, PBR and annual serious injury and mortality (M/SI) from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Alaska SARs (Young *et al.,* 2023). All values presented in table 1 are the most recent available at the time of publication and are available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.*

TABLE 1—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES [1]

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]
Beluga Whale	*Delphinapterus leucas*	Beaufort Sea	-, -, N	39,258 (0.229, N/A, 1992)	UND	104
Beluga Whale	*Delphinapterus leucas*	Eastern Chukchi	-, -, N	13,305 (0.51, 8,875, 2017)	178	56
Ringed Seal	*Pusa hispida*	Arctic	T, D, Y	UND [5] (UND, UND, 2013)	UND	6,459

[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/*).

[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; N_{min} 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, vessel 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] A reliable population estimate for the entire stock is not available. Using a sub-sample of data collected from the U.S. portion of the Bering Sea, an abundance estimate of 171,418 ringed seals has been calculated, but this estimate does not account for availability bias due to seals in the water or in the shore-fast ice zone at the time of the survey. The actual number of ringed seals in the U.S. portion of the Bering Sea is likely much higher. Using the N_{min} based upon this negatively biased population estimate, the PBR is calculated to be 4,755 seals, although this is also a negatively biased estimate.

As indicated above, both species (with three managed stocks) in table 1 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur. While bowhead whales (*Balaena mysticetus*), gray whales (*Eschrichtius robustus*), bearded seals (*Erignathus barbatus*), spotted seals (*Phoca largha*), and ribbon seals (*Histriophoca fasciata*) 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.

A detailed description of the species likely to be affected by the ARA, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (89 FR 66068, August 14, 2024); since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

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) and Southall *et al.* (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.*). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. 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 2.

TABLE 2—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, *Kogia,* river dolphins, Cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	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 approximately 65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.,* 2007) and PW pinniped (approximation).

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). This division between phocid and otariid pinnipeds is now reflected in the updated hearing groups proposed in Southall *et al.* (2019).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from ONR's ARA have the potential to result in behavioral harassment of marine mammals in the vicinity of the study area. The notice of proposed IHA (89 FR 66068, August 14, 2024) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from ONR's ARA on marine mammals and their habitat. That information and analysis is referenced in this final IHA determination and is not repeated here; please refer to the notice of proposed IHA (89 FR 66068, August 14, 2024).

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes authorized through the IHA, which will inform NMFS' consideration of the negligible impact determinations and impacts on subsistence uses.

Harassment is the only type of take expected to result from these activities. For this military readiness activity, the MMPA defines ''harassment'' as (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) Any act that

disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where the behavioral patterns are abandoned or significantly altered (Level B harassment).

Authorized takes will be by Level B harassment only, in the form of direct behavioral disturbances and/or temporary threshold shift (TTS) for individual marine mammals resulting from exposure to active acoustic transmissions and icebreaking. Based on the nature of the activity, Level A harassment is neither anticipated nor authorized.

As described previously, no serious injury or mortality is anticipated or authorized for this activity. Below we describe how the authorized 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 authorized 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 permanent threshold shift (PTS) of some degree (equated to Level A harassment). Thresholds have also been developed identifying the received level of in-air sound above which exposed pinnipeds would likely be behaviorally harassed.

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; Southall *et al.,* 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 µPa)) for continuous (*e.g.,* vibratory pile driving, drilling) and above RMS SPL 160 dB re 1 µPa for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources. Generally speaking, Level B harassment 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.

In this case, NMFS is proposing to adopt the ONR's approach to estimating incidental take by Level B harassment from the active acoustic sources for this action, which includes use of dose response functions. The ONR's dose response functions were developed to estimate take from sonar and similar transducers, but are not applicable to icebreaking. Multi-year research efforts have conducted sonar exposure studies for odontocetes and mysticetes (Miller *et al.,* 2012; Sivle *et al.,* 2012). Several studies with captive animals have provided data under controlled circumstances for odontocetes and pinnipeds (Houser *et al.,* 2013b; Houser *et al.,* 2013a). Moretti *et al.* (2014) published a beaked whale dose-response curve based on passive acoustic monitoring of beaked whales during U.S. Navy training activity at Atlantic Underwater Test and Evaluation Center during actual anti-submarine warfare exercises.

Southall *et al.* (2007), and more recently (Southall *et al.,* 2019), synthesized data from many past behavioral studies and observations to determine the likelihood of behavioral reactions at specific sound levels. While in general, the louder the sound source the more intense the behavioral response, it was clear that the proximity of a sound source and the animal's experience, motivation, and conditioning were also critical factors influencing the response (Southall *et al.,* 2007; Southall *et al.,* 2019). After examining all of the available data, the authors felt that the derivation of thresholds for behavioral response based solely on exposure level was not supported because context of the animal at the time of sound exposure was an important factor in estimating response. Nonetheless, in some conditions, consistent avoidance reactions were noted at higher sound levels depending on the marine mammal species or group allowing conclusions to be drawn. Phocid seals showed avoidance reactions at or below 190 dB re 1 µPa at 1 m; thus, seals may actually receive levels adequate to produce TTS before avoiding the source.

Odontocete behavioral criteria for non-impulsive sources are based on controlled exposure studies for dolphins and sea mammals, sonar, and safety (3S) studies where odontocete behavioral responses were reported after exposure to sonar (Miller *et al.,* 2011; Miller *et al.,* 2012; Antunes *et al.,* 2014; Miller *et al.,* 2014; Houser *et al.,* 2013b). For the 3S study, the sonar outputs included 1–2 kilohertz (kHz) up- and down-sweeps and 6–7 kHz up-sweeps; source levels were ramped up from 152–158 dB re 1 µPa to a maximum of 198–214 re 1 µPa at 1 m. Sonar signals were ramped up over several pings while the vessel approached the mammals. The study did include some control passes of vessels with the sonar off to discern the behavioral responses of the mammals to vessel presence alone versus active sonar.

The controlled exposure studies included exposing the Navy's trained bottlenose dolphins to mid-frequency sonar while they were in a pen. Mid-frequency sonar was played at six different exposure levels from 125–185 dB re 1 µPa (RMS). The behavioral response function for odontocetes resulting from the studies described above has a 50 percent probability of response at 157 dB re 1 µPa. Additionally, distance cutoffs (20 km for

MF cetaceans) were applied to exclude exposures beyond which the potential of significant behavioral responses is considered to be unlikely.

The pinniped behavioral threshold are based on controlled exposure experiments on the following captive animals: hooded seal (*Cystophora cristata*), gray seal (*Halichoerus grypus*), and California sea lion (Götz *et al.,* 2010; Houser *et al.,* 2013a; Kvadsheim *et al.,* 2010). Hooded seals were exposed to increasing levels of sonar until an avoidance response was observed, while the grey seals were exposed first to a single received level multiple times, then an increasing received level. Each individual California sea lion was exposed to the same received level ten times. These exposure sessions were combined into a single response value, with an overall response assumed if an animal responded in any single session. The resulting behavioral response function for pinnipeds has a 50 percent probability of response at 166 dB re 1 µPa. Additionally, distance cutoffs (10 km for pinnipeds) were applied to exclude exposures beyond which the potential of significant behavioral responses is considered unlikely. For additional information regarding marine mammal thresholds for PTS and TTS onset, please see NMFS (2018) and table 4.

Empirical evidence has not shown responses to non-impulsive acoustic sources that will constitute take beyond a few km from a non-impulsive acoustic source, which is why NMFS and the Navy conservatively set distance cutoffs for pinnipeds and mid-frequency cetaceans (U.S. Department of the Navy, 2017a). The cutoff distances for fixed sources are different from those for moving sources, as they are treated as individual sources in ONR's modeling given that the distance between them is significantly greater than the range to which environmental effects can occur. Fixed source cutoff distances used were 5 km (2.7 nmi) for pinnipeds and 10 km (5.4 nmi) for beluga whales (table 3). As some of the on-site drifting sources could come closer together, the drifting source cutoffs applied were 10 km (5.4 nmi) for pinnipeds and 20 km (10.8 nmi) for beluga whales (table 3). Regardless of the received level at that distance, take is not estimated to occur beyond these cutoff distances. Range to thresholds were calculated for the noise associated with icebreaking in the study area. These all fall within the same cutoff distances as non-impulsive active acoustic sources; range to behavioral threshold for both beluga whales and ringed seal were under 5 km (2.7 nmi), and range to TTS threshold for both under 15 m (49.2 ft) (table 3).

TABLE 3—CUTOFF DISTANCES AND ACOUSTIC THRESHOLDS IDENTIFYING THE ONSET OF BEHAVIORAL DISTURBANCE, TTS, AND PTS FOR NON-IMPULSIVE SOUND SOURCES

Hearing group	Species	Fixed source behavioral threshold cutoff distance [a]	Drifting source behavioral threshold cutoff distance [a]	Behavioral criteria: non-impulsive acoustic sources	Icebreaking source behavioral threshold cutoff distance [a b]	Behavioral criteria: icebreaking sources	Physiological criteria: onset TTS	Physiological criteria: onset PTS
Mid-frequency cetaceans.	Beluga whale	10 km (5.4 nmi).	20 km (10.8 nmi).	Mid-frequency BRF dose-response function *.	5 km (2.7 nmi)	120 dB re 1 µPa step function.	178 dB SEL_{cum}.	198 dB SEL_{cum}.
Phocidae (in water)	Ringed seal ..	5 km (2.7 nmi).	10 km (5.4 nmi).	Pinniped dose-response function *.	5 km (2.7 nmi)	120 dB re 1 µPa step function.	181 dB SEL_{cum}.	201 dB SEL_{cum}.

Note: The threshold values provided are assumed for when the source is within the animal's best hearing sensitivity. The exact threshold varies based on the overlap of the source and the frequency weighting (see figure 6–1 in IHA application).
[a] Take is not estimated to occur beyond these cutoff distances, regardless of the received level.
[b] Range to TTS threshold for both hearing groups for the noise associated with icebreaking in the study area is under 15 m (49.2 ft).

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). The ONR's action includes the use of non-impulsive (active sonar and icebreaking) sources; however, Level A harassment is not expected as a result of the activities based on modeling, as described below, nor is it authorized by NMFS.

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 µPa, and cumulative sound exposure level (L_E) has a reference value of 1µPa^{2}s. In this table, thresholds are abbreviated to reflect American National Standards Institute (ANSI) standards. 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.

Quantitative Modeling

The Navy performed a quantitative analysis to estimate the number of marine mammals likely to be exposed to underwater acoustic transmissions above the previously described threshold criteria during the planned action. Inputs to the quantitative analysis included marine mammal density estimates obtained from the Kaschner *et al.* (2006) habitat suitability model and (Cañadas *et al.,* 2020), marine mammal depth occurrence (U.S. Department of the Navy, 2017b), oceanographic and mammal hearing data, and criteria and thresholds for levels of potential effects. The quantitative analysis consists of computer modeled estimates and a post-model analysis to determine the number of potential animal exposures. The model calculates sound energy propagation from the non-impulsive acoustic sources, the sound received by animat (virtual animal) dosimeters representing marine mammals distributed in the area around the modeled activity, and whether the sound received by animats exceeds the thresholds for effects.

The Navy developed a set of software tools and compiled data for estimating acoustic effects on marine mammals and we note that these tools do not include any quantitative adjustments to account for the fact that marine mammals are likely to avoid loud sources to some degree, or that the successful implementation of mitigation would be expected to reduce the probability or severity of some impacts. These tools and data sets serve as integral components of the Navy Acoustic Effects Model (NAEMO). In NAEMO, animats are distributed non-uniformly based on species-specific density, depth distribution, and group size information and animats record energy received at their location in the water column. A fully three-dimensional environment is used for calculating sound propagation and animat exposure in NAEMO. Site-specific bathymetry, sound speed profiles, wind speed, and bottom properties are incorporated into the propagation modeling process. NAEMO calculates the likely propagation for various levels of energy (sound or pressure) resulting from each source used during the training event.

NAEMO then records the energy received by each animat within the energy footprint of the event and calculates the number of animats having received levels of energy exposures that fall within defined impact thresholds. Predicted effects on the animats within a scenario are then tallied and the highest order effect (based on severity of criteria; *e.g.,* PTS over TTS) predicted for a given animat is assumed. Each scenario, or each 24-hour period for scenarios lasting greater than 24 hours is independent of all others, and therefore, the same individual marine mammal (as represented by an animat in the model environment) could be impacted during each independent scenario or 24-hour period. In few instances, although the activities themselves all occur within the study location, sound may propagate beyond the boundary of the study area. Any exposures occurring outside the boundary of the study area are counted as if they occurred within the study area boundary. NAEMO provides the initial estimated impacts on marine species with a static horizontal distribution (*i.e.,* animats in the model environment do not move horizontally).

There are limitations to the data used in the acoustic effects model, and the results must be interpreted within this context. While the best available data and appropriate input assumptions have been used in the modeling, when there is a lack of definitive data to support an aspect of the modeling, conservative modeling assumptions have been chosen (*i.e.,* assumptions that may result in an overestimate of acoustic exposures):

- Animats are modeled as being underwater, stationary, and facing the source and therefore always predicted to receive the maximum potential sound level at a given location (*i.e.,* no porpoising or pinnipeds' heads above water);
- Animats do not move horizontally (but change their position vertically within the water column), which may overestimate physiological effects such as hearing loss, especially for slow moving or stationary sound sources in the model;
- Animats are stationary horizontally and therefore do not avoid the sound source, unlike in the wild where animals would most often avoid exposures at higher sound levels, especially those exposures that may result in PTS;
- Multiple exposures within any 24-hour period are considered one continuous exposure for the purposes of calculating potential threshold shift, because there are not sufficient data to estimate a hearing recovery function for the time between exposures; and
- Mitigation measures were not considered in the model. In reality, sound-producing activities will be reduced, stopped, or delayed if marine mammals are detected by visual monitoring.

Due to these inherent model limitations and simplifications, model-estimated results should be further analyzed, considering such factors as the range to specific effects, avoidance, and the likelihood of successfully implementing mitigation measures. This analysis uses a number of factors in addition to the acoustic model results to predict acoustic effects on marine mammals, as described below in the *Marine Mammal Occurrence and Take Estimation* section.

The underwater radiated noise signature for icebreaking in the central Arctic Ocean by CGC HEALY during different types of ice-cover was characterized in Roth *et al.* (2013). The radiated noise signatures were characterized for various fractions of ice cover. For modeling, the 8/10 and 3/10 ice cover were used. Each modeled day of icebreaking consisted of 16 hours of 8/10 ice cover and 8 hours of 3/10 ice cover. Icebreaking was modeled for 8 days total. Since ice forecasting cannot be predicted more than a few weeks in advance, it is unknown if icebreaking will be needed to deploy or retrieve the sources after 1 year of transmitting. Therefore, the potential for an icebreaking cruise on CGC HEALY was conservatively analyzed within the ONR's request for an IHA. As the R/V Sikuliaq is not capable of icebreaking, acoustic noise created by icebreaking is only modeled for the CGC HEALY. Figures 5a and 5b in Roth *et al.* (2013) depict the source spectrum level versus frequency for 8/10 and 3/10 ice cover, respectively. The sound signature of each of the ice coverage levels was broken into 1-octave bins (table 5). In

the model, each bin was included as a separate source on the modeled vessel. When these independent sources go active concurrently, they simulate the sound signature of CGC HEALY. The modeled source level summed across these bins was 196.2 dB for the 8/10 signature and 189.3 dB for the 3/10 ice signature. These source levels are a good approximation of the icebreaker's observed source level (provided in figure 4b of Roth *et al.* (2013). Each frequency and source level was modeled as an independent source, and applied simultaneously to all of the animats within NAEMO. Each second was summed across frequency to estimate $SPL_{RMS.}$ Any animat exposed to sound levels greater than 120 dB was considered a take by Level B harassment. For PTS and TTS, determinations, sound exposure levels were summed over the duration of the test and the transit to the deep water deployment area. The method of quantitative modeling for icebreaking is considered to be a conservative approach; therefore, the number of takes estimated for icebreaking are likely an overestimate and are not expected to reach that level.

TABLE 5—MODELED BINS FOR 8/10 ICE COVERAGE (FULL POWER) AND 3/10 ICE COVERAGE (QUARTER POWER) ICEBREAKING ON CGC HEALY

Frequency (Hz)	8/10 source level (dB)	3/10 source level (dB)
25	189	187
50	188	182
100	189	179
200	190	177
400	188	175
800	183	170
1,600	177	166
3,200	176	171
6,400	172	168
12,800	167	164

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 the take calculations. We also describe how the marine mammal occurrence information is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and is authorized.

The beluga whale density numbers utilized for quantitative acoustic modeling are from the Navy Marine Species Density Database (U.S. Department of the Navy, 2014). Where available (*i.e.,* June through 15 October over the continental shelf primarily), density estimates used were from Duke density modeling based upon line-transect surveys (Cañadas *et al.,* 2020). The remaining seasons and geographic area were based on the habitat-based modeling by Kaschner (2004) and Kaschner *et al.* (2006). Density for beluga whales was not distinguished by stock and varied throughout the project area geographically and monthly; the range of densities in the study area is shown in table 6. The density estimates for ringed seals are based on the habitat suitability modeling by Kaschner (2004) and Kaschner *et al.* (2006) and shown in table 6.

TABLE 6—DENSITY ESTIMATES OF IMPACTED SPECIES

Common name	Stock	Density (animals/km^2)
Beluga whale	Beaufort Sea	0.000506 to 0.5176.
Beluga whale	Eastern Chukchi Sea	0.000506 to 0.5176.
Ringed seal	Arctic	0.1108 to 0.3562.

Take of all species will occur by Level B harassment only. NAEMO was previously used to produce a qualitative estimate of PTS, TTS, and behavioral exposures for ringed seals. For this action, a new approach that utilizes sighting data from previous surveys conducted within the study area was used to estimate Level B harassment associated with non-impulsive active acoustic sources for ringed seals (see section 6.4.3 of the IHA application).

Of historical sightings registered in the Ocean Biodiversity Information System Spatial Ecological Analysis of Megavertebrate Populations (OBIS–SEAMAP database) (Halpin *et al.,* 2009) in the ARA study area, nearly all (99 percent) occurred in summer and fall seasons. However, there is no documentation to prove that this is because ringed seals will all move out of the study area during the cold season, or if the lack of sightings is due to the harsh environment and ringed seal behavior being prohibitive factors for cold season surveying. OBIS–SEAMAP reports 542 animals sighted over 150 records in the ARA study area across all years and seasons. Taking the average of 542 animals in 150 records aligns with survey data from previous ARA cruises that show up to 3 ringed seals (or small, unidentified pinnipeds assumed to be ringed seals) per day sighted in the study area. To account for any unsighted animals, that number was rounded up to 4. Assuming that four animals will be present in the study area, a rough estimate of density can be calculated using the overall study area size:

$$4 \text{ ringed seals} \div 48{,}725 \text{ km}^2 = 0.00008209 \text{ ringed seals/km}^2$$

The Level B harassment zone surrounding each moored source will be 78.5 km^2, and the Level B harassment zone surrounding each drifting source will be 314 km^2. The total Level B harassment zone on any given day from

non-impulsive acoustic sources will be 942 km^2. The number of ringed seals that could be taken daily can be calculated:

$$0.00008209 \text{ ringed seals/km}^2 \times 942 \text{ km}^2 = 0.077 \text{ ringed seals/day}$$

To be conservative, the ONR assumed 1 ringed seal will be exposed to acoustic transmissions above the threshold for Level B harassment, and that each will be exposed each day of the planned action (365 days total). Unlike the NAEMO modeling approach used to estimate ringed seal takes in previous ARA IHAs, the occurrence method used in this ARA IHA request does not support the differentiation between behavioral or TTS exposures. Therefore, all takes are classified as Level B harassment and not further distinguished. Modeling for all previous years of ARA activities did not result in any estimated Level A harassment. NMFS has no reason to expect that the ARA activities during the effective dates of this IHA will be more likely to result in Level A harassment. Therefore, no Level A harassment is anticipated due to the planned action.

NAEMO modeling is still used to provide estimated takes of beluga whales associated with non-impulsive acoustic sources, as well as provide take estimations associated with icebreaking for both species. Table 7 shows the total number of requested takes by Level B harassment that NMFS has authorized for both beluga whale stocks and the Arctic ringed seal stock.

Density estimates for beluga whales are equal as estimates were not distinguished by stock (Kaschner, 2004; Kaschner *et al.,* 2006). The ranges of the Beaufort Sea and Eastern Chukchi Sea beluga whales vary within the study area throughout the year (Hauser *et al.,* 2014). Based upon the limited information available regarding the expected spatial distributions of each stock within the study area, take has been apportioned equally to each stock (table 7). In addition, in NAEMO, animats do not move horizontally or react in any way to avoid sound, therefore, the current model may overestimate non-impulsive acoustic impacts.

TABLE 7—ESTIMATED TAKE NUMBERS AND TOTAL TAKE AUTHORIZED

Species	Stock	Active acoustics	Icebreaking (behavioral)	Icebreaking (TTS)	Total take authorized	SAR abundance	Percentage of population
Beluga whale	Beaufort Sea	[a] 177	[a] 21	0	99	39,258	<1
Beluga whale	Chukchi Sea	[a] 177	[a] 21	0	99	13,305	<1
Ringed seal	Arctic	365	538	1	904	UND (171, 418) [b]	<1

[a] Acoustic and icebreaking exposures to beluga whales were not modeled at the stock level as the density value is not distinguished by stock in the Arctic for beluga whales (U.S. Department of the Navy, 2014). Estimated take of beluga whales due to active acoustics is 177 and 21 due to icebreaking activities, totaling 198 takes of beluga whales. The total take was evenly distributed among the two stocks.

[b] A reliable population estimate for the entire Arctic stock of ringed seals is not available and NMFS SAR lists it as Undetermined (UND). Using a sub-sample of data collected from the U.S. portion of the Bering Sea (Conn *et al.,* 2014), an abundance estimate of 171,418 ringed seals has been calculated but this estimate does not account for availability bias due to seals in the water or in the shore-fast ice zone at the time of the survey. The actual number of ringed seals in the U.S. portion of the Bering Sea is likely much higher. Using the minimum population size (N_{min} = 158,507) based upon this negatively biased population estimate, the PBR is calculated to be 4,755 seals, although this is also a negatively biased estimate.

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. 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)). The 2004 NDAA amended the MMPA as it relates to military readiness activities and the incidental take authorization process such that ''least practicable impact'' shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

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, as well as subsistence uses. 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, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

The following measures are required in this IHA:

- All vessels operated by or for the Navy must have personnel assigned to stand watch at all times while underway. Watch personnel must employ visual search techniques using binoculars. While underway and while using active acoustic sources/towed in-water devices, at least one person with access to binoculars is required to be on watch at all times.
- Vessel captains and vessel personnel must remain alert at all times, proceed with extreme caution, and operate at a safe speed so that the vessel can take proper and effective action to avoid any collisions with marine mammals.
- During moored and drifting acoustic source deployment and recovery, ONR must implement a mitigation zone of 55 m (180 ft) around the deployed source. Deployment and recovery must cease if a marine mammal is visually deterred within the mitigation zone. Deployment and recovery may recommence if any one of the following conditions are met:
  - The animal is observed exiting the mitigation zone;
  - The animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the sound source;

○ The mitigation zone has been clear from any additional sightings for a period of 15 minutes for pinnipeds and 30 minutes for cetaceans.

• Vessels must avoid approaching marine mammals head-on and must maneuver to maintain a mitigation zone of 457 m (500 yards) around all observed cetaceans and 183 m (200 yards) around all other observed marine mammals, provided it is safe to do so.

• Activities must cease if a marine mammal species for which take was not authorized, or a species for which authorization was granted but the authorized number of takes have been met, is observed approaching or within the mitigation zone (table 8). Activities must not resume until the animal is confirmed to have left the area.

• Vessel captains must maintain at-sea communication with subsistence hunters to avoid conflict of vessel transit with hunting activity.

TABLE 8—MITIGATION ZONES

Activity and/or effort type	Species	Mitigation zone
Acoustic source deployment and recovery, stationary	Beluga whale	55 m (180 ft).
Acoustic source deployment and recovery, stationary	Ringed seal	55 m (180 ft).
Transit	Beluga whale	457 m (500 yards).
Transit	Ringed seal	183 m (200 yards).

Based on our evaluation of the applicant's planned measures, NMFS has determined that the 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, areas of similar significance, and on the availability of such species or stock for subsistence uses.

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.

The Navy has coordinated with NMFS to develop an overarching program plan in which specific monitoring will occur. This plan is called the Integrated Comprehensive Monitoring Program (ICMP) (U.S. Department of the Navy, 2011). The ICMP has been developed in direct response to Navy permitting requirements established through various environmental compliance efforts. As a framework document, the ICMP applies by regulation to those activities on ranges and operating areas for which the Navy is seeking or has sought incidental take authorizations. The ICMP is intended to coordinate monitoring efforts across all regions and to allocate the most appropriate level and type of effort based on a set of standardized research goals, and in acknowledgement of regional scientific value and resource availability.

The ICMP is focused on Navy training and testing ranges where the majority of Navy activities occur regularly as those areas have the greatest potential for being impacted. ONR's ARA in comparison is a less intensive test with little human activity present in the Arctic. Human presence is limited to the deployment of sources that will take place over several weeks. Additionally, due to the location and nature of the testing, vessels and personnel will not be within the study area for an extended period of time. As such, more extensive monitoring requirements beyond the basic information being collected will not be feasible as it would require additional personnel and equipment to locate seals and a presence in the Arctic during a period of time other then what is planned for source deployment. However, ONR will record all observations of marine mammals, including the marine mammal's species identification, location (latitude/longitude), behavior, and distance from project activities. ONR will also record date and time of sighting. This information is valuable in an area with few recorded observations.

Marine mammal monitoring must be conducted in accordance with the Navy's ICMP and the IHA:

• While underway, all vessels must have at least one person trained through the U.S. Navy Marine Species Awareness Training Program on watch during all activities;

• Watch personnel must use standardized data collection forms, whether hard copy or electronic. Watch personnel must distinguish between sightings that occur during transit or during deployment or recovery of acoustic sources. Data must be recorded on all days of activities, even if marine mammals are not sighted;

• At minimum, the following information must be recorded:

○ Vessel name;

○ Watch personnel names and affiliation;

○ Effort type (*i.e.,* transit, deployment, recovery); and

○ Environmental conditions (at the beginning of watch stander shift and

whenever conditions change significantly), including Beaufort Sea State (BSS) and any other relevant weather conditions, including cloud cover, fog, sun glare, and overall visibility to the horizon.

- Upon visual observation of any marine mammal, the following information must be recorded:
  - Date/time of sighting;
  - Identification of animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified) and the composition of the group if there is a mix of species;
  - Location (latitude/longitude) of sighting;
  - Estimated number of animals (high/low/best);
  - Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);
  - Detailed behavior observations (*e.g.,* number of blows/breaths, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; length of time observed in the mitigation zone, note any observed changes in behavior);
  - Distance from vessel to animal;
  - Direction of animal's travel relative to the vessel;
  - Platform activity at time of sighting (*i.e.,* transit, deployment, recovery); and
  - Weather conditions (*i.e.,* BSS, cloud cover).
  - During icebreaking, the following information must be recorded:
  - Start and end time of icebreaking; and
  - Ice cover conditions.
- During deployment and recovery of acoustic sources or unmanned undersea vehicles, visual observation must begin 30 minutes prior to deployment or recovery and continue through 30 minutes following the source deployment or recovery.
- The ONR must submit its draft report(s) on all monitoring conducted under the IHA within 90 calendar days of the completion of monitoring or 60 calendar days prior to the requested issuance of any subsequent IHA for research activities at the same location, whichever comes first. A final report must be prepared and submitted within 30 calendar days following receipt of any NMFS comments on the draft report. If no comments are received from NMFS within 30 calendar days of receipt of the draft report, the report shall be considered final.
- All draft and final monitoring reports must be submitted to *PR.ITP.MonitoringReports@noaa.gov* and *ITP.clevenstine@noaa.gov.*
- The marine mammal report, at minimum, must include:
  - Dates and times (begin and end) of all marine mammal monitoring;
  - Acoustic source use or icebreaking;
  - Watch stander location(s) during marine mammal monitoring;
  - Environmental conditions during monitoring periods (at beginning and end of watch standing shift and whenever conditions change significantly), including BSS and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance;
  - Upon observation of a marine mammal, the following information:
    - Name of watch stander who sighted the animal(s), the watch stander 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), watch stander 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 acoustic source or icebreaking for each sighting;
    - Estimated number of animals (min/max/best estimate);
    - Estimated number of animals by cohort (adults, juveniles, neonates, group composition, *etc.*);
    - Animal's closest point of approach and estimated time spent within the harassment zone; and
    - 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 shutdowns during monitoring, if any;
  - Marine mammal sightings (including the marine mammal's location (latitude/longitude));
  - Number of individuals of each species observed during source deployment, operation, and recovery; and
  - Detailed information about implementation of any mitigation (*e.g.,* shutdowns, delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.
- The ONR must submit all watch stander data electronically in a format that can be queried, such as a spreadsheet or database (*i.e.,* digital images of data sheets are not sufficient).
- Reporting injured or dead marine mammals:
  - In the event that personnel involved in the specified activities discover an injured or dead marine mammal, the ONR must report the incident to the Office of Protected Resources (OPR), NMFS (*PR.ITP.MonitoringReports@noaa.gov* and *ITP.clevenstine@noaa.gov*) and to the Alaska regional stranding network (877–925–7773) as soon as feasible. If the death or injury was clearly caused by the specified activity, the ONR must immediately cease the activities until NMFS OPR 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 this IHA. The ONR must not resume their activities until notified by NMFS.
  - The report must include the following information:
    - Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
    - Species identification (if known) or description of the animal(s) involved;
    - Condition of the animal(s) (including carcass condition if the animal is dead);
    - Observed behaviors of the animal(s), if alive;
    - If available, photographs or video footage of the animal(s); and
    - General circumstances under which the animal was discovered.
- Vessel Strike: In the event of a vessel strike of a marine mammal by any vessel involved in the activities covered by the authorization, the ONR shall report the incident to OPR, NMFS and to the Alaska regional stranding coordinator (877–925–7773) as soon as feasible. The report must include the following information:
  - Time, date, and location (latitude/longitude) of the incident;
  - Species identification (if known) or description of the animal(s) involved;
  - Vessel's speed during and leading up to the incident;
  - Vessel's course/heading and what operations were being conducted (if applicable);
  - Status of all sound sources in use;
  - Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;
  - Environmental conditions (*e.g.,* wind speed and direction, BSS, cloud cover, visibility) immediately preceding the strike;
  - Estimated size and length of animal that was struck;

○ Description of the behavior of the marine mammal immediately preceding and following the strike;

○ If available, description of the presence and behavior of any other marine mammals immediately preceding the strike;

○ Estimated fate of the animal (*e.g.,* dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and

○ To the extent practicable, photographs or video footage of the animal(s).

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).

To avoid repetition, the discussion of our analysis applies to beluga whales and ringed seals, given that the anticipated effects of this activity on these different marine mammal stocks are expected to be similar. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, they are described independently in the analysis below.

Underwater acoustic transmissions associated with the ARA, as outlined previously, have the potential to result in Level B harassment of beluga seals and ringed seals in the form of behavioral disturbances. No serious injury, mortality, or Level A harassment are anticipated to result from these described activities. Effects on individual belugas or ringed seals taken by Level B harassment could include alteration of dive behavior and/or foraging behavior, effects to breathing rates, interference with or alteration of vocalization, avoidance, and flight. More severe behavioral responses are not anticipated due to the localized, intermittent use of active acoustic sources. Exposure duration is likely to be short-term and individuals will, most likely, simply be temporarily displaced by moving away from the acoustic source. Exposures are, therefore, unlikely to result in any significant realized decrease in fitness for affected individuals or adverse impacts to stocks as a whole.

Arctic ringed seals are listed as threatened under the ESA. The primary concern for Arctic ringed seals is the ongoing and anticipated loss of sea ice and snow cover resulting from climate change, which is expected to pose a significant threat to ringed seals in the future (Muto *et al.,* 2021). In addition, Arctic ringed seals have also been experiencing an Unusual Mortality Event (UME) since 2019 although the cause of the UME is currently undetermined. As mentioned earlier, no mortality or serious injury to ringed seals is authorized. Due to the short-term duration of expected exposures and required mitigation measures to reduce adverse impacts, we do not expect the ARA to compound or exacerbate the impacts of the ongoing UME.

A small portion of the study area overlaps with ringed seal critical habitat. Although this habitat contains features necessary for ringed seal formation and maintenance of subnivean birth lairs, basking and molting, and foraging, these features are also available throughout the rest of the designated critical habitat area. Any potential limited displacement of ringed seals from the ARA study area is not expected to interfere with their ability to access necessary habitat features, given the availability of similar necessary habitat features nearby.

The study area also overlaps with beluga whale migratory and feeding biologically important areas (BIAs). Due to the small amount of overlap between the BIAs and the ARA study area as well as the low intensity and short-term duration of acoustic sources and required mitigation measures, we expect minimal impacts to migrating or feeding belugas. Shutdown zones are expected to avoid the potential for Level A harassment of belugas and ringed seals, and to minimize the severity of any Level B harassment. The requirements of trained dedicated watch personnel and speed restrictions will also reduce the likelihood of any vessel strikes to migrating belugas.

In all, the planned activities are expected to have minimal adverse effects on marine mammal habitat. While the activities may cause some fish to leave the area of disturbance, temporarily impacting marine mammals' foraging opportunities, this will encompass a relatively small area of habitat leaving large areas of existing fish and marine mammal foraging habitat unaffected. As such, the impacts to marine mammal habitat are not expected to impact the health or fitness of any marine mammals.

In summary and as described above, the following factors primarily support our 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;
- Impacts will be limited to Level B harassment only;
- Only temporary and relatively low-level behavioral disturbances are expected to result from these activities; and
- Impacts to marine mammal prey or habitat will be minimal and short term.

The authorized take is not expected to impact the reproduction or survival of any individual marine mammals, much less rates of recruitment or survival. 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 planned monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Unmitigable Adverse Impact Analysis and Determination

In order to issue an IHA, NMFS must find that the specified activity will not have an ''unmitigable adverse impact'' on the subsistence uses of the affected

marine mammal species or stocks by Alaskan Natives. NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

Subsistence hunting is important for many Alaska Native communities. A study of the North Slope villages of Nuiqsut, Kaktovik, and Utqiaġvik identified the primary resources used for subsistence and the locations for harvest (Stephen R. Braund & Associates, 2010), including terrestrial mammals, birds, fish, and marine mammals (bowhead whale, ringed seal, bearded seal, and walrus). Ringed seals and beluga whales are likely located within the project area during this action, yet the action will not remove individuals from the population nor behaviorally disturb them in a manner that will affect their behavior more than 100 km farther inshore where subsistence hunting occurs. The acoustic sources will be placed far outside of the range for subsistence hunting. The closest active acoustic source (fixed or drifting) within the study area that is likely to cause Level B harassment is approximately 204 km (110 nmi) from land. This ensures a significant standoff distance from any subsistence hunting area. The closest distance to subsistence hunting (130 km (70 nmi)) is well beyond the largest distance from the sound sources in use at which behavioral harassment will be expected to occur (20 km (10.8 nmi)) described above. Furthermore, there is no reason to believe that any behavioral disturbance of beluga whales or ringed seals that occurs far offshore (we do not anticipate any Level A harassment) will affect their subsequent behavior in a manner that will interfere with subsistence uses should those animals later interact with hunters.

In addition, ONR has been communicating with the Native communities about the planned action. The ONR-sponsored chief scientist for AMOS gave a briefing on ONR research planned for 2024–2025 Alaska Eskimo Whaling Commission (AEWC) meeting on December 15, 2023 in Anchorage, Alaska. No questions were asked from the commissioners during the brief or in subsequent weeks afterwards. The AEWC consists of representatives from 11 whaling villages (Wainwright, Utqiaġvik, Savoonga, Point Lay, Nuiqut, Kivalina, Kaktovik, Wales, Point Hope, Little Diomede, and Gambell). These briefings have communicated the lack of any effect on subsistence hunting due to the distance of the sources from hunting areas. ONR-supported scientists also attend Arctic Waterways Safety Committee (AWSC) and AEWC meetings on a regular basis to discuss past, present, and future research activities. While no take is anticipated to result during transit, points of contact for at-sea communication will also be established between vessel captains and subsistence hunters to avoid any conflict of vessel transit with hunting activity.

Based on the description of the specified activity, distance of the study area from subsistence hunting grounds, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and the planned mitigation and monitoring measures, NMFS has determined that there will not be an unmitigable adverse impact on subsistence uses from ONR's ARA.

Peer Review of the Monitoring Plan

The MMPA requires that monitoring plans be independently peer reviewed where the activity may affect the availability of a species or stock for taking for subsistence uses (16 U.S.C. 1371(a)(5)(D)(ii)(III)). Given the factors discussed above, NMFS has also determined that the activity is not likely to affect the availability of any marine mammal species or stock for taking for subsistence uses, and therefore, peer review of the monitoring plan is not warranted for this project.

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 consults internally whenever we propose to authorize take for endangered or threatened species, in this case with the Alaska Regional Office (AKR).

There is one marine mammal species (Arctic ringed seal) with confirmed occurrence in the study area that is listed as threatened under the ESA. The NMFS AKR Protected Resources Division issued a Biological Opinion on September 13, 2022, under section 7 of the ESA, on the issuance of an IHA to ONR under section 101(a)(5)(D) of the MMPA by the NMFS Permits and Conservation Division. The 2022 Biological Opinion is based on a Biological Evaluation that covers ONR's ARA from 2022–2025. Therefore, NMFS has determined that issuance of this IHA is covered by the 2022 Biological Opinion and that further consultation is unnecessary. The Biological Opinion concluded that the action is not likely to jeopardize the continued existence of Arctic ringed seals, and is not likely to destroy or adversely modify Arctic ringed seal critical habitat.

National Environmental Policy Act

In compliance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) as implemented by the regulations published by the Council on Environmental Quality (CEQ; 40 CFR parts 1500–1508), the ONR prepared an Overseas Environmental Assessment (OEA) to consider the direct, indirect, and cumulative effects to the human environment resulting from the ARA project. NMFS made the ONR's OEA available to the public for review and comment, concurrently with the publication of the proposed IHA, on the NMFS website (at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities*), in relation to its suitability for adoption by NMFS in order to assess the impacts to the human environment of issuance of an IHA to ONR. Also in compliance with NEPA and the CEQ regulations, as well as NOAA Administrative Order 216–6A, NMFS has reviewed ONR's OEA, determined it to be sufficient, and adopted that OEA and signed a Finding of No Significant Impact (FONSI) on September 14, 2024.

Authorization

NMFS has issued an IHA to ONR for the potential harassment of two marine mammal species incidental to conducting a seventh year of ARA in the Beaufort and Chukchi Seas that includes the previously explained mitigation, monitoring, and reporting requirements.

Dated: September 17, 2024.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2024–21561 Filed 9–19–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE303]

Marine Mammals; File No. 27543

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Marine Ecology and Telemetry Research, 2468 Camp McKenzie Trl NW, Seabeck WA 98380 (Responsible Party: Greg Schorr), has applied in due form for a permit to conduct research on and import specimens of 47 marine mammal species including the following endangered species and Distinct Population Segments (DPSs): blue whale (*Balaenoptera musculus*), bowhead whale (*Balaena mysticetus*), Main Hawaiian Islands Insular DPS of false killer whale (*Pseudorca crassidens*), fin whale (*Balaenoptera physalus*), Western DPS of gray whale (*Eschrichtius robustus*), Western North Pacific DPS and Central America DPS of humpback whale (*Megaptera novaeangliae*), Southern Resident DPS of killer whale (*Orcinus orca*), North Pacific right whale (*Eubalaena japonica*), sei whale (*Balaenoptera borealis*), and sperm whale (*Physeter macrocephalus*).

DATES: Written comments must be received on or before October 21, 2024.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 27543 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 27543 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Sara Young, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant proposes to assess the biology and ecology of cetaceans in U.S. and international waters along the U.S. west coast south to the Baja California Peninsula, Hawaii and Alaska. The main research objectives are to investigate cetacean (1) distribution, abundance, stock structure, habitat use and demographics, (2) behavioral ecology, (3) population health and exposure to potential stressors, and (4) behavioral responses to military sound sources. Research would be conducted from vessel and aerial platforms (manned and unmanned aircraft systems), for: counts, sample collection (prey remains, fecal, sloughed skin, skin and blubber biopsy, breath), observations, acoustic recordings, acoustic playbacks, photo-identification, videography, photogrammetry, tagging, and tracking. Researchers may attach up to two tag types (suction-cup, dart/barb, or deep implant) at a time to some animals. Researchers may unintentionally disturb seven pinniped species, including the endangered Western DPS of Steller sea lion (*Eumetopias jubatus*) and Hawaiian monk seals (*Neomonachus schauinslandi*), during studies. Biological samples collected in international waters may be imported and re-exported. See the application for take numbers requested. The permit would be valid for 5 years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: September 17, 2024.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2024–21524 Filed 9–19–24; 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; Deep Seabed Mining Exploration Licenses

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on May 14, 2024 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration, Commerce

Title: Deep Seabed Mining Exploration Licenses.

OMB Control Number: 0648–0145.

Form Number(s): None.

Type of Request: Regular submission (extension of a currently approved collection).

Number of Respondents: 1.

Average Hours per Response: Annual report: 20 hours. For those years in which an extension request must be made, the estimated total annual burden is 270 hours.

Total Annual Burden Hours: With there being only one license holder/respondent, the estimated total annual burden is 20 hours for the preparation of the annual report. In those years when a license extension request must be made, the estimated total burden for the license holder is 270 hours.

Needs and Uses: This request is for the extension of the currently approved information collection. No changes have been made to the collection requirements. NOAA's regulations at 15 CFR 970 govern the issuing and

monitoring of exploration licenses under the Deep Seabed Hard Mineral Resources Act. The NOAA Office for Coastal Management is responsible for approving and administering licenses. Any persons seeking a license must submit certain information that allows NOAA to ensure the applicant meets the standards of the Act. Licensees are required to conduct monitoring and make reports, and they may request revisions, transfers, or extensions of licenses. Information required for the issuance and extension of licenses is provided to fulfill statutory requirements to ensure that license applicants have identified areas of interest for deep seabed hard mineral exploration and production; developed plans for those activities; have the financial resources available to conduct proposed activity; and have considered the effects of the activity on the natural and human environment. This information is used to determine whether licenses should be granted or extended.

Exploration licenses and commercial recovery permits under the Deep Seabed Hard Mineral Resources Act are only for activities by U.S. citizens in international waters. No license or permit applications have been received since the early 1980s, and none are expected during this collection period. U.S. deep seabed exploration licenses and commercial recovery permits are not recognized by the International Seabed Authority, which may raise security of tenure concerns internationally due to the lack of U.S. accession to the United Nations Convention on the Law of the Sea Treaty. Two exploration licenses issued in the early 1980s are held by Lockheed Martin Corporation. The licenses are subject to annual reporting requirements and extension requests every five years. No at-sea exploration is authorized under the licenses without further authorization from NOAA. Such activities are not expected during the reporting period for the same reason as above.

Affected Public: Large businesses.

Frequency: Report on activities pursuant to the exploration licenses due annually. Extension requests must be submitted every five years.

Respondent's Obligation: Required to maintain licenses.

Legal Authority: Deep Seabed Hard Mineral Resources Act (DSHMRA) (30 U.S.C. 1401–1473); 15 CFR part 970.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0145.

Sheleen Dumas,

Departmental PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–21602 Filed 9–19–24; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Survey to Collect Economic Data from Recreational Anglers along the Atlantic Coast

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on March 21, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration, Commerce.

Title: Survey to Collect Economic Data from Recreational Anglers along the Atlantic Coast.

OMB Control Number: 0648–0783.

Form Number(s): None.

Type of Request: Regular submission [extension and revision of a current information collection].

Number of Respondents: 957.

Average Hours per Response: 8 minutes to complete NARFS III and 12 minutes to complete NARFS IV.

Total Annual Burden Hours: 157 hours.

Needs and Uses: This request is for a revision and extension to a currently approved information collection. The first data collection effort in 2019 under OMB Control Number 0648–0783 was to assess how changes in saltwater recreational fishing regulations affect angler effort, angler welfare, fishing mortality, and future stock levels. That data collection effort focused on anglers who fished for Atlantic cod and haddock off the Atlantic coast from Maine to Massachusetts (North Atlantic Recreational Fishing Survey I). In 2020, the collection was revised to remove the cod and haddock survey and add a survey focused on anglers who fish for summer flounder, black sea bass, and scup along the Atlantic coast from Massachusetts to North Carolina (North Atlantic Recreational Fishing Survey II). In 2022, the collection was revised again to re-add the original cod and haddock survey back to this control number (North Atlantic Recreational Fishing Survey III). This revision will re-add the survey focused on summer flounder, black sea bass, and scup (North Atlantic Recreational Fishing Survey IV) that was inadvertently removed in the last revision.

The objective of these surveys will remain exactly the same as the previous surveys conducted under this control number. That is, to statistically assess how anglers respond to changes in management options and fishing regulations (*e.g.,* bag limits, size limits, dates of open seasons, etc.). The survey data will provide the information fisheries managers need to conduct updated analysis of the socio-economic effects to recreational anglers and to coastal communities of proposed changes in fishing regulations. The recreational fishing community and regional fisheries management councils now rely on species-specific socio-economic studies of recreational fishing for analyses of fisheries policies. These surveys will address the stated need for more species-specific studies.

Affected Public: Individuals or households.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

Legal Authority: 16 U.S.C. 1801 Magnuson-Stevens Fishery Conservation and Management Act.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be

submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0783.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–21604 Filed 9–19–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE285]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council's (Council) will hold a meeting of its Scientific and Statistical Committee's Social and Economic Panel (SEP).

DATES: The meeting will be held via webinar on October 7, 2024, from 9 a.m. until 12:30 p.m. Registration is required. Webinar registration, an online public comment form, and briefing book materials will be available two weeks prior to the meetings at: *https://safmc.net/scientific-and-statistical-committee-meeting/*.

ADDRESSES:

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Christina Wiegand, Fishery Social Scientist, SAFMC; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *christina.wiegand@safmc.net*.

SUPPLEMENTARY INFORMATION: The SEP meeting agenda includes an update on Council active amendments and discussion of modifications to the Southeast For-Hire Integrated Electronic Reporting (SEFHIER) Program. Overall compliance with the reporting program is low compared to that previously observed the Gulf of Mexico. The Council has begun discussion on ways to improve compliance, strengthen reporting requirements, and explore data validation, with the goal of utilizing the information being collected in future management decisions. As these discussions continue, the Council is asking for input from the SEP.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the public meeting date.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: September 17, 2024.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2024–21577 Filed 9–19–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE295]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold public meetings of the Council and its Executive Committee.

DATES: The meetings will be held Tuesday, October 8 through Thursday, October 10, 2024. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: This meeting will be an in-person meeting with a virtual option. Council members, other meeting participants, and members of the public will have the option to participate in person at the Hyatt Place Dewey Beach, 1301 Coastal Highway, Dewey Beach, DE 19971, or virtually via Webex webinar. Webinar connection instructions and briefing materials will be available at: *https://www.mafmc.org/briefing/october-2024*.

Council address: Mid-Atlantic Fishery Management Council, 800 N State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org*.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's website, *www.mafmc.org*, also has details on the meeting location, proposed agenda, webinar listen-in access, and briefing materials.

SUPPLEMENTARY INFORMATION: The following items are on the agenda, although agenda items may be addressed out of order (changes will be noted on the Council's website when possible).

Tuesday, October 8, 2024

Executive Committee—Open Session

2025 Implementation Plan: Review draft deliverables

Council Convenes

2025–2029 Strategic Plan

Review and provide feedback on draft strategic plan

Offshore Wind Update

Updates from Bureau of Ocean Energy Management (BOEM)
Updates from Mid-Atlantic Regional Council on the Ocean (MARCO) on Offshore Wind Transmission Workshop
Updates from New Jersey Department of Environmental Protection on Offshore Wind Research and Monitoring Initiative Research Priorities
Updates from Northeast Fisheries Science Center (NEFSC) and Greater Atlantic Regional Fisheries Office (GARFO)
General Q&A/Discussion

Habitat Activities Update—GARFO Habitat and Ecosystem Services Division

Presentation on activities of interest in the region

Wednesday, October 9, 2024

2025 Atlantic Mackerel Specifications

Review recommendations from the Scientific and Statistical Committee (SSC), Monitoring Committee, Advisory Panel, and staff
Review previously adopted 2025 specifications and management measures, and recommend changes if necessary

2025–2026 Butterfish Specifications

Review recommendations from the SSC, Monitoring Committee, Advisory Panel, and staff
Adopt specifications for 2025–2026

2025 Spiny Dogfish Specifications

Review recommendations from the SSC, Monitoring Committee, Advisory Panel, and staff

Review previously adopted 2025 specifications and management measures, and recommend changes if necessary

Scientific Coordination Subcommittee 8th National Workshop Outcomes

Review outcomes, recommendations, and action items

LUNCH

Private Recreational Tilefish Permitting, Reporting, and Program Evaluation

Staff overview of recent tilefish permitting and reporting efforts
Review update from GARFO on private recreational tilefish permitting and reporting
Review Tilefish Angler Outreach and Program Evaluation—Willy Goldsmith (Pelagic Strategies) and Jill Stevenson (Stevenson Sustainability Consulting)
Discuss next steps

Proposed Rule: Electronic Reporting Requirements for Atlantic Highly Migratory Species (HMS)—Karyl Brewster-Geisz, Rulemaking Branch Chief, NOAA Fisheries

Presentation on the NOAA HMS proposed rule to modify and/or expand reporting requirements for Atlantic HMS, including reporting by commercial, for-hire, and private recreational vessel owners and dealers

Review of Monkfish Fishery Performance Report and Monkfish Research Set Aside Improvements

Review Monkfish Fishery Performance Report
Review Monkfish Research Set Aside Improvements

Council Awards Discussion

Review existing Council awards: Ricks E Savage Award, Award of Excellence, and James A. Ruhle Cooperative Research Award
Recommend any necessary changes to award descriptions, selection criteria, or nomination/selection procedures

Thursday, October 10, 2024

Business Session

Committee Reports (SSC, Northeast Trawl Advisory Panel (NTAP)); Executive Director's Report; Organization Reports; and Liaison Reports

Other Business and General Public Comment

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c)

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: September 17, 2024.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2024–21578 Filed 9–19–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE062]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Military Readiness Activities in the Atlantic Fleet Training and Testing Study Area

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

ACTION: Notice; receipt of application for regulations and Letters of Authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Department of the Navy (including the U.S. Navy (Navy) and the U.S. Marine Corps) and on behalf of the U.S. Coast Guard (Coast Guard; hereafter, Navy, U.S. Marine Corps, and Coast Guard are collectively referred to as Action Proponents) for authorization to take marine mammals incidental to training and testing activities conducted in the Atlantic Fleet Training and Testing (AFTT) Study Area over the course of 7 years from November 2025 through November 2032. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the Action Proponents' request for the development and implementation of regulations governing the incidental taking of marine mammals and issuance of three, 7-year Letters of Authorization (LOAs). NMFS invites the public to provide information, suggestions, and comments on the Action Proponents' application and request.

DATES: Comments and information must be received no later than October 21, 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 sent to *ITP.clevenstine@noaa.gov*. An electronic copy of the Action Proponents' application may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities*. In case of problems accessing the document, 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/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities* 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: Alyssa Clevenstine, 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 authorization 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), 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 monitoring and reporting of the takings.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

The National Defense Authorization Act (NDAA) for Fiscal Year 2004 (Pub. L. 108–136) amended section 101(a)(5) of the MMPA to remove the ''small numbers'' and ''specified geographical region'' provisions and amended the definition of ''harassment'' as applied to a ''military readiness activity'' to read as follows (section 3(18)(B) of the MMPA): (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A Harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered (Level B Harassment). On August 13, 2018, the NDAA for Fiscal Year 2019 (Pub. L. 115–232) amended the MMPA to allow incidental take regulations for military readiness activities to be issued for up to 7 years.

Summary of Request

On May 28, 2024, NMFS received an application from the Action Proponents requesting authorization to take marine mammals, by Level A and Level B harassment, incidental to training and testing (characterized as military readiness activities) including the use of sonar and other transducers, in-water detonations, air guns, and impact and vibratory pile driving and extraction in the AFTT Study Area. In addition, the Action Proponents are requesting authorization of 5 takes by mortality of 2 marine mammal species from explosives during Navy training exercises, 44 takes by mortality of 9 marine mammal species from ship shock trials during Navy testing activities, and of 6 takes of large whales by serious injury or mortality from vessel strikes over the 7-year period of the LOAs: 3 takes incidental to the Navy's training and testing activities, and 3 takes incidental to the Coast Guard's training activities. In response to our comments and following information exchange, Action Proponents submitted a final revised application on August 16, 2024, that we determined was adequate and complete on August 19, 2024. The Action Proponents requested the regulations and subsequent LOAs be valid for 7 years beginning in November 2025.

This will be the fourth time NMFS has promulgated incidental take regulations pursuant to the MMPA relating to similar military readiness activities in AFTT, following those effective from January 22, 2009, through January 22, 2014 (74 FR 4844), from November 14, 2013, through November 13, 2018 (78 FR 73009, December 4, 2013), and from November 14, 2018, through November 13, 2023 (83 FR 57076, November 14, 2018), which was subsequently extended until November 13, 2025 (84 FR 70712, December 23, 2019) due to amendments to the NDAA (Pub. L. 115–232).

Description of the Specified Activity

The AFTT Study Area includes areas of the western Atlantic Ocean along the east coast of North America, the Gulf of Mexico, and portions of the Caribbean Sea, covering approximately 2.6 million square nautical miles (nmi^2) of ocean area, oriented from the mean high tide line along the U.S. coast and extending east to 45-degree W longitude line, north to 65-degree N latitude line, and south to approximately the 20-degree N latitude line. Please refer to figure 1.1–1 of the application for a map of the AFTT Study Area and figure 2.1–1 through figure 2.1–5 for additional maps of the range complexes and testing ranges.

The following types of training and testing, which are classified as military readiness activities pursuant to the section 315(f) of Public Law 101–314 (16 U.S.C. 703), are included in the specified activity described in the Action Proponents' application:

- Amphibious warfare (in-water detonations),
- Anti-submarine warfare (sonar and other transducers, in-water detonations),
- Expeditionary warfare (in-water detonations, pile driving/extraction),
- Mine warfare (sonar and other transducers, in-water detonations),
- Surface warfare (in-water detonations), and
- Other (sonar and other transducers, air guns, vessel movement).

The application includes proposed mitigation measures for marine mammals that would be implemented during training and testing activities in the AFTT Study Area (see section 11 of the application). Proposed procedural mitigation generally involves: (1) the use of one or more trained Lookouts to diligently observe for specific biological resources within a mitigation zone, (2) requirements for Lookouts to immediately communicate sightings of specific biological resources to the appropriate watch station for information dissemination, and (3) requirements for the watch station to implement mitigation (*e.g.,* halt an activity) until certain recommencement conditions have been met. Mitigation measures are also proposed for specific mitigation areas and consist of a variety of measures in those areas including, but not limited to: conducting a certain number of major training exercises per year, not planning or avoiding planning major training exercises, minimizing or not conducting active sonar, conducting a limited amount of hull-mounted mid-frequency active sonar per year, not expending explosive or non-explosive ordnance, and implementing vessel speed reductions in certain circumstances.

The Action Proponents also propose to undertake monitoring and reporting efforts to better understand the impacts of their activities on marine mammals and their habitat, track compliance with take authorizations, and to help investigate the effectiveness of implemented mitigation measures in the AFTT Study Area.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the Action Proponents' request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by the Action Proponents, if appropriate.

Dated: September 9, 2024.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2024–20715 Filed 9–19–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE299]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a three day in-person meeting of its Standing, Special Mackerel and Special Shrimp Scientific and Statistical Committees (SSC).

DATES: The meeting will be held Tuesday, October 8, 2024 from 8:30 a.m. to 4 p.m., Wednesday, October 9, 2024, from 8:30 a.m. to 5 p.m. and Thursday, October 10, 2024, from 8:30 a.m. to 3 p.m., EDT.

ADDRESSES: The meeting will take place at the Gulf Council office. Registration information will be available on the Council's website by visiting *www.gulfcouncil.org* and clicking on the ''meeting tab''.

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Rindone, Lead Fishery Biologist, Gulf of Mexico Fishery Management Council; *ryan.rindone@gulfcouncil.org;* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Tuesday, October 8, 2024; 8:30 a.m.–4 p.m. EDT

The meeting will begin with Introductions and Adoption of Agenda, Scope of Work, review and approval of Meeting Minutes from the July/August 2024 SSC meeting.

The SSC Standing Committee, with the Special Mackerel SSC, will review the Effects of Recreational Data Calibration on *Spanish Mackerel* Model Performance and SEDAR 99: Gulf Migratory Group *King Mackerel* Terms of Reference and Volunteers, including presentations, background materials, draft schedule and SSC discussion.

The Standing SSC will then review the SEDAR 88: Gulf *Red Grouper* Stock Assessment and Fisherman Feedback, including presentations, background information, and SSC discussion.

Public comments will be heard at the end of the day, if any.

Wednesday, October 9, 2024; 8:30 a.m.–5 p.m., EDT

The Standing SSC will review and discuss the SEDAR 98: Gulf *Red Snapper* Assessment Workshop Volunteers and Recreational *Red Snapper* Texas Calibration Simulation including presentations, background materials and SSC discussion.

The SSC will then discuss SEDAR Process Changes and Assessment Approaches, followed by a review of SEDAR 88: Gulf *Red Grouper* Projections and Catch Recommendations. The SSC will next discuss Consideration of Carryover and Phase-in for Gulf Stocks in Proposed ABC Control Rule Management Strategy Evaluation (MSE) Simulations, including presentations, background materials and SSC discussion.

Public comments will be heard at the end of the day, if any.

Thursday, October 10, 2024; 8:30 a.m.–3 p.m., EDT

The Standing and Special Shrimp SSC members will review Timing of Re-initiation of Sector 7 Endangered Species Act (ESA) Consultation for *Shrimp* including a presentation, background materials and SSC discussion. The Standing SSC will then discuss the 2025–2028 Research and Monitoring Priorities and review the Southeastern U.S. *Black Grouper* Management Strategy Evaluation including presentations, background materials and SSC discussion.

Public comments will be heard at the end of the day before any items under Other Business are discussed.

—Meeting Adjourns

The meeting will also be broadcast via webinar. You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the SSC meeting on the calendar.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the Scientific and Statistical Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Scientific and Statistical Committee will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take-action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Pereira, (813) 348–1630, at least 5 days prior to the meeting date.

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

Dated: September 17, 2024.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2024–21585 Filed 9–19–24; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes product(s) from the Procurement List previously furnished by such agencies.

DATES:

Date added to the Procurement List: September 29, 2024.

Date deleted from the Procurement List: October 20, 2024.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 489–1322, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Additions

On 5/31/2024, the Committee for Purchase From People Who Are Blind or Severely Disabled (operating as the U.S. AbilityOne Commission) published an initial notice of proposed additions to the Procurement List. (89 FR 47135). The Committee determined that the service(s) listed below is suitable for procurement by the Federal Government

and has added the service to the Procurement List as a mandatory purchase for the contracting activity listed. In accordance with 41 CFR 51–5.3(b), the mandatory purchase requirement is limited to the contracting activity listed the listed location, and in accordance with 41 CFR 51–5.2, the Committee has authorized the nonprofit agency listed as the authorized source of supply.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product(s) and service(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the product(s) and service(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service(s) to the Government.

2. The action will result in authorizing small entities to furnish the service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the service(s) proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service(s) are added to the Procurement List:

Service(s)

Service Type: Base Operation Support, SRM (Barracks only)
Mandatory for: US Army, Dept of Public Works (DPW), Fort Liberty, Fort Liberty, NC
Authorized Source of Supply: Skookum Educational Programs, Bremerton, WA
Contracting Activity: DEPT OF THE ARMY, W2V6 USA ENG SPT CTR HUNTSVIL

The Committee finds good cause to dispense with the 30-day delay in the effective date normally required by the Administrative Procedure Act. See 5 U.S.C. 553(d). This addition to the Committee's Procurement List is effectuated because of the expiration of the Department of the Army, Base Operation Support, Sustainment, Restoration, and Maintenance (SRM), Barracks Only, US Army, DPW Fort Liberty, Fort Liberty, NC contract. The Federal customer contacted and has worked diligently with the AbilityOne Program to fulfill this service need under the AbilityOne Program. To avoid performance disruption, and the possibility that the Department of the Army will refer its business elsewhere, this addition must be effective on 9/29/2024, ensuring timely execution for a 10/1/2024 start date. The Committee published an initial notice of proposed Procurement List addition in the **Federal Register** on 5/31/2024 (89 FR 47135) but did not receive any comments. This addition will not create a public hardship and has limited effect on the public at large. Rather, this addition will create new jobs for other affected parties—people with significant disabilities in the AbilityOne program who otherwise face challenges locating employment. Moreover, this addition enables the Federal customer to continue operations without interruption.

Deletions

On 8/16/2024 (89 FR 66697), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. No comments were received.

After consideration of the relevant matter presented, the Committee has determined that the product(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s):
7520–01–424–4847—Pen, Ballpoint, Ergonomic, Refillable, Red, Fine Point
Authorized Source of Supply: Alphapointe, Kansas City, MO
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

NSN(s)—Product Name(s):
7920–01–682–0309—Handle, Extension, Fiberglass, 5 ft –10 ft
Authorized Source of Supply: Industries for the Blind and Visually Impaired, Inc., West Allis, WI
Contracting Activity: GSA/FSS GREATER SOUTHWEST ACQUISITI, FORT WORTH, TX

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2024–21587 Filed 9–19–24; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete product(s) and service(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments must be received on or before:* October 20, 2024.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489–1322 or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following product(s) and service(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s):
2540–00–248–4603—Blade, Windshield Wiper, HMMW Vehicle, 18''L
2540–01–262–7708—Blade, Windshield Wiper, HMMW Vehicle, 20''L
2540–01–271–8026—Blade, Windshield Wiper, HMMW Vehicle, 16''L

2540–01–454–0415—Blade, Refill, Windshield Wiper, HMMW Vehicle, 20''L
Authorized Source of Supply: Georgia Industries for the Blind, Bainbridge, GA
Contracting Activity: DLA LAND AND MARITIME, COLUMBUS, OH

Service(s)

Service Type: Custodial Service
Mandatory for: US Army Reserve, Wetzel County Memorial USARC, New Martinsville, WV
Authorized Source of Supply: PACE Enterprises of West Virginia, Inc., Morgantown, WV
*Contracting Activity: D*EPT OF THE ARMY, W6QK ACC–PICA

Service Type: Laundry Service
Mandatory for: US Army, Joint Base Myer-Henderson Hall, Arlington, VA
Authorized Source of Supply: Louise W. Eggleston Center, Inc., Norfolk, VA
Contracting Activity: DEPT OF THE ARMY, W6QM MICC–FT BELVOIR

Service Type: Mess Attendant Service
Mandatory for: US Air Force, 128th Air Refueling Wing, Wisconsin Air National Guard Dining Facility, Milwaukee, WI
Authorized Source of Supply: Ada S. McKinley Community Services, Inc., Chicago, IL
Contracting Activity: DEPT OF THE ARMY, W7N8 USPFO ACTIVITY WI ARNG

Service Type: Food Service Attendant
Mandatory for: US Air Force, 182nd Airlift Wing, Illinois Air National Guard Reserve Center, Peoria, IL
Authorized Source of Supply: Community Workshop and Training Center, Inc., Peoria, IL
Contracting Activity: DEPT OF THE ARMY, W7M6 USPFO ACTIVITY IL ARNG

Service Type: Janitorial/Custodial
Mandatory for: US Army Reserve, Prince George's County Memorial USARC, 6601 Baltimore Avenue, Riverdale, MD
Authorized Source of Supply: WeAchieve, Inc., Silver Spring, MD
Contracting Activity: DEPT OF THE ARMY, W6QK ACC–PICA

Service Type: Janitorial/Custodial
Mandatory for: US Army Reserve, Southern Maryland Memorial USARC, 5550 Dowerhouse Road, Upper Marlboro, MD
Authorized Source of Supply: WeAchieve, Inc., Silver Spring, MD
Contracting Activity: DEPT OF THE ARMY, W6QK ACC–PICA

Service Type: Laundry Service
Mandatory for: US Army, Mission and Installation Contracting Command, Fort Belvoir, VA
Authorized Source of Supply: Louise W. Eggleston Center, Inc., Norfolk, VA
Contracting Activity: DEPT OF THE ARMY, W6QM MICC–FT BELVOIR

Service Type: Laundry Service
Mandatory for: US Army, Medical Research Institute of Chemical Defense, Chemical Casualty Care Division, Aberdeen Proving Ground-South, MD
Authorized Source of Supply: Elwyn of Pennsylvania and Delaware, Aston, PA
Contracting Activity: DEPT OF THE ARMY, W4PZ USA MED RSCH ACQUIS ACT

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2024–21591 Filed 9–19–24; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Notice of Meeting

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Notice of public meeting.

DATES: October 24, 2024, from 1 p.m. to 4 p.m. ET.

ADDRESSES: The meeting will be held virtually only via Zoom webinar.

FOR FURTHER INFORMATION CONTACT: Angela Phifer, 355 E Street SW, Suite 325, Washington, DC 20024; (703) 798–5873; *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Committee for Purchase From People Who Are Blind or Severely Disabled is an independent government agency operating as the U.S. AbilityOne Commission. It oversees the AbilityOne Program, which provides employment opportunities through Federal contracts for people who are blind or have significant disabilities in the manufacture and delivery of products and services to the Federal Government. The Javits-Wagner-O'Day Act (41 U.S.C. chapter 85) authorizes the contracts.

Registration: Attendees *not* requesting speaking time should register not later than 11:59 p.m. ET on October 23, 2024. Attendees requesting speaking time must register not later than 11:59 p.m. ET on October 15, 2024, and use the comment fields in the registration form to specify the intended speaking topic/s. The registration link will be available on the Commission's home page, *www.abilityone.gov,* under News and Events.

Commission Statement: This regular quarterly meeting will include updates from the Commission Chairperson, Executive Director, and Inspector General.

Public Participation: The public engagement session will address ''Data Collection Through Updated Compliance Forms.'' The Commission will discuss updated forms for collecting data from AbilityOne-participating nonprofit agencies, drafts of which are available on the agency's Compliance Policy Modernization web page at *https://www.abilityone.gov/commission/draftcompliancepolicies.html,* specifically in the announcements of November 17, 2023, and May 2, 2024. The discussion will cover the purpose of the forms and their relationship to data collection. The Commission may provide additional information about the forms prior to the meeting.

The Commission invites public comments and suggestions on the public engagement topic. During registration, you may choose to submit comments, or you may request speaking time at the meeting. The Commission may invite some attendees who submit advance comments to discuss their comments during the meeting. Comments submitted will be reviewed by staff and the Commission members before the meeting. Comments posted in the chat box during the meeting will be shared with the Commission members after the meeting. The Commission is not subject to the requirements of 5 U.S.C. 552(b); however, the Commission published this notice to encourage the broadest possible participation in its meeting.

Personal Information: Speakers should not include any information that they do not want publicly disclosed.

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2024–21592 Filed 9–19–24; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 9:00 a.m. EDT, Friday, September 27, 2024.

PLACE: Virtual meeting.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.cftc.gov/.*

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

Authority: 5 U.S.C. 552b.

Dated: September 18, 2024.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2024–21710 Filed 9–18–24; 4:15 pm]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2024–HQ–0009]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Air Force announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by November 19, 2024.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the AF Information Collections Office, 1800 Air Force Pentagon, Suite 4C146, Washington, DC 20330, ATTN: Ms. Carlinda Lotson Miller, or call 703–697–4593.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Department of Defense National Defense Science and Engineering Graduate (NDSEG) Fellowships Program; OMB Control Number 0701–0154.

Needs and Uses: The National Defense Science and Engineering (S&E) Graduate (NDSEG) Fellowships program provides 3-year fellowships to students enrolled in Ph.D. programs of interest to DoD. Awards are under the authority of 10 U.S.C. 2191. The request for applications is necessary to screen applicants and to evaluate and select students to award fellowships.

Information is used by the American Society for Engineering Education (ASEE), the contractor selected to administer the program, to down-select the eligible applicants by means of a peer review panel. The information is also used by scientists of the Air Force, Army, and Navy, to make the final selection of awardees.

Affected Public: Individuals or households.

Annual Burden Hours: 42,924.

Number of Respondents: 3,577.

Responses per Respondent: 1.

Annual Responses: 3,577.

Average Burden per Response: 12 hours.

Frequency: On occasion.

Dated: September 17, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–21610 Filed 9–19–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2024–HQ–0007]

Submission for OMB Review; Comment Request; Correction

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: 30-Day information collection notice; correction.

SUMMARY: On August 16, 2024, the DoD published a notice titled Submission for OMB Review; Comment Request. Subsequent to publication of the notice, DoD discovered that the docket identifier in the published notice was not correct. All other information in the August 16, 2024 notice remains the same.

FOR FURTHER INFORMATION CONTACT: Patricia Toppings, 571–372–0485.

SUPPLEMENTARY INFORMATION:

Correction

The docket identifier DoD–2024–OS–0064 in the notice that published in the **Federal Register** on August 16, 2024 (89 FR 66700) is changed to read as follows:

In FR Doc. 2024–18358, on page 66700, in the second column, correct the docket identifier to read: Docket ID: USA–2024–HQ–0007.

Dated: September 17, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–21553 Filed 9–19–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

U.S. Strategic Command Strategic Advisory Group; Notice of Federal Advisory Committee Meeting

AGENCY: Office of the Chairman of the Joint Chiefs of Staff, Department of Defense (DoD).

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the U.S. Strategic Command (USSTRATCOM) Strategic Advisory Group will take place.

DATES: Closed to the public Wednesday, October 2, 2024.

ADDRESSES: 900 SAC Boulevard, Offutt AFB, Nebraska 68113.

FOR FURTHER INFORMATION CONTACT: Mr. Derrick J. Besse, Designated Federal Officer (DFO), (402) 912–0322 (Voice), *derrick.j.besse.civ@mail.mil* (Email). Mailing address is 900 SAC Boulevard, Suite N3.170, Offutt AFB, Nebraska 68113.

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Designated Federal Officer and the Department of Defense, the U.S. Strategic Command Strategic Advisory Group was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its October 2, 2024 meeting. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

This meeting is being held under the provisions of chapter 10 of title 5 United States Code (U.S.C.) (commonly known

as the ''Federal Advisory Committee Act'' or FACA), 5 U.S.C. 552b (commonly known as the ''Government in the Sunshine Act'') and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to provide advice and recommendations on scientific, technical, intelligence, and policy-related issues to the Commander, USSTRATCOM.

Agenda: Topics include: Implications of the developing Arctic Presence, Mixed Munition Load Outs, Electromagnetic Spectrum Operations Non-Kinetic Effects during Competition and as a Deterrence Option, Artificial Intelligence/Machine Learning, Strategic Competition, Integrated Deterrence, Cross-Combatant Command C2 in a Conventional Nuclear Integrated Environment, Sustainment of the Nuclear Force, and Annual Stockpile Assessment.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, and 41 CFR 102–3.155, the DoD has determined that the meeting shall be closed to the public. Per delegated authority by the Chairman, Joint Chiefs of Staff, General Anthony J. Cotton, Commander, USSTRATCOM, in consultation with his legal advisor, has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will be concerned with matters listed in 5 U.S.C. 552b(c)(1).

Written Statements: Pursuant to 41 CFR 102–3.140(c), the public or interested organizations may submit written statements to the membership of the Strategic Advisory Group at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Strategic Advisory Group's DFO; the DFO's contact information can be obtained from the GSA's FACA Database—*http://www.facadatabase.gov/.* Written statements that do not pertain to a scheduled meeting of the Strategic Advisory Group may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five business days prior to the meeting in question. The DFO will review all submitted written statements and provide copies to all the committee members.

Dated: September 17, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–21549 Filed 9–19–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2024–OS–0100]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD (P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the OUSD(P&R) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by November 19, 2024.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to MC&FP–OMFRP-Office of Special Needs, Mark Center, 4800 Mark Center Drive, Alexandria, VA 22350–2300, Room: 03G15, Michael Flaherty, 202–658–9613.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Exceptional Family Member Program (EFMP) Family Needs Assessment (FNA); DD Form 3054; OMB Control Number 0704–0580.

Needs and Uses: This information collection through the Family Needs Assessment (FNA) is necessary to assist EFMP Family Support staff in identifying the needs of families and developing plans of action. The Family Services Plan Addendum allows EFMP Family Support staff and families to track identified steps in addressing their needs and goals. The Inter-Services Transfer Summary (ISTS) Addendum facilitates the transfer of cases between sister-Service Family Support Offices when a family requests a warm hand-off to a gaining installation.

The EFMP FNA addresses current differences in assessment processes and inconsistent transfer of cases across the Services. With this standardized form, installation-level EFMP Family Support Offices can provide a family support experience that is consistent across the Services and maintains continuity of services when military families with special needs have Permanent Change of Station (PCS) orders to a joint base or sister-Service location.

Affected Public: Individuals or households.

Annual Burden Hours: 10,000.

Number of Respondents: 20,000.

Responses per Respondent: 1.

Annual Responses: 20,000.

Average Burden per Response: 30 minutes.

Frequency: As needed.

This form is used by EFMP Family Support staff in collaboration with families who request assistance in navigating resources and systems of support. The DD Form 3054 will be standardized across the four Services with the goal of facilitating a consistent Family Support experience for all military families.

Form respondents include EFMP Family Support staff who complete the form in conjunction with families who are needing support services. The FNA will be stored and maintained internally at the Family Support Office. A family may request a copy of the Form.

Dated: September 17, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–21603 Filed 9–19–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Meetings for the Draft Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement for Atlantic Fleet Training and Testing (ID# SEIS–007–17–USN–1723491961)

AGENCY: Department of the Navy (DoN), Department of Defense (DoD).

ACTION: Notice.

SUMMARY: Pursuant to the National Environmental Policy Act- (NEPA) of 1969, as implemented by the Council on Environmental Quality regulations, and Presidential Executive Order 12114, the Department of the Navy (DoN), as the lead agency, and U.S. Coast Guard (Coast Guard) have prepared and filed with the U.S. Environmental Protection Agency a Draft Supplemental Environmental Impact Statement (EIS)/Overseas Environmental Impact Statement (OEIS) that evaluates the reasonably foreseeable effects on the human environment of Navy, Marine Corps, and Coast Guard training and testing activities conducted within the Atlantic Fleet Training and Testing (AFTT) Study Area.

DATES: The 60-day public comment period begins on September 20, 2024, and ends November 21, 2024. The comment period includes an additional 15 calendar days (from the required 45 days) to allow the public more time to review and comment. The public can submit comments during the Draft EIS/OEIS public review and comment period at one of the in-person public meetings, online at the project website, or by U.S. mail. All comments must be postmarked or received electronically by 11:59 p.m. Eastern Daylight Time (EDT) on November 21, 2024, for consideration in the Final Supplemental EIS/OEIS.

Three in-person public meetings in the form of an open-house will be held to inform the public about the proposed action and alternatives and about the opportunity to provide written and oral comments on the Draft Supplemental EIS/OEIS.

The in-person public meetings will be held as follows:

1. Tuesday, October 8, 2024, 5 p.m. to 7 p.m. EDT New Bedford Whaling Museum, 18 Johnny Cake Hill, New Bedford, MA 02740.

2. Thursday, October 10, 2024, 5 p.m. to 7 p.m. EDT Silver Spring Civic Building at Veterans Plaza, 1 Veterans Pl, Silver Spring, MD 20910.

3. Wednesday, October 16, 2024, 5 p.m. to 7 p.m. (Central Daylight Time (CDT)) New Orleans Marriott Metairie at Lakeway, 3838 N Causeway Blvd., Metairie, LA 70002.

Two virtual public meetings in the form of a webinar and question and answer session will be held for the public to learn about the proposed action and alternatives. The virtual public meetings will be held as follows:

1. Tuesday, October 22, 2024, 6 p.m. to 7 p.m. EDT.

2. Thursday, October 24, 2024, 2 p.m. to 3 p.m. EDT.

Registration for the virtual public meetings is available at the project website *www.nepa.navy.mil/aftteis/*. Recordings of the virtual public meetings will be posted to the project website at *www.nepa.navy.mil/aftteis/* for the public to view following their completion.

ADDRESSES: Comments on the Draft Supplemental EIS/OEIS may be provided at the in-person public meetings, submitted electronically through the project website: *www.nepa.navy.mil/aftteis/,* or by mail to: Naval Facilities Engineering Systems Command Atlantic; Attention: Code EV22SG (AFTT EIS Project Managers); 6506 Hampton Boulevard, Norfolk, VA 23508–1278.

FOR FURTHER INFORMATION CONTACT: U.S. Fleet Forces Command, 1562 Mitscher Avenue Suite 250, Norfolk, VA 23551–2487, Attention: Mr. Theodore Brown, Installations and Environment Public Affairs Officer, 757–836–4427, *theodore.c.brown4.civ@us.navy.mil,* or visit the project website *www.nepa.navy.mil/aftteis/*.

SUPPLEMENTARY INFORMATION: DoN and Coast Guard's Proposed Action is to conduct military readiness training activities, and research, development, testing, and evaluation activities in the AFTT Study Area. These military readiness activities include the use of active sonar and explosives within existing range complexes and testing ranges and additional areas located in the Atlantic Ocean along the eastern coast of North America, in portions of the Caribbean Sea, the Gulf of Mexico, at Navy pierside locations and port transit channels, near civilian ports, and in bays, harbors, and inland waterways (*e.g.,* the lower Chesapeake Bay). These military readiness activities are generally consistent with those analyzed in the AFTT EIS/OEIS completed in 2018 and are representative of training and testing that the Navy has been conducting in the AFTT Study Area for decades. Since the completion of the 2018 Final EIS/OEIS, the best available science has been updated, the regulatory environment has changed, the Study Area has changed, and what is known about our impacts has been refined. All of this has been incorporated into this Supplemental EIS/OEIS analysis. The National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) is a Cooperating Agency for the Supplemental EIS/OEIS.

The purpose of the Proposed Action is to ensure the Action Proponents, including the Coast Guard, are able to organize, train, and equip service members and personnel to meet their respective national defense missions in accordance with their Congressionally mandated requirements.

Potential direct, indirect, cumulative, short-term, long-term, irreversible, and irretrievable impacts to the environment from two action alternatives and a No Action Alternative are evaluated in the Draft Supplemental EIS/OEIS. Resources evaluated in detail include air quality, sediments and water quality, vegetation, invertebrates, marine habitats, fish, marine mammals, sea turtles and other marine reptiles, and birds and bats.

Based on the results of the analysis, the DoN and Coast Guard have requested from NMFS a Letter of Authorization in accordance with the Marine Mammal Protection Act to authorize the incidental take of marine mammals that may result from the implementation of the activities analyzed in the AFTT Draft Supplemental EIS/OEIS. In accordance with Section 7 of the Endangered Species Act, DoN and Coast Guard are consulting with NMFS and U.S. Fish and Wildlife Service for potential impacts to federally listed species. DoN and Coast Guard will complete all required consultations and comply with all applicable laws and regulations.

The Draft Supplemental EIS/OEIS addresses mitigation measures designed to help reduce or avoid potential impacts to marine resources, including new mitigation measures that include expanded location-specific mitigations and updates to activity-based mitigation measures. In addition, the Draft Supplemental EIS/OEIS addresses marine species monitoring efforts designed to track compliance with authorizations and to investigate the effectiveness of mitigation measures implemented as part of the Proposed Action. The proposed mitigation measures would be implemented under either action alternative to maximize the mitigation benefits to the environment.

Mitigation measures are being coordinated through the consultation and permitting processes. DoN and Coast Guard will also consider public

comments on proposed mitigation measures described in this Draft Supplemental EIS/OEIS.

Comments submitted during the public comment period at the in-person public meetings, electronically via the project website, or mailed to the address provided in the **ADDRESSES** section will become part of the public record. Substantive comments will be considered in the development of the Final Supplemental EIS/OEIS.

Notice of the availability of the Draft Supplemental EIS/OEIS was distributed to federal, state, and local agencies, elected officials, and other interested individuals and organizations. Copies of the Draft Supplemental EIS/OEIS are available for public review at the following libraries:

1. Brigadier General Charles E. McGee Library, 900 Wayne Avenue, Silver Spring, MD 20910.

2. Broward County Main Library, 100 South Andrews Avenue, Fort Lauderdale, FL 33301.

3. Camden County Public Library, 1410 GA–40, Kingsland, GA 31548.

4. Corpus Christi La Retama Central Library, 805 Comanche Street, Corpus Christi, TX 78401.

5. East Bank Regional Library, 4747 West Napoleon Avenue, Metairie, LA 70001.

6. New Bedford Free Public Library Casa de Saudade Branch, 58 Crapo Street #1, New Bedford, MA 02740.

7. Onslow County Public Library, 58 East Doris Avenue, Jacksonville, NC 28540.

8. Portland Public Library, 5 Monument Square, Portland, ME 04101.

9. Providence Public Library, 150 Empire Street, Providence, RI 02903.

10. West Florida Public Library, Southwest Branch, 12248 Gulf Beach Highway, Pensacola, FL 32507.

Copies of the AFTT Draft Supplemental EIS/OEIS are available for electronic viewing at *www.nepa.navy.mil/aftteis/*. A paper copy of the Executive Summary and a single compact disc (CD) of the Draft Supplemental EIS/OEIS will be made available upon written request by contacting: Naval Facilities Engineering Systems Command Atlantic, Attention: Code EV22SG (AFTT EIS Project Managers), 6506 Hampton Boulevard, Norfolk, VA 23508–1278.

Dated: September 12, 2024.

A.J. Gioiello,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2024–21123 Filed 9–19–24; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0091]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Performance Report for Graduate Assistance in Areas of National Need (GAANN) Program

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before October 21, 2024.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. Reginfo.gov provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Rebecca Ell, 202–453–6348.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Performance report for Graduate Assistance in Areas of National Need (GAANN) Program.

OMB Control Number: 1840–0748.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 291.

Total Estimated Number of Annual Burden Hours: 3,274.

Abstract: Graduate Assistance in Areas of National Need (GAANN) Program grantees must submit a performance report annually. In addition, grantees are required to submit a supplement to the final performance report two years after submission of their final report. The reports are used to evaluate grantee performance. Further, the data from the reports will be aggregated to evaluate the accomplishments and impact of the GAANN Program as a whole. Results will be reported to the Secretary in order to respond to performance requirements.

Dated: September 17, 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. 2024–21563 Filed 9–19–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0090]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Indian Education Professional Development Grants Program: GPRA and Service Payback Data Collection

AGENCY: Office of Elementary and Secondary Education, Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before October 21, 2024.

ADDRESSES: Written comments and recommendations for proposed

information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. Reginfo.gov provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Angela Hernandez-Marshall, 202–987–0202.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Indian Education Professional Development Grants Program: GPRA and Service Payback Data Collection

OMB Control Number: 1810–0698

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: Individuals and Households; State, Local, and Tribal Governments *Total Estimated Number of Annual Responses:* 2,634

Total Estimated Number of Annual Burden Hours: 3,630

Abstract: The Indian Education Professional Development program, authorized under title VI, part A of the Elementary and Secondary Education Act of 1965, as amended (ESEA), is designed to increase the number of, provide training to, and improve the skills of American Indian or Alaska Natives serving as teachers and school administrators in local educational agencies that serve a high proportion of American Indian or Alaska Native students. This is a request for renewal of a currently approved collection.

Section 7122(h) of the ESEA (20 U.S.C. 7442(h)) requires that individuals who receive financial assistance through the Indian Education Professional Development program subsequently complete a service obligation equivalent to the amount of time for which the participant received financial assistance. Participants who do not satisfy the requirements of the regulations must repay all or a pro-rated part of the cost of assistance, in accordance with 20 U.S.C. 7442(h) and 34 CFR 263.9(a)(3). The regulations in part 263 implement requirements governing, among other things, the service obligation and reporting requirements of the participants in the Indian Education Professional Development program, and repayment of financial assistance by these participants. In order for the Federal Government to ensure that the goals of the program are achieved, certain data collection, recordkeeping, and documentation are necessary.

In addition, GPRA requires Federal agencies to establish performance measures for all programs, and the Department has established performance measures for the Indian Education Professional Development program. Data collection from participants who have received financial assistance under the Indian Education Professional Development program is a necessary element of the Department's effort to evaluate progress on these measures.

The Department tracks participants who are receiving or have previously received support through the Indian Education Professional Development program. Participants must sign a payback agreement that includes contact information. Additionally, the Department receives information about participants from institutions of higher education (IHEs) and other eligible grantees when participants are no longer receiving assistance through the Indian Education Professional Development program. When the performance period is complete, the participant data are collected from the grantee and from the participants.

Dated: September 17, 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. 2024–21608 Filed 9–19–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of open virtual meeting.

SUMMARY: This notice announces an open virtual meeting of the Secretary of Energy Advisory Board (SEAB). The Federal Advisory Committee Act (FACA) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, October 16, 2024; 10:30–11:30 a.m. EDT.

ADDRESSES: This virtual meeting is open to the public. Registration is required by registering at the SEAB meeting page at: *www.energy.gov/seab/seab-meetings.*

FOR FURTHER INFORMATION CONTACT: David Borak, Designated Federal Officer; U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585; Telephone: (202) 586–5216 or Email: *seab@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The Board was established to provide advice and recommendations to the Secretary on the Administration's energy policies; the Department's basic and applied research and development activities; economic and national security policy; and other activities as directed by the Secretary.

Tentative Agenda: The meeting will start at 10:30 a.m. Eastern Time on October 16, 2024. The tentative meeting agenda includes: roll call, remarks from the SEAB chair, remarks from the Secretary, discussion of the SEAB report from the Tribal and Community Benefits working group, and public comment. The meeting will conclude at approximately 11:30 a.m. Meeting materials can be found here: *www.energy.gov/seab/seab-meetings.*

Public Participation: The meeting is open to the public virtually. Individuals who would like to attend must register for the meeting here: *https://www.energy.gov/seab/seab-meetings.*

Individuals and representatives of organizations who would like to offer comments and suggestions may do so during the meeting. Approximately 15 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but will not exceed three minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so via email, *seab@hq.doe.gov,* no later than 5 p.m.

Eastern Time on Tuesday, October 15, 2024.

Those not able to attend the meeting or who have insufficient time to address the committee are invited to send a written statement to David Borak, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, or email to: *seab@hq.doe.gov.*

Minutes: The minutes of the meeting will be available on the SEAB website at *www.energy.gov/seab* or by contacting David Borak at *seab@hq.doe.gov.*

Signing Authority: This document of the Department of Energy was signed on September 17, 2024, by David Borak, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That 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 Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 17, 2024.

Jennifer Hartzell,

Alternate Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2024–21584 Filed 9–19–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Privacy Act of 1974; System of Records

AGENCY: U.S. Department of Energy.

ACTION: Notice of a new system of records.

SUMMARY: As required by the Privacy Act of 1974 and the Office of Management and Budget (OMB) Circulars A–108 and A–130, the Department of Energy (DOE or the Department) is publishing notice of a newly established Privacy Act system of records. DOE proposes to establish System of Records DOE–42 Nondiscrimination in Federally Assisted Programs Files. This System contains information on individuals who engage with entities that may receive Federal financial assistance (FFA) from the Department. The information is necessary to ensure the programs and activities of entities that receive FFA comply with Federal civil rights laws prohibiting discrimination against any individual on the basis of race, color, national origin, sex, disability, or age. The information is used by the DOE's Office of Energy Justice and Equity's, Office of Civil Rights and Equal Employment Opportunity (OCR–EEO) to fulfill the requirements outlined in Federal law.

DATES: This System of Records Notice (SORN) will become applicable following the end of the public comment period on October 21, 2024 unless comments are received that result in a contrary determination.

ADDRESSES: Written comments should be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW, Washington, DC 20503, and to Ken Hunt, Chief Privacy Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Rm. 8H–085, Washington, DC 20585, or by facsimile at (202) 586–8151, or by email at *privacy@hq.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Ken Hunt, Chief Privacy Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Rm 8H–085, Washington, DC 20585, or by facsimile at (202) 586–8151, by email at *privacy@hq.doe.gov*, or by telephone at (240) 686–9485.

SUPPLEMENTARY INFORMATION: System of Records DOE–42 Nondiscrimination in Federally Assisted Programs Files is maintained by the U.S. Department of Energy (Department) Office of Energy Justice and Equity, Office of Civil Rights and Equal Employment Opportunity (OCR–EEO). This system provides a central electronic repository to: (i) maintain all records used by OCR–EEO personnel in making Federal civil rights compliance determinations with accuracy, relevance, timeliness, and completeness to assure fairness to the individual(s) in the determination; (ii) create appropriate administrative, technical, and physical safeguards that ensure the security and confidentiality of records and protect against any anticipated threats or hazards to their security or integrity and; (iii) create rules of conduct for authorized OCR–EEO personnel involved in the operation, maintenance, and routine uses for this system records.

SYSTEM NAME AND NUMBER:

DOE–42 Nondiscrimination in Federally Assisted Program Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Systems leveraging this SORN may exist in multiple locations. All systems storing records in a cloud-based server are required to use government-approved cloud services and follow National Institute of Standards and Technology (NIST) security and privacy standards for access and data retention. Records maintained in a government-approved cloud server are accessed through secure data centers in the continental United States.

U.S. Department of Energy, Headquarters, 1000 Independence Avenue SW, Washington, DC 20585.

U.S. Department of Energy, John A. Gordon Albuquerque Complex, 24600 20th Street SE, Albuquerque, NM 87116.

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208.

U.S. Department of Energy, Environmental Management Consolidated Business Center (EMCBC), 550 Main Street, Room 7–010, Cincinnati, OH 45202.

U.S. Department of Energy, Golden Field Office, 15013 Denver West Parkway, Golden, CO 80401.

U.S. Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, Idaho Falls, ID 83415.

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), 626 Cochran Mill Road, Pittsburgh, PA 15236.

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), 3610 Collins Ferry Road, Morgantown, WV 26505.

U.S. Department of Energy, National Energy Technology Laboratory (Albany), 1450 Queen Avenue SW, Albany, OR 97321.

U.S. Department of Energy, Office of Science, Consolidated Service Center, P.O. Box 2001, Oak Ridge, TN 37831.

U.S. Department of Energy, Hanford Field Office, P.O. Box 550, Richland, WA 99352.

U.S. Department of Energy, Southeastern Power Administration, 1166 Athens Tech Road, Elberton, GA 30635–6711.

U.S. Department of Energy, Southwestern Power Administration, One West Third Street, Suite 1500, Tulsa, OK 74103.

U.S. Department of Energy, Strategic Petroleum Reserve Project Management Office, 900 Commerce Road East, New Orleans, LA 70123.

U.S. Department of Energy, Western Area Power Administration, P.O. Box 281213, Lakewood, CO 80228–8213.

SYSTEM MANAGER(S):

Headquarters: Office of Civil Rights and Equal Employment Opportunity

(OCR–EEO), U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585.

Field Offices: Office of Civil Rights and Equal Employment Opportunity (OCR–EEO) at the ''System Locations'' listed above are the system managers for their respective portions of this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.,* (Title VI) and implementing regulations at 10 CFR part 1040, subparts A and B; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 and implementing regulations at 10 CFR part 1040, subpart D; The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.,* and implementing regulations at 10 CFR part 1040, subpart E; Section 16 of the Federal Energy Administration Act of 1974, as amended, Public Law 93–275; Section 401 of the Energy Reorganization Act of 1974, Pub. L. 93–438; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 *et seq.* (Title IX) and implementing regulations at 10 CFR part 1042; Title VIII of the Civil Rights Act of 1968, Public Law 90–284.

PURPOSE(S) OF THE SYSTEM:

The Office of Civil Rights and Equal Employment Opportunity (OCR–EEO) maintains the DOE–42 System of Records for the following purposes:

1. *Pre-award Review:* Prior to award, and as a condition of approval, applications for Federal financial assistance (FFA) are subject to review by OCR–EEO. The basis for an OCR–EEO pre-award review is the submission of assurances by FFA applicants, agreeing that their programs and activities will be operated in compliance with Federal civil rights laws and Department regulations. Where a determination of compliance cannot be made from such assurances, OCR–EEO may require FFA applicants to submit additional information and may take other steps necessary to make a compliance determination.

2. *Compliance Information:* Each FFA recipient must submit timely, complete, and accurate reports as OCR–EEO may deem necessary to determine whether the programs and activities of the FFA recipient comply with Federal civil rights laws and Department regulations. Generally, FFA recipients must have data available on program participants, as well as any subrecipients and subcontractors to which it extends its FFA. The FFA recipient also may be required to permit OCR–EEO access to other sources of information necessary to ascertain its compliance with Federal civil rights laws and Department regulations.

3. *Complaint investigations:* When OCR–EEO receives a formal complaint or equivalent correspondence alleging discrimination in any program or activity operated by any entity to which the Department may have extended FFA, OCR–EEO may need to collect information from or about individuals in order to: (1) determine whether the Department has jurisdiction over the alleged discriminating entity; (2) if jurisdiction is not found, refer the complaint to the Federal agency with jurisdiction wherever possible; (3) if jurisdiction is found, notify the alleged discriminating entity (FFA recipient) of OCR–EEO's receipt of the complaint, the nature of the complaint, and with written consent of the complainant(s) or OCR–EEO authority, the identity of the complainant(s); (4) identify the FFA recipient programs or activities affected by the complaint; (5) provide an opportunity for the FFA recipient to respond to, rebut, or deny the allegations made in the complaint; (6) maintain a schedule under which the complaint will be investigated; (7) conduct an investigation and issue preliminary findings; (8) make recommendations and engage in negotiations to achieve voluntary compliance by the FFA recipient; (9) memorialize any agreement by the FFA recipient to achieve voluntary compliance, with corresponding notification to the complainant(s), and; (10) record any other means authorized by law to effect compliance by the FFA recipient.

4. *Compliance Reviews:* OCR–EEO periodically conducts compliance reviews of FFA recipients, and accordingly, may collect information from or about individuals in order to: (1) select FFA recipients for review; (2) determine the practices to be reviewed; (3) determine the programs or activities affected by the review; (4) provide an opportunity for FFA recipients to explain, validate, or otherwise address the practices under review; (5) maintain a schedule under which the reviews will be conducted; (6) conduct the reviews and issue preliminary findings; (7) make recommendations and engage in negotiations to achieve voluntary compliance by FFA recipients; (8) memorialize any agreement with FFA recipients to achieve voluntary compliance and; (9) record any other means authorized by law to effect compliance by FFA recipients.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on: (1) Individuals affiliated with FFA applicants and FFA recipients, subrecipients, licensees, and contractors; (2) Individuals who apply to, participate in, benefit from, or otherwise engage with programs or activities operated by FFA applicants and FFA recipients; (3) Complainants, subjects, victims, witnesses, parents/legal guardians, advocates or other authorized representatives, and (4) Individuals to whom the Department provides technical assistance due to their limited English proficiency or need for reasonable accommodation due to disability.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system relate to OCR–EEO pre-award reviews, complaint investigations, compliance reviews and technical assistance, for which, information about individuals includes but is not limited to: full name, street address, telephone number, email address, academic record, employment record, occupational status, demographic data (race, color, national origin, sex, disability, age), parental/marital status, household/housing status, income level, and energy access.

RECORD SOURCE CATEGORIES:

The information maintained in this system is obtained directly from the individuals to whom it pertains, or from the parents/legal guardians, authorized representatives, or advocates thereof, or participants, candidates, beneficiaries, licensees, contractors, or third parties engaged with programs and activities operated by any entities that may receive Federal financial assistance (FFA) from the Department. Information may also be obtained directly from entities (FFA applicants and FFA recipients), which can include an instrumentality of state or local government, institution of higher education, corporation, partnership, sole proprietorship, other private organization, or any combination thereof.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Any disclosures of information from this system of records will be compatible with the purpose for which OCR–EEO collects the information. Information from this system may be disclosed to the individual to whom it pertains, or: (1) to the individual's next-of kin, parent, guardian, or emergency contact in the event of a mishap

involving that individual; (2) to the public about an individual's involvement with OCR–EEO with the written consent of that individual; or (3) in accordance with OCR–EEO standard routine uses as follows:

1. A record from this system may be disclosed as a routine use to the appropriate local, state or federal agency when records alone or in conjunction with other information, indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program pursuant thereto.

2. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to (1) persons representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their authorized representatives and individuals assisting those representatives; (3) witnesses, potential witnesses, or their representatives and assistants; and (4) any other persons who possess information pertaining to the matter when it is relevant and necessary to obtain information or testimony relevant to the matter.

3. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publicly available pleadings, filings, or discussion in open court) when such disclosure: (1) is relevant to, and necessary for, the proceeding; (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

a. The Department, its predecessor agencies, current or former contractor of the Department, or other United States Government agencies and their components, or

b. A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

4. A record from this system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

5. A record from this system may be disclosed as a routine use to appropriate agencies, entities, and persons when (1) the Department suspects or has confirmed that there has been a breach of the system of records; (2) the Department has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOE (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

6. A record from this system may be disclosed as a routine use to another Federal agency or Federal entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

7. A record from this system may be disclosed as a routine use to a federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

8. A record from this system may be disclosed as a routine use for the production of descriptive and inferential statistics and analytical studies in support of the function for which the records are collected and maintained.

9. A record from this system may be disclosed as a routine use to the Equal Employment Opportunity Commission (EEOC) when requested in connection with the employment policies and practices of recipients of Federal financial assistance.

10. A record from this system may be disclosed as a routine use to a Member of Congress in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

11. A record from this system may be disclosed as a routine use to representatives of the General Services Administration and the National Archives and Records Administration (NARA) during the course of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

12. A record from this system may be disclosed as a routine use to the U.S. Department of Justice or the Office of Management and Budget (OMB) if OCR–EEO determines that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA or the Privacy Act.

13. A record from this system may be disclosed as a routine use to the news media and the public when: (1) a matter has become public knowledge; (2) OCR–EEO determines that disclosure is necessary to preserve confidence in the integrity of OCR–EEO or is necessary to demonstrate the accountability of OCR–EEO's officers, employees, or individuals covered by this system; or (3) OCR–EEO determines that there exists a legitimate public interest in the disclosure of the information, except to the extent that OCR–EEO determines in any of these situations that disclosure of specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The records in this system consist of electronic media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved from the system by one or more personal identifiers, including, but not limited to: individual last name, telephone number, email address, street address, Data Universal Numbering System (DUNS), complaint number, or other unique identifier.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Retention and disposition of these records is in accordance with the National Archives and Records Administration approved records. Records in this system are currently unscheduled, which requires the records to be retained as permanent until NARA approves a DOE Records Disposition Schedule.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records may be secured and maintained on a cloud-based software server and operating system that resides in Federal Risk and Authorization Management Program (FedRAMP) and Federal Information Security Modernization Act (FISMA) hosting environment. Data located in the cloud-based server is firewalled and encrypted at rest and in transit. The security mechanisms for handling data at rest and in transit are in accordance with DOE encryption standards. Records are protected from unauthorized access through the following appropriate safeguards:

- *Administrative:* Access to all records is limited to lawful government purposes only, with access to electronic records based on role and either two-factor authentication or password protection. The system requires passwords to be complex and to be changed frequently. Users accessing system records undergo frequent training in Privacy Act and information security requirements. Security and privacy controls are reviewed on an ongoing basis.
- *Technical:* Computerized records systems are safeguarded on Departmental networks configured for role-based access based on job responsibilities and organizational affiliation. Privacy and security controls are in place for this system and are updated in accordance with applicable requirements as determined by NIST and DOE directives and guidance.
- *Physical:* Computer servers on which electronic records are stored are located in secured Department facilities, which are protected by security guards, identification badges, and cameras. Paper copies of all records are locked in file cabinets, file rooms, or offices and are under the control of authorized personnel. Access to these facilities is granted only to authorized personnel and each person granted access to the system must be an individual authorized to use or administer the system.

RECORD ACCESS PROCEDURES:

The Department follows the procedures outlined in 10 CFR 1008.4. Valid identification of the individual making the request is required before information will be processed, given, access granted, or a correction considered, to ensure that information is processed, given, corrected, or records disclosed or corrected only at the request of the proper person.

CONTESTING RECORD PROCEDURES:

Any individual may submit a request to the System Manager and request a copy of any records relating to them. In accordance with 10 CFR 1008.11, any individual may appeal the denial of a request made by him or her for information about or for access to or correction or amendment of records. An appeal shall be filed within 90 calendar days after receipt of the denial. When an appeal is filed by mail, the postmark is conclusive as to timeliness. The appeal shall be in writing and must be signed by the individual. The words ''PRIVACY ACT APPEAL'' should appear in capital letters on the envelope and the letter. Appeals relating to DOE records shall be directed to the Director, Office of Hearings and Appeals (OHA), 1000 Independence Avenue SW, Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, 10 CFR part 1008, a request by an individual to determine if a system of records contains information about themselves should be directed to the U.S. Department of Energy, Headquarters, Privacy Act Officer. The request should include the requester's complete name and the time period for which records are sought.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

The system is exempt under subsections 552a(k)(2) of the Privacy Act to the extent that information within the system meets the criteria of those subsections of the Act. Such information has been exempted from the provisions of subsections (c)(3); 5 U.S.C. 552a(d) and (e)(1) of the Act; see the DOE Privacy Act regulation at 10 CFR part 1008.

HISTORY:

This notice proposes to establish DOE–42 Nondiscrimination in Federally Assisted Program Files as a new system of records. There has been no previous publication in the **Federal Register** pertaining to this system of records.

SIGNING AUTHORITY

This document of the Department of Energy was signed on September 9, 2024, by Ann Dunkin, Senior Agency Official for Privacy, pursuant to delegated authority from the Secretary of Energy. That 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 Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 10, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2024–20839 Filed 9–19–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2735–104]

Pacific Gas and Electric Company; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2735–104.

c. *Date filed:* April 18, 2024.

d. *Applicant:* Pacific Gas and Electric Company.

e. *Name of Project:* Helms Pumped Storage Project.

f. *Location:* The existing project is located about 50 miles northeast of the city of Fresno, on the North Fork Kings River and Helms Creek, in Fresno and Madera Counties, California. The project currently occupies 3,346.6 acres of federal land administered by the U.S. Forest Service, 28.36 acres of federal land managed by the U.S. Bureau of Reclamation, and 0.07 acre of land managed by the Bureau of Land Management. The project, with the proposed project boundary modifications, would occupy a total of 2,887.7 acres of federal land administered by the U.S. Forest Service, 28.5 acres of federal land managed by the U.S. Bureau of Reclamation, and 2.22 acres of land managed by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Dave Gabbard, Vice President Power Generation, Pacific Gas and Electric Company, 300 Lakeside Drive, Oakland, CA 94612; telephone at (650) 207–9705; email at *David.gabbard@pge.com.*

i. *FERC Contact:* Evan Williams, Project Coordinator, West Branch,

Division of Hydropower Licensing; telephone at (202) 502–8138; email at *Evan.Williams@ferc.gov.*

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests using the Commission's eFiling system at *https://ferconline.ferc.gov/FERC.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/Quick.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Helms Pumped Storage Project (P–2735–104).

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted but is not ready for environmental analysis at this time.

l. The existing Helms Pumped Storage Project (project) includes: (1) a 132-foot-long, by 89-foot-wide, by 58.5-foot-high concrete intake-discharge structure (Courtright Intake-Discharge Structure), with metal trash racks, in Courtright Lake; (2) one 4,243-foot-long tunnel (Tunnel 1) composed of two sections: (a) a 3,312-foot-long, 27-foot-diameter concrete-lined section; and (b) a 931-foot-long, 22-foot-diameter steel-lined section; (3) a 32.5-foot-long, by 38-foot-wide, by 45-foot-high gatehouse; (4) a 206-foot-long, 22-foot-diameter, above-ground steel pipe that connects Tunnel 1 and Tunnel 2; (5) one 9,016-foot-long tunnel (Tunnel 2) composed of two sections: (a) a 764-foot-long, 22-foot-diameter steel-lined section; and (b) a 8,252-foot-long, 27-foot-diameter concrete-lined section; (6) a 600-foot-long adit of an unknown diameter, with an adit plug with frame and gate; (7) a 535-foot-high, vertical shaft surge chamber for Tunnel 2 with a 47-foot-diameter lower section and 60-foot-diameter upper section, with 12 feet of the chamber exposed above grade; (8) a 2,205-foot-long penstock composed of three sections: (a) a 1,070-foot-long, 27-foot-diameter concrete-lined section; (b) a 300-foot-long, 27-foot-diameter concrete-lined section; and (c) a 330-foot-long, 27-foot-diameter concrete-lined manifold section, that branches into three, 505-foot-long steel-lined penstocks, that reduce in diameter from 15.5 feet, to 11.5 feet, to 10.5 feet until connecting to the turbine-generator; (9) a 336-foot-long, by 83-foot-wide, by 125-foot-high excavated rock chamber underground powerhouse that includes three, 360-megawatt (MW) vertical Francis-type pump-turbine units, for a total installed capacity of 1,080 MW, and three, vertical indoor generators with an approximate total nameplate capacity of 1,212 MW; (10) a 3,727-foot-long, 27-foot-diameter concrete-lined tunnel (Tunnel 3); (11) a 984-foot-tall, vertical shaft surge chamber for Tunnel 3 with a 27-foot-diameter lower section and a 44-foot-diameter upper section that transitions into a 10-foot-diameter air shaft topped by a 10-foot-tall, 14-foot-diameter protective device above grade; (12) an 88-foot-long, by 78-foot-wide, by 51-foot-high concrete intake-discharge structure (Wishon Intake-Discharge Structure), with metal trash racks, in Lake Wishon; (13) a 220-foot by- 265-foot above ground, fenced switchyard; (14) an underground transformer bank of 10 transformers with a capacity of 150,000 kilo-volt-amperes each; (15) a 3,723-foot-long, 30-foot-wide, 25-foot-high powerhouse access tunnel; and (16) appurtenant facilities.

Although the project facilities do not include any dam or reservoir, PG&E operates the project for power generation using Courtright Lake (upper reservoir) and Lake Wishon (lower reservoir), impounded by Courtright Dam and Wishon Dam, respectively, which are licensed project facilities of the Hass-Kings River Hydroelectric Project (Project No. P–1988). Courtright Lake has a usable storage area of approximately 123,184 acre-feet and normal maximum and minimum water surface elevations of 8,184 feet and 8,050 feet, respectively. Lake Wishon has a usable storage area of approximately 128,606 acre-feet and normal maximum and minimum water surface elevations of 6,550 feet and 6,428.9 feet, respectively. To generate power, water is released from Courtright Lake through the Courtright Intake-Discharge Structure, Tunnel 1, Tunnel 2, and the penstock, into the powerhouse and is discharged through Tunnel 3 and the Wishon Intake-Discharge Structure into Lake Wishon. During periods of low energy demand, water is pumped through these project facilities in reverse (*i.e.,* from Lake Wishon to Courtright Lake). The average annual generation (2015 to 2020) was 736.6 gigawatt-hours.

The project generators are connected to the regional electric grid by: (1) an underground transformer bank of 10 transformers with a capacity of 150,000 kilo-volt-amperes each; (2) a 220-foot by- 265-foot above ground, fenced switchyard; and (3) a 60.7-mile-long, double-circuit 230-kilovolt (kV) transmission line that connects the Helms switchyard to PG&E's interconnection point with the grid at the non-project Gregg Substation. The project also includes an approximately 1.8-mile-long, 21-kV distribution line from the non-project Woodchuck Substation to the Helms Headquarters and Helms Powerhouse and an approximately 2-mile-long, 21-kV distribution line from the non-project Woodchuck Substation to the Helms Support Facility and non-project Wishon Village Recreational Vehicle Park.

The project also includes: (1) the Helms Headquarters facility with ancillary facilities; (2) the Helms Support Facility with ancillary facilities; (3) project recreation facilities including the: (a) Courtright Boat Launch; (b) Trapper Springs Campground; (c) Marmot Rock Campground; (d) Wee-Mee-Kute Fishing Access; (e) Wishon Boat Launch; (f) Lily Pad Campground; (g) Upper Kings River Group Campground; (h) Wishon Dam Fishing Access; (i) Short Hair Creek Fishing Access; (j) Coolidge Meadow Fishing Access; (k) Helms Picnic Area; (l) Upper Kings River Fishing Access, and their ancillary facilities and amenities; (3) an approximately 80-acre Wildlife Habitat Management Area; (4) three, approximately 87-foot-diameter asphalt-surfaced helicopter landing pads; (5) 36.45 miles of non-recreation, vehicular project roads and trails; and (6) 1.08 miles of non-recreation, pedestrian project trails.

PG&E proposes to continue operating the project in a manner that is consistent with current operation. Additionally, PG&E proposes the following plans and measures to protect and enhance environmental resources:

(1) Recreation Management Plan; (2) Coordination Between P–2735 and P–1988; (3) Biological Resources Management Plan; (4) Hazardous Substance Plan; (5) Ownership of P–2735 and/or P–1988; (6) Visual Resources Management; (7) Fire Management and Response Plan; (8) Transportation System Management; (9) Historic Properties Management Plan; and (10) Supplemental Fish Stocking.

PG&E proposes to modify the existing project boundary to encompass all facilities necessary for operation and maintenance of the project. Conversely, PG&E proposes to modify the boundary to remove lands and facilities from the existing project boundary that are not necessary for operation and maintenance of the project. PG&E proposes to modify the project boundary around the Haas-Kings River Project's Courtright Lake and Lake Wishon to remove land from the boundary around the reservoirs that is not required for project operations and maintenance. PG&E also proposes to modify the project boundary around: Trapper Springs Campground; Marmot Rock Water Pipe Access Road; Lost Canyon Pipe; Lost Canyon Crossing Road; Helms Switchyard; Haas 21-kV distribution line #1; Helms Headquarters, including water tank and water tank access road; Lily Pad Campground; and numerous project access roads and trails.

m. A copy of the application can be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE''; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members, and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

o. *Procedural schedule:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Milestone	Date
Issue Scoping Document 1	September 2024.
Comments on Scoping Document 1 Due	October 2024.
Issue Request for Additional Information (if necessary)	October 2024.
Issue Scoping Document 2 (if necessary)	November 2024.
Issue Notice of Ready for Environmental Analysis	November 2024.

Dated: September 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21485 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6398–000]

Hackett Mills Hydro Associates, LLC; Notice of Authorization for Continued Project Operation

The license for the Hackett Mills Hydroelectric Project No. 6398 was issued for a period ending August 31, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 6398 is issued to Hackett Mills Hydro Associates, LLC for a period effective September 1, 2024, through August 31, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before August 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the

Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Hackett Mills Hydro Associates, LLC is authorized to continue operation of the Hackett Mills Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: September 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21486 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–60–000]

Notice of Availability of the Environmental Assessment for the Proposed Northern Natural Gas Company Northern Lights 2025 Expansion Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Northern Lights 2025 Expansion Project (Project), proposed by Northern Natural Gas Company (Northern) in the above-referenced docket. Northern requests authorization to construct and operate about 8.6 miles of pipeline extensions, and associated ancillary and auxiliary equipment in Freeborn, Houston, and Washington Counties, Minnesota and Monroe County, Wisconsin. Northern's stated purpose for this Project is to provide up to 46,064 dekatherms per day of firm, winter natural gas transportation capacity to Northern's Market Area.[1]

The EA assesses the potential environmental effects of the construction and operation of the Project in accordance with the requirements of the National Environmental Policy Act. FERC staff concludes that approval of the proposed Project would not constitute a major federal action significantly affecting the quality of the human environment.

The proposed Project includes the following facilities:

- 3.0-mile-long extension of the 36-inch-diameter Lake Mills to Albert Lea E Line;
- 2.43-mile-long extension of the 30-inch-diameter Elk River 3rd Branch Line;
- a non-contiguous 1.91-mile-long extension of the 30-inch-diameter Farmington to Hugo C-Line;
- 1.28-mile-long extension of the 8-inch-diameter Tomah Branch Line Loop;
- one pig new launcher,[2] valves, and piping inside the existing Hugo Compressor Station;
- minor piping modifications within the existing La Crescent Compressor Station;
- relocation of one pig receiver facility along the Tomah Branch Line loop;
- removal of three existing tie-in valve settings along the Lake Mills to Albert Lea E-line, Elk River 3rd Branch line, and Tomah Branch Line loop;
- three new valve settings and associated valves and piping along the Lake Mills to Albert Lea E-line, Elk River 3rd Branch line, and Tomah Branch Line loop;
- and other appurtenant facilities; and
- abandonment and removal of 275 feet of its existing 30-inch diameter Elk River 3rd Branch Line.

The Commission mailed a copy of the *Notice of Availability* to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; local libraries; churches; and newspapers in the project area. The EA is only available in electronic format. It may be viewed and downloaded from the FERC's website (*www.ferc.gov*), on the natural gas environmental documents page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). In addition, the EA may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (*https://elibrary.ferc.gov/eLibrary/search*), select ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.,* CP24–60). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

The EA is not a decision document. It presents Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding. Any person wishing to comment on the EA may do so. Your comments should focus on the EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before 5:00 p.m. Eastern Time on October 15, 2024.

For your convenience, there are three methods you can use to file your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov*. Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP24–60–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

[1] Northern's Market Area is north of the inlet to Northern's Clifton Compressor Station in Clay County, Kansas. The Market Area includes pipeline configured in a grid system, with gas flowing from Northern's transmission facilities and third-party interstate pipelines.

[2] A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

Filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered. Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. At this point in this proceeding, the timeframe for filing timely intervention requests has expired. Any person seeking to become a party to the proceeding must file a motion to intervene out-of-time pursuant to Rule 214(b)(3) and (d) of the Commission's Rules of Practice and Procedures (18 CFR 385.214(b)(3) and (d)) and show good cause why the time limitation should be waived. Motions to intervene are more fully described at *https://www.ferc.gov/how-intervene*.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

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*.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Dated: September 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21476 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2490–000]

Green Mountain Power Corporation; Notice of Authorization for Continued Project Operation

The license for the Taftsville Hydroelectric Project No. 2490 was issued for a period ending August 31, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2490 is issued to Green Mountain Power Corporation for a period effective September 1, 2024, through August 31, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before August 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Green Mountain Power Corporation is authorized to continue operation of the Taftsville Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: September 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21482 Filed 9–19–24; 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: EC24–119–000.

Applicants: Steele Flats Wind Project, LLC, Steele Flats Wind I, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Steele Flats Wind Project, LLC et al.

Filed Date: 9/10/24.

Accession Number: 20240910–5194.

Comment Date: 5 p.m. ET 10/1/24.

Docket Numbers: EC24–120–000.

Applicants: Steele Flats Wind Project, LLC, Steele Flats Wind I, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Steele Flats Wind Project, LLC et al.

Filed Date: 9/12/24.

Accession Number: 20240912–5205.

Comment Date: 5 p.m. ET 10/3/24.

Docket Numbers: EC24–121–000.

Applicants: Big Sky Wind, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Big Sky Wind, LLC.

Filed Date: 9/12/24.

Accession Number: 20240912–5206.

Comment Date: 5 p.m. ET 10/3/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER21–2364–004.

Applicants: Albemarle Beach Solar, LLC.

Description: Albemarle Beach Solar, LLC submits an Amendment to its 07/01/2024 Informational Filing.

Filed Date: 9/13/24.

Accession Number: 20240913–5237.

Comment Date: 5 p.m. ET 9/23/24.

Docket Numbers: ER24–1665–001.

Applicants: Oak Leaf Solar 56 LLC.

Description: Notice of Non-Material Change in Status of Oak Leaf Solar 56 LLC.

Filed Date: 9/16/24.
Accession Number: 20240916–5080.
Comment Date: 5 p.m. ET 10/7/24.
Docket Numbers: ER24–3047–000.
Applicants: Coffeen Solar BESS LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 11/1/2024.
Filed Date: 9/13/24.
Accession Number: 20240913–5212.
Comment Date: 5 p.m. ET 10/4/24.
Docket Numbers: ER24–3048–000.
Applicants: Baldwin Solar BESS LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 11/1/2024.
Filed Date: 9/13/24.
Accession Number: 20240913–5214.
Comment Date: 5 p.m. ET 10/4/24.
Docket Numbers: ER24–3049–000.
Applicants: PJM Interconnection, LLC.
Description: 205(d) Rate Filing: Original CSA, SA No. 7293; Queue No. NQ–123 to be effective 8/15/2024.
Filed Date: 9/16/24.
Accession Number: 20240916–5028.
Comment Date: 5 p.m. ET 10/7/24.
Docket Numbers: ER24–3050–000.
Applicants: PJM Interconnection, LLC.
Description: 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 6912; Queue No. AD2–038 to be effective 11/18/2024.
Filed Date: 9/16/24.
Accession Number: 20240916–5031.
Comment Date: 5 p.m. ET 10/7/24.
Docket Numbers: ER24–3051–000.
Applicants: PacifiCorp.
Description: Tariff Amendment: Termination of Tri-State Construction Agreement Thermopolis Sub to be effective 5/4/2024.
Filed Date: 9/16/24.
Accession Number: 20240916–5037.
Comment Date: 5 p.m. ET 10/7/24.
Docket Numbers: ER24–3052–000.
Applicants: PJM Interconnection, LLC.
Description: 205(d) Rate Filing: Original GIA Service Agreement No. 7346, AE2–339 to be effective 8/15/2024.
Filed Date: 9/16/24.
Accession Number: 20240916–5045.
Comment Date: 5 p.m. ET 10/7/24.
Docket Numbers: ER24–3053–000.
Applicants: PJM Interconnection, LLC.
Description: 205(d) Rate Filing: Original WMPA Service Agreement No. 7347, AG1–480 to be effective 8/15/2024.
Filed Date: 9/16/24.
Accession Number: 20240916–5049.
Comment Date: 5 p.m. ET 10/7/24.
Docket Numbers: ER24–3055–000.
Applicants: PJM Interconnection, LLC.
Description: 205(d) Rate Filing: Amendment to WMPA, Service Agreement No. 6129; Queue No. AF1–287 to be effective 11/16/2024.
Filed Date: 9/16/24.
Accession Number: 20240916–5084.
Comment Date: 5 p.m. ET 10/7/24.
Docket Numbers: ER24–3056–000.
Applicants: New England Power Company.
Description: Tariff Amendment: 2024–09–16 Notice of Cancellation of Construction Services Agreement with WMECO to be effective 11/16/2024.
Filed Date: 9/16/24.
Accession Number: 20240916–5086.
Comment Date: 5 p.m. ET 10/7/24.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC24–4–000.
Applicants: Algonquin Power Co.
Description: Algonquin Power Co. submits Notice of Self–Certification of Foreign Utility Company Status.
Filed Date: 9/16/24.
Accession Number: 20240916–5074.
Comment Date: 5 p.m. ET 10/7/24.

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: September 16, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21599 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2538–102]

Erie Boulevard Hydropower, L.P.; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2538–102.

c. *Date Filed:* August 30, 2024.

d. *Applicant:* Erie Boulevard Hydropower, L.P. (Erie).

e. *Name of Project:* Beebee Island Hydroelectric Project (project).

f. *Location:* On the Black River in Jefferson County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Steven P. Murphy, Director—U.S. Licensing, Brookfield Renewable, 33 West 1st Street South, Fulton, NY 13069; telephone at (315) 598–6130; email at *Stephen.Murphy@brookfieldrenewable.com.*

i. *FERC Contact:* Nicholas Ettema, Project Coordinator, Great Lakes Branch, Division of Hydropower Licensing; telephone at (312) 596–4447; email at *nicholas.ettema@ferc.gov.*

j. The application is not ready for environmental analysis at this time.

Project Description: The Beebee Island Project includes: (1) a stone masonry and concrete diversion dam (South Channel Dam); and (2) a concrete dam (Beebee Island Dam) that consists of: (a) a 10.5-foot-long section with a debris stoplog gate and a 2.4-foot-long sluice gate; (b) an 81.5-foot-long, 47.3-foot-wide powerhouse integral with the dam that includes: (i) a 71-foot-long intake structure with four sluice gates, a skimmer equipped with a stoplog gate, and a trashrack with 2-inch clear bar spacing; and (ii) a 3.75-megawatt (MW) vertical propeller turbine-generator and a 4–MW vertical Kaplan turbine-

generator, for a total installed capacity of 7.75 MW; (c) an overflow section with: (i) a 42-foot-long and 50.5-foot-long spillway, each with a 3-foot-high inflatable rubber crest gate with a maximum crest elevation of 430.62 feet North American Vertical Datum of 1988 (NAVD 88); and (ii) a 97.4-foot-long and 61-foot-long spillway, each with 3-foot-high flashboards that have a crest elevation of 430.62 feet NAVD 88; and (d) a 24.7-foot-long north non-overflow section with a 3-foot-long sluice gate. The dam creates an impoundment that has a surface area of 20 acres at 430.62 feet NAVD 88. The south shoreline of the impoundment also includes a 450-foot-long retaining/flood wall between the South Channel Dam and Beebee Island Dam.

From the impoundment, water flows through the powerhouse to a 15-foot-long tailrace. The South Channel Dam creates an approximately 1,000-foot-long bypassed reach of the Black River. Minimum flows are provided to the bypassed reach through a gated, 2-foot-diameter pipe in the South Channel Dam.

The project includes a downstream fish passage facility that consists of: (1) the sluice gate adjacent to the intake structure; and (2) an 8-foot-wide sluiceway that discharges immediately downstream of the powerhouse. The current license requires the licensee to provide a boat take-out site upstream of the dam and directional signage to downstream boat put-in locations.

The generators are connected to the regional electric grid by a 300-foot-long, 4.8-kilovolt underground generator lead line. The minimum and maximum hydraulic capacities of the powerhouse are 200 and 3,600 cubic feet per second (cfs), respectively. The average annual energy production of the project from 2010 through 2020, was 43,768 megawatt-hours.

Article 401 of the current license requires Erie to operate the project in a run-of-river mode, such that project outflow approximates inflow to the impoundment at any point in time and the surface elevation of the impoundment is maintained at no lower than 0.5 foot below either (1) the spillway crest elevation or (2) the crest of the flashboards when in place. Article 404 requires a minimum flow of 14 cfs to the bypassed reach and Article 403 requires a minimum flow of 1,000 cfs or inflow, whichever is less, downstream of the project.

Article 402 requires Erie to install flashboards by May 1, or as soon thereafter as safely possible, and to remove the flashboards in the fall prior to ice conditions. Article 410 requires Erie to install trashrack overlays with 1-inch clear bar spacing at the top half portion of the trashracks from May 1 through October 1. Additionally, Article 411 requires Erie to release 37 cfs through the downstream fish passage facility from April 1 through November 30. The current license also requires the implementation of a Flow Monitoring Plan to ensure compliance with the project flow requirements and a Record Keeping Plan to maintain records of the impoundment elevations and discharges from the project, in compliance with Articles 408 and 409.

Article 414 requires 0.5-inch veiling flows over the 97.4-foot-long spillway from May 1 to October 31. Article 416 requires the implementation of a Cultural Resources Management Plan to protect historic properties.

Erie proposes to continue operating the project as required under the current license. In addition, Erie proposes to develop a new minimum flow and fish conveyance plan, streamflow and headpond monitoring plan, recreation plan, and historic properties management plan.

k. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (*e.g.,* license application) via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–2538). For assistance, contact FERC at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

l. 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.*

m. *Procedural Schedule:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Deficiency Letter and Additional Information Request—September 2024

Notice of Acceptance—February 2025

n. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: September 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21483 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR24–10–000]

Notice of Complaint; Murphy Oil USA, Inc. v. Colonial Pipeline Company

Take notice that on September 12, 2024, pursuant to Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission, 18 CFR 385.206 (2024), Murphy Oil USA, Inc. (''Murphy'') filed a complaint against Colonial Pipeline Company (''Colonial'') challenging the justness and reasonableness of the rates charged by Colonial for transportation service pursuant to certain tariffs on file with the Commission.

The Complainant certifies that copies of the complaint were served on the contacts listed for Respondents in the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to

view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* 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.

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.*

Comment Date: 5:00 p.m. Eastern Time on October 12, 2024.

Dated: September 16, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21593 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–116–000]

Notice of Intent To Prepare a Supplemental Environmental Impact Statement for the Proposed Texas LNG Brownsville LLC Texas LNG Project, Request for Comments on Environmental Issues, and Schedule for Environmental Review

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare a supplemental environmental impact statement (supplemental EIS) for the Texas LNG Project, proposed by Texas LNG Brownsville LLC (Texas LNG) in Cameron County, Texas.[1] On August 6, 2024, the U.S. Court of Appeals for the District of Columbia Circuit issued an opinion vacating and remanding the Commission's November 22, 2019 *Order Granting Authorization under Section 3 of the Natural Gas Act* and its April 21, 2023 *Order on Remand* that approved the liquefied natural gas (LNG) terminal.[2] On remand, the Commission will consider whether to grant a Natural Gas Act (NGA) section 3(a) authorization for the Texas LNG Project. The schedule for preparation of the supplemental EIS is discussed in the *Schedule for Environmental Review* section of this notice.

The Commission must determine whether to authorize the project under the NGA, taking into consideration the factors discussed in the court's decision. The supplemental EIS will tier off Commission staff's analysis and conclusions as documented in staff's March 15, 2019 final EIS for the project. The focus of the supplemental EIS will be the issues identified by the court as requiring further analyses (*i.e.,* environmental justice impacts and air quality). The Commission will use this supplemental EIS in its decision-making process to determine whether to authorize the Texas LNG Project in light of the court's vacatur and remand.

As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result from its action whenever it considers the issuance of an authorization. This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the issues that will be analyzed in the supplemental EIS. Additional information about the Commission's NEPA process is described below in the *NEPA Process and the Supplemental EIS* section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the supplemental EIS. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on October 15, 2024. Comments may be submitted in written form. Further details on how to submit comments are provided in the Public Participation section of this notice.

Public Participation

There are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature, which is also located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP16–116–00) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier

[1] In accordance with the Council on Environmental Quality's regulations, the unique identification number for documents relating to this environmental review is SEIS–019–20–000–1726224938. 40 CFR 1502.4(e)(10) (2024).

[2] *City of Port Isabel* v. *FERC,* 111 F.4th 1198 (D.C. Cir. 2024).

must be addressed to: Debbie-Anne Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Additionally, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members, and others access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov*.

Summary of the Proposed Project

Texas LNG's stated purpose of the project is to site, construct, and operate an LNG export terminal on the Brownsville Ship Channel in Cameron County, Texas to convert domestically produced natural gas to LNG for storage and export. Texas LNG states that it intends to produce up to 4 million tons per annum (MTPA) of LNG for export.

The Texas LNG Project would consist of two natural gas liquefaction trains, each with a nominal capacity of 2.0 MTPA; two LNG storage tanks; a single LNG carrier berth; mooring and loading facilities; and other appurtenant facilities. The general location of the project facilities is shown in appendix 1.[3]

Based on the environmental analysis in the March 15, 2019 final EIS, construction and installation of facilities for the project would require temporary disturbance of about 311.5 acres of land. Following construction, the LNG terminal site would encompass about 282 acres. The remaining 29.5 acres would return to pre-construction conditions and uses.

The NEPA Process and the Supplemental EIS

In order to address the court's August 6, 2024 remand, Commission staff will supplement the analysis from the 2019 final EIS. As noted above, the focus of the supplemental EIS will be the issues identified by the court as requiring further analysis. Specifically, the supplemental EIS will include: (1) an updated analysis of the environmental justice impacts associated with the construction and operation of the Texas LNG Project; and (2) a revised analysis of air quality impacts resulting from construction and operational emissions.

Commission staff will also make recommendations on how to lessen or avoid the impacts analyzed in the supplemental EIS. Your comments will help Commission staff focus its analysis on the issues that may have a significant effect on the human environment.

The supplemental EIS will present Commission staff's independent analysis of the issues. Staff will prepare a draft supplemental EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft supplemental EIS and revise the document, as necessary, before issuing a final supplemental EIS. Any draft and final supplemental EIS will be available in electronic format in the public record through eLibrary[4] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive instant email notification when the environmental document is issued.

Alternatives Under Consideration

This supplemental EIS will evaluate reasonable alternatives that are technically and economically feasible and meet the purpose and need for the proposed action.[5] Alternatives currently under consideration include the no-action alternative, meaning the project is not implemented.

With this notice, the Commission requests specific comments regarding any additional potential alternatives to the proposed action. Please focus your comments on reasonable alternatives (including alternative facility sites not previously analyzed) that meet the project objectives, are technically and economically feasible, and avoid or lessen environmental impact.

Schedule for Environmental Review

This notice identifies the Commission staff's planned schedule for completion of the final supplemental EIS for the project, which is based on an issuance of the draft supplemental EIS in March 2025, opening a 45-day comment period.

Issuance of Notice of Availability of the final supplemental EIS—July 31, 2025

90-day Federal Authorization Decision Deadline[6]—October 29, 2025

In accordance with the Council on Environmental Quality's regulations, for EISs, agencies are to make schedules for completing the NEPA process publicly available.[7] This notice identifies the Commission's anticipated schedule for issuance of the final order for the project, which serves as the Commission's record of decision. We currently anticipate issuing a final order for the project no later than:

Issuance of Final Order—November 20, 2025

If a schedule change becomes necessary, an additional notice will be provided so that the relevant agencies are kept informed of the project's progress.

Environmental Mailing List

This notice is being sent to the Commission's current environmental mailing list for the project which includes: federal, state, and local government representatives and agencies; Native American Tribes; elected officials; environmental and public interest groups; other interested parties. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the project.

[3] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary.'' For instructions on connecting to eLibrary, refer to the last page of this notice. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

[4] For instructions on connecting to eLibrary, refer to the last page of this notice.

[5] 40 CFR 1508.1(hh) (2024).

[6] The Commission's deadline applies to the decisions of other federal agencies, and state agencies acting under federally delegated authority, that are responsible for federal authorizations, permits, and other approvals necessary for proposed projects under the Natural Gas Act. Per 18 CFR 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by federal law.

[7] 40 CFR 1501.10(h) (2024).

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to *GasProjectAddressChange@ferc.gov* stating your request. You must include the docket number CP16–116–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached ''Mailing List Update Form'' (appendix 2).

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.,* CP16–116). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

Dated: September 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21474 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–7887–019]

Ashuelot River Hydro, Inc.; Notice of Reasonable Period of Time for Water Quality Certification Application

On August 27, 2024, the New Hampshire Department of Environmental Services (New Hampshire DES) submitted to the Federal Energy Regulatory Commission (Commission) notice that it received a request for a Clean Water Act section 401(a)(1) water quality certification as defined in 40 CFR 121.5, from Ashuelot River Hydro, Inc., in conjunction with the above captioned project on July 8, 2024. Pursuant to section 4.34(b) of the Commission's regulations,[1] we hereby notify New Hampshire DES of the following:

Date of Receipt of the Certification Request: July 8, 2024.

Reasonable Period of Time to Act on the Certification Request: One year, July 8, 2025.

If New Hampshire DES fails or refuses to act on the water quality certification request on or before the above date, then the certifying authority is deemed waived pursuant to section 401(a)(1) of the Clean Water Act, 33 U.S.C. 1341(a)(1).

Dated: September 16, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21595 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2232–893]

Duke Energy Carolinas, LLC; Notice of Application for Non-Project Use of Project Land and Waters Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

September 16, 2024.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 2232–893.

c. *Date Filed:* July 31, 2024.

d. *Applicant:* Duke Energy Carolinas, LLC.

e. *Name of Project:* Catawba-Wateree Hydroelectric Project.

f. *Location:* Bridgewater Development (Lake James) in McDowell County, North Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Dennis Whitaker, 704–382–1594, *dennis.whitaker@duke-energy.com.*

i. *FERC Contact:* Shana High, 202–502–8674, *shana.high@ferc.gov.*

j. *Cooperating agencies:* With this notice, the Commission is inviting Federal, State, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal, that wish to cooperate in the preparation of any environmental document, if applicable, to follow the instructions for filing such requests described in item k below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. *Deadline for filing comments, motions to intervene, and protests:* October 16, 2024.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number P–2232–893. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Request:* The licensee's application requests Commission authorization to permit The Reserve at Barefoot Landing on Lake James, LLC (The Reserve) to construct a residential marina. Within the project boundary, The Reserve's marina would consist of seven floating

[1] 18 CFR [4.34(b)(5)].

docks that could accommodate 113 boats in total. The proposed docks conform to the project's approved Shoreline Management Plan.

m. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

q. The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: September 16, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21600 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP16–454–000; CP16–455–000; CP20–481–000]

Notice of Intent To Prepare a Supplemental Environmental Impact Statement for the Proposed Rio Grande LNG, LLC and Rio Bravo Pipeline Company, LLC Rio Grande LNG Terminal and Rio Bravo Pipeline Project, Request for Comments on Environmental Issues, and Schedule for Environmental Review

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare a supplemental environmental impact statement (supplemental EIS) that will discuss the environmental impacts of the Rio Grande LNG and Rio Bravo Pipeline Projects involving construction and operation of facilities by Rio Grande LNG, LLC and Rio Bravo Pipeline Company, LLC.[1] On August 6, 2024, the U.S. Court of Appeals for the District of Columbia Circuit issued an opinion vacating and remanding the Commission's November 22, 2019 *Order Granting Authorizations Under Sections 3 and 7 of the Natural Gas Act* and its April 23, 2023 *Order on Remand and Amending Section 7 Certificate* that approved the liquefied natural gas (LNG) terminal and pipeline project, including a pipeline amendment in FERC Docket No. CP20–481–000.[2] On remand, the Commission will consider whether to grant a Natural Gas Act (NGA) section 3(a) authorization for the Rio Grande LNG Terminal and an NGA section 7(c) certificate of public convenience and necessity for the Rio Bravo Pipeline Project.[3] The schedule for preparation of the supplemental EIS is discussed in the *Schedule for Environmental Review* section of this notice.

The Commission must determine whether to authorize the projects under the NGA, taking into consideration the factors discussed in the court's decision. The supplemental EIS will tier off Commission staff's analysis and conclusions as documented in staff's April 26, 2019 final EIS for the projects. The focus of the supplemental EIS will be the issues identified by the court as requiring further analyses (*i.e.,* environmental justice impacts, air quality, and alternatives). The Commission will use this supplemental EIS in its decision-making process to determine whether to authorize the Rio Grande LNG and Rio Bravo Pipeline Projects in light of the court's vacatur and remand.

As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result from its action whenever it considers the issuance of an authorization. This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the issues that will be analyzed in the supplemental EIS. Additional information about the Commission's NEPA process is described below in the *NEPA Process and the Supplemental EIS* section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the supplemental EIS. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on October 15, 2024. Comments may be submitted in written form. Further details on how to submit comments are provided in the *Public Participation* section of this notice.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable

[1] In accordance with the Council on Environmental Quality's regulations, the unique identification number for documents relating to this environmental review is SEIS–019–20–000–1726224918. 40 CFR 1502.4(e)(10) (2024).

[2] *City of Port Isabel* v. *FERC,* 111 F.4th 1198 (D.C. Cir. 2024).

[3] The Commission approved four discrete route adjustments to the Rio Bravo Pipeline Project in FERC Docket No. CP23–519–000 (*Order Amending Certificate* issued May 23, 2024). The supplemental EIS will analyze the pipeline as amended by these route adjustments.

easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, section 7 of the NGA conveys the right of eminent domain to the company.[4] Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not grant, exercise, or oversee the exercise of eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

Public Participation

There are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature, which is also located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket numbers (CP16–454–000; CP16–455–000; and/or CP20–481–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Additionally, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov*.

Summary of the Proposed Projects

Rio Grande LNG, LLC's stated purpose for the Rio Grande LNG Terminal is to develop, own, operate, and maintain an LNG export facility in south Texas to export 27 million tons per annum (MTPA) of LNG that provides an additional source of firm, long-term, and competitively priced LNG to the global market. Rio Bravo Pipeline Company, LLC's stated purpose for the Rio Bravo Pipeline Project is to develop, own, operate, and maintain a natural gas pipeline system to access natural gas from the Agua Dulce Hub for delivery at the Rio Grande LNG Terminal.

The Rio Grande LNG Terminal would consist of five natural gas liquefaction trains, each with a nominal capacity of 5.4 MTPA; four LNG storage tanks; two LNG carrier loading berths; one 1,500-foot-diameter turning basin; LNG truck loading and unloading facilities with four loading bays; two natural gas liquids truck loading bays; and other administrative, maintenance, and support facilities. As amended, the Rio Bravo Pipeline Project would include: a 2.4-mile-long header system; approximately 136 miles of parallel 48- and 42-inch-diameter mainline pipelines; one compressor station; four metering sites; and other appurtenant facilities. The general location of the project facilities is shown in appendix 1.[5]

Based on the environmental analysis in the April 26, 2019 final EIS, construction and installation of facilities for the projects would require temporary disturbance of about 3,633.2 acres of land. Following construction, the LNG terminal site and pipeline facilities would encompass about 2,149.2 acres. The remaining 1,484.0 acres would return to pre-construction conditions and uses. Incorporation of the Rio Bravo Pipeline Amendment (Docket No. CP20–481–000) resulted in a decrease of 48.2 acres of land, while the Rio Bravo Pipeline Route Amendment (Docket No. CP23–519–000) added approximately 123.3 acres to the overall footprint of the Rio Bravo Pipeline Project.

The NEPA Process and the Supplemental EIS

In order to address the court's August 6, 2024 remand, Commission staff will supplement the analysis from the 2019 final EIS. As noted above, the focus of the supplemental EIS will be the issues identified by the court as requiring further analysis. Specifically, the supplemental EIS will include: (1) an updated analysis of the environmental justice impacts associated with the construction and operation of the Rio Grande LNG Terminal and the Rio Bravo Pipeline Project; (2) a revised analysis of air quality impacts resulting from construction and operational emissions; and (3) an updated alternatives analysis, including carbon capture and sequestration.

Commission staff will also make recommendations on how to lessen or avoid the impacts analyzed in the supplemental EIS. Your comments will help Commission staff focus its analysis on the issues that may have a significant effect on the human environment.

The supplemental EIS will present Commission staff's independent analysis of the issues. Staff will prepare a draft supplemental EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft supplemental EIS and revise the document, as necessary, before issuing a final supplemental EIS. Any draft and final supplemental EIS will be available in electronic format in the public record through eLibrary[6] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If

[4] Eminent domain does not apply to the NGA section 3 facilities.

[5] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary.'' For instructions on connecting to eLibrary, refer to the last page of this notice. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

[6] For instructions on connecting to eLibrary, refer to the last page of this notice.

eSubscribed, you will receive instant email notification when the environmental document is issued.

Alternatives Under Consideration

This supplemental EIS will evaluate reasonable alternatives that are technically and economically feasible and meet the purpose and need for the proposed action.[7] Alternatives currently under consideration include:

- the no-action alternative, meaning the project is not implemented; and
- carbon capture and sequestration.

With this notice, the Commission requests specific comments regarding any additional potential alternatives to the proposed action. Please focus your comments on reasonable alternatives (including alternative facility sites and pipeline routes not previously analyzed) that meet the project objectives, are technically and economically feasible, and avoid or lessen environmental impact.

Schedule for Environmental Review

This notice identifies the Commission staff's planned schedule for completion of the final supplemental EIS for the projects, which is based on an issuance of the draft supplemental EIS in March 2025, opening a 45-day comment period.

Issuance of Notice of Availability of the final supplemental EIS—July 31, 2025

90-day Federal Authorization Decision Deadline[8]—October 29, 2025

In accordance with the Council on Environmental Quality's regulations, for EISs, agencies are to make schedules for completing the NEPA process publicly available.[9] This notice identifies the Commission's anticipated schedule for issuance of the final order for the projects, which serves as the Commission's record of decision. We currently anticipate issuing a final order for the projects no later than:

Issuance of Final Order—November 20, 2025

If a schedule change becomes necessary, an additional notice will be provided so that the relevant agencies are kept informed of the project's progress.

Environmental Mailing List

This notice is being sent to the Commission's current environmental mailing list for the projects which includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the projects.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to *GasProjectAddressChange@ferc.gov* stating your request. You must include the docket number (*i.e.,* CP16–454–000; CP16–455–000; and/or CP20–481–000) in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached ''Mailing List Update Form'' (appendix 2).

Additional Information

Additional information about the projects is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.,* CP16–454, CP16–455, or CP20–481). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

Dated: September 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21475 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

[7] 40 CFR 1508.1(z)

[8] The Commission's deadline applies to the decisions of other federal agencies, and state agencies acting under federally delegated authority, that are responsible for federal authorizations, permits, and other approvals necessary for proposed projects under the NGA. Per 18 CFR 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by federal law.

[9] 40 CFR 1501.10(h) (2024).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Privacy Act of 1974; System of Records

AGENCY: Federal Energy Regulatory Commission (FERC), DOE.

ACTION: Notice of a Modified System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, all agencies are required to publish in the **Federal Register** a notice of their systems of records. Notice is hereby given that the Federal Energy Regulatory Commission (FERC) is publishing a notice of modifications to an existing FERC system of records titled ''*Commission Labor and Employee Relations Case Files (FERC–15)*''.

DATES: Comments on this modified system of records must be received no later than 30 days after the date of publication in the **Federal Register**. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by FERC, the modified system of records will become effective a minimum of 30 days after date of publication in the **Federal Register**. If FERC receives public comments, FERC shall review the comments to determine whether any changes to the notice are necessary.

ADDRESSES: Comments may be submitted in writing to Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426 or electronically to *privacy@ferc.gov*. Comments should indicate that they are submitted in response to ''*Commission Labor and Employee Relations Case Files (FERC–15)*''.

FOR FURTHER INFORMATION CONTACT: Mittal Desai, Chief Information Officer & Senior Agency Official for Privacy, Office of the Executive Director, Federal Energy Regulatory Commission, 888

First Street NE, Washington, DC 20426, (202) 502–6432.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, and to comply with the Office of Management and Budget (OMB) Memorandum M–17–12, *Preparing for and Responding to a Breach of Personally Identifiable Information,* January 3, 2017, this notice has twelve (12) new routine uses, including two routine uses that will permit FERC to disclose information as necessary in response to an actual or suspected breach that pertains to a breach of its own records or to assist another agency in its efforts to respond to a breach that was previously published separately at 87 FR 35543 (June 10, 2022).

The following sections have been updated to reflect changes made since the publication of the last notice in the **Federal Register**: dates; addresses; for further contact information; system location; system manager; purpose of the system; categories of individuals covered by the system; categories of records in the system; record source categories; routine uses of records maintained in the system, including categories of users and the purpose of such; policies and practices for storage of records; policies and practices for retrieval of records; policies and practices for retention and disposal of records; administrative, technical, physical safeguards; records access procedures; contesting records procedures; notification procedures; and history.

SYSTEM NAME AND NUMBER:

Commission Labor and Employee Relations Case Files (FERC–15).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Energy Regulatory Commission, Workforce Relations Division, Office of the Executive Director, 888 First Street NE, Washington, DC 20426.

SYSTEM MANAGER(S):

Director, Workforce Relations Division, Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 CFR parts 430, 432, 752, 771; 5 U.S.C. 7121.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system of records is to maintain data and records on labor and employee relations cases that may be used: to support progressive discipline actions, including in response to grievances; to support findings in inquiries into alleged workplace harassment; to support actions before other government entities such as, but not limited to, the Merit System Protection Board, Equal Employment Opportunity Commission, and the Federal Labor Relations Authority; to support actions in U.S. Federal District Court; and to support progressive discipline actions, and anti-harassment inquiries.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals on whom records are maintained are FERC employees who are the subject of any one of the following actions: disciplinary/adverse action, performance-based action, and/or grievance or have filed a petition of inquiry into alleged workplace harassment.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records maintained in the system include name, email address, telephone number, address, employee ID number, office, grade, signature, reference number, and various agency forms, decision documents, grievances, denials, appeals, requests for reconsideration, and briefs.

RECORD SOURCE CATEGORIES:

Records are obtained from subject employee, supervisors, office directors, Workforce Relations Division Director, Workforce Relations Specialists, Office of the General Counsel staff, the Federal Labor Relations Authority, Equal Employment Opportunity Commission, and the Merit Systems Protection Board.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, information maintained in this system may be disclosed to authorized entities outside FERC for purposes determined to be relevant and necessary as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To appropriate agencies, entities, and persons when (1) FERC suspects or has confirmed that there has been a breach of the system of records; (2) FERC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

2. To another Federal agency or Federal entity, when FERC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

3. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

4. To the Equal Employment Opportunity Commission (EEOC) when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law or regulation.

5. To the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

6. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

7. To the Department of Justice (DOJ) for its use in providing legal advice to FERC or in representing FERC in a proceeding before a court, adjudicative body, or other administrative body, where the use of such information by the DOJ is deemed by FERC to be relevant and necessary to the advice or proceeding, and such proceeding names as a party in interest: (a) FERC; (b) any employee of FERC in his or her official capacity; (c) any employee of FERC in his or her individual capacity where DOJ has agreed to represent the employee; or (d) the United States, where FERC determines that litigation is likely to affect FERC or any of its components.

8. To non-Federal Personnel, such as contractors, agents, or other authorized individuals performing work on a contract, service, cooperative agreement, job, or other activity on behalf of FERC or Federal Government and who have a need to access the information in the performance of their duties or activities.

9. To the National Archives and Records Administration in records management inspections and its role as Archivist.

10. To the Merit Systems Protection Board or the Board's Office of the Special Counsel, when relevant information is requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, and investigations of alleged or possible prohibited personnel practices.

11. To appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information may be relevant to a potential violation of civil or criminal law, rule, regulation, order.

12. To appropriate agencies, entities, and person(s) that are a party to a dispute, when FERC determines that information from this system of records is reasonably necessary for the recipient to assist with the resolution of the dispute; the name, address, telephone number, email address, and affiliation; of the agency, entity, and/or person(s) seeking and/or participating in dispute resolution services, where appropriate.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in paper and electronic format. Electronic records are stored on a SharePoint site within FERC's network. Data access is restricted to agency personnel whose responsibilities require access. Access to electronic records is controlled by the organization's Single Sign-On and Multi-Factor Authentication Solution. Paper records are stored in a lockable file cabinet. Access to the lockable file cabinet is badge-activated. Role based access is used to restrict data access and the organization employs the principle of least privilege, allowing only authorized users with access (or processes acting on behalf of users) necessary to accomplish assigned tasks in accordance with organizational missions and business functions.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by the individual's name or by type of action.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained in accordance with the applicable National Archives and Records Administration Schedules, with the following applicable General Records Schedule:

(1.) General Records Schedule (GRS) 2.3: Employee Relations Records, Item 050, DAA–GRS–2018–0002–0005. Temporary. Destroy 7 years after case is closed or final settlement on appeal, as appropriate, but longer retention is authorized if required for business use.

(2.) General Records Schedule (GRS) 2.3: Employee Relations Records, Item 060, DAA–GRS–2018–0002–0006. Temporary. Destroy no sooner than 4 years but no later than 7 years (see note 2) after case is closed or final settlement on appeal, as appropriate.

(3.) General Records Schedule (GRS) 2.3: Employee Relations Records, Item 080, DAA–GRS–2018–0002–0009. Temporary. Destroy after 3 years of final resolution of case, but longer retention is authorized if required for business use.

(4.) General Records Schedule (GRS) 2.3: Employee Relations Records, Item 090, DAA–GRS–2018–0002–0010. Temporary. Destroy after 3 years of final resolution of case, but longer retention is authorized if required for business use.

(5.) General Records Schedule (GRS) 2.3: Employee Relations Records, Item 100, DAA–GRS–2018–0002–0011. Temporary. Destroy 3 years after final resolution of case, but longer retention is authorized if required for business use.

(6.) General Records Schedule (GRS) 2.3: Employee Relations Records, Item 110, DAA–GRS–2018–0002–0012. Temporary. Destroy 3 years after final resolution of case, but longer retention is authorized if required for business use.

(7.) General Records Schedule (GRS) 2.3: Employee Relations Records, Item 111, DAA–GRS–2018–0002–0013. Temporary. Destroy 7 years after final resolution of case, but longer retention is authorized if required for business use.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

See Policies and Practices for Storage of Records.

RECORD ACCESS PROCEDURES:

Individuals requesting access to the contents of records must submit a request through the Freedom of Information Act (FOIA) office. The FOIA website is located at: *https://www.ferc.gov/foia.* Requests may be submitted through the following portal: *https://www.ferc.gov/enforcement-legal/foia/electronic-foia-privacy-act-request-form.* Written requests for access to records should be directed to: Director, Office of External Affair, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

CONTESTING RECORD PROCEDURES:

See Records Access procedures.

NOTIFICATION PROCEDURES:

Generalized notice is provided by the publication of this notice. For specific notice, see Records Access Procedure, above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

65 FR 21743 (April 24, 2000).

Dated: September 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21477 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2347–000]

Notice of Authorization for Continued Project Operation; Midwest Hydro, LLC

The license for the Janesville Central Hydroelectric Project No. 2347 was issued for a period ending August 31, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b),

to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2347 is issued to Midwest Hydro, LLC for a period effective September 1, 2024, through August 31, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before August 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Midwest Hydro, LLC is authorized to continue operation of the Janesville Central Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: September 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21478 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2569–169]

Erie Boulevard Hydropower, L.P.; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2569–169.

c. *Date Filed:* August 30, 2024.

d. *Applicant:* Erie Boulevard Hydropower, L.P. (Erie).

e. *Name of Project:* Black River Hydroelectric Project (project).

f. *Location:* On the Black River in Jefferson County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Steven P. Murphy, Director—U.S. Licensing, Brookfield Renewable, 33 West 1st Street South, Fulton, NY 13069; telephone at (315) 598–6130; email at *Stephen.Murphy@brookfieldrenewable.com.*

i. *FERC Contact:* Nicholas Ettema, Project Coordinator, Great Lakes Branch, Division of Hydropower Licensing; telephone at (312) 596–4447; email at *nicholas.ettema@ferc.gov.*

j. The application is not ready for environmental analysis at this time.

k. *Project Description:* The project consists of the following five developments from upstream to downstream: the 5.0625-megawatt (MW) Herrings Development, the 10.8–MW Deferiet Development, the 5.4–MW Kamargo Development, the 6–MW Black River Development, and the 1.875–MW Sewalls Development.

Project Facilities

Herrings Development

The Herrings Development consists of a concrete dam (Herrings Dam) that includes the following sections: (1) a 536-foot-long section that includes a 512-foot-long ogee spillway with 1-foot-high flashboards that have a crest elevation of 680.1 feet North American Vertical Datum of 1988 (NAVD 88) and a 9-foot-long stoplog gate; and (2) a 137-foot-long, 33-foot-wide powerhouse that includes: (a) a 110-foot-long intake structure with nine sluice gates, a skimmer equipped with a stoplog gate, and a trashrack with 2-inch clear bar spacing; and (b) three 1.6875–MW vertical propeller turbine-generators, for a total installed capacity of 5.0625–MW. The dam creates an impoundment that has a surface area of 140 acres at 680.1 feet NAVD 88. From the impoundment, water flows through the powerhouse to an approximately 110-foot-long tailrace.

The project recreation facilities include: (1) a hand-carry boat access site on the north shoreline of the impoundment, approximately 300 feet upstream of the dam, including a picnic area and parking area; (2) an 800-foot-long portage trail that extends from the hand-carry boat access area to a put-in site on the north shoreline of the Black River, 140 feet downstream of the powerhouse; (3) a fishing access area on the north shoreline of the impoundment, approximately 100 feet upstream of the dam; and (4) a fishing access area on the north shoreline of the Black River, which is co-located with the boat put-in site downstream of the powerhouse.

The generators are connected to the regional electric grid by two 100-foot-long, 2.3-kilovolt (kV) overhead generator lead lines and a 2.3/23-kV step-up transformer. The minimum and maximum hydraulic capacities of the powerhouse are 220 and 3,435 cfs, respectively. The average annual energy production of the development from 2010 through 2020, was 55,708 megawatt-hours (MWh).

Deferiet Development

The Deferiet Development consists of a concrete dam (Deferiet Dam) that includes the following sections: (1) a 503.9-foot-long spillway with a 3-foot-high inflatable rubber crest gate with a maximum crest elevation of 659.53 feet NAVD 88; (2) a 192-foot-long section with eleven 14-foot-long stoplog gates; (3) a 52.3-foot-long non-overflow section; and (4) a headgate structure with ten sluice gates. The dam creates an impoundment that has a surface area of 70 acres at 659.53 feet NAVD 88.

From the impoundment, water flows through the headgate structure to a 4,200-foot-long power canal. From the power canal, water enters a 145.4-foot-long, 92.5-foot-wide powerhouse that includes: (1) a 107.8-foot-long intake structure that includes three sluice gates and a trashrack with 2-inch clear bar spacing; and (2) three 3.6-MW vertical Francis turbine-generators, for a total installed capacity of 10.8 MW. Water is discharged from the powerhouse to an approximately 1,400-foot-long tailrace. The development creates an approximately 1.73-mile-long bypassed reach of the Black River.

The development also includes a stoplog gate adjacent to the intake structure that conveys water to an ice chute that discharges downstream of the powerhouse.

The project recreation facilities include: (1) a hand-carry boat access site and parking area immediately east of the headgate structure; (2) a hand-carry boat portage route with a take-out site at the hand-carry boat access site, a 960-foot-long portage trail, and a put-in site on the north shoreline of the Black River, approximately 200 feet downstream of the dam; (3) a boat access site and parking area on the shoreline of an island, at the confluence of the tailrace and bypassed reach; (4) a hand-carry boat access site on the south shoreline of the impoundment, approximately 0.5 mile upstream of the dam, that includes a 170-foot-long access path and parking area; and (5) a 0.68-mile-long hiking trail that follows the northern shoreline of the Black River downstream of the dam.

The generators are connected to the regional electric grid by three 65-foot-long, 2.3-kV overhead generator lead

lines and a 2.3/23-kV step-up transformer. The minimum and maximum hydraulic capacities of the powerhouse are 85 and 571 cfs, respectively. The average annual energy production of the development from 2010 through 2020, was 32,298 MWh.

Kamargo Development

The Kamargo Development consists of a concrete dam (Kamargo Dam) that includes the following sections: (1) a 188-foot-long headgate structure that includes a 131.7-foot-long section with fourteen 8-foot-long sluice gates; (2) a 168-foot-long non-overflow section; and (3) a 718-foot-long section that includes a 647-foot-long ogee spillway with 2-foot-high flashboards that have a crest elevation of 565.48 feet NAVD 88 and a 5.7-foot-long notch. The dam creates an impoundment that has a surface area of 40 acres at 565.48 feet NAVD 88.

From the impoundment, water flows through the headgate structure to a 3,850-foot-long power canal with an approximately 700-foot-long section that includes: (1) a bulkhead with flashboards that have a crest elevation of 565.48 feet NAVD 88; (2) a 190-foot-long section with a crest elevation of 566.68 NAVD 88 (3) a 230-foot-long section with 1-foot-high flashboards that have a crest elevation of 565.48 feet NAVD 88; and (4) a 160.8-foot-long ogee spillway with twelve stoplog gates. From the power canal, water enters a 97.5-foot-long, 37-foot-wide powerhouse that includes: (1) a 66-foot-long intake structure with nine sluice gates and a trashrack with 2-inch clear bar spacing; and (2) three 1.8-MW vertical Francis turbine-generators, for a total installed capacity of 5.4 MW. Water is discharged from the powerhouse to an approximately 385-foot-long tailrace. The development creates an approximately 0.69-mile-long bypassed reach of the Black River.

The project includes the Poors Island Recreation Area that includes two portage trails, fishing access areas, a picnic area, a bicycle rack, a hiking trail, and parking area.

The generators are connected to the regional electric grid by four 25-foot-long, 2.3-kV underground generator lead lines and a 2.3/23-kV step-up transformer. The minimum and maximum hydraulic capacities of the powerhouse are 450 and 3,300 cfs, respectively. The average annual energy production of the development from 2010 through 2020, was 21,512 MWh.

Black River Development

The Black River Development consists of a dam (Black River Dam) that includes the following sections: (1) a 30-foot-long retaining wall; (2) a 36.5-foot-long non-overflow section with two sluice gates; (3) a 296-foot-long section that includes a 291-foot-long ogee spillway with 2-foot-high flashboards that have a crest elevation of 535.68 feet NAVD 88, a notch and a 5-foot-long stoplog gate; and (4) a 99.6-foot-long headgate structure that includes a 79.6-foot-long section with twelve sluice gates. The dam creates an impoundment that has a surface area of 25 acres at 535.68 feet NAVD 88.

From the impoundment, water flows through the headgate structure to a 2,250-foot-long power canal that includes: (1) a 250-foot-long waste weir with a crest elevation of 537.68 NAVD 88; and (2) a 134-foot-long waste weir with 2-foot-high flashboards and a low-level outlet gate. From the power canal, water enters a 117.8-foot-long, 66.3-foot-wide powerhouse that includes: (1) an 81.8-foot-long intake structure that includes nine sluice gates, a skimmer equipped with two sluice gates, and a trashrack with 2-inch clear bar spacing; (2) three 2-MW vertical Francis turbine-generators, for a total installed capacity of 6 MW. Water is discharged from the powerhouse to an approximately 100-foot-long tailrace. The development creates an approximately 0.6-mile-long bypassed reach of the Black River.

The project recreation facilities include: (1) a parking area, picnic area, and fishing platform, referred to as the ''Stone Drive Recreation Area,'' located on the north shoreline of the impoundment, approximately 110 feet upstream of the dam; (2) a hand-carry boat portage route with an impoundment take-out site at the Stone Drive Recreation Area, a 0.3-mile-long portage trail, and a put-in site on the east shoreline of the Black River, approximately 550 feet downstream of the dam; and (3) a picnic and parking area located approximately 500 feet southeast of the dam.

The generators are connected to the regional electric grid by two 95-foot-long, 2.3-kV underground generator lead lines and a 2.3/23-kV step-up transformer. The minimum and maximum hydraulic capacities of the powerhouse are 220 and 3,210 cfs, respectively. The average annual energy production of the development from 2010 through 2020, was 32,692 MWh.

Sewalls Development

The Sewalls Development consists of a concrete dam (Sewalls Dam) that includes the following sections: (1) a south dam section that includes: (a) a 243-foot-long ogee spillway with a crest elevation of 463.73 feet NAVD 88; (b) an 18-foot-long section with two 7.5-foot-long stoplog gates; and (c) a 47.5-foot-long headgate structure two 15-foot-long sluice gates; and (2) a north dam section that includes a 95.9-foot-long spillway with a crest elevation of 463.73 feet NAVD 88 and a 3.61-foot-long notch. The dam creates an impoundment that has a surface area of 4 acres at 463.73 feet NAVD 88.

From the impoundment, water flows through the sluice gates of the headgate structure to a 400-foot-long power canal that includes 2-foot-high flashboards along its entire length, a sluice gate, and a low-level outlet gate. From the power canal, water enters a 81-foot-long, 32-foot-wide powerhouse that includes: (1) a 69-foot-long intake structure with four sluice gates and a trashrack with 2-inch clear bar spacing; and (2) two 0.9375-MW vertical propeller turbine-generators, for a total installed capacity of 1.875 MW. Water is discharged from the powerhouse to an approximately 129-foot-long tailrace. The development creates an approximately 400-foot-long bypassed reach of the Black River downstream of the south dam (south channel bypassed reach); and an approximately 528-foot-long bypassed reach downstream of the north dam (north channel bypassed reach).

The project recreation facilities include: (1) a parking area and scenic overlook on the south shoreline of the impoundment, immediately upstream of the spillway; and (2) a hand-carry boat portage route that includes a portage trail with an impoundment take-out site on the south shoreline of the impoundment, approximately 50 feet upstream of the spillway.

The generators are connected to the regional electric grid by two 50-foot-long, 2.3-kV underground generator lead lines and a 2.3/23-kV step-up transformer. The minimum and maximum hydraulic capacities of the powerhouse are 450 and 1,800 cfs, respectively. The average annual energy production of the development from 2010 through 2020, was 11,394 MWh.

Project Operation

Article 401 of the current license requires Erie to maintain the surface elevation of each impoundment at no lower than 0.5 foot below either the crest elevation of the dam or the crest of the flashboards, when in place. During the period of May 1 through September 30, when inflow is between 1,400 and 1,900 cfs, Article 402 requires Erie to maintain the surface elevation of the impoundment at the Herrings Development no lower than 0.2 foot below either the crest elevation of the dam or the crest of the flashboards when in place, to the extent possible. Article

402 also requires Erie to operate the Sewalls Development in a run-of-river mode from May 1 through September 30, when inflow is below 2,000 cfs, such that outflow approximates inflow to the impoundment at any given point in time. Article 404 requires a minimum flow of 1,000 cfs or inflow, whichever is less, downstream of each development.

Article 403 requires Erie to install flashboards at each development by May 1 or as soon thereafter as safely possible, and remove the flashboards in the fall prior to ice conditions. Article 410 requires Erie to install trashrack overlays with 1-inch clear bar spacing at the top half portion of the trashracks of each development, except the Sewalls Development, from May 1 through October 1.

To protect aquatic habitat in the bypassed reaches and provide downstream fish passage, Article 405 requires Erie to release the following minimum flows: (1) for the Herrings Development, 20 cfs through the 9-foot-long stoplog gate adjacent to the trashracks; (2) for the Deferiet Development: (a) 45 cfs through the ice chute; and (b) the following flows from the spillway and leakage at the dam: 800 cfs during walleye spawning season and 245 cfs for the remainder of the year; (3) for the Kamargo Development, 120 cfs through the notch in the spillway; (4) for the Black River Development: (a) 80 cfs through the notch in the flashboards; and (b) 300 cfs from the notch and stoplog gate during walleye spawning season; and (5) for the Sewalls Development: (a) 137 cfs of leakage ''or other mechanisms'' to the south channel bypassed reach; and (b) 32 cfs to the north channel bypassed reach that includes 20 cfs through the notch in the spillway and 12 cfs of leakage ''or other mechanisms.''

The current license also requires the implementation of a Flow Monitoring Plan to ensure compliance with the project flow requirements and a Record Keeping Plan to maintain records of the impoundment elevations and discharges at each of the five developments, in compliance with Articles 408 and 409.

Article 413 requires the implementation of a Recreation Plan that requires operation and maintenance of the project recreation facilities. Article 416 requires the implementation of a Cultural Resources Management Plan to protect historic properties. Article 415 requires Erie to maintain the existing woodland buffer areas along the five developments' shorelines and provide buffers along the access road and parking area at the Deferiet Development.

Erie is not proposing to add any new project facilities. However, Erie proposes to revise the project boundary around the impoundments to follow the normal maximum impoundment elevations and add/remove land that is occupied by or adjacent to project facilities, which would result in a net decrease of land and water in the project boundary from 773 acres under the current license to 763.7 acres under the proposed license.

Erie proposes to continue operating the project as required under the current license. Erie proposes to update the Recreation Plan and Streamflow and Headpond Monitoring Plan. In addition, Erie proposes to develop a minimum flow fish conveyance plan and a historic properties management plan. Erie also proposes to: (1) develop the trail to the impoundment fishing access area at the Herrings Development; (2) enhance the staircase at the hand-carry boat put-in site at the Deferiet Development, to improve access for whitewater boaters; and (3) notify the public, via an online platform, of bypassed reach flows and safety information for the Deferiet Development.

l. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (*e.g.,* license application) via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–2569). For assistance, contact FERC at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

n. *Procedural Schedule:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Deficiency Letter and Additional Information Request—September 2024

Notice of Acceptance—February 2025

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: September 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21484 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2446–000]

Notice of Authorization for Continued Project Operation; STS Hydropower, LLC

The license for the Dixon Hydroelectric Project No. 2446 was issued for a period ending August 31, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2446

is issued to STS Hydropower, LLC for a period effective September 1, 2024, through August 31, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before August 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that STS Hydropower, LLC is authorized to continue operation of the Dixon Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: September 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21481 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2348–000]

Notice of Authorization for Continued Project Operation; Midwest Hydro, LLC

The license for the Beloit Hydroelectric Project No. 2348 was issued for a period ending August 31, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2348 is issued to Midwest Hydro, LLC for a period effective September 1, 2024, through August 31, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before August 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Midwest Hydro, LLC is authorized to continue operation of the Beloit Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: September 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21479 Filed 9–19–24; 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: RP24–1065–000.

Applicants: Mountain Valley Pipeline, LLC.

Description: Compliance filing: Operational Purchases and Sales 2024 to be effective N/A.

Filed Date: 9/16/24.

Accession Number: 20240916–5010.

Comment Date: 5 p.m. ET 9/30/24.

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: September 16, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21597 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2373–000]

Notice of Authorization for Continued Project Operation; Midwest Hydro, LLC

The license for the Rockton Hydroelectric Project No. 2373 was issued for a period ending August 31, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the

licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2373 is issued to Midwest Hydro, LLC for a period effective September 1, 2024, through August 31, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before August 31, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Midwest Hydro, LLC is authorized to continue operation of the Rockton Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: September 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21480 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15352–000]

Kram Hydro 5, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On April 26, 2024, Kram Hydro 5, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of a hydropower project proposed to be located at the U.S. Army Corps of Engineers' (Corps) Mississippi River Lock and Dam 5A near Winona County, MN, and Buffalo County, WI. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Mississippi River Lock and Dam 5A Hydroelectric Project would consist of the following: (1) a proposed intake channel approximately 200 to 350 feet long and 90 feet wide located near the west bank of the existing Corps' dam; (2) a proposed 100-foot-long, 180-foot-wide reinforced concrete powerhouse, located downstream of the existing Corps' dam, containing two Kaplan pit turbine-generators with a total capacity of 14.0 megawatts; (4) a new 200-foot-long, 100-foot-wide unlined tailrace channel with stone riprap and a new 300-foot-long concrete retaining wall downstream of the powerhouse; and (5) a proposed transmission line approximately 1,000 foot from the project site connecting the substation to the grid. The proposed project would have an estimated annual generation of 73,500 megawatt-hours.

Applicant Contact: Kristen Fan, Kram Hydro 5, LLC, 3120 Southwest Fwy., Suite 101, PMB 50808, Houston, TX 77098; phone: (772) 418–2705.

FERC Contact: Shivani Khetani; phone: (212) 273–5917, or by email at *shivani.khetani@ferc.gov.*

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice, November 12, 2024. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *https://ferconline.ferc.gov/eFiling.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–15352–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's website at *https://elibrary.ferc.gov/eLibrary/search.* Enter the docket number (P–15352) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: September 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21487 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–508–000]

Rover Pipeline LLC; Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Rover—Sunny Farms Receipt and Delivery Meter Station Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document, that will discuss the environmental impacts of the Rover–Sunny Farms Receipt and Delivery Meter Station Project (Project) involving construction and operation of facilities by Rover Pipeline LLC (Rover) in Hancock County, Ohio. The Commission will use this environmental document in its decision-making process to determine whether the

Project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the project. As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. This gathering of public input is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the environmental document on the important environmental issues. Additional information about the Commission's NEPA process is described below in the NEPA Process and Environmental Document section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5 p.m. eastern time on October 16, 2024. Comments may be submitted in written form. Further details on how to submit comments are provided in the Public Participation section of this notice.

Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the environmental document. Commission staff will consider all written comments during the preparation of the environmental document.

If you submitted comments on this project to the Commission before the opening of this docket on August 16, 2024, you will need to file those comments in Docket No. CP24–508–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not subsequently grant, exercise, or oversee the exercise of that eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

Rover provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (*www.ferc.gov*) under the Natural Gas, Landowner Topics link.

Public Participation

There are three methods you can use to submit your comments to the Commission. Please carefully follow these instructions so that your comments are properly recorded. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.*

(1) You can file your comments electronically using the eComment feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP24–508–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Additionally, the Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Summary of the Proposed Project

Rover proposes to construct and operate aboveground facilities and new pipeline delivery and receipt point interconnections within and adjacent to Rover's Mainline easement in Hancock County, Ohio. The project receipt interconnection would receive up to 6,269 dekatherms of natural gas per day from and the delivery interconnection and would deliver up to 7,893 dekatherms of natural gas per day.

The Project would consist of the following facilities and activities:

- Construction of one delivery meter station with one hot tap, one tap valve, and dual Coriolis Meter Skid;
- Construction of one receipt meter station with one hot tap, one tap valve, dual Coriolis Meter Skid, and satellite dish with electrical power;
- Construction of a gas quality/measurement building at the receipt meter station;
- Installation of an electric-powered natural gas compressor at the receipt meter station;

- Installation of associated appurtenant facilities; and
- Construction of 0.6 mile of new permanent access road leading from West County Road 18 to the meter station.

The general location of the Project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the proposed aboveground facilities, temporary contractor workspace, and access road would disturb approximately 1.66 acres of agricultural land. The project would be located within and adjacent to Rover's Mainline existing pipeline easement located at approximately milepost (MP) 154.54. Following construction, Rover would maintain about 1.49 acres for permanent operation of the project's facility including 0.6 mile of access road. The remaining disturbed acreage would be restored and revert to former uses. No federal or state lands would be affected and no other access roads, contractor yards, or other land would be required for construction or operation of the project.

NEPA Process and the Environmental Document

Any environmental document issued by the Commission will discuss impacts that could occur as a result of the construction and operation of the proposed project under the relevant general resource areas:

- geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- socioeconomics;
- land use;
- environmental justice;
- air quality and noise; and
- reliability and safety.

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project and make recommendations on how to lessen or avoid impacts on the various resource areas. Your comments will help Commission staff identify and focus on the issues that might have an effect on the human environment and potentially eliminate others from further study and discussion in the environmental document.

Following this scoping period, Commission staff will determine whether to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The EA or the EIS will present Commission staff's independent analysis of the issues. If Commission staff prepares an EA, a *Notice of Schedule for the Preparation of an Environmental Assessment* will be issued. The EA may be issued for an allotted public comment period. The Commission would consider timely comments on the EA before making its decision regarding the proposed project. If Commission staff prepares an EIS, a *Notice of Intent to Prepare an EIS/ Notice of Schedule* will be issued, which will open up an additional comment period. Staff will then prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any EA or draft and final EIS will be available in electronic format in the public record through eLibrary[2] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive instant email notification when the environmental document is issued.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the environmental document.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office, and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] The environmental document for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to *GasProjectAddressChange@ferc.gov* stating your request. You must include the docket number CP24–508–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached ''Mailing List Update Form'' (appendix 2).

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link,

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary''. For instructions on connecting to eLibrary, refer to the last page of this notice. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at title 40, Code of Federal Regulations, section 1501.8.

[4] The Advisory Council on Historic Preservation's regulations are at title 36, Code of Federal Regulations, part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

click on ''General Search'' and enter the docket number in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

Dated: September 16, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21598 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG24–287–000.

Applicants: Coffeen Solar BESS LLC.

Description: Coffeen Solar BESS LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 9/13/24.

Accession Number: 20240913–5173.

Comment Date: 5 p.m. ET 10/4/24.

Docket Numbers: EG24–288–000.

Applicants: Baldwin Solar BESS LLC.

Description: Baldwin Solar BESS LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 9/13/24.

Accession Number: 20240913–5190.

Comment Date: 5 p.m. ET 10/4/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24–2829–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment of ER24–2829–000, Amended WMPA No. 6769; AF1–254 to be effective 10/22/2024.

Filed Date: 9/13/24.

Accession Number: 20240913–5194.

Comment Date: 5 p.m. ET 10/4/24.

Docket Numbers: ER24–3032–000.

Applicants: Pacific Gas and Electric Company.

Description: Compliance filing: Order No. 2023 Compliance Filing to be effective 9/16/2024.

Filed Date: 9/13/24.

Accession Number: 20240913–5000.

Comment Date: 5 p.m. ET 10/4/24.

Docket Numbers: ER24–3033–000.

Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: American Transmission Systems, Incorporated submits tariff filing per 35.13(a)(2)(iii: ATSI submits Revised Interconnection Agreement, Service Agreement No. 3992 to be effective 11/13/2024.

Filed Date: 9/13/24.

Accession Number: 20240913–5011.

Comment Date: 5 p.m. ET 10/4/24.

Docket Numbers: ER24–3034–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Original GIA Service Agreement No. 7344, AF2–415 to be effective 8/14/2024.

Filed Date: 9/13/24.

Accession Number: 20240913–5028.

Comment Date: 5 p.m. ET 10/4/24.

Docket Numbers: ER24–3035–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 205(d) Rate Filing: 2024–09–13_SA 4348 Ameren Illinois-Edwards BESS GIA (R1031) to be effective 9/5/2024.

Filed Date: 9/13/24.

Accession Number: 20240913–5040.

Comment Date: 5 p.m. ET 10/4/24.

Docket Numbers: ER24–3036–000.

Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.

Description: 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2024–09–13_SA 4351 4352 AIC–Oglesby–IMEA WCA and CA to be effective 11/13/2024.

Filed Date: 9/13/24.

Accession Number: 20240913–5064.

Comment Date: 5 p.m. ET 10/4/24.

Docket Numbers: ER24–3037–000.

Applicants: Southern California Edison Company.

Description: 205(d) Rate Filing: 1st Amend GIA & DSA, Carson Hybrid Energy Storage (WDT1005QFC–WDT1742/SA558–559) to be effective 9/14/2024.

Filed Date: 9/13/24.

Accession Number: 20240913–5076.

Comment Date: 5 p.m. ET 10/4/24.

Docket Numbers: ER24–3038–000.

Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Mid-Atlantic Interstate Transmission, LLC submits tariff filing per 35.13(a)(2)(iii: MAIT submits Construction Agmnts, SA No. 7173, 7177 to be effective 11/13/2024.

Filed Date: 9/13/24.

Accession Number: 20240913–5085.

Comment Date: 5 p.m. ET 10/4/24.

Docket Numbers: ER24–3039–000.

Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Mid-Atlantic Interstate Transmission, LLC submits tariff filing per 35.13(a)(2)(iii: MAIT submits Construction Agmnts, SA No. 7221, 7222, & 7224 to be effective 11/13/2024.

Filed Date: 9/13/24.

Accession Number: 20240913–5087.

Comment Date: 5 p.m. ET 10/4/24.

Docket Numbers: ER24–3040–000.

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/NEPOOL; Revisions to FAP Related to the Delay of FCA 19 to be effective 11/13/2024.

Filed Date: 9/13/24.

Accession Number: 20240913–5098.

Comment Date: 5 p.m. ET 10/4/24.

Docket Numbers: ER24–3041–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to ISA No. 5187; Queue No. AF1–007 to be effective 11/13/2024.

Filed Date: 9/13/24.

Accession Number: 20240913–5107.

Comment Date: 5 p.m. ET 10/4/24.

Docket Numbers: ER24–3042–000.

Applicants: Otter Tail Power Company.

Description: 205(d) Rate Filing: CapX Brookings Certificates of Concurrence—CMA—NSP to be effective 6/21/2024.

Filed Date: 9/13/24.

Accession Number: 20240913–5116.

Comment Date: 5 p.m. ET 10/4/24.

Docket Numbers: ER24–3043–000.

Applicants: Otter Tail Power Company.

Description: 205(d) Rate Filing: CapX Brookings Certificates of Concurrence—OMA and TCEA to be effective 5/10/2013.

Filed Date: 9/13/24.

Accession Number: 20240913–5119.

Comment Date: 5 p.m. ET 10/4/24.

Docket Numbers: ER24–3044–000.

Applicants: Otter Tail Power Company.

Description: 205(d) Rate Filing: CapX Brookings Certificates of Concurrence—Amended and Restated OMA and TCEA to be effective 6/21/2024.

Filed Date: 9/13/24.

Accession Number: 20240913–5129.

Comment Date: 5 p.m. ET 10/4/24.

Docket Numbers: ER24–3045–000.

Applicants: Public Service Company of Colorado.

Description: Compliance filing: 2024–09–13–Att O–PSCo Formula Rate—Order 864 to be effective 1/27/2020.

Filed Date: 9/13/24.

Accession Number: 20240913–5164.

Comment Date: 5 p.m. ET 10/4/24.

Docket Numbers: ER24–3046–000.

Applicants: Duke Energy Progress, LLC.

Description: 205(d) Rate Filing: DEP—Surplus Interconnection Related Agreements (Elm City) to be effective 9/1/2024.

Filed Date: 9/13/24.

Accession Number: 20240913–5176.

Comment Date: 5 p.m. ET 10/4/24.

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: September 13, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21473 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2726–076]

Idaho Power Company; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Capacity Amendment.

b. *Project No:* P–2726–076.

c. *Date Filed:* May 20, 2024.

d. *Applicant:* Idaho Power Company.

e. *Name of Project:* Upper and Lower Malad Project.

f. *Location:* The project is located on the Malad River, a tributary of the Snake River, in Gooding County, Idaho.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Nathan Gardiner, Idaho Power Company, 2152 Post R1221 West Idaho Street, P.O. Box 70, Boise, Idaho 83707, *ngardiner@idahopower.com.*

i. *FERC Contact:* Zeena Aljibury, (202) 502–6065, *zeena.aljibury@ferc.gov.*

j. *Cooperating agencies:* With this notice, the Commission is inviting federal, state, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal, that wish to cooperate in the preparation of any environmental document, if applicable, to follow the instructions for filing such requests described in item k below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. Deadline for filing comments, motions to intervene, and protests is 30 days from the issuance date of this notice by the Commission.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the docket number P–2726–076. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Request:* The applicant requests a license amendment to replace the flop gate hoist system with a bottom hinging weir gate system, widen the spillway deck upstream, install new guardrail/handrail on spillway deck, replace flop gate and Tainter gate hoist systems, remove flop gate access platforms, install new and additional light poles and lamps, and add 110 Volt outlets along the diversion. The proposed work is planned to occur only during low flow periods (estimated between July and December of 2027) and the applicant does not expect to shut down the lower development's powerhouse during construction. No new ground disturbance is expected, and all work will be above the high-water mark. The applicant is not proposing any changes to project operation and the proposed work will have no effect on the minimum flow release of the project. Public access for kayaking and fishing will be affected during construction since the applicant would close off the area for a day or two at a time for deliveries and staging. However, the applicant will allow foot access to the area for fishing and kayaking below the work area. The application will also put-up signs and media notices to the public before any closures.

m. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link.

Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. Comments, Protests, or Motions to Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

q. The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov*.

Dated: September 16, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–21594 Filed 9–19–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Integrated System Rate Schedules

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: The Administrator of the Southwestern Power Administration (Southwestern) has approved and implemented Rate Order No. SWPA–85, which grants a temporary extension of Southwestern's current Integrated System rate schedules (P–13B, NFTS–13A, and EE–13) through September 30, 2025, unless superseded.

DATES: Extension of the rate schedules is effective October 1, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Fritha Ohlson, Senior Vice President and Chief Operating Officer, Office of Corporate Operations, (918) 595–6684, *fritha.ohlson@swpa.gov.*

SUPPLEMENTARY INFORMATION: Rate Order No. SWPA–85, as provided herein, has been approved and implemented by the Administrator of Southwestern. It extends the Integrated System Rate Schedule P–13B, Wholesale Rates for Hydro Peaking Power; Rate Schedule NFTS–13A, Wholesale Rates for Non-Federal Transmission/Interconnection Facilities Service; and Rate Schedule EE–13, Wholesale Rates for Excess Energy, until September 30, 2025, unless otherwise replaced.

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

ADMINISTRATOR, SOUTHWESTERN POWER ADMINISTRATION

In the matter of: Southwestern Power Administration, Integrated System Rate Schedules

Rate Order No. SWPA–85

Order Approving Extension of Rate Schedules on a Temporary Basis (9/13/2024)

Pursuant to Sections 301(b) and 302(a) of the Department of Energy Organization Act, 42 U.S.C. 7151(b) and 7152(a), the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southwestern Power Administration (Southwestern), were transferred to and vested in the Secretary of Energy. By Delegation Order No. S1–DEL–RATES–2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to Southwestern's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1–DEL–S3–2024, effective August 30, 2024, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3–DEL–SWPA1–2023, effective April 10, 2023, the Under Secretary for Infrastructure redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Southwestern Administrator.

Background

On September 30, 2013, in Rate Order No. SWPA–66, the Deputy Secretary of Energy placed into effect Southwestern's Integrated System rate schedules (P–13, NFTS–13, and EE–13) on an interim basis for the period October 1, 2013 to September 30, 2017. FERC confirmed and approved Southwestern's interim Integrated System rates on a final basis on January 9, 2014 for a period ending September 30, 2017.

Southwestern re-designated Integrated System rate schedule ''NFTS–13'' as ''NFTS–13A'' with no revenue adjustment. In Rate Order No. SWPA–71, the Deputy Secretary of Energy placed into effect Southwestern's rate schedule NFTS–13A on an interim basis beginning January 1, 2017. FERC confirmed and approved NFTS–13A on a final basis on March 9, 2017.

On September 13, 2017, in Rate Order No. SWPA–72, the Deputy Secretary of Energy extended all of Southwestern's Integrated System rate schedules (P–13, NTFS–13A, and EE–13) for two years, for the period of October 1, 2017 through September 30, 2019.

Southwestern re-designated Integrated System rate schedule ''P–13'' as ''P–13A'' with no revenue adjustment to incorporate a new section regarding requirements for the peaking energy schedule submission time. In Rate Order No. SWPA–73, the Assistant Secretary for Electricity placed into effect

Southwestern's rate schedule for P–13A on an interim basis beginning July 1, 2019. FERC confirmed and approved P–13A on a final basis on August 29, 2019.

On September 22, 2019, in Rate Order No. SWPA–74, the Assistant Secretary for Electricity extended all of Southwestern's Integrated System rate schedules (P–13A, NFTS–13A, and EE–13) for two years, for the period of October 1, 2019 through September 30, 2021.

On August 30, 2021, in Rate Order No. SWPA–77, the Administrator, Southwestern, extended all of Southwestern's Integrated System rate schedules (P–13A, NFTS–13A, and EE–13) for two years, for the period of October 1, 2021 through September 30, 2023.

Southwestern re-designated Integrated System rate schedule ''P–13A'' as ''P–13B'' with no revenue adjustment to update the peaking energy schedule submission time requirements. In Rate Order No. SWPA–80, the Administrator, Southwestern, placed into effect Southwestern's rate schedule for P–13B on an interim basis beginning July 15, 2023. The P–13B rate schedule has been submitted to FERC for confirmation and approval on a final basis.

On September 25, 2023, in Rate Order No. SWPA–81, the Administrator, Southwestern, temporarily extended all of Southwestern's Integrated System rate schedules (P–13B, NFTS–13A, and EE–13) for one year, for the period of October 1, 2023 through September 30, 2024.

Discussion

Southwestern's current Integrated System rate schedules (P–13B, NFTS–13A, and EE–13) are based on its 2013 Power Repayment Study (PRS). Southwestern has conducted PRSs annually thereafter through 2023. Each PRS from 2014 through 2022 indicated a need for a revenue adjustment within a plus or minus two percent range of the revenue estimate based on the current rate schedules. It is Southwestern's practice for the Administrator to defer, on a case-by-case basis, revenue adjustments for the Integrated System within plus or minus two percent from the revenue estimate based on the current rate schedules. Thus, the Administrator has deferred revenue adjustments annually through 2022. The 2023 PRS indicated a need for a revenue adjustment above two percent and therefore Southwestern is working towards implementation of a rate adjustment plan including design of a new set of Integrated System rate schedules (P–23, NFTS–23, and EE–23). However, that effort and the associated procedures for public participation in accordance with 10 CFR part 903 will not be completed in time for the new rate schedules to be placed into effect prior to the September 30, 2024, expiration of the current rate schedules, and thus temporary extension of the current rate schedules is necessary. Pursuant to 10 CFR 903.23(b) and Redelegation Order No. S3–DEL–SWPA1–2023, Southwestern's Administrator may extend existing rates on a temporary basis without advance notice or comment pending further action. In such a circumstance, the Administrator shall publish notice of said extension in the **Federal Register** and promptly advise FERC of the extension. The revenue collection associated with the extension of the current rates will be considered in the development of the new rates based on the 2023 PRS such that repayment obligations are met consistent with the provisions of U.S. Department of Energy (DOE) Order No. RA 6120.2.

Availability of Information

Information regarding the extension of these rate schedules is available for public review in the offices of Southwestern Power Administration, One West Third Street Suite 1500, Tulsa, Oklahoma 74103. The rate schedules are available on the Southwestern website at *www.energy.gov/swpa/rates-and-repayment.*

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby extend, effective October 1, 2024, the Integrated System *Rate Schedule P–13B, Wholesale Rates for Hydro Peaking Power; Rate Schedule NFTS–13A, Wholesale Rates for Non-Federal Transmission/Interconnection Facilities Service;* and *Rate Schedule EE–13, Wholesale Rates for Excess Energy.* The rate schedules shall remain in effect on a temporary basis through September 30, 2025, unless superseded.

Signing Authority

This document of the Department of Energy was signed on September 13, 2024, by Michael S. Wech, Administrator for Southwestern Power Administration, pursuant to delegated authority from the Secretary of Energy. That 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 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 September 17, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2024–21529 Filed 9–19–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Robert D. Willis Hydropower Project Rate Schedule

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: The Administrator, Southwestern Power Administration (Southwestern), has approved and placed into effect Rate Order No. SWPA–86, which provides a temporary extension of Southwestern's current Robert D. Willis Hydropower Project rate schedule (RDW–15) through September 30, 2025, unless superseded.

DATES: Extension of the rate schedule is effective October 1, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Fritha Ohlson, Senior Vice President, Chief Operating Officer, Office of Corporate Operations, (918) 595–6684, *fritha.ohlson@swpa.gov.*

SUPPLEMENTARY INFORMATION: Rate Order No. SWPA–86, as provided herein, has been approved and implemented by the Administrator of Southwestern. It extends the Robert D. Willis Hydropower Project Rate Schedule RDW–15, Wholesale Rates for Hydro Power and Energy, until September 30, 2025, unless otherwise replaced.

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

ADMINISTRATOR, SOUTHWESTERN POWER ADMINISTRATION

In the matter of: Southwestern Power Administration, Robert D. Willis Hydropower Project Rate Schedule

Rate Order No. SWPA–86

Order Approving Extension of Rate Schedule on a Temporary Basis (9/13/2024)

Pursuant to Sections 301(b) and 302(a) of the Department of Energy Organization Act, 42 U.S.C. 7151(b) and 7152(a), the functions of the Secretary of

the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southwestern Power Administration (Southwestern), were transferred to and vested in the Secretary of Energy. By Delegation Order No. S1–DEL–RATES–2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to Southwestern's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1–DEL–S3–2024, effective August 30, 2024, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3–DEL–SWPA1–2023, effective April 10, 2023, the Under Secretary for Infrastructure redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Southwestern Administrator.

Background

On December 17, 2015, in Rate Order No. SWPA–70, the Deputy Secretary of Energy placed into effect the current Robert D. Willis Hydropower Project (Robert D. Willis) rate schedule (RDW–15) on an interim basis for the period January 1, 2016 to September 30, 2019. FERC confirmed and approved RDW–15 on a final basis on June 15, 2016 for a period ending September 30, 2019. On September 22, 2019, in Rate Order No. SWPA–76, the Assistant Secretary for Electricity extended RDW–15 for two years, for the period of October 1, 2019 through September 30, 2021. On August 30, 2021, in Rate Order No. SWPA–79, the Administrator, Southwestern, extended RDW–15 for two years, for the period of October 1, 2021 through September 30, 2023. On September 25, 2023, in Rate Order No. SWPA–83, the Administrator, Southwestern, temporarily extended RDW–15 for one year, for the period of October 1, 2023 through September 30, 2024.

Discussion

Southwestern's current rate schedule for the Robert D. Willis isolated rate system, RDW–15, is based on the 2015 Power Repayment Study (PRS). Each subsequent annual PRS through 2022 indicated the need for a revenue adjustment within a plus or minus five percent range of the current revenue estimate. It is Southwestern's practice for the Administrator to defer, on a case-by-case basis, revenue adjustments for isolated rate systems that are within plus or minus five percent of the revenue estimated from the current rate schedule. Therefore, the Administrator deferred revenue adjustments annually for Robert D. Willis through 2022. The 2023 PRS indicated a need for a revenue adjustment above five percent and therefore a new rate is needed. However, implementation of a rate adjustment plan including a new rate schedule (RDW–23), and the associated procedures for public participation in accordance with 10 CFR part 903 will not be completed in time for the new rate schedule to be placed into effect prior to the September 30, 2024, expiration of the current rate schedule and thus temporary extension of the current rate schedule is necessary. Pursuant to 10 CFR 903.23(b) and Redelegation Order No. S3–DEL–SWPA1–2023, Southwestern's Administrator may extend existing rates on a temporary basis without advance notice or comment pending further action. In such a circumstance, the Administrator shall publish notice of said extension in the **Federal Register** and promptly advise FERC of the extension. The revenue collection associated with the extension of the current rate will be considered in the development of the new rate based on the 2023 PRS such that repayment obligations are met consistent with the provisions of U.S. Department of Energy (DOE) Order No. RA 6120.2.

Availability of Information

Information regarding the extension of the rate schedule is available for public review in the offices of Southwestern Power Administration, One West Third Street Suite 1500, Tulsa, Oklahoma 74103. The rate schedule is available on the Southwestern website at *www.energy.gov/swpa/rates-and-repayment.*

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby extend, effective October 1, 2024, Robert D. Willis *Rate Schedule RDW–15, Wholesale Rates for Hydro Power and Energy.* The rate schedule shall remain in effect on a temporary basis through September 30, 2025, unless superseded.

Signing Authority

This document of the Department of Energy was signed on September 13, 2024, by Michael S. Wech, Administrator for Southwestern Power Administration, pursuant to delegated authority from the Secretary of Energy. That 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 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 September 17, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2024–21530 Filed 9–19–24; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–144]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed September 9, 2024 10 a.m. EST Through September 16, 2024 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search.*

EIS No. 20240163, Draft Supplement, FHWA, FTA, WA, Interstate Bridge Replacement Program, Comment Period Ends: 11/18/2024, Contact: Thomas Goldstein, P.E. 503–316–2545.

EIS No. 20240164, Draft Supplement, USN, USCG, AL, Atlantic Fleet Training and Testing, Comment Period Ends: 11/21/2024, Contact: Todd Kraft 757–836–2943.

EIS No. 20240165, Draft, BLM, NV, Copper Rays Solar Project, Comment Period Ends: 12/19/2024, Contact: Jessica Headen 702–515–5206.

EIS No. 20240166, Final, BLM, NV, Rhyolite Ridge Lithium-Boron Mine Project, Review Period Ends: 10/21/

2024, Contact: Scott Distel 775–861–6476.

EIS No. 20240167, Final, BLM, UT, Cross-Tie 500 kV Transmission Project, Review Period Ends: 10/31/2024, Contact: Amber Koski 801–320–8300.

EIS No. 20240168, Final, FTA, WA, West Seattle Link Extension, Review Period Ends: 10/21/2024, Contact: Erin Littauer 206–220–7521.

EIS No. 20240169, Draft, GSA, TX, Proposed Modernization of the Bridge of the Americas Land Port of Entry, El Paso, Texas, Comment Period Ends: 11/04/2024, Contact: Karla Carmichael 817–822–1372.

Amended Notice

EIS No. 20240118, Draft, Caltrans, CA, Albion River Bridge Project, Comment Period Ends: 10/09/2024, Contact: Liza Walker 707–502–9657.

Revision to FR Notice Published 07/05/2024; Extending the Comment Period from 09/09/2024 to 10/09/2024.

Dated: September 16, 2024.

Timothy Witman,

Acting Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2024–21552 Filed 9–19–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2024–0057; FRL–11683–08–OCSPP]

Certain New Chemicals; Receipt and Status Information for August 2024

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to make information publicly available and to publish information in the **Federal Register** pertaining to submissions under TSCA section 5, including notice of receipt of a Premanufacture notice (PMN), Significant New Use Notice (SNUN) or Microbial Commercial Activity Notice (MCAN), including an amended notice or test information; an exemption application (Biotech exemption); an application for a test marketing exemption (TME), both pending and/or concluded; a notice of commencement (NOC) of manufacture (including import) for new chemical substances; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review. This document covers the period from 8/01/2024 to 8/31/2024.

DATES: Comments identified by the specific case number provided in this document must be received on or before October 21, 2024.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2024–0057, through the *Federal eRulemaking Portal* at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Jim Rahai, Project Management and Operations Division (MC 7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. What action is the Agency taking?

This document provides the receipt and status reports for the period from 8/01/2024 to 8/31/2024. The Agency is providing notice of receipt of PMNs, SNUNs, and MCANs (including amended notices and test information); an exemption application under 40 CFR part 725 (Biotech exemption); TMEs, both pending and/or concluded; NOCs to manufacture a new chemical substance; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review.

EPA is also providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

B. What is the Agency's authority for taking this action?

Under the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.,* a chemical substance may be either an ''existing'' chemical substance or a ''new'' chemical substance. Any chemical substance that is not on EPA's TSCA Inventory of Chemical Substances (TSCA Inventory) is classified as a ''new chemical substance,'' while a chemical substance that is listed on the TSCA Inventory is classified as an ''existing chemical substance.'' (See TSCA section 3(11).) For more information about the TSCA Inventory please go to: *https://www.epa.gov/inventory.*

Any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose, or to manufacture or process a chemical substance in a non-exempt manner for a use that EPA has determined is a significant new use, is required by TSCA section 5 to provide EPA with a PMN, MCAN, or SNUN, as appropriate, before initiating the activity. EPA will review the notice, make a risk determination on the chemical substance or significant new use, and take appropriate action as described in TSCA section 5(a)(3).

TSCA section 5(h)(1) authorizes EPA to allow persons, upon application and under appropriate restrictions, to manufacture or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a)(2), for ''test marketing'' purposes, upon a showing that the manufacture, processing, distribution in commerce, use, and disposal of the chemical will not present an unreasonable risk of injury to health or the environment. This is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *https://www.epa.gov/under-tsca.*

Under TSCA sections 5 and 8 and EPA regulations, EPA is required to publish in the **Federal Register** certain information, including notice of receipt of a PMN/SNUN/MCAN (including amended notices and test information); an exemption application under 40 CFR part 725 (biotech exemption); an application for a TME, both pending and concluded; NOCs to manufacture a new chemical substance; and a periodic status report on the new chemical substances that are currently under EPA

review or have recently concluded review.

C. Does this action apply to me?

This action provides information that is directed to the public in general.

D. Does this action have any incremental economic impacts or paperwork burdens?

No.

E. What should I consider as I prepare my comments for EPA?

1. *Submitting confidential business information (CBI).* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. Status Reports

In the past, EPA has published individual notices reflecting the status of TSCA section 5 filings received, pending, or concluded. In 1995, the Agency modified its approach and streamlined the information published in the **Federal Register** after providing notice of such changes to the public and an opportunity to comment (see the **Federal Register** of May 12, 1995 (60 FR 25798) (FRL–4942–7)). Since the passage of the Lautenberg amendments to TSCA in 2016, public interest in information on the status of section 5 cases under EPA review and, in particular, the final determination of such cases, has increased. In an effort to be responsive to the regulated community, the users of this information, and the general public, to comply with the requirements of TSCA, to conserve EPA resources and to streamline the process and make it more timely, EPA is providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

III. Receipt Reports

For the PMN/SNUN/MCANs that have passed an initial screening by EPA during this period, table I provides the following information (to the extent that such information is not subject to a CBI claim) on the notices screened by EPA during this period: The EPA case number assigned to the notice that indicates whether the submission is an initial submission, or an amendment, a notation of which version was received, the date the notice was received by EPA, the submitting manufacturer (*i.e.,* domestic producer or importer), the potential uses identified by the manufacturer in the notice, and the chemical substance identity.

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that this information in the table is generic information because the specific information provided by the submitter was claimed as CBI. Submissions which are initial submissions will not have a letter following the case number. Submissions which are amendments to previous submissions will have a case number followed by the letter ''A'' (*e.g.,* P–18–1234A). The version column designates submissions in sequence as ''1'', ''2'', ''3'', etc. Note that in some cases, an initial submission is not numbered as version 1; this is because earlier version(s) were rejected as incomplete or invalid submissions. Note also that future versions of the following tables may adjust slightly as the Agency works to automate population of the data in the tables.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 8/01/2024 TO 8/31/2024

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
J–24–0020A	2	05/21/2024	Danisco US, Inc.	(G) Production of a chemical substance	(G) Genetically modified microorganism for the production of a chemical substance.
J–24–0020A	4	08/15/2024	Danisco US, Inc.	(G) Production of a chemical substance	(G) Genetically modified microorganism for the production of a chemical substance.
J–24–0020A	5	08/20/2024	Danisco US, Inc.	(G) Production of a chemical substance	(G) Genetically modified microorganism for the production of a chemical substance.
P–20–0003A	6	08/27/2024	CBI	(S) Photoinitiator for printing (UV, LED, flexo, screen and inkjet ink).	(S) 2H-1-Benzopyran-2-one, 5,7-dimethoxy-, 3-(4-C10-13-sec-alkylbenzoyl) derivs.
P–22–0071A	6	08/22/2024	CBI	(G) Industrial Surfactant	(S) D-Glucopyranose, oligomeric, maleates, C9-11-alkyl glycosides, sulfonated, potassium salts.
P–22–0072A	6	08/22/2024	CBI	(G) Industrial Surfactant	(S) D-Glucopyranose, oligomeric, maleates, decyl octyl glycosides, sulfonated, potassium salts.
P–22–0073A	6	08/22/2024	CBI	(G) Industrial Surfactant	(S) D-Glucopyranose, oligomeric, maleates, C10-16-alkyl glycosides, sulfonated, potassium salts.
P–22–0130A	6	08/23/2024	Integrity Bio-Chemical, LLC.	(S) Surfactants—as raw materials for use in the manufacture of industrial products and consumer and household products; Surfactant—surface tension reducing agent for use in production enhancement in oil wells (industrial); Emulsifier, Surface reduction Household and industrial detergents; Emulsifier, Wetting agent Personal care, Cosmetic, and Pet Care Grooming Products; Wetting agent—Agriculture.	(S) Maltodextrin, octanoate.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 8/01/2024 TO 8/31/2024—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–22–0131A	6	08/23/2024	Integrity Bio-Chemical, LLC.	(S) Surfactants—as raw materials for use in the manufacture of industrial products and consumer and household products; Surfactant—surface tension reducing agent for use in production enhancement in oil wells (industrial); Emulsifier, Surface reduction Household and industrial detergents; Emulsifier, Wetting agent Personal care, Cosmetic, and Pet Care Grooming Products; Wetting agent—Agriculture.	(S) Maltodextrin, hexadecanoate.
P–22–0132A	6	08/23/2024	Integrity Bio-Chemical, LLC.	(S) Surfactants—as raw materials for use in the manufacture of industrial products and consumer and household products; Surfactant—surface tension reducing agent for use in production enhancement in oil wells (industrial); Emulsifier, Surface reduction Household and industrial detergents; Emulsifier, Wetting agent Personal care, Cosmetic, and Pet Care Grooming Products; Wetting agent—Agriculture.	(S) Maltodextrin, decanoate.
P–22–0133A	6	08/23/2024	Integrity Bio-Chemical, LLC.	(S) Surfactants—as raw materials for use in the manufacture of industrial products and consumer and household products; Surfactant—surface tension reducing agent for use in production enhancement in oil wells (industrial); Emulsifier, Surface reduction Household and industrial detergents; Emulsifier, Wetting agent Personal care, Cosmetic, and Pet Care Grooming Products; Wetting agent—Agriculture.	(S) Maltodextrin, octadecanoate.
P–22–0134A	6	08/23/2024	Integrity Bio-Chemical, LLC.	(S) Surfactants—as raw materials for use in the manufacture of industrial products and consumer and household products; Surfactant—surface tension reducing agent for use in production enhancement in oil wells (industrial); Emulsifier, Surface reduction Household and industrial detergents; Emulsifier, Wetting agent Personal care, Cosmetic, and Pet Care Grooming Products; Wetting agent—Agriculture.	(S) Maltodextrin, dodecanoate.
P–22–0135A	6	08/23/2024	Integrity Bio-Chemical, LLC.	(S) Surfactants—as raw materials for use in the manufacture of industrial products and consumer and household products; Surfactant—surface tension reducing agent for use in production enhancement in oil wells (industrial); Emulsifier, Surface reduction Household and industrial detergents; Emulsifier, Wetting agent Personal care, Cosmetic, and Pet Care Grooming Products; Wetting agent—Agriculture.	(S) Maltodextrin, tetradecanoate.
P–23–0127A	3	08/21/2024	CBI	(S) Ingredient in laundry detergent that is used for degradation of stains on fabric.	(G) Polysaccharide Lyase.
P–23–0154A	6	08/14/2024	RWDC Industries.	(G) The primary application areas for PHA are for food packaging and other uses where its biodegradable properties provide nontraditional end-of-use options.	(G) Vegetable oils, genetically modified Cupriavidus-fermented, polyhydroxyalkanoate copolymer.
P–24–0027A	7	07/30/2024	Mikros Biochem.	(S) Surfactant for cleaners	(S) Fatty acids, C8-14, 2,3-diesters with rel-(2R, 3S)-2,3,4-trihydroxybutyl Beta-D-mannopyranoside acetate.
P–24–0027A	8	08/15/2024	Mikros Biochem.	(S) Surfactant	(S) Fatty acids, C8-14, 2,3-diesters with rel-(2R, 3S)-2,3,4-trihydroxybutyl Beta-D-mannopyranoside acetate.
P–24–0080A	3	08/27/2024	Seppic	(S) Nonionic surfactant for industrial uses and bio manufacturing process; HI&I, Plant protection products; Firefighting foam; Detergents; Oilfield; Paper and textile.	(S) D-Glucopyranose, oligomeric, C9-11-branched alkyl glycosides.
P–24–0134A	3	08/13/2024	Chevron Phillips Chemical Company, LP.	(G) Chemical intermediate	(G) Metal oxalate.
P–24–0162A	4	08/05/2024	Proton Power, Inc.	(S) Increases strength of epoxy, plastics, moulding compounds, strength, modulus, tear resistance for polyurethane foam. Improves the rutting behavior of asphalt, the capacity and thermal and electrical conductivity for batteries, strength of body armor and helmets, drying time and antifouling for paints.	(S) single and multilayer turbostratic graphene.
P–24–0179	1	07/18/2024	CBI	(G) Component in batteries	(G) Aluminum- and metal-doped cobalt metal nickel oxide.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 8/01/2024 TO 8/31/2024—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–24–0180	1	07/18/2024	CBI	(G) Component in batteries	(G) Aluminum- and metal- and metal-doped cobalt metal nickel oxide.
P–24–0181	1	07/18/2024	CBI	(G) Component in batteries	(G) Metal- and metal-doped cobalt metal nickel oxide.
P–24–0182	1	07/18/2024	CBI	(G) Chemical precursor	(G) Cobalt metal nickel compound.
P–24–0184	1	07/30/2024	Bedoukian Research, Inc.	(S) Site limited chemical intermediate	(G) Phosphonic acid, P-(cyanomethyl)-, dialkyl ester.
P–24–0186	1	08/07/2024	SGP Ventures, Inc.	(S) Epoxy used to fill holes in printed circuit boards.	(S) 2-Methyl-4-(oxiran-2-ylmethoxy)-N,N-bis(oxiran-2-ylmethyl)aniline.
P–24–0186A	2	08/14/2024	SGP Ventures, Inc.	(S) Epoxy used to fill holes in printed circuit boards.	(S) 2-Oxiranemethanamine, N-[2-methyl-4-(2-oxiranylmethoxy)phenyl]-N-(2-oxiranylmethyl)-.
P–24–0187	1	08/09/2024	NSG Glass North America, Inc.	(G) Chemical Intermediate	(G) Alkyl transition metal alkoxide.
P–24–0188	1	08/09/2024	CBI	(G) Component in batteries	(G) Cobalt metal nickel zirconium doped.
P–24–0189	1	08/16/2024	CBI	(G) Contained use for microlithography for electronic device manufacturing.	(G) Silsesquioxanes, alkyl Ph alkoxy(halosubstitutedphenyl), polymers with silicic acid (H4SiO4) tetra-Me ester, hydroxy-terminated.
P–24–0190A	2	08/27/2024	CBI	(G) Photoacid generator use at customer sites	(G) Aromatic sulfonium tricyclo salt with alkyl carbomonocycle hetero acid.
P–24–0191	1	08/23/2024	Top World Intl, Inc.	(G) Conductive agent	(S) Carbon nanotube, multi-walled in tubular shape.

In table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs that have passed an initial screening by EPA during this period: The EPA case number assigned to the NOC including whether the submission was an initial or amended submission, the date the NOC was received by EPA, the date of commencement provided by the submitter in the NOC, a notation of the type of amendment (*e.g.,* amendment to generic name, specific name, technical contact information, etc.) and chemical substance identity.

TABLE II—NOCS APPROVED * FROM 8/01/2024 TO 8/31/2024

Case No.	Received date	Commencement date	If amendment, type of amendment	Chemical substance
P–18–0360	08/08/2024	07/15/2024	N	(S) oxirane, 2-methyl-, polymer with 2,4-diisocyanato-1-methylbenzene, 2-methyloxiranepolymer with oxirane ether with 1,2,3-propanetriol (3:1), and oxirane, cashew nutshell liq.- and Pr alc. -blocked.
P–18–0360A	08/14/2024	07/15/2024	Updated company name.	(S) oxirane, 2-methyl-, polymer with 2,4-diisocyanato-1-methylbenzene, 2-methyloxiranepolymer with oxirane ether with 1,2,3-propanetriol (3:1), and oxirane, cashew nutshell liq.- and Pr alc. -blocked.
P–20–0172A	08/08/2024	04/12/2022	Updated generic chemical name.	(G) Poly[oxyalkylenediyl)], a,a′,a″-1,2,3-propanetriyltris[w-[[-1-oxo-alkene-1-yl]oxy]-.
P–21–0055	08/13/2024	07/08/2022	N	(G) Fatty acids, reaction products with polyamine-polyacid polymer and fatty acid.
P–22–0007	08/13/2024	08/05/2024	N	(G) 3,5,8-Trioxa-4-silaalkanoic acid, 4-ethenyl-4-(2-alkoxy-1-alkyl-2-oxoethoxy)-2,6-dialkyl-7-oxo-, alkyl ester.
P–22–0011	08/23/2024	08/22/2024	N	(G) Alkadiene, homopolymer, hydroxy-terminated, bis[N-[2-[(1-oxo-2-propen-1-yl)oxylethyl]carbamates].
P–22–0121	08/26/2024	08/15/2024	N	(S) 1,1,3,3-Tetrachloroprop-1-ene.
P–22–0157A	08/08/2024	05/28/2024	Updated chemical name.	(S) 1,2-Ethanediamine, N1,N2-dimethyl-N1-(1-methylethyl)-N2-[2-[methyl(1-methylethyl)amino]ethyl].

In table III of this unit, EPA provides the following information (to the extent such information is not subject to a CBI claim) on the test information that has been received during this time period: The EPA case number assigned to the test information; the date the test information was received by EPA, the type of test information submitted, and chemical substance identity.

TABLE III—TEST INFORMATION RECEIVED FROM 8/01/2024 TO 8/31/2024

Case No.	Received date	Type of test information	Chemical substance
L–24–0004	08/14/2024	Monitoring Report	(G) 3-Alkene, 1-chloro-, (3Z)-.

TABLE III—TEST INFORMATION RECEIVED FROM 8/01/2024 TO 8/31/2024—Continued

Case No.	Received date	Type of test information	Chemical substance
P–21–0180	08/01/2024	Partition Coefficient (n-octanol/water), Shake Flask Method (OECD Test Guideline 107).	(G) Sulfonium, (halocarbomonocycle)diphenyl-, salt with 1-heterosubstituted-2-methylalkyl trihalobenzoate (1:1).
P–21–0202	08/08/2024	Partition Coefficient (n-octanol/water), Shake Flask Method (OECD Test Guideline 107).	(G) Sulfonium, carbomonocycle bis[(trihaloalkyl)carbomonocycle], substituted carbomonocyclic ester.
P–22–0042	08/27/2024	Genetic Toxicology Study Results	(G) Alkanedione, [[[(substituted)aryl]thio]aryl]-, 2-(O-acetyloxime).
P–22–0086	08/01/2024	Partition Coefficient (n-octanol/water), Shake Flask Method (OECD Test Guideline 107).	(G) Phenoxathiinium, 10-phenyl-, 5-alkyl-2-alkyl-4-(2,4,6-substituted tri- carbopolycycle, hetero-acid)benzenesulfonate (1:1).
P–22–0122	08/01/2024	Partition Coefficient (n-octanol/water), Shake Flask Method (OECD Test Guideline 107).	(G) Heterotrisubstituted-bile acid, 1-(difluorosulfomethyl)-2,2,2-trifluoroethyl ester, ion(1-), (5)-, 5-phenyldibenzothiophenium(1:1).
P–22–0179	08/01/2024	Partition Coefficient (n-octanol/water), Shake Flask Method (OECD Test Guideline 107).	(G) Sulfonium, (alkylsubstitutedphenyl)diphenyl-, salt with 1-(heterosubstitutedalkyl)-2,2,2-triheterosubstitutedalkyl trisubstitutedbenzoate (1:1).
P–22–0180	08/01/2024	Partition Coefficient (n-octanol/water), Shake Flask Method (OECD Test Guideline 107).	(G) Dibenzothiophenium, 5-phenyl-, 4-[1-(heterosubstitutedalkyl)-2,2,2-triheterosubstitutedalkoxy]-4-oxoalkyl trisubstitutedbenzoate (1:1).
P–23–0049	08/16/2024	Partition Coefficient (n-octanol/water), Estimation by High Performance Liquid Chromatography (HPLC) (OECD Test Guideline 117) (Final Report).	(G) Sulfonium, tricarbocyclic-, 2-aryl-polyfluoropolyhydro-alkano -heteropolycycle-alkanesulfonate (1:1), polymer with heteroatom substituted aryl and carbomonocyclic 2-alkyl-2-alkanoate, di-Me 2,2-(1,2-diazenediyl)bis[2-methylpropanoate]-initiated.
P–23–0104	08/08/2024	Partition Coefficient (n-octanol/water), Shake Flask Method (OECD Test Guideline 107).	(G) Sulfonium, carbomonocycle bis[(trihaloalkyl)carbomonocycle], disubstituted carbomonocyclic ester.
P–24–0097	08/01/2024	Partition Coefficient (n-octanol/water), Shake Flask Method (OECD Test Guideline 107).	(G) Sulfonium, tris(4-fluorophenyl)-, (substitutedphenoxy)alkyl substitutedbenzoate (1:1).

If you are interested in information that is not included in these tables, you may contact EPA's technical information contact or general information contact as described under **FOR FURTHER INFORMATION CONTACT** to access additional non-CBI information that may be available.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: September 17, 2024.

Pamela Myrick,

Director, Project Management and Operations Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2024–21583 Filed 9–19–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1301; FR ID 245758]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written PRA comments should be submitted on or before November 19, 2024. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

OMB Control Number: 3060–1301.

Title: Preparation of Annual Reports to Congress for the Collection & Use of Fees for 988 Services by States & Other Jurisdictions Under the National Suicide Hotline Designation Act of 2020.

Form Number: N/A.

Type of Review: Extension of a currently-approved collection.

Respondents: State, Local, or Tribal Government.

Number of Respondents and Responses: 630 respondents; 630 responses.

Estimated Time per Response: 55 hours.

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Voluntary. Statutory authority for this information collection is contained in National Suicide Hotline Designation Act of 2020, *Public Law 116–172,* 134 Stat. 832 (2020) (988 Act).

Total Annual Burden: 34,650 hours.

Total Annual Cost: No Cost.

Needs and Uses: This information collection enables the Federal Communications Commission (Commission) to fulfill its continuing obligations under the National Suicide Hotline Designation Act of 2020, *Public Law 116–172,* 134 Stat. 832 (2020) (988 Act), to submit an annual ''Fee Accountability Report'' to the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, and the Committees on Energy and Commerce and Appropriations of the House of Representatives, detailing ''the status in each State, political subdivision of a State, Indian Tribe, or village or regional corporation serving'' an Alaska Native Claims Settlement Act region, of the collection and distribution of fees or charges for ''the support or implementation of 9–8–8 services,'' including ''findings on the amount of revenues obligated or expended by each [state, political entity, and subdivision] for any purpose other than the purpose for which any such fees or charges are specified.'' (988 Act, 134 Stat. at 833–34.)

The Commission will collect information for the preparation of the annual Fee Accountability Report through a survey, to be distributed via electronic mail, that appropriate officials of States and political subdivisions thereof, Indian Tribes, and village or regional corporations serving a region established pursuant to the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*) can use to submit data pertaining to the collection and distribution of revenues from fees and charges for the support or implementation of 988 services, including the use of such collected fees and charges for any purpose other than for the support or implementation of 988 services. In addition, consistent with the definition of ''State'' set forth in 47 U.S.C. 153(40) of the Communications Act, the Commission will collect this information from states as well as the District of Columbia and the inhabited U.S. Territories and possessions.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–21471 Filed 9–19–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0228; FR ID 245832]

Information Collection Approved by the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number, and no person is required to respond to a collection of information unless it displays a currently valid control number. Comments concerning the accuracy of the burden estimates and any suggestions for reducing the burden should be directed to the person listed below.

FOR FURTHER INFORMATION CONTACT: Kathleen Curameng, Mobility Division, Wireless Telecommunications Bureau, at (571) 435–9424, or email: *Kathleen.Curameng@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0228.

OMB Approval Date: August 27, 2024.

Expiration Date: August 31, 2027.

Title: Section 80.59, Compulsory Ship Inspections and Ship Inspection Certificates, FCC Forms 806, 824, 827 and 829.

Form No.: FCC Forms 806, 824, 827, and 829.

Respondents: Business or other for profit, not-for-profit institutions, and State, local, or Tribal government.

Number of Respondents: 15,175 respondents; 15,175 responses.

Estimated Time per Response: The actual inspection will take approximately 4 hours to complete. Each ship inspection certificate will take approximately 0.083 hours (5 minutes) to complete. Providing a summary in the ship's log will take approximately 0.25 hours (15 minutes) to complete. These estimates are based on FCC staff's knowledge and familiarity with the availability of the data required.

Frequency of Response: On occasion, annual, and every five-year reporting requirements, recordkeeping requirement, and third party disclosure requirement.

Obligation to Respond: Required for regulatory or compliance. The statutory authority for this collection 47 U.S.C. 154, 303, 307(e), 309 and 332, unless noted.

Total Annual Burden: 23,229 hours.

Total Annual Cost: No cost.

Needs and Uses: The requirements contained in section 80.59 are necessary to implement the provisions of section 362(b) of the Communications Act of 1934, as amended, which require the Commission to inspect the radio installation of large cargo ships and certain passenger ships at least once a year to ensure that the radio installation is in compliance with the Communications Act.

Additionally, section 385 of the Communications Act requires the inspection of small passenger ships at least once every five years, and subpart T of part 80 of the Commission's rules requires the inspection of certain vessels operating in the Great Lakes at least once every 48 months.

The Safety Convention—an international treaty (to which the United States (U.S.) is a signatory)—also requires an annual inspection. The Safety Convention permits an Administrator to entrust the inspections to either surveyors nominated for the purpose or to organizations recognized by it. Therefore, the U.S. can have other parties conduct the radio inspection of vessels for compliance with the Safety Convention.

The Commission allows FCC-licensed technicians to conduct these inspections. FCC-licensed technicians not only certify that the ship passed an inspection, but also issue a safety certificate. These safety certificates (FCC Forms 806, 824, 827, and 829) indicate that the vessel complies with the Communications Act, the Commission's rules, and the Safety Convention. These technicians are required to provide a summary of the results of the inspection in the ship's log. In addition, the vessel's owner, operator, or ship's master must certify in the ship's log that the inspection was satisfactory. Inspection certificates issued in accordance with the Safety Convention must be posted in a prominent and accessible place on the ship.

Further, section 80.59(d) states that the Commission may, upon a finding that the public interest would be served, grant a waiver of the annual inspection required by section 362(b) of the Communications Act, for a period of not

more than 90 days for the sole purpose of enabling a U.S. vessel to complete its voyage and proceed to a port in the U.S. when an inspection can be held. An information application must be submitted by a ship's owner, operator, or authorized agent. The application must be electronically submitted to the FCC Headquarters (via email to *Ghassan.Khalek@fcc.gov, Katie.Knox@fcc.gov, Kathleen.Curameng@fcc.gov,* and *Thomas.Derenge@fcc.gov*) at least three days before the ship's arrival. The application must provide specific information that is contained in rule section 80.59. The forms to be completed are FCC Forms 806, 824, 827, and 829.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–21472 Filed 9–19–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than October 7, 2024.

A. Federal Reserve Bank of Richmond (Brent B. Hassell, Assistant Vice President) P.O. Box 27622, Richmond, Virginia 23261. Comments can also be sent electronically to *Comments.applications@rich.frb.org:*

1. *Primis Financial Corp. McLean, Virginia;* to engage, through its indirect subsidiary, Panacea Financial Holdings, Inc., Dover, Delaware, in financial advisory activities pursuant to section 225.28(b)(6)(ii), (iii), and (v); management consulting activities pursuant to section 225.28(b)(9)(i)(A)(2); and data processing activities pursuant to section 225.28(b)(14)(i) and (ii), all of the Board's Regulation Y.

Board of Governors of the Federal Reserve System.

Erin Cayce,

Assistant Secretary of the Board.

[FR Doc. 2024–21576 Filed 9–19–24; 8:45 am]

BILLING CODE P

GENERAL SERVICES ADMINISTRATION

[Notice–PBS–2024–12; Docket No. 2024–0002; Sequence No. 42]

Notice of Availability for the Draft Environmental Impact Statement for the Proposed Modernization of the Bridge of the Americas LPOE in El Paso, Texas

AGENCY: Office of Public Building Service (PBS); General Services Administration, (GSA).

ACTION: Notice of Availability.

SUMMARY: The GSA, in cooperation with the U.S. Customs and Border Protection, the U.S. International Boundary and Water Commission and in accordance with the National Environmental Policy Act (NEPA), announces the availability of the Draft Environmental Impact Statement (EIS) for the proposed modernization of the Bridge of the Americas Land Port of Entry in El Paso, Texas.

The Draft EIS analyzes the potential environmental impacts of GSA's Proposed Action for the GSA to support CBP's mission by bringing the BOTA LPOE operations in line with current CBP land port design standards and operational requirements while addressing existing deficiencies identified with the ongoing port operations.

DATES: September 20, 2024.

Interested parties should submit written comments on or before Monday November 04, 2024, 45 days after the date of publication in the **Federal Register** to be considered in the formation of the Final EIS. The 45-day comment period will be set by the date the EPA publishes the NOA not the date GSA publishes the NOA.

ADDRESSES: Written comments may be sent to GSA via email at *BOTA.NEPAcomments@gsa.gov,* or the address in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Further information, including an electronic copy of the DEIS, may be found online at the following website: *www.gsa.gov/bota* under the Environmental Review section or by contacting Karla R. Carmichael, NEPA Program Manager, Environmental, Fire and Safety & Health Branch, GSA/PBS, Facilities Management and Services Programs Division, Greater Southwest Region 7, 819 Taylor St, Fort Worth, TX, 76102 or via telephone at 817–822–1372.

SUPPLEMENTARY INFORMATION:

Background

The Bridge of the Americas is located in El Paso County Texas along the Rio Grande River, which serves as the boundary between the U.S. and Mexico. The BOTA LPOE connects with the Mexican land port of ''Cordova'' in Juarez, Chihuahua, Mexico and is one of 4 crossings in the City of El Paso. The port currently processes toll-free inbound and outbound private vehicular, pedestrian, and commercial truck traffic.

The existing LPOE facilities were built in 1967 with minor updates and repairs occurring in the 80's and 90's. The facilities at BOTA are inadequate for processing the amount of inbound and outbound private vehicular, pedestrian, and commercial truck traffic it receives daily leading to significant wait times, congestion and lines of idling cargo trucks. Thus, the purpose and need for the modernization project

at the Bridge of the Americas Land Port of Entry.

GSA conducted internal and external scoping meetings to seek input on alternatives and issues associated with implementation of the proposed action through various alternatives. The GSA has narrowed the alternatives that best fulfill the purpose and need to the following two with the addition of the No Action Alternative:

Multi-Level Modernization with High/Low Booths Primarily within Existing Port Boundaries with Minor Land Acquisition. (Viable Action Alternative #A1)

Multi-Level Modernization within Existing Port Boundaries with Minor Land Acquisition Immediately Adjacent to the Port and Elimination of Commercial Cargo Operations. (Viable Action Alternative #4)

The Draft EIS states the purpose and need for the Proposed Action, analyzes the alternatives considered, including the option of No Action and assesses environmental impacts of each alternative, including avoidance, minimization, and potential mitigation measures.

GSA, in cooperation with CBP has selected Viable Action Alternative #4 Multi-Level Modernization within Existing Port Boundaries with Minor Land Acquisition Immediately Adjacent to the Port and Elimination of Commercial Cargo Operations as its Preferred Alternative.

GSA believes this alternative would best fulfill its statutory mission and responsibilities, giving consideration to economic, environmental, technical and other factors and is seeking public and stakeholder comments on this alternative before a final decision is made.

Michael Clardy,

Director, Facilities Management Division (7PM), General Services Administration—Public Building Service, Greater Southwest Region.

[FR Doc. 2024–21068 Filed 9–19–24; 8:45 am]

BILLING CODE 6820–AY–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of* 1995, this notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the reinstatement without change of the information collection project *Evaluating the Implementation of PCOR to Increase Referral, Enrollment, and Retention through Automatic Referral to Cardiac Rehabilitation (CR) with Care Coordinator OMB No. 0935–0252* for which approval has expired. The reinstatement of this previously approved PRA collection for which approval has expired is required in order to discontinue this collection.

DATES: Comments on this notice must be received by November 19, 2024.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *REPORTSCLEARANCEOFFICER@ahrq.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *REPORTSCLEARANCEOFFICER@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Title of Information Collection: Evaluating the Implementation of PCOR to Increase Referral, Enrollment, and Retention through Automatic Referral to Cardiac Rehabilitation (CR) with Care Coordinator.

OMB No.: 0935–0252.

Type of Request: Reinstatement without change to discontinue the collection.

The aim of this project, known as TAKEheart, was to (a) raise awareness about the benefits of cardiac rehabilitation (CR) after myocardial infarction or coronary revascularization, then to (b) spread knowledge about the best practices to increase referrals to CR, and, finally, (c) to increase CR uptake.

AHRQ evaluated TAKEheart to assess:

- the extent and effectiveness of the dissemination and implementation efforts
- the uptake and usage of Automatic Referral with Care Coordination and
- levels of referral to CR at the end of the intervention.

Evaluation results were used to improve the intervention and to provide guidance for future AHRQ dissemination and implementation projects. Two cohorts of ''Partner Hospitals,'' up to 125 hospitals in total, engaged in efforts to implement Automatic Referral with Care Coordination over twelve-month periods. The evaluation ascertained the diversity of hospitals engaged in the activities that contributed to (or hindered) their efforts, and the types of support which they reported having been most (and least) useful. This information was used to improve recruitment, technical assistance, and tools for the second cohort.

In addition, hospitals—including those involved in the implementation—were invited to attend Affinity Group virtual meetings organized around specific topics of interest which are not intrinsic to Automatic Referral with Care Coordination. Hospital staff engaged in Affinity Groups created a vibrant Learning Community. The evaluation determined which Affinity Groups engaged the most participants of the Learning Community, and which resources participants determined the most useful. This information was used to develop resources which were available on a new, permanent website dedicated to improving CR.

This study was conducted by AHRQ through its contractor, Abt Associates Inc., pursuant to AHRQ's statutory authority to disseminate government-funded research relevant to comparative clinical effectiveness research. 42 U.S.C. 299b–37(a).

Method of Collection

To collect data on the many facets of the intervention, the collection implemented multiple data collection tools, each of which had a specific purpose and set of respondents.

1. *Partner Hospital Champion Survey.* Each Partner Hospital designated a ''Champion'' who coordinated activities associated with implementing Automatic Referral with Care Coordination at the hospital and provide the Champion's name and email address. Champions could have had any role in the hospital, although they were expected to be in relevant positions, such as cardiologists or quality improvement managers. We conducted online surveys of 125 Champions (one Champion per hospital). We used the email addresses to send the Champion a survey at two points: seven months after the start of implementation and at the end of the 12-month implementation period. The first survey focused on four constructs. First, it captured data about the hospital context, such as whether it had prior experience customizing an EMR or is a safety net hospital. Second,

it addressed the hospital's decision to participate in TAKEheart. Third, it captured data on the CR programs the hospital refers to, whether the number or type has changed, and why. Fourth, it collected feedback on the training and technical assistance received. The second survey focused on three constructs. The first construct collected feedback on the TAKEheart components, including training, technical assistance, and use of the website. The second construct asked about the hospitals' response to participating in TAKEheart, such as changes to referral workflow or CR programs. The third construct asked those Partner Hospitals that had not completed the process of implementing Automatic Referral with Care Coordination whether they anticipated continuing to work towards that goal and their confidence in succeeding.

2. *Partner Hospital Interviews.*

a. *Interviews with Partner Hospital Champions.* We selected, from each cohort, eight Partner Hospitals which demonstrated a strong interest in addressing underserved populations or reducing disparities in participation in cardiac rehabilitation. We conducted a key informant interview with the Champion of each selected Partner Hospital to delve into how they were addressing the needs of underserved populations by implementing Automatic Referral with Care Coordination.

b. *Interviews with Partner Hospital cardiologists.* We selected, from each cohort, eight hospitals based on criteria selected in conversation with AHRQ, such as hospitals which serve specific populations, or have the same EMRs, which informed their experience customizing the EMR. We conducted semi-structured interviews with one cardiologist at each of the selected hospitals twice. In the second month of the cohort implementation, we asked about their needs, concerns, and expectations of the program. In the 11th month of the cohort implementation, we determined whether their concerns were addressed appropriately and adequately.

c. *Interviews with Partner Hospitals that withdraw.* We expected that a small number of Partner Hospitals would withdraw from the cohort. We identified these hospitals by their lack of participation in training and technical assistance events; Technical Assistance (TA) Providers confirmed their withdrawal. We interviewed up to nine withdrawing hospitals to better understand the reason for withdrawal (*e.g.,* a merger resulted in a loss of support for the intervention, Champion left), as well as facilitators and barriers of each hospitals' approach to implementing Automatic Referral with Care Coordination. If more than nine hospitals withdrew, we ceased interviewing.

3. *Learning Community Participant Survey.* We conducted online surveys of 250 currently active Learning Community participants at two points in time, in months 18 and 31 of the project. We administered the survey by sending a link to an online survey to email addresses entered by virtual meeting participants during registration. The email described the purpose of the survey.

4. *Learning Community Follow-up Survey.* We conducted a brief online survey with up to 15 Learning Community participants following the final virtual meeting for each of 10 Affinity Group, to ascertain whether the hospitals were able to act on what they learned during the session. The total sample was 150 Learning Community participants.

Estimated Annual Respondent Burden

Exhibit 1 presents estimates of the reporting burden hours for the data collection efforts. Time estimates were based on prior experiences and what could reasonably be requested of participating health care organizations. The number of respondents listed in column A, Exhibit 1 reflects a projected 90% response rate for data collection effort 1, and an 80% response rate for efforts 3 and 4 below.

1. *Partner Hospital Champion Survey.* We assumed 113 hospital champions would complete the survey based on a 90% response rate. It was expected to take up to 45 minutes to complete for a total of 169.5 hours to complete.

2. *Partner Hospital Interviews.* In-depth interviews occured with select Partner Hospital staff.

a. *Interviews with Partner Hospital Champions.* We had a single, 90 minute interview with eight Partner Hospital Champions, in each cohort, from Partner Hospital which have a common characteristic of particular interest, for a total of 24 hours.

b. *Interviews with Partner Hospital cardiologists.* We held individual, up-to-30 minute interviews with eight cardiologists, twice in each cohort, for a total of 16 hours.

c. *Interviews with Partner Hospitals that withdraw.* We interviewed up to nine withdrawing hospitals for no more than 20 minutes to better understand the reason for withdrawal as well as facilitators and barriers, for a total of 2.7 hours.

3. *Learning Community Participant Survey.* We assumed 200 Learning Community participants would complete the survey based on an 80% response rate. It was expected to take up to 15 minutes to complete each survey for a total of 100 hours.

Learning Community Follow-up Survey. We conducted a brief, up to 10 minute, online survey of participants of each of just ten selected Affinity Groups at two months after the virtual meeting. We assumed 120 Learning Community participants would complete the survey based on an 80% response rate. It was expected to take up to 15 minutes to complete each survey for a total of 20.4 hours.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Data collection method or project activity	A. Number of respondents	B. Number of responses per respondent	C. Hours per response	D. Total burden hours
1. Partner Hospital Champion Survey*	113	2	0.75	169.5
2a. Interviews with Partner Hospital Champions	16	1	1.5	24.0
2b. Interviews with Partner Hospital Cardiologists	16	2	0.5	16.0
2c. Interviews with Partner Hospitals that withdraw	9	1	0.3	2.7
3. Learning Community Survey**	200	2	0.25	100.0
4. Learning Community Follow-up Survey**	120	1	0.17	20.4
Total	474			332.6

* Number of respondents (Column A) reflects a sample size assuming a 90% response rate for this data collection effort.

** Number of respondents (Column A) reflects a sample size assuming an 80% response rate for this data collection effort.

Exhibit 2, below, presents the estimated annualized cost burden associated with the respondents' time to participate in this research. The total cost burden was estimated to be about $21,497.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Data collection method or project activity	A. Number of respondents	B. Total burden hours	Average hourly wage rate	Total cost burden
1. Partner Hospital Champion Survey*	113	169.5	$72.27	$12,250
2a. Interviews with Partner Hospital Champions	16	24.0	72.27	1,734
2b. Interviews with Partner Hospital Cardiologists	16	16.0	96.58	1,545
2c. Interviews with Partner Hospitals that withdraw	9	2.7	72.27	195
3. Learning Community Survey**	200	100.0	47.95	4,795
4. Learning Community Follow-up Survey**	120	20.4	47.95	978
Total	474	332.6	.....	21,497

*Number of respondents (Column A) reflects a sample size assuming a 90% response rate for this data collection effort.
**Number of respondents (Column A) reflects a sample size assuming an 80% response rate for this data collection effort.

Request for Comments

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, comments on AHRQ's information collection are requested with regard to any of the following: (a) whether the proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: September 17, 2024.

Marquita Cullom,

Associate Director.

[FR Doc. 2024–21564 Filed 9–19–24; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meeting of the Advisory Board on Radiation and Worker Health, Subcommittee for Procedure Reviews, National Institute for Occupational Safety and Health

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

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC) announces the following meeting for the Subcommittee on Procedures Reviews (SPR) of the Advisory Board on Radiation and Worker Health (ABRWH or the Advisory Board). This meeting is open to the public, but without a public comment period. The public is welcome to submit written comments in advance of the meeting, to the contact person below. Written comments received in advance of the meeting will be included in the official record of the meeting. The public is also welcomed to listen to the meeting by joining the audio conference (information below). The audio conference line has 150 ports for callers.

DATES: The meeting will be held on November 8, 2024, from 11 a.m. to 4:30 p.m., EST. Written comments must be received on or before November 1, 2024.

ADDRESSES: You may submit comments by mail to: Rashaun Roberts, Ph.D., National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, 1090 Tusculum Avenue, MS C–24, Cincinnati, Ohio 45226.

Meeting Information: Audio Conference Call via FTS Conferencing. The USA toll-free dial-in number is 1–866–659–0537; the pass code is 9933701.

FOR FURTHER INFORMATION CONTACT: Rashaun Roberts, Ph.D., Designated Federal Officer, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, 1090 Tusculum Avenue, Mailstop C–24, Cincinnati, Ohio 45226, Telephone: (513) 533–6800, Toll Free 1(800) CDC–INFO, Email: *ocas@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines that have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction, which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC). In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC.

The charter was issued on August 3, 2001, renewed at appropriate intervals, and rechartered under Executive Order 14109 (September 29, 2023) on March 22, 2024. Unless continued by the President the Board will terminate on

September 30, 2025, consistent with E.O. 14109 (September 29, 2023).

Purpose: The Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class. The ABRWH Subcommittee on Procedure Reviews (SPR) is responsible for overseeing, tracking, and participating in the reviews of all procedures used in the dose reconstruction process by the NIOSH Division of Compensation Analysis and Support (DCAS) and its dose reconstruction contractor (Oak Ridge Associated Universities—ORAU).

Matters to be Considered: The meeting agenda will include discussions on the following: (1) Carry-over items from March 14, 2024 SPR meeting, including a. DCAS–PER–040 ''Mallinckrodt TBD Revisions,'' b. DCAS–PER–068 ''Electro Metallurgical Co'', c. DCAS–PER–070 ''Nuclear Metals Inc.'', d. DCAS–PER–072 ''Seymour Specialty Wiring Co'', e. ORAUT–RPRT–0060 ''Neutron Dose from Highly Enriched Uranium'', and f. DR template reviews—findings versus observations; (2) Newly issued SC&A reviews, including a. ORAUT–OTIB–0036 ''Internal Dosimetry Coworker Data for Portsmouth Gaseous Diffusion Plant'' b. ORAUT–OTIB–0040 ''External Coworker Dosimetry Data for the Portsmouth Gaseous Diffusion Plant'' c. ORAUT–OTIB–0093 ''Conversion of Committed Effective Dose to Annual Organ Dose'' and d. ORAUT–RPRT–0087 ''Applications of Regression in External Dose Reconstruction''; (3) Preparation for August 2024 Full ABRWH Meeting: Review of technical guidance documents ready for full Board approval; (4) Newly Issued Guidance and Supplemental Topics. Agenda items are subject to change as priorities dictate. For additional information, please contact Toll Free 1(800) 232–4636.

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2024–21497 Filed 9–19–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meeting of the Advisory Board on Radiation and Worker Health, National Institute for Occupational Safety and Health

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

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC) announces the following meeting of the Advisory Board on Radiation and Worker Health (ABRWH or the Advisory Board). This is a virtual meeting. It is open to the public, but without a public comment period. The public is welcome to submit written comments in advance of the meeting, to the contact person listed in the addresses section below. Written comments received in advance of the meeting will be included in the official record of the meeting. The public is also welcomed to listen to the meeting by joining the teleconference (information below), limited only by the number of audio conference lines available (150).

DATES: The meeting will be held on October 9, 2024, from 11 a.m. to 1 p.m., EDT.

Written comments must be received on or before October 2, 2024.

ADDRESSES: You may submit comments by mail to: Rashaun Roberts, Ph.D., National Institute for Occupational Safety and Health, 1090 Tusculum Avenue, Mailstop C–24, Cincinnati, Ohio 45226.

Meeting Information: Audio Conference Call via FTS Conferencing. The USA toll-free dial-in number is 1–866–659–0537; the pass code is 9933701.

FOR FURTHER INFORMATION CONTACT: Rashaun Roberts, Ph.D., Designated Federal Officer, National Institute for Occupational Safety & Health, Centers for Disease Control and Prevention, 1090 Tusculum Avenue, Mailstop C–24, Cincinnati, Ohio 45226, Telephone (513) 533–6800, Toll Free 1(800) 232–4636, Email: *ocas@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines which have been promulgated by the Department of Health and Human Services (HHS) as a final rule, advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule, advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program, and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC). In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC.

The charter was issued on August 3, 2001, renewed at appropriate intervals, and rechartered under Executive Order 14109 (September 29, 2023) on March 22, 2024. Unless continued by the President the Board will terminate on September 30, 2025, consistent with E.O. 14109 of (September 29, 2023).

Purpose: This Advisory Board is charged with a) providing advice to the Secretary, HHS, on the development of guidelines under E.O. 13179; b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters to be Considered: The agenda will include discussions on the following: Update on Cybersecurity Modernization Initiative; Work Group and Subcommittee reports; Update on

the status of SEC Petitions; and plans for the December 2024 Advisory Board Meeting. Agenda items are subject to change as priorities dictate. For additional information, please contact Toll Free 1(800) 232–4636.

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2024–21496 Filed 9–19–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–24–24FA]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Human-Centered Design Effort on Bringing Guidelines to the Digital Age'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on May 7, 2024 to obtain comments from the public and affected agencies. CDC received two comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Human-Centered Design Effort on Bringing Guidelines to the Digital Age—Existing Collection in Use Without an OMB Control Number—Office of Public Health Data, Surveillance, and Technology (OPHDST), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Given the increased demand to improve clinical guideline development and implementation, a new approach that began with an initiative on Adapting Clinical Guidelines for the Digital Age has been expanded by Guidelines International Network North America to implement a future state of guideline development and implementation that leverages advancements in technology. To identify pain points in the process, there were discussions with individuals from multiple perspectives in guidelines development and implementation.

CDC requests approval for an Existing Collection in Use Without an OMB Control Number, for Human-Centered Design Effort on Bringing Guidelines to the Digital Age. Data from this project will be used to inform the structure of a human-centered design workshop where participants use the pain points identified from the semi-structured interviews as the starting point for exploring insights about guideline development and implementation.

The burden estimates include the time for respondents to be interviewed. The estimated annual burden for respondents 33 hours. There is no cost to respondents other than their time to participate.

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Clinicians	Clinician Conversation Guide	5	1	1
EHR Vendors	EHR Vendor Conversation Guide	2	1	1
Guideline Developers	Guideline Developer Conversation Guide	8	1	1
Informaticists	Informaticist Conversation Guide	4	1	1
Implementers	Implementer Conversation Guide	9	1	1
Insurers	Insurer Conversation Guide	1	1	1
Patient/Patient Advocate	Patient/Patient Advocate Conversation Guide	4	1	1

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2024–21572 Filed 9–19–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–24–0234; Docket No. CDC–2024–0068]

Proposed Data Collection Submitted for Public Comment and Recommendations

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

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled the National Ambulatory Medical Care Survey (NAMCS). The goal of the project is to assess the health of the population through patient use of physician and advanced practice provider offices, health centers (HCs), and to monitor the characteristics of physician and advanced practice provider practices.

DATES: CDC must receive written comments on or before November 19, 2024.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2024–0068 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov.*

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. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and.
5. Assess information collection costs.

Proposed Project

National Ambulatory Medical Care Survey (NAMCS) (OMB Control No. 0920–0234, Exp. 11/30/2025)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Ambulatory Medical Care Survey (NAMCS) was conducted intermittently from 1973 through 1985, and annually since 1989. The survey is conducted under authority of Section 306 of the Public Health Service Act (42 U.S.C. 242k). NAMCS is part of the ambulatory care component of the National Health Care Surveys (NHCS), a family of provider-based surveys that capture health care utilization from a variety of settings, including hospital inpatient and long-term care facilities. NCHS surveys of health care providers include NAMCS, the National Electronic Health Records Survey (NEHRS) (OMB Control No. 0920–1015, Exp. Date 01/31/2027), the National Hospital Care Survey (NHCS) (OMB Control No. 0920–0212, Exp. Date 12/31/2024), and National Post-acute and Long-term Care Study (OMB Control No. 0920–0943, Exp. Date 09/30/2025).

An overarching purpose of NAMCS is to meet the needs and demands for statistical information about the provision of ambulatory medical care services in the United States; this fulfills one of NCHS' missions: to monitor the nation's health. In addition, NAMCS provides ambulatory medical care data to study: (1) the performance of the U.S. health care system; (2) care for the rapidly aging population; (3) changes in services such as health insurance coverage change; (4) the introduction of new medical technologies; and (5) the use of electronic health records (EHRs). Ongoing societal changes have led to considerable diversification in the organization, financing, and technological delivery of ambulatory medical care. This diversification is evidenced by the proliferation of insurance and benefit alternatives for individuals, the development of new forms of physician group practices and practice arrangements (such as office-based practices owned by hospitals), the increasing role of advanced practice providers delivering clinical care, and growth in the number of alternative sites of care.

Ambulatory services are rendered in a wide variety of settings, including physician/provider offices and hospital outpatient and emergency departments. Since more than 65% of ambulatory medical care visits occur in physician offices, NAMCS provides data on the majority of ambulatory medical care services. In addition to health care provided in physician offices and outpatient and emergency departments, health centers (HCs) play an important role in the health care community by providing care to people who might not be able to afford it, otherwise. HCs are local, non-profit, community-owned health care settings, which serve approximately over 30 million

individuals throughout the United States.

This revision seeks approval to conduct changes to all three components of NAMCS. CDC plans to adjust the HC Component and Provider Survey Component sample sizes. In 2025 the goal is to sample 10,000 advanced practice providers and up to 151 HCs. In 2026 we plan to sample up to 10,000 physicians and up to 171 HCs if funds allow. If funds allow, in 2027 we will sample up to 10,000 advanced practice providers and up to 191 HCs. For 2025–2027, there will be an additional 3,000 providers sampled yearly for the Provider Electronic Component. Questions on the Provider Facility Interview, Health Center Facility Interview, and the Ambulatory Care Provider Interview will also be modified.

CDC requests OMB approval for an estimated 22,107 annual burden hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)	Total burden (in hrs.)
HC's Staff	HC Facility Interview Questionnaire (Survey year: 2024).	84	1	45/60	63
	Prepare and transmit EHR for Visit Data (quarterly) (Survey year: 2024).	50	4	60/60	200
	Set-up Fee Questionnaire (Survey year: 2024).	17	1	15/60	4
Provider or Staff	ACPI (Survey year: 2026)	3,333	1	30/60	1,667
	Contact Tracing (Survey year: 2026)	3,333	1	10/60	556
Advanced Practice Provider or Staff	ACPI (Survey year: 2025 & 2027)	6,667	1	30/60	3,334
	Contact Tracing (Survey year: 2025 & 2027).	6,667	1	10/60	1,111
Ambulatory Care Provider's or Group's or Conglomerate's Staff.	PFI (Survey year: 2025–2027)	3,000	1	45/60	2,250
	Prepare and transmit Electronic Visit Data (quarterly) (Survey year: 2025–2027).	3,000	4	60/60	12,000
HC's Staff	HC Facility Interview Questionnaire (Survey year: 2025–2027).	221	1	45/60	166
	Prepare and transmit EHR for Visit Data (quarterly) (Survey year: 2025–2027).	188	4	60/60	752
	Set-up Fee Questionnaire (Survey year: 2025–2027).	17	1	15/60	4
Total					22,107

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2024–21573 Filed 9–19–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–24–24AH]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Institutional Review Board Authorization Agreement for Human Research'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on October 30, 2023, to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Institutional Review Board Authorization Agreement for Human Research—New—Office of Science (OS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The CDC Human Research Protection Office (HRPO) often receives requests from outside institutions seeking to rely on the CDC Institutional Review Board (IRB) for review of a research study. This arrangement also allows multiple institutions to use, or rely on, the CDC IRB for centralized review and approval of research studies instead of review by the site-specific IRBs, which helps reduce duplication of effort, delays, and expenses. To meet regulatory requirements, institutions that elect to rely on the CDC IRB are required to complete a CDC IRB Authorization Agreement for Human Research and a Local Context Survey. The goal is to use the agreement and survey to provide regulatory oversight for human subjects research, to maintain records, and to track those institutions that have elected to rely on the CDC IRB for review.

CDC requests OMB approval for an estimated 450 annual burden hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number responses per respondent	Avg. burden per response (in hrs.)
Hospital/Academic Institutions/IRB Administrators.	CDC IRB Authorization Agreement for Human Research (for review, completion, and submission to CDC).	150	1	1
Hospital/Academic Institutions/IRB Administrators.	Local context survey (for completion and submission to CDC).	150	1	2

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2024–21571 Filed 9–19–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–24–1365; Docket No. CDC–2024–0069]

Proposed Data Collection Submitted for Public Comment and Recommendations

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

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Program Evaluation of CDC's Core State Injury Prevention Program. This project allows CDC to collect information from awardees funded under the Core State Injury Prevention Program.

DATES: CDC must receive written comments on or before November 19, 2024.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2024–0069 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov.*

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. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and

5. Assess information collection costs.

Proposed Project

Program Evaluation of CDC's Core State Injury Prevention Program (OMB Control No. 0920–1365, Exp. 7/31/2025)—Revision—National Center for Injury Prevention and Control (NCIPC),

Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is submitting a Revision request for the currently approved Program Evaluation of CDC's Core State Injury Prevention Program (OMB Control No. 0920–1365, Expiration Date 7/31/2025). Approval is requested for an additional three years to continue collecting information from awardees funded under the Core State Injury Prevention Program cooperative agreement (CE21–2101), hereafter known as Core SIPP.

CDC requests to continue collecting several types of information from recipients over the course of the funding cycle. The Core SIPP Program added three new recipients to the program and is requesting a revision to allow for data collection of these three new recipients. This Revision is requested to incorporate data collection and analysis of three new funded recipients who were added. Data collected up until this point has been used to inform technical assistance (TA) to recipients and programmatic decision-making. CDC has used this data to develop reports to show program impact on recipient capacity, public health actions, and continuous quality improvement. This information will continue to be used to:

(1) Evaluate and track outcomes at the recipient- and program-levels as they relate to injury prevention-focused infrastructure development, surveillance system development and use, and partnerships to prevent Adverse Childhood Experiences (ACEs), Traumatic Brain Injury (TBI), and transportation-related injuries. Recipient-and program-level identification of disproportionately affected populations and subsequent public health actions taken to address injury-related health disparities will also be assessed.

(2) Identify TA needs of individual recipients and the recipient cohort, so that the CDC team can appropriately deploy resources to support recipients.

(3) Identify practice-based evidence for injury prevention public health actions to advance the field through future partnerships, program design, and publications.

(4) Inform continuous quality improvement activities over the course of the funding period, to include quarterly and annual strategic planning for current and later iterations of this program under future funding.

Information is collected by CDC through the following modes to address the purposes identified above:

(1) The Core SIPP Implementation Capacity Development Rubric was implemented once at the start of program funding (baseline collection), and subsequently during the middle of each reporting year. Recipients self-administer the rubric via CDC's Partner Portal, where they self-score their state injury prevention programs according to their current level of capacity for components of interest. These scores are used to identify recipient strengths, areas for improvement, and additional needs for CDC TA support. Measuring recipient improvements in implementing public health actions in this standard way greatly increases the ability for CDC to measure the impact of the program investment. CDC aggregates these scores across recipients to identify larger program needs and to inform internal Continuous Quality Improvement (CQI) activities. This information is shared back with recipients individually during annual technical review calls, as well as in aggregate at annual partnership meetings. Additionally, increased capacity will increase the likelihood of sustainability beyond the funding cycle.

(2) Recipient-level Group Interviews will take place at the end of Program Years 3, 4, and 5. The purpose of these interviews is to evaluate progress and challenges in implementing the Core SIPP program within the individual recipient-level context to inform tailored supports from CDC and partners. The tailored support is an effort to facilitate solutions to programmatic barriers, adjust recipient strategies as needed, and ensure the quality of data reported annually to CDC.

(3) Economic Indicators are collected to better understand the cost of IVP implementation by strategy as well as how recipients have leveraged funds and resources to increased sustainability for injury and violence prevention work.

(4) Injury Indicator Spreadsheets and Special Emphasis Reports are collected annually to track state level injury and violence morbidity and mortality data. This allows CDC to measure trends over time within a state, across states, and against the national average to identify changes during the Core SIPP funding period. Completion of the spreadsheets and reports ensures recipient surveillance capacity and reporting is in alignment with best practices.

CDC requests OMB approval for an estimated 764 annual burden hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Core SIPP Program Awardees	Implementation Capacity Rubric	26	1	2	52
	Economic Indicators	23	1	1	23
	Recipient-level Group Interviews	26	1	1.5	39
	Injury Indicators Spreadsheet	26	1	5	130
	Emergency Department Injury Indicators Spreadsheet.	26	1	5	130
	Hospital Discharge Injury Indicators Spreadsheet.	26	1	5	130
	Special Emphasis Reports	26	1	10	260
Total					764

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2024–21570 Filed 9–19–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Announcing the Intent To Award a Sole Source Supplement to the National Association of Councils on Developmental Disabilities (NACDD)

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing the award of a sole-source supplement for the Bridging Aging and Disability Networks cooperative agreement. ACL's Office of Supportive and Caregiver Services (OSCS), Administration on Aging (AoA) is collaborating with the Projects of National Significance, the Administration on Disabilities (AoD) to provide a $180,478 supplement to the Bridging Aging and Disability grant. This grant is awarded to the NACDD, who is partnering with the Institute on Disability and Human Development at the University of Illinois-Chicago, the Lurie Institute for Disability Policy at Brandeis University, The Arc, and US Aging—the national association representing and supporting the network of Area Agencies on Aging (AAAs) and Title VI Native American Aging Programs. The goal of the grant is to strengthen the collaboration between aging and disability networks to better support individuals with intellectual and developmental disabilities (I/DD) and their family caregivers in future planning as they age. The supplemental funding will be used to additionally support aging caregivers of adults with I/DD and will enhance the work of the 17 State Consortia teams to more directly build capacity of AAAs to serve adults with I/DD as they age and their aging caregivers. The administrative supplement for FY 2024 will be in the amount of $180,478, bringing the total award for FY 2024 to $600,000.00.

FOR FURTHER INFORMATION CONTACT: For further information or comments regarding this program supplement, contact Larissa Crossen, U.S. Department of Health and Human Services, Administration for Community Living, telephone (202) 795–7333; email *Larissa.crossen@acl.hhs.gov*

SUPPLEMENTARY INFORMATION: The purpose of the supplemental funding is to additionally support aging caregivers of adults with I/DD and will enhance the work of the 17 State Consortia teams. A portion of the funding (estimated 50%) will be used to pay for existing workplan activities of the grantee, particularly where there is overlap in the existing work to bridge the aging and disability networks to support aging caregivers of adults with I/DD. The remainder of the funding (estimated to be 50%) will be used to enhance the work of the 17 State Consortia teams to more directly build capacity of AAAs to serve adults with I/DD as they age and their aging caregivers.

Program Name: Bridging Aging and Disabilities Networks.

Recipient: NACDD.

Period of Performance: The supplement award will be issued for the fourth year of a five-year project period, September 30, 2024, through September 29, 2025.

Award Amount: $180,478.

Award Type: Cooperative Agreement.

Statutory Authority: This program is authorized under the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Title I, Subtitle E.

CFDA Number: 93.631 Discretionary Projects.

Basis for Award: NACDD is currently funded to carry out the objectives of this project, Bridging Aging and Disability Networks, and has completed three years of work. ACL believes it is in the best interest of the Federal Government to supplement the current grantee's existing project. Establishing a new grant project at this time would be potentially disruptive to the current work already well under way. Further, it could create unintended duplication of effort and missed opportunities for greater coordination between the aging and disability networks.

Dated: September 16, 2024.

Alison Barkoff,

Principal Deputy Administrator for the Administration for Community Living, performing the delegable duties of the Administrator and the Assistant Secretary for Aging.

[FR Doc. 2024–21498 Filed 9–19–24; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–D–4165]

Chemical Analysis for Biocompatibility Assessment of Medical Devices; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Chemical Analysis for Biocompatibility Assessment of Medical Devices.'' FDA is issuing this draft guidance to describe recommended methodological approaches for chemical analysis for biocompatibility assessment of medical devices. The biocompatibility of medical devices is evaluated based on the duration of exposure and nature of contact with the body. Chemical characterization is one approach that manufacturers can consider when developing a strategy for the overall biocompatibility assessment of a device. This draft guidance is not final nor is it for implementation at this time.

DATES: Submit either electronic or written comments on the draft guidance by November 19, 2024 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2024–D–4165 for ''Chemical Analysis for Biocompatibility Assessment of Medical Devices.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Chemical Analysis for Biocompatibility Assessment of Medical Devices'' to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: The Office of Science and Engineering Laboratories (OSEL), Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 62, Silver Spring, MD 20993–0002, 301–796–2530, or by email *OSEL_CDRH@fda.hhs.gov,* Erica Takai at 301–796–6353, or by email at *erica.takai@fda.hhs.gov,* or James Myers, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is issuing this draft guidance to describe recommended methodological approaches for chemical analysis for biocompatibility assessment of medical devices. The biocompatibility of medical devices is evaluated based on the duration of exposure and nature of contact with the body. Chemical characterization is one approach that manufacturers can consider when developing a strategy for the overall biocompatibility assessment of a device. Chemical characterization can be an alternative to biological testing for evaluating some biocompatibility endpoints. Use of chemical characterization can reduce the time needed to complete biocompatibility testing, reduce animal testing, generate data on the chemical constituents of a device, and be used to evaluate multiple biocompatibility endpoints at once. FDA and other stakeholders have observed variability in the approaches of individual laboratories performing analytical chemistry testing that has resulted in inconsistent analytical chemistry reports. The recommendations in this guidance are intended to improve the consistency and reliability of analytical chemistry studies.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Chemical Analysis for Biocompatibility Assessment of Medical Devices.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov, https://www.fda.gov/regulatory-information/search-fda-guidance-documents*, or *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics.* Persons unable to download an electronic copy of ''Chemical Analysis for Biocompatibility Assessment of Medical Devices'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number GUI00020037 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no new collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of

information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations, guidance, and forms have been approved by OMB as listed in the following table:

21 CFR part; guidance; or FDA form	Topic	OMB control No.
807, subpart E	Premarket notification	0910–0120
814, subparts A through E	Premarket approval	0910–0231
814, subpart H	Humanitarian Device Exemption	0910–0332
812	Investigational Device Exemption	0910–0078
860, subpart D	De Novo classification process	0910–0844
''Requests for Feedback on Medical Device Submissions: The Q-Submission Program and Meetings with Food and Drug Administration Staff''.	Q-Submissions and Early Payor Feedback Request Programs for Medical Devices.	0910–0756

Dated: September 17, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–21575 Filed 9–19–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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: National Institute of Mental Health Special Emphasis Panel; BRAIN UG3/UH3 Novel Tools Review Meeting.

Date: October 24, 2024.

Time: 12:00 p.m. to 4:00 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: Evon Abisaid, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Boulevard, Rockville, MD 20852, (301) 827–0399 email: *ereifejes@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Silvio O. Conte Centers for Basic Neuroscience or Translational Mental Health Research (P50).

Date: October 30, 2024.

Time: 10:00 a.m. to 5:00 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: Rebecca Steiner Garcia, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Bethesda, MD 20892–9608 301–443–4525 email: *steinerr@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Early Phase Clinical Trials: Pharma/Device and K Awards.

Date: October 31, 2024.

Time: 11:00 a.m. to 4:00 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: Regina Dolan-Sewell, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Neuroscience Center, 6001 Executive Blvd. Bethesda, MD 20852 (240) 796–6785 email: *regina.dolan-sewell@nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: September 17, 2024.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–21588 Filed 9–19–24; 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 grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

Date: October 28, 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 3G54, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Hitendra S. Chand, 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 3G54, Rockville, MD 20852, (240) 627–3245, *hiten.chand@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: September 16, 2024.

Lauren A. Fleck,

Program Analyst,Office of Federal Advisory Committee Policy.

[FR Doc. 2024–21502 Filed 9–19–24; 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 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: Heart, Lung, and Blood Initial Review Group, NHLBI Mentored Clinical and Basic Science Study Section.

Date: October 31-November 1, 2024.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Bethesdan Hotel, Tapestry Collection by Hilton, 8120 Wisconsin Avenue, Bethesda, MD 20814, (Hybrid Meeting).

Contact Person: Manoj Kumar Valiyaveettil, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208–R, Bethesda, MD 20817, (301) 402–1616, email: *manoj.valiyaveettil@nih.gov*.

(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: September 17, 2024.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–21590 Filed 9–19–24; 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 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: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

Date: October 18, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Video Assisted Meeting).

Contact Person: Stephen A. Gallo, Ph.D., Scientific Review Officer, Scientific Review Program, 5601 Fishers Lane, MSC 9834, Rockville, MD 20892, (240) 669–2858, *steve.gallo@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

Date: October 22, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Video Assisted Meeting).

Contact Person: Stephen A. Gallo, Ph.D., Scientific Review Officer, Scientific Review Program, 5601 Fishers Lane, MSC 9834, Rockville, MD 20892, (240) 669–2858, *steve.gallo@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: September 16, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–21505 Filed 9–19–24; 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 grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Centers of Excellence for Translational Research (U19 Clinical Trial Not Allowed).

Date: October 29–31, 2024.

Time: 9:00 a.m. to 6:00 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 3G53, Rockville, MD 20852 (Video Assisted Meeting).

Contact Person: Caitlin A. Brennan, 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 3G53, Rockville, MD 20852, (301) 761–7792, *caitlin.brennan2@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: September 16, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–21506 Filed 9–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; 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: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Review of Mentoring Network (UE5), DSR Member-Conflict (K), and Conference (R13) Grant Applications.

Date: October 29, 2024.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Dental & Craniofacial Research 31 Center Drive Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jingshan Chen, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, National Institute of Dental & Craniofacial Research, 31 Center Drive, Bethesda, MD 20892 (301) 451–2405 email: *jingshan.chen@nih.gov*.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Review of Clinical Study Applications.

Date: October 30, 2024.

Time: 12:00 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Dental & Craniofacial Research 31 Center Drive Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yun Mei, MD Scientific Review Officer Scientific Review Branch National Institute of Dental & Craniofacial Research National Institutes of Health 31 Center Drive Bethesda, MD 20892 (301) 827–4639 email: *yun.mei@nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: September 17, 2024.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–21589 Filed 9–19–24; 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 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: Bioengineering Sciences & Technologies Integrated Review Group; Biodata Management and Analysis Study Section.

Date: October 17–18, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: E. Bryan Crenshaw, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–7129, *bryan.crenshaw@nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Lifestyle and Health Behaviors Study Section.

Date: October 17–18, 2024.

Time: 9:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: AC Hotel, 4646 Montgomery Ave., Bethesda, MD 20814.

Contact Person: Jewel L Wright, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–9038, *jewel.wright@nih.gov*.

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Tumor Host Interactions Study Section.

Date: October 17–18, 2024.

Time: 9:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Angela Y Ng, Ph.D., MBA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 710–C, MSC 7806, Bethesda, MD 20892, (301) 435–1715, *nga@csr.nih.gov.*

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group; Imaging Technology for Neuroscience Study Section.

Date: October 21–22, 2024.

Time: 7:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Rachel A Kane, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (301) 496–0221, *kanera@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Clinical Oncology Study Section.

Date: October 21–22, 2024

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue NW, Washington, DC 20037.

Contact Person: Laura Asnaghi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockville Drive, Room 6200, MSC 7804 Bethesda, MD 20892, (301) 443–1196, *laura.asnaghi@nih.gov.*

Name of Committee: Applied Immunology and Disease Control Integrated Review Group; Interspecies Microbial Interactions and Infectious Study Section.

Date: October 21, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Alexandria Old Town, 1900 Diagonal Road, Alexandria, VA 22314.

Contact Person: Subhamoy Pal, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–0926, *subhamoy.pal@nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genetics of Health and Disease Study Section.

Date: October 21–22, 2024.

Time: 9:00 a.m. to 9:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Christopher Payne, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 2208, Bethesda, MD 20892, 301–402–3702 *christopher.payne@nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurotoxicology and Alcohol Study Section.

Date: October 21–22, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Eileen Marie Moore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–8928, *eileen.moore@nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Clinical Management in General Care Settings Study Section.

Date: October 21–22, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Canopy by Hilton, 940 Rose Avenue, North Bethesda, MD 20852.

Contact Person: Jessica Campbell Chambers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–5693, *jessica.chambers@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: September 16, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–21501 Filed 9–19–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2024–0781]

National Chemical Transportation Safety Advisory Committee; October 2024 Meeting

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of open Federal advisory committee meetings.

SUMMARY: The National Chemical Transportation Safety Advisory Committee (Committee) and its three subcommittees will meet in public in Washington, DC to discuss matters relating to the safe and secure marine transportation of hazardous materials. The Committee will be held in person only. The three subcommittee meetings will be virtual. For more detailed information regarding the subcommittee meetings, see *Agenda* Day 1 and Day 2 below.

DATES:

Four Open Meetings: (1) The Support Reductions to Emissions and Environmental Impacts Associated with Marine Transport of Chemicals, Liquefied Gases and Liquefied Natural Gas (LNG); Including the Working Group on the update to 46 CFR 150 concerning Cargo Compatibility Testing subcommittee will meet virtually on Tuesday, October 8, 2024, from 2 p.m. to 5 p.m. Eastern Daylight Time (EDT). If the subcommittee has completed its business the meeting may end early. (2) The Industry Best Practices and Regulatory Updates Related to the Maritime Transportation of Lithium Batteries subcommittee will meet virtually on Wednesday, October 9, 2024, from 9 a.m. to noon EDT. If the subcommittee has completed its business the meeting may end early. (3) The Updates to CG–ENG Policy Letter 02–15: Design Standards For U.S. Barges Intending to Carry Liquefied Natural Gas in Bulk subcommittee will meet virtually on Wednesday, October 9, 2024, from 1:30 p.m. to 5 p.m. EDT. If the subcommittee has completed its business the meeting may end early. (4) The National Chemical Transportation Safety Advisory Committee will meet in-person on Thursday, October 10, 2024, from 9 a.m. to 2 p.m. EDT. If the Committee has completed its business the meeting may end early.

The subcommittee taskings and other subcommittee information can be found using the following address: *https://homeport.uscg.mil/missions/federal-advisory-committees/national-chemical-transportation-safety-advisory-committee-(nctsac)/task-statements.*

Comments and supporting documents: To ensure your comments are received by Committee and subcommittee members before the meetings, submit your written comments no later than September 24, 2024. Please specify to whom your comments are directed: the Committee or the subcommittees.

ADDRESSES: The National Chemical Transportation Safety Advisory Committee meeting will be held at the American Bureau of Shipping Group, 80 M Street Southeast, Suite 480, Washington, DC 20003.

Pre-registration Information: Pre-registration is required for in-person access to the full Committee meeting or to attend the subcommittee meetings via videoconference. Public attendees will be required to pre-register no later than noon EDT on September 24, 2024, to be admitted to the meetings. In-person attendance may be capped due to limited space in the meeting venue, and registration will be on a first-come-first-served basis. To pre-register, contact Lieutenant Joseph Kolb at *Joseph.B.Kolb2@uscg.mil.* You will be asked to provide your name, telephone number, email, company or group with which you are affiliated, and whether you wish to attend virtually for subcommittee meetings or in person for full Committee meeting. If you wish to attend virtually, please also provide the subcommittee meeting(s) you wish to attend.

The National Chemical Transportation Safety Advisory Committee is committed to ensuring all participants have equal access regardless of disability status. If you require reasonable accommodation due to a disability to fully participate, please email Lieutenant Joseph Kolb at *Joseph.B.Kolb2@uscg.mil* or call at 206–815–1623 as soon as possible.

Instructions: You are free to submit comments at any time, including orally at the meetings as time permits, but if you want Committee or subcommittee members to review your comment before the meetings, please submit your comments no later than September 24, 2024. We are particularly interested in comments on the topics in the ''Agenda'' section below. We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2024–0781 in the search box, and click ''Search''. Next, look for this document in the Search Results column and click on it. Then click on the Comment option. If your material cannot be submitted using *https://www.regulations.gov,* contact the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number [USCG–2024–0781]. Comments received will be posted without alteration at *https://www.regulations.gov,* including any personal information provided. You may wish to review the Privacy and Security Notice found via a link on the homepage of *https://www.regulations.gov,* and the Department of Homeland Security's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the docket, and all public comments, will be in the online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign-up for email alerts, you will be notified when comments are posted.

FOR FURTHER INFORMATION CONTACT: Lieutenant Joseph Kolb, Alternate Designated Federal Officer of the National Chemical Transportation Safety Advisory Committee, telephone 206–815–1623, or email *Joseph.B.Kolb2@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of these meetings is in compliance with the *Federal Advisory Committee Act,*

(Pub. L. 117–286, 5. U.S.C. ch. 10). The Committee was authorized by section 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018* (Pub. L. 115–282, 132 Stat. 4192) and codified in 46 U.S.C. 15101. The Committee operates under the provisions of the *Federal Advisory Committee Act* and 46 U.S.C. 15109. The Committee provides advice and recommendations to the Secretary of Homeland Security on matters related to the safe and secure marine transportation of hazardous materials.

Agenda

Day 1

Tuesday, October 8, 2024, 2 p.m. to 5 p.m. EDT

The Support Reductions to Emissions and Environmental Impacts Associated with Marine Transport of Chemicals, Liquefied Gases and Liquefied Natural Gas (LNG); Including the Working Group on the update to 46 CFR 150 concerning Cargo Compatibility Testing subcommittee (Task Statement 22–01).

The subcommittee will meet to prepare findings and any proposed recommendations in response to the tasking.

Day 2

Wednesday, October 9, 2024, 9 a.m. to Noon EDT

The Industry Best Practices and Regulatory Updates Related to the Maritime Transportation of Lithium Batteries subcommittee (Task Statement 22–02).

The subcommittee will meet to prepare findings and any proposed recommendations in response to the tasking.

Wednesday, October 9, 2024, 1:30 to 5 p.m. EDT

The Updates to CG–ENG Policy Letter 02–15: Design Standards For U.S. Barges Intending to Carry Liquefied Natural Gas in Bulk subcommittee (Task Statement 24–01).

The subcommittee will meet to prepare findings and any proposed recommendations in response to the tasking.

The agenda for each subcommittee will include the following:

(1) Call to order by subcommittee Chair.

(2) Introduction and review subcommittee tasking.

(3) Public comment period.

(4) Adjournment of subcommittee meetings.

Day 3

Thursday, October 10, 2024, 9 a.m. to 2 p.m. EDT

The agenda for the National Chemical Transportation Safety Advisory Committee meeting on Thursday, October 10, 2024 is as follows:

(1) Call to order.

(2) Roll call and determination of quorum.

(3) Swearing in of new members.

(4) Remarks from U.S. Coast Guard leadership.

(5) Chairman and Designated Federal Officer's remarks.

(6) Acceptance of February 1, 2024 meeting minutes and status of task items.

(7) Each subcommittee Chair briefs and update the Committee:

a. The Support Reductions to Emissions and Environmental Impacts Associated with Marine Transport of Chemicals, Liquefied Gases and Liquefied Natural Gas (LNG); Including the Working Group on the update to 46 CFR 150 concerning Cargo Compatibility Testing subcommittee (Task Statement 22–01). Subcommittee chair briefs Committee, public comment, Committee deliberations and Committee vote.

b. The Industry Best Practices and Regulatory Updates Related to the Maritime Transportation of Lithium Batteries subcommittee (Task Statement 22–02). Subcommittee chair briefs Committee, public comment, Committee deliberations and Committee vote.

c. The CG–ENG Policy Letter 02–15: Design Standards for U.S. Barges Intending to Carry Liquefied Natural Gas in Bulk subcommittee (Task Statement 24–01). Subcommittee chair briefs Committee, public comment, Committee deliberations and Committee vote.

(8) Election of Chair and Vice-Chair.

(9) Recognition of outgoing members from the Committee.

(10) Final public comment period.

(11) Set next meeting date and location.

(12) Adjournment of meeting.

A copy of all meeting documentation will be available at: *https://homeportr.uscg.mil/missions/federal-advisory-committees/national-chemical-transportation-safety-advisory-committee-(nctsac)/committee-meetings* no later than October 1, 2024. Alternatively, you may contact Lieutenant Joseph Kolb as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Public comments will be taken throughout the meetings as the Committee and subcommittees discuss the issues and prior to deliberations and voting. There will be a final public comment period at the end of the full Committee meeting. Each public comment in the plenary session will be limited to two minutes.

Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above, to register as a speaker.

Dated: September 16, 2024.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2024–21513 Filed 9–19–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. CISA–2024–0003]

Notice of Partially Closed Federal Advisory Committee Meeting

AGENCY: Cybersecurity and Infrastructure Security Agency (CISA), Department of Homeland Security.

ACTION: Notice of partially closed Federal advisory committee meeting.

SUMMARY: CISA is publishing this notice to announce that the CISA Cybersecurity Advisory Committee Quarterly Meeting will be held virtually on Friday, October 11, 2024. This meeting will be partially closed to the public.

DATES:

Meeting Registration: Registration to attend the meeting is required and must be received no later than 5 p.m. Eastern Daylight Time (EDT) on Friday, October 4, 2024.

Speaker Registration: Registration to speak during the meeting's public comment period must be received no later than 5 p.m. EDT on Friday, October 4, 2024.

Written Comments: Written comments must be received no later than 5 p.m. EDT on Friday, October 4, 2024.

Meeting Date: The CISA Cybersecurity Advisory Committee will meet virtually on Friday, October 11, 2024, from 12:30 p.m. to 4:00 p.m. EDT. The meeting may close early if the Committee has completed its business.

ADDRESSES: The CISA Cybersecurity Advisory Committee's meeting will be open to members of the public, per 41 CFR 102–3.150 from 2:30 p.m.–4:00 p.m. EDT. Members of the public can participate via teleconference. To register to request access to the conference call bridge, please email *CISA_CybersecurityAdvisoryCommittee@cisa.dhs.gov* by 5 p.m. EDT Friday, October 4, 2024. The CISA

Cybersecurity Advisory Committee is committed to ensuring all participants have equal access regardless of disability status. If you require a reasonable accommodation due to a disability to fully participate, please contact Ms. Megan Tsuyi at (202) 594–7374 as soon as possible.

Comments: Members of the public are invited to provide comment on issues that will be considered by the committee as listed in the **SUPPLEMENTARY INFORMATION** section below. Associated materials that may be discussed during the meeting will be made available for review at *https://www.cisa.gov/cisa-cybersecurity-advisory-committee-meeting-resources* by Friday, October 4, 2024. Comments must be submitted by 5 p.m. EDT on Friday, October 4, 2024 and must be identified by Docket Number CISA–2024–0003. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Please follow the instructions for submitting written comments.
- *Email: CISA_CybersecurityAdvisoryCommittee@cisa.dhs.gov*. Include the Docket Number CISA–2024–0003 in the subject line of the email.

Instructions: All submissions received must include the words ''Cybersecurity and Infrastructure Security Agency'' and the Docket Number for this action. Comments received will be posted without alteration to *www.regulations.gov,* including any personal information provided. You may wish to review the Privacy & Security notice available via a link on the homepage of *www.regulations.gov*.

Docket: For access to the docket and comments received by the CISA Cybersecurity Advisory Committee, please go to *www.regulations.gov* and enter docket number CISA–2024–0003.

A public comment period is scheduled to be held during the meeting from 2:35 p.m. to 2:45 p.m. EDT. Speakers who wish to participate in the public comment period must email *CISA_CybersecurityAdvisoryCommittee@cisa.dhs.gov* to register. Speakers should limit their comments to three minutes and will speak in order of registration. Please note that the public comment period may end before the time indicated, depending on the number of speakers who register to participate.

FOR FURTHER INFORMATION CONTACT: Megan Tsuyi, 202–594–7374, *CISA_CybersecurityAdvisoryCommittee@cisa.dhs.gov.*

SUPPLEMENTARY INFORMATION: The CISA Cybersecurity Advisory Committee was established under the National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283. Notice of this meeting is given under Federal Advisory Committee Act (FACA), 5 United States Code, chapter 10. The CISA Cybersecurity Advisory Committee advises the CISA Director on matters related to the development, refinement, and implementation of policies, programs, planning, and training pertaining to the cybersecurity mission of the Agency.

Agenda: The CISA Cybersecurity Advisory Committee will hold a virtual meeting on Friday, October 11, 2024, to discuss current CISA Cybersecurity Advisory Committee activities. The open session will be held from 2:30 p.m. to 4:00 p.m. EDT and will include: public comment, briefings from four CSAC subcommittees, and CSAC member deliberation and vote on recommendations for the Director.

The Committee will also meet in a closed session from 12:30 p.m. to 2:15 p.m. EDT to participate in an operational discussion that will address areas of critical cybersecurity vulnerabilities and priorities for CISA. Government officials will share sensitive information with CSAC members on initiatives and future security requirements for assessing cyber risks to critical infrastructure.

Basis for Closure: In accordance with section 1009(d) of FACA and 5 U.S.C. 552b(c)(9)(B), The Government in the Sunshine Act, it has been determined that certain agenda items require closure, as the premature disclosure of the information that will be discussed would be likely to significantly frustrate implementation of proposed agency actions.

This agenda item addresses areas of CISA's operations that include critical cybersecurity vulnerabilities and priorities for CISA. Government officials will share sensitive information with CSAC members on initiatives and future security requirements for assessing cyber risks to critical infrastructure.

As the premature disclosure of the information that will be discussed would be likely to significantly frustrate implementation of proposed agency action, this portion of the meeting is required to be closed pursuant to section 1009(d) of FACA and 5 U.S.C. 552b(c)(9)(B).

Megan M. Tsuyi,

Designated Federal Officer, CISA Cybersecurity Advisory Committee, Cybersecurity and Infrastructure Security Agency, Department of Homeland Security.

[FR Doc. 2024–21527 Filed 9–19–24; 8:45 am]

BILLING CODE 9111–LF–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[245A2100DD/AAKC001030/A0A501010.999900]

Indian Gaming; Extension of Tribal-State Class III Gaming Compact in California

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces the extension of the Class III gaming compact between the Alturas Indian Rancheria and the State of California.

DATES: The extension takes effect on September 20, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, *IndianGaming@bia.gov;* (202) 219–4066.

SUPPLEMENTARY INFORMATION: An extension to an existing Tribal-State Class III gaming compact does not require approval by the Secretary if the extension does not modify any other terms of the compact. 25 CFR 293.5. The Alturas Indian Rancheria and the State of California have reached an agreement to extend the expiration date of their existing Tribal-State Class III gaming compact to December 31, 2024. This publication provides notice of the new expiration date of the compact.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2024–21562 Filed 9–19–24; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[245A2100DD/AAKC001030/A0A501010.999900]

Indian Gaming; Approval of Tribal-State Class III Gaming Compact Between the Bois Forte Band of Chippewa and the State of Minnesota for Blackjack

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the approval of the Addendum to Tribal-State Compact for Control of Class III Blackjack on the Bois Forte Band of Chippewa Reservation in Minnesota for Class III Card Games.

DATES: The compact takes effect on September 20, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, *IndianGaming@bia.gov;* (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by 25 CFR 293.4, all compacts and amendments are subject to review and approval by the Secretary. The Amendment authorizes Class III card games in addition to blackjack, adds definitions, regulatory standards for Class III card games, background investigations, and provisions for enforcement and dispute resolution. The Amendment is approved.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2024–21609 Filed 9–19–24; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_HQ_FRN_MO4500181308]

Minerals Management: Annual Adjustment of Cost Recovery Fees

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of fee adjustments.

SUMMARY: The Bureau of Land Management (BLM) is adjusting the fixed fees set forth in the Department of the Interior's onshore mineral resources regulations for the processing of certain minerals program-related documents and actions.

DATES: The adjusted fees take effect on October 1, 2024.

FOR FURTHER INFORMATION CONTACT: Yvette M. Fields, Chief, Division of Fluid Minerals, 240–712–8358, *yfields@blm.gov*; Matthew Marsh, Acting Chief, Division of Solid Minerals, 307–347–5243, *mmarsh@blm.gov*. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The Independent Offices Appropriations Act of 1953, 31 U.S.C. 9701, and section 304 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1734, authorize the BLM to charge fees for processing applications and other documents related to public lands. In 2005, the BLM published a final cost recovery rule (70 FR 58854) that established new fees or revised existing fees and service charges for processing documents related to its minerals program and established the method that the BLM uses to adjust those fees and services charges for inflation on an annual basis. BLM regulations at 43 CFR 3000.120 provide that the BLM Director will post the fixed filing fees on the BLM's web page (*www.blm.gov*) and publish a notice in the **Federal Register** announcing the fee adjustments by October 1 of each year to provide additional public notice. The new fees take effect each year on October 1.

The fee adjustments are based on mathematical formulas that were established in the 2005 final cost recovery rule and, in the case of the Application for Permit to Drill fee, section 3021(b) of the National Defense Authorization Act of 2015. For more details on how the BLM calculates the fee increases, please refer to the BLM website.

PROCESSING AND FILING FEE TABLE

Document/action	FY 2025 fee
Oil & Gas (parts 3100, 3110, 3120, 3130, 3150, 3160, and 3180):	
Competitive lease application	$3,100
Leasing and compensatory royalty agreements under right-of-way pursuant to subpart 3109.	660
Lease consolidation	575
Assignment and transfer of record title or operating rights	115
Overriding royalty transfer, payment out of production	15
Name change; corporate merger; sheriff's deed; dissolution of corporation, partnership, or trust; or transfer to heir/devisee	270
Lease reinstatement, Class I	1,260
Geophysical exploration permit application—all states *	1,150
Renewal of exploration permit—Alaska	30
Final application for Federal unit agreement approval, Federal unit agreement expansion, and Federal subsurface gas storage application *.	1,200
Designation of successor operator for all Federal agreements, except for contracted unit agreements that contain no Federal lands *.	120
Geothermal (part 3200):	
Noncompetitive lease application	520
Competitive lease application	200
Assignment and transfer of record title or operating rights	115
Name change, corporate merger or transfer to heir/devisee	270
Lease consolidation	575
Lease reinstatement	100
Nomination of lands	145
plus per acre nomination fee	0.14

PROCESSING AND FILING FEE TABLE—Continued

Document/action	FY 2025 fee
Site license application	80
Assignment or transfer of site license	80
Coal (parts 3400, 3470):	
License to mine application	15
Exploration license application	425
Lease or lease interest transfer	85
Leasing of Solid Minerals Other Than Coal and Oil Shale (parts 3500, 3580):	
Applications other than those listed below	45
Prospecting permit application amendment	85
Extension of prospecting permit	140
Lease modification or fringe acreage lease	40
Lease renewal	670
Assignment, sublease, or transfer of operating rights	40
Transfer of overriding royalty	40
Use permit	40
Shasta and Trinity hardrock mineral lease	40
Renewal of existing sand and gravel lease in Nevada	40
Public Law 359; Mining in Powersite Withdrawals: General (part 3730):	
Notice of protest of placer mining operations	15
Mining Law Administration (parts 3800, 3810, 3830, 3860, 3870):	
Application to open lands to location	15
Notice of location**	25
Amendment of location	15
Transfer of mining claim/site	15
Recording an annual FLPMA filing	15
Deferment of assessment work	140
Recording a notice of intent to locate mining claims on Stockraising Homestead Act lands	40
Mineral patent adjudication (more than 10 claims)	3,915
(10 or fewer claims)	1,955
Adverse claim	140
Protest	85
Oil Shale Management (parts 3900, 3910, 3930):	
Exploration license application	410
Application for assignment or sublease of record title or overriding royalty	85
Onshore Oil and Gas Operations and Production (parts 3160, 3170):	
Application for Permit to Drill	12,515

*These fees are new for FY 2025. The BLM adopted them in the final rule titled ''Fluid Mineral Leases and Leasing Process,'' published on April 23, 2024 (89 FR 30916).

**To record a mining claim or site location, this processing fee along with the initial maintenance fee and the one-time location fee required by statute and at 43 CFR part 3833 must be paid.

David Rosenkrance,

Assistant Director, Office of Energy, Minerals, and Realty Management.

[FR Doc. 2024–21605 Filed 9–19–24; 8:45 am]

BILLING CODE 4331–29–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Availability of the Final Environmental Impact Statement for the Cross-Tie 500-kV Transmission Project in Beaver, Juab, and Millard Counties, Utah, and Lincoln, Nye, and White Pine Counties, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) and the United States Department of Agriculture—Forest Service (USDA Forest Service) announce the availability of the Cross-Tie 500-kilovolt (kV) Transmission Project (Cross-Tie Project or Project) Final Environmental Impact Statement (FEIS).

DATES: The BLM will not issue a decision on the proposal for a minimum of 30 days after the date the Environmental Protection Agency (EPA) publishes its Notice of Availability (NOA) of the FEIS in the **Federal Register**. The EPA usually publishes its NOAs on Fridays. The USDA Forest Service may issue a Record of Decision (ROD) after the pre-decisional administrative review process, also known as the objection process, has ended and the Reviewing Officer has responded in writing to all objections, and all concerns and instructions identified by the Reviewing Officer in the objection response have been addressed by the Responsible Official. The availability period and objection filing period will run concurrently. Following the conclusion of that availability period and objection process, RODs signed by the BLM and USDA Forest Service will document both agency's final decisions and identify any conditions of approval.

ADDRESSES: Copies of the Final EIS and documents pertinent to this proposal are electronically available for review on the BLM ePlanning project website at *https://eplanning.blm.gov/eplanning-ui/project/2018636/510* and copies of the Final EIS may be examined at the following locations:

- BLM Bristlecone Field Office and Ely District Office, 702 North Industrial Way, Ely, Nevada 89301;
- BLM Caliente Field Office, 1400 Front Street, Caliente, Nevada, 89008;
- BLM Cedar City Field Office and Color Country District Office, 176 East D.L. Sargent Drive, Cedar City, Utah 84721;

- BLM Fillmore Field Office, 95 East 500 North, Fillmore, Utah 84631;
- BLM West Desert District Office, 491 North John Glenn Road, Salt Lake City, Utah 84116
- Forest Service Humboldt-Toiyabe National Forest Ely Ranger District, 825 Avenue E, Ely, Nevada, 89301; and
- Forest Service Humboldt-Toiyabe National Forest Supervisor's Office, 1200 Franklin Way, Sparks, Nevada, 89431.

FOR FURTHER INFORMATION CONTACT: Amber Koski, BLM Project Manager, telephone 435–743–3125, address 95 East 500 North, Fillmore, Utah 84631, or *blm_ut_fm_cross-tie_project@blm.gov.* Individuals in the United States who are deaf, deaf blind, hard of hearing, or have a speech disability, please dial 711 (TTY, TDD, or TeleBraille) to access telecommunication relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The applicant, TransCanyon LLC (TransCanyon), submitted an Application for Transportation and Utility Systems and Facilities on Federal Lands (Standard Form 299) and a draft Plan of Development to the BLM and USDA Forest Service for a permanent facility BLM right-of-way (ROW) and a Forest Service special use permit (SUP) for the construction, operation and maintenance (O&M), and decommissioning of the Cross-Tie 500-kV Transmission Project.

The BLM Fillmore Field Office, in coordination with cooperating agencies, prepared an EIS to analyze potential impacts from the Project and alternatives. New permanent and temporary land authorizations would be required to construct, operate, and maintain Project components. In Utah, TransCanyon's Proposed Action would cross 110 miles of BLM land, 14 miles of State land, and 18 miles of private land, totaling 141 miles. In Nevada, TransCanyon's Proposed Action would cross 63 miles of BLM land, eight miles of National Forest System land, four miles of private land, and one mile of State land, totaling 76 miles. TransCanyon would obtain these land rights through ROW grants from the BLM, a SUP from the Forest Service, and easements or fee purchases for non-Federal lands.

Purpose and Need for the Proposed Action

The purpose of this BLM Federal action is to respond to the ROW application submitted by TransCanyon for the construction, O&M, and decommissioning of the proposed transmission line between central Utah and east-central Nevada. The need for Federal action is established by the BLM's responsibilities under title V of FLPMA (43 U.S.C. 1761), the BLM's ROW regulations at 43 CFR part 2800, and other applicable Federal laws and policies to grant ROWs over public land.

The purpose and need of the Forest Service Federal action is to respond to an application for a SUP submitted by TransCanyon for the construction, O&M, and decommissioning of the proposed 500-kV transmission line on National Forest System land in east-central Nevada in compliance with FLPMA and the National Forest Management Act (16 U.S.C. 1601–1614), as well as the Humboldt National Forest Land and Resource Management Plan, as amended, which provides forest-wide standards and guidelines for management of National Forest System land crossed by the Project. The SUP will govern use and occupancy of National Forest System land that is in the public interest while avoiding and minimizing adverse effects and ensuring consistency with land and resource management plans.

FLPMA provides both the BLM and the Forest Service with discretion to authorize use of land they administer via ROWs or SUPs, taking into consideration impacts on natural and cultural resources. In doing so, the BLM and the Forest Service both must endeavor ''to minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment.'' (43 U.S.C. 1765). The BLM and the Forest Service are reviewing the Proposed Action and other alternatives and will decide whether to approve, approve with modifications, or deny TransCanyon's application, and may include terms, conditions, and stipulations authorized by law and regulation.

Proposed Action and Alternatives

TransCanyon's Proposed Action includes an approximately 214-mile, 1,500-megawatt, 500-kV high-voltage alternating current (HVAC) overhead transmission line which would be constructed between the Clover Substation in central Utah and the Robinson Summit Substation in east-central Nevada. The Project would be situated within a 250-foot-wide ROW, 125 feet from centerline, which would maintain separation from other existing extra-high-voltage transmission lines as required by the North American Electric Reliability Corporation. The Project facilities would include a 500-kV HVAC overhead transmission line, new substation equipment at the Clover Substation in central Utah (within the existing substation footprint) and at the Robinson Summit Substation in east-central Nevada (within a 46-acre proposed expansion), regeneration stations near the line for the fiber optic ground wire, series compensation station(s), temporary and permanent access roads, and temporary work areas associated with construction activities.

In addition to the Proposed Action and No Action Alternative (*i.e.,* not granting the ROW/SUP), alternatives include modifications to the proposed route. Three alternative routes to reduce impacts on resources of concern were developed before the public scoping period during workshops with agency interdisciplinary teams and cooperating agencies. A fourth alternative was developed after the public scoping period in response to Tribal concerns.

Alternative A (Agency Preferred Alternative)

Alternative A would replace a portion of the Proposed Action in southeastern Juab County and northeastern Millard County, Utah, which would minimize potential effects to private landowners and their viewsheds in the area near Leamington, Utah, and would minimize potential effects to the Sevier River and agricultural property.

Alternative A would largely follow the approved but currently unbuilt TransWest Express Transmission Project (TransWest Express) ROW, deviate from the Proposed Action in the east, and cross BLM-administered land and pass through a Greater Sage-grouse (GRSG) General Habitat Management Area, where the line is not co-located with the approved TransWest Express ROW. It would then follow the route of the approved TransWest Express ROW until it rejoins the Proposed Action at the line between Juab and Millard Counties. A 23-mile-long segment of the Proposed Action would be replaced with the 27-mile-long segment of Alternative A, which would increase the total length of the route from 214 miles to 218 miles.

Alternative B

Alternative B would replace a portion of the Proposed Action alignment in central and western Millard County, Utah, which would minimize crossings of the Sevier A and Sevier B Military Operating Area (low-level flight training areas) that are part of the Department of Defense's Utah Test and Training Range (UTTR).

Alternative B would cross into Beaver County, Utah, following identified

utility corridors to the Milford, Utah, area, then turn west and north following an identified utility corridor (with no current aboveground utilities) back to the Proposed Action alignment near the Utah-Nevada State line. A 69-mile-long segment of the Proposed Action would be replaced with the 158-mile-long segment of Alternative B, which would increase the total length of the route from 214 miles to 304 miles.

Alternative C

Alternative C would replace a portion of the Proposed Action alignment in eastern White Pine County, Nevada, and was developed in consideration of concerns regarding the culturally sensitive Swamp Cedars Area of Critical Concern and Bahsahwahbee Traditional Cultural Property.

This alternative would diverge from the Proposed Action alignment and follow U.S. Highway 6/50 southwest, then follow State Route 893 northwest back to the Proposed Action alignment. A 7-mile-long segment of the Proposed Action would be replaced with the 13-mile-long segment of Alternative C, which would increase the total length of the route from 214 miles to 221 miles.

Alternative D

Alternative D was developed to avoid sensitive resource areas in Spring Valley, Nevada. Alternative D would replace a portion of the Proposed Action alignment in Millard County, Utah, and eastern White Pine County, Nevada. Alternative D would follow Alternative B through Beaver County, Utah, then depart from Alternative B shortly after reentering Millard County, Utah. It would then head west, north of the county line, rerouted in the southwest corner of Millard County, Utah, to avoid the Lands with Wilderness Characteristic (LWC) Inventory Unit Jackson Wash (UT–C010–121), and cross into Lincoln County, Nevada. From there, the route would head west, then southwest to an Ely District resource management plan (RMP) corridor near Atlanta, Nevada. The route would then follow the RMP corridor west and south until it intersects the Section 368 Energy Corridor that contains the existing One Nevada Transmission Line. It would then follow the One Nevada Transmission Line north to the Robinson Summit Substation. A 145-mile-long segment of the Proposed Action route would be replaced with the 297-mile-long segment of Alternative D, which would increase the total length of the route from 214 miles to 366 miles.

Key Mitigation Measures

The Project is anticipated to cause direct and indirect impacts during construction, O&M, and decommissioning. During construction, impacts would occur from land disturbance; operation of construction equipment; installation of towers, access roads, and other facilities; and presence of work forces. During O&M, impacts would occur from continued presence of Project facilities and from maintenance activities. Impacts from decommissioning would be similar to those expected from the construction phase. Cumulative impacts from relevant reasonably foreseeable future actions are disclosed in the FEIS.

Applicant-Committed Environmental Protection Measures (ACEPMs) are included as part of the Agency Preferred Alternative and have been identified to reduce impacts on environmental resources. These measures would apply to all action alternatives. TransCanyon and its contractors would adhere to the ACEPMs identified during the engineering/design phase and to the measures addressing construction and O&M activities. A full list of the ACEPMs can be found in Appendix A: Plan of Development. Additionally, direct and indirect impacts to GRSG habitat have been analyzed and used to determine compensatory mitigation requirements.

Lead and Cooperating Agencies

The BLM, as the lead Federal agency for preparing the EIS, invited Federal, Tribal, State, and local agencies to serve as cooperating agencies. In total, 56 agencies were invited. The following entities accepted the invitation and are participating as cooperating agencies:

Federal Agencies

- Forest Service (Humboldt-Toiyabe National Forest, Ely Ranger District)
- U.S. Environmental Protection Agency
- Department of Defense, Military Aviation and Installation Assurance Siting Clearinghouse
- Department of Defense, UTTR
- U.S. Fish and Wildlife Service.

State Agencies

- Utah Public Lands Policy Coordinating Office, with multiple State of Utah entities participating through this office:
  - University of Utah Telescope Array Project
  - Utah Department of Agriculture and Food
  - Utah Department of Transportation
  - Utah Division of Wildlife Resources
  - Utah Trust Lands Administration
- Nevada Department of Wildlife
- Nevada Division of Minerals
- Nevada Sagebrush Ecosystem Program
- Nevada Division of State Lands
- Nevada N–4 State Grazing Board

Local Agencies

- Beaver County, Utah
- Juab County, Utah
- Millard County, Utah
- Lincoln County, Nevada
- Nye County, Nevada
- White Pine County, Nevada
- City of Ely, Nevada
- Lincoln County Conservation District

Tribal Governments

- Duckwater Shoshone Tribe
- Te-Moak Tribe of Western Shoshone-Elko Band

The BLM and Forest Service have also engaged in government-to-government consultation with affected Tribes and will continue Tribal engagement during all phases of the planning process in accordance with applicable Federal statutes, regulations, and other authorities, including the National Historic Preservation Act, the American Indian Religious Freedom Act, Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), and Executive Order 13007 (Indian Sacred Sites).

Public Involvement

The BLM published a Notice of Intent (NOI) to prepare the EIS in the **Federal Register** on May 2, 2022 (87 FR 25656). The scoping process began with the publication of the NOI in the **Federal Register**, and ran from May 2, 2022, to June 1, 2022. During the scoping period, the BLM sought public comments to identify issues to be addressed in the EIS.

Two virtual public scoping meetings were held on May 17 and May 18, 2022. In total, 59 letter submissions were received from the public during the scoping period either via the U.S. Postal Service, email, recorded telephone line, or via telephone to the BLM Project Manager.

The BLM published a Draft EIS Notice of Availability (NOA) in the **Federal Register** on November 9, 2023 (88 FR 77358). Although the NOA defined the end date of the public comment period as January 2, 2024, the BLM extended the comment period through January 9, 2024. The BLM held four in-person meetings and one virtual meeting in November and December 2023. Meetings were held in Nephi, Milford, and Delta, Utah, and Ely, Nevada. The BLM also met with the Leamington, Utah town council in December 2023.

The BLM received a total of 583 submissions during the public comment

period. Of the submissions, 420 were identical copy letters, 89 were form letters with additional text, 73 were unique letters, and one was a duplicate submission. Principle comment issues included:

- Wildlife impact concerns, including birds, bats, big game, amphibians, pollinators and insects, general wildlife, special-status species, and GRSG;
- Lands with Wilderness Characteristics impact concerns;
- Visual resource impact concerns; and
- Cultural resource impact concerns.

Public and stakeholder comments also provided specific edits and corrections to EIS sections and general support or opposition to the proposed Project.

Final EIS Revisions

Comments on the Draft EIS received from the public and internal BLM review were considered and incorporated as appropriate into the Final EIS. Public comments resulted in the addition of clarifications and analysis, but comments did not identify significant new circumstances or information relevant to environmental concerns that have bearing upon the proposed action.

In response to public comments on the Draft EIS, revisions were made to the Final EIS. The agency made micrositing changes within the 0.5-mile wide siting corridor at Marjum Pass in Millard County, Utah, which is analyzed as part of the Agency Preferred Alternative within the Final EIS. The LWC, Transportation, Visual Resources, and Wilderness Study Areas sections of the Final EIS include updated analysis for the Agency Preferred Alternative micrositing at Marjum Pass. Impacts from the Agency Preferred Alternative would be the same as described under the Proposed Action for the following: air quality; climate change/greenhouse gases; cultural and heritage resources; fire and fuels management; geology, minerals, and renewable energy production; inventoried roadless areas; land use; livestock grazing; noxious and invasive weeds; paleontology; recreation; socioeconomics and environmental justice; soils; vegetation; water resources; wildlife; and woodlands.

In addition to micrositing in Marjum Pass, the agency widened the 0.5-mile-wide siting corridor in two specific areas (Utah-Nevada border west of Garrison, Utah; and Steptoe Valley, Nevada) where public comments noted administrative constraints that would preclude or interfere with existing infrastructure, private lands, and specially managed areas. Widening the siting corridor in these locations allows for the flexibility of the centerline to shift. The 0.5-mile-wide siting corridor was also reduced after publication of the Draft EIS in multiple locations across Nevada to remove locations outside designated utility corridors. These are locations where siting of the transmission line would not be in conformance with the *Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment* (Nevada-California ARMPA) (BLM 2015b), as described below. The 0.5-mile-wide siting corridor and centerline were also shifted in the southwest corner of Millard County, Utah, to avoid the LWC Inventory Unit Jackson Wash (UT–C010–121).

In early 2024, the United States Geological Survey issued a draft annual update report related to GRSG that disclosed an adaptive management trigger identified in the Nevada-California ARMPA that was tripped for the third year in a row for a lek cluster within the area near the western terminus of the Project at Robinson Summit Substation (Prochazka et al. 2024). The individual annual triggers are defined as *soft* triggers in the Nevada-California ARMPA, and the plan provided that tripping three soft triggers in consecutive years (2021, 2022, and 2023) equates to a *hard* trigger. In response to tripping a hard trigger, the ARMPA identifies any land outside designated utility corridors and within GRSG habitat management areas as exclusion areas for new high-voltage transmission. There is an approximately 1-mile-long segment of the proposed Project and action alternatives that would be located outside the designated utility corridor across GRSG habitat management areas and whose authorization would not conform to the approved Nevada-California ARMPA based on this new information. Through a separate process, the BLM is currently reconsidering its 2015 GRSG planning decisions, including its management of the lands being considered for this proposed Project segment. The BLM published a NOA for the draft GRSG RMP amendments on March 15, 2024. The BLM will ensure that its decision responding to the application for the Project will conform to the land use plans approved at the time of the record of decision, consistent with 43 CFR 1610.5–3.

Additional updates were made to address public concerns within the following resource sections: renewable energy resources, visual resources, Reasonably Foreseeable Future Actions and cumulative impacts, GRSG, and LWC.

Agency Decisions

Based on the environmental analysis in this Final EIS, the BLM Utah State Director will decide whether to authorize the ROW grant, authorize with modifications, or deny the application based on the proposed Project, alternatives, or any combination thereof on Public Lands. The Forest Service will issue a separate ROD specific to its decision whether to authorize a SUP on National Forest System land.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10)

Christina Judd,

Acting State Director, Utah.

[FR Doc. 2024–21279 Filed 9–19–24; 8:45 am]

BILLING CODE 4331–25–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_NV_FRN_4500181325]

Notice of Availability of the Final Environmental Impact Statement for Ioneer Rhyolite Ridge LLC's Rhyolite Ridge Lithium-Boron Mine Project, Esmeralda County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) announces the availability of the Final Environmental Impact Statement (EIS) for the Rhyolite Ridge Lithium-Boron Mine Project (Project) proposed by Ioneer Rhyolite Ridge LLC (Ioneer) in Esmeralda County, Nevada.

DATES: The BLM will not issue a decision on the proposal for a minimum of 30 days after the date that the Environmental Protection Agency (EPA) publishes its Notice of Availability (NOA) in the **Federal Register**. The EPA usually publishes its NOAs on Fridays.

ADDRESSES: The Final EIS and documents pertinent to this proposal are available for review on the BLM's National NEPA Register (ePlanning) at *https://eplanning.blm.gov/eplanning-ui/project/2012309/510.*

FOR FURTHER INFORMATION CONTACT: Scott Distel, Project Manager, telephone: (775) 635–4093; email: *sdistel@blm.gov;* address: 50 Bastian Road, Battle Mountain, NV 89820. Individuals in the United States who are deaf, deafblind,

hard of hearing, or have a speech disability may dial 711 (TYY, TDD, or TeleBraille) to access telecommunication relay services for contacting Mr. Distel. 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:

Purpose and Need

The BLM's purpose for the action is to respond to Ioneer's proposal as described in its proposed Plan of Operations, and to analyze the potential environmental effects associated with the Proposed Action and alternatives to the Proposed Action. NEPA mandates that the BLM evaluate the potential effects of the Proposed Action and develop alternatives. The BLM's need for the action is established by the BLM's responsibilities under section 302 of FLPMA and the BLM Surface Management Regulations at 43 CFR part 3800 subpart 3809 to respond to a proposed Plan of Operations.

Alternatives A, B, and C

Under *Alternative A,* the Proposed Action, Ioneer is proposing to construct, operate, close, and reclaim a new lithium-boron mine project in Esmeralda County, Nevada. The proposed Rhyolite Ridge Lithium-Boron Mine Project Plan of Operations boundary would encompass 7,166 acres, which consists of a 6,369-acre Operational Project Area and a 797-acre Access Road and Infrastructure Corridor. The total surface disturbance associated with Alternative A, including existing and reclassified disturbance and exploration, would be 2,306 acres of BLM-administered public lands and private land.

The Project would employ a workforce of approximately 400 to 500 employees during initial construction and approximately 350 employees during operations. The Project would operate 24 hours per day, 365 days per year. The total life of the Project would be 23 years, including four years of construction (years 1 through 4), 17 years of quarrying (years 1 through 17), 13 years of ore processing (years 4 through 17), and 6 additional years of reclamation (Years 18 through 23). Reclamation of disturbed areas would be completed in accordance with BLM and Nevada Division of Environmental Protection regulations. Concurrent reclamation would take place where practicable and safe.

The proposed activities for the Project would include:

- A mine, including an open pit berm and water storage tanks;
- A processing facility, including a contact water pond and diversion channels;
- Three overburden storage facilities (North, West, and Quarry Infill), including contact water ponds and diversion channels;
- One spent ore storage facility, including an underdrain pond and diversion channels;
- Project Area exploration, including access routes and drill sites with sumps;
- Haul roads, service roads, and public road realignment;
- Buckwheat exclusion area and critical habitat fencing; and
- Ancillary facilities including an explosives storage area, communication towers, All-Terrain Vehicle trails, a batch plant, a proposed water supply testing facilities including pipelines, a sewage system including septic leach fields, a dewatering pipeline, growth media stockpiles, stormwater controls and diversions, monitoring wells, laydown yards, and fencing.

Under *Alternative B,* the North and South OSF Alternative, which is the BLM's preferred alternative, all mine components and operations would be the same as Alternative A, but the facility layout would be modified to reduce surface disturbance within the Tiehm's buckwheat (*Eriogonum tiemii*) designated critical habitat. Surface disturbance under Alternative B would be less than Alternative A and total approximately 2,271 acres.

Under *Alternative C,* the No Action Alternative, the development of the Project would not be authorized and Ioneer would not construct, operate, and close a new lithium-boron mine project.

Lead and Cooperating Agencies

The BLM Battle Mountain District Office is the lead agency for the EIS. The Nevada Department of Wildlife, the Nevada Division of Forestry, the U.S. Department of Energy, the U.S. Fish and Wildlife Service—Ecological Services, the U.S. Fish and Wildlife Service—Migratory Birds Program, the U.S. Environmental Protection Agency, and the Esmeralda County Board of County Commissioners have participated in this environmental analysis as cooperating agencies. Several Native American Tribes have also participated in the environmental analysis.

Schedule for the Decision-Making Process

Consistent with the NEPA and the BLM's land use planning regulations, the BLM is providing a 30-day public review period for the Final EIS and will not issue a decision on the proposal for a minimum of 30 days after the date that EPA publishes its NOA in the **Federal Register**.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10)

Jon D. Sherve,

District Manager, Battle Mountain District.

[FR Doc. 2024–21580 Filed 9–19–24; 8:45 am]

BILLING CODE 4331–21–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_NV_FRN_MO4500180510]

Notice of Availability of the Draft Resource Management Plan Amendment and Environmental Impact Statement for the Copper Rays Solar Project in Nye County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared a Draft Resource Management Plan (RMP) Amendment and Draft Environmental Impact Statement (EIS) for the Copper Rays Solar Project and by this notice is providing information announcing the opening of the comment period on the Draft RMP Amendment/EIS.

DATES: This notice announces the opening of a 90-day comment period for the Draft RMP Amendment/EIS beginning with the date following the Environmental Protection Agency's (EPA) publication of its Notice of Availability (NOA) in the **Federal Register**. The EPA usually publishes its NOAs on Fridays.

To afford the BLM the opportunity to consider comments on the Draft RMP Amendment/EIS, please ensure your comments are received prior to the close of the 90-day comment period or 15 days after the last public meeting, whichever is later.

The BLM will be holding one in-person public meeting and one virtual public meeting during the public comment period.

- In-Person Meeting
  - —*Date and Time:* October 22, 2024, 6 p.m. to 8 p.m. Pacific Daylight Time (PDT)
  - —*Location:* Pahrump Nugget Hotel and Casino, 681 NV Highway 160, Pahrump, Nevada 89048
- Virtual Meeting

—*Date and Time:* October 24, 2024, 6 p.m. to 8 p.m. PDT
—*Registration information: https://eplanning.blm.gov/eplanning-ui/project/2019523/510*

Details on public meetings and pertinent documents will be provided on the National NEPA Register project website: *https://eplanning.blm.gov/eplanning-ui/project/2019523/510*.

ADDRESSES: The Draft RMP Amendment/EIS is available for review on the BLM National NEPA Register project website at *https://eplanning.blm.gov/eplanning-ui/project/2019523/510*. Additionally, a copy of the Draft RMP Amendment/EIS is physically available at the following locations:

- BLM Southern Nevada District Office, Pahrump Field Office, 4701 N. Torrey Pines Drive, Las Vegas, Nevada 89130.
- Pahrump Community Library, 701 East Street, Pahrump, Nevada 89408.
- Tecopa Branch Library, 408 Tecopa Hot Springs Road, Tecopa, California 92389.

Written comments related to the Draft RMP Amendment/EIS for the Copper Rays Solar Project may be submitted by any of the following methods:

- *Website: https://eplanning.blm.gov/eplanning-ui/project/2019523/510*.
- *Email: BLM_NV_SND_EnergyProjects@blm.gov*.
- *Mail:* BLM Pahrump Field Office, Attn: Copper Rays Solar Project, 4701 N. Torrey Pines Drive, Las Vegas, Nevada 89130.

FOR FURTHER INFORMATION CONTACT: Jessica Headen, Project Manager, telephone (702) 515–5206; address 4701 N.Torrey Pines Drive, Las Vegas, Nevada 89130; email *BLM_NV_SND_EnergyProjects@blm.gov*. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Jessica Headen. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM has prepared a Draft RMP Amendment/EIS and provides information announcing the opening of the comment period on the Draft RMP Amendment/EIS. The Draft RMP Amendment is being considered to allow the BLM to evaluate the effects of modifying the Visual Resource Management (VRM) Class III designated lands south of State Route 160 and west of Tecopa Road to the Town of Pahrump, Nevada, to VRM Class IV and modifying two existing undeveloped utility corridors that intersect the Project site. Both changes would require amending the existing 1998 Las Vegas RMP.

The planning area in Clark and Nye counties, Nevada, encompasses approximately 9,890,365 acres within the Southern Nevada District. The total acreage for the VRM Class I through IV areas designated under the 1998 Las Vegas RMP is approximately 3,297,016 acres. This Draft RMP Amendment aims to modify the VRM Class for an area of approximately 9,960 acres of BLM-administered land that is currently designated as VRM Class III and update the BLM's VRM management objectives in this area to VRM Class IV. The amendment area would include the proposed Copper Rays Project site along with other constructed projects and proposed solar applications within the Pahrump Valley.

A BLM designated energy corridor, Segment # 224–225 North Pahrump/U.S. 95 to Las Vegas/Ivanpah Valley (a Section 368 energy corridor) along the Clark County/Nye County border intersects the western portion of the Project site. A locally designated utility corridor, established by the 1998 Las Vegas RMP (the RMP-designated utility corridor), intersects the southwest corner of the Project site. An amendment to the 1998 Las Vegas RMP is being considered to modify these two existing undeveloped corridors to avoid the Project site. The Draft RMP Amendment, if approved, will realign the existing Section 368 energy corridor to be outside of the Project site boundary and remove the Amargosa—Roach section of the RMP-designated utility corridor, which is approximately 96 miles in length.

The BLM is utilizing the NEPA substitution process to comply with the requirements of Section 106 of the National Historic Preservation Act, 54 U.S.C. 306108, consistent with 36 CFR 800.8(c). The BLM, as lead Federal agency, has incorporated information and the steps of the Section 106 process into the Draft EIS, and publication of the Draft EIS will allow the consulting parties and the public an opportunity to review and comment on the process as provided in 36 CFR 800.8(c)(2).

Purpose and Need

The need for the BLM's action (processing the Applicant's application) is to respond to the Applicant's request for a right-of-way (ROW) authorization to construct, operate, maintain, and decommission the proposed Project in accordance with the BLM's responsibility under Title V of FLPMA and 43 CFR part 2800. The BLM's action of considering the ROW application also contributes towards the legislative and administrative goals of advancing the development of renewable energy production on Federal public lands as directed by section 3104 of the Energy Act of 2020 and Executive Order 14057.

The Project as proposed would not conform to the 1998 Las Vegas RMP as required by 43 CFR 1610.5–3(a). The BLM would need to amend the 1998 Las Vegas RMP to bring the Project into compliance. In particular, the Applicant's proposed Project does not conform with the management objectives of the Project site's VRM classification (Class III) and two existing undeveloped utility corridors that intersect the Project site would require realignment.

The purpose of the BLM's action is to determine if the Applicant's Project and alternatives are consistent with relevant laws, regulations, and policies, and to consider whether to grant, grant with modifications, or deny the ROW. The purpose of the Draft RMP Amendment is to ensure that any development of renewable energy production in the general vicinity of the Applicant's proposed Project site conforms with the RMP's provisions, as provided for in 43 CFR 1610.5–3(c), specifically by reclassifying this geographic area as VRM Class IV and modifying the location of the utility corridors to avoid the Project site.

The Draft EIS addresses the direct, indirect, and cumulative environmental impacts of the Proposed Action and alternatives. Alternatives to the Proposed Action were developed by the BLM to avoid or reduce various resource conflicts. Key resource constraints include habitat for, and presence of, the Mojave desert tortoise, which is listed as threatened under the Endangered Species Act; presence of waters of the United States; limited groundwater resources; vegetation at the Project site; recreation use in the surrounding area; proximity to local communities; and generation of dust.

Alternatives Including the Preferred Alternative

The BLM has analyzed five alternatives in detail: the Applicant Proposed Action, Alternative 1 (BLM preferred alternative), Alternative 2, Alternative 2A, and the No Action Alternative. These are discussed in detail in Chapter 2, Proposed Action and Alternatives, of the Draft RMP Amendment and EIS.

Alternative Action 1, the BLM preferred alternative (referred to as the

Resources Integration Alternative) was identified in response to issues raised by the public and agency considerations. The intent of the Resources Integration Alternative is to minimize disturbance to vegetation and soils within the solar facility by setting maximum allowable disturbance thresholds to vegetation during construction, utilizing various construction methods across the site, and setting restoration goals. Grading would be limited to a maximum of 20 percent of the total development area, and construction would involve implementation of overland travel and drive and crush methods such that 60 percent of the vegetation density is maintained.

Alternative 2, which was proposed by the Applicant, and Alternative 2A were designed to minimize disturbance to vegetation and soils within the solar facility by setting maximum allowable disturbance thresholds to vegetation during construction; however, those disturbance thresholds differ from Alternative 1. Under Alternative 2, grading would be limited to a maximum of 25.6 percent (918 acres) of the development area and vegetation would be cut to a maximum of 10 inches anywhere solar panels would be constructed and in a 5-foot buffer around each of the solar arrays. Alternative 2A is a hybrid alternative of Alternative 1 and Alternative 2. Alternative 2A would include the same grading allowance as Alternative 2, but maintain native desert vegetation at a height of 24 inches or taller across the Project site (with trimming allowed to no less than 18 inches where it directly interferes with equipment or panel performance).

The No Action Alternative would be a continuation of existing conditions and the ROW would not be approved.

The BLM further considered a number of additional alternatives but dismissed these alternatives from detailed analysis as explained in the Draft RMP Amendment/EIS and Alternatives Report.

The BLM has identified Alternative Action 1—Resources Integration Alternative as the preferred alternative. Alternative Action 1 was found to best meet the BLM's planning guidance and is designed to be a Project lifecycle alternative, as the alternative addresses not only construction, but also operations, maintenance, and decommissioning of the solar facility. Alternative Action 1 minimizes disturbance to vegetation and soils within the solar facility, and minimizes impacts to wildlife habitat, soils, air quality, and water quality. Alternative Action 1 also reduces impacts to recreation by maintaining an existing OHV route southwest of the Project.

Mitigation

The BLM included forty-four mitigation measures including, but not limited to, the following measures to address key resources:

- Dust control and stabilization (MM AIR–1)
- Emissions control (MM AIR–2)
- Reducing the project footprint and access control (MM WILD–1)
- Qualified biologist (MM WILD–2)
- Wildlife workers environmental awareness program (MM WILD–3)
- Pre-construction and pre-activity surveys (MM WILD–4)
- Minimization of wildlife entrapment (MM WILD–5)
- Minimization of wildlife conflicts (MM WILD–6)
- Protection of mesquite bosque (MM WILD–7)
- Pre-construction western monarch butterfly surveys (MM WILD–8)
- Desert tortoise burrows (MM WILD–9)
- Timing of plant surveys, site restoration, and plan requirements (MM VG–1)
- Cacti, yucca, and perennial plant salvage (MM VG–2)
- Invasive species management (MM VG–3)
- Timing of vegetation maintenance (MM VG–4)
- Visual design considerations and surface treatment procedures (MM VR–1)
- Minimize reflectivity (MM VR–2)
- Night lighting (MM VR–3)
- Minimize visual impacts during construction (MM VR–4)
- Minimize visual impacts during operation and maintenance (MM VR–5)
- Aviation glare notification (MM VR–6)
- OHV route signage for alternative routes (MM REC–1)
- Old Route 16 maintained access (MM REC–2)
- Stormwater quality monitoring program (MM WR–1)
- Prevention of flooding and development in floodplain areas (MM WR–2)
- Spill prevention and control measures (MM WR–3)
- Groundwater pumping meter and development of a groundwater monitoring and reporting plan (MM WR–4)
- Fence maintenance (MM WR–5)
- Septic system documentation and adaptive management (MM WR–6).

These mitigation measures, along with Project Design Features required by the Southern Nevada District Office, management plans, and interagency operating procedures, are provided in full in Appendix B of the Draft RMP Amendment/EIS.

Schedule for the Decision-Making Process

The BLM will provide additional opportunities for public participation consistent with the NEPA and land use planning processes, including a 30-day public protest period and a concurrent 60-day Governor's consistency review on the Proposed RMP Amendment. The Proposed RMP Amendment/Final EIS is anticipated to be available for public protest by late spring 2025, and if the project is authorized, the approved RMP Amendment and Record of Decision would be available by late summer 2025.

The BLM will continue to consult with Indian Tribal Nations on a government-to-government basis in accordance with Executive Order 13175, BLM Manual 1780 and other Departmental policies. Tribal concerns will be given due consideration.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2, and 43 CFR part 2800)

Jon K. Raby,

State Director.

[FR Doc. 2024–21607 Filed 9–19–24; 8:45 am]

BILLING CODE 4331–21–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038728; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of California, Berkeley, Berkeley, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of California Berkeley 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 October 21, 2024.

ADDRESSES: Alexandra Lucas, Repatriation Coordinator, Government and Community Relations (Chancellor's Office), University of California, Berkeley, 200 California Hall, Berkeley, CA 94720, telephone (510) 570–0964, email *nagpra-ucb@berkeley.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 University of California, Berkeley 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

In the Spring of 1986, Polly Quick and the University of California, Berkeley Anthropology Field Class (133) removed at minimum, 101 ancestors from CA–SAC–42, also known as Souza Mound. The 10 associated funerary objects are nine lots consisting of faunal remains, ground stone, beads, flaked and chipped stone, soil, and shell and one mortar fragment. The ancestors and associated funerary objects were accessioned by the Lowie Museum (today the Phoebe A. Hearst Museum of Anthropology) in 1988. One associated funerary object was removed by R.F. Heizer and the University of California, Berkeley S197 Anthropology class in July 1949 and appropriated by the University of California, Berkeley in 1949. The associated funerary object is a mortar fragment.

Collections and collection spaces at the Phoebe A Hearst Museum of Anthropology were treated with substances for preservation and pest control, some potentially hazardous. No records have been found to date at the Museum to indicate whether or not chemicals or natural substances were used prior to 1960.

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 California, Berkeley has determined that:

- The human remains described in this notice represent the physical remains of 101 individuals of Native American ancestry.
- The 10 lots of 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 reasonable connection between the human remains and associated funerary objects described in this notice and the Buena Vista Rancheria of Me-Wuk Indians of California; Cachil Dehe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Guidiville Rancheria of California; Ione Band of Miwok Indians of California; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; Tule River Indian Tribe of the Tule River Reservation, California; United Auburn Indian Community of the Auburn Rancheria of California; Wilton Rancheria, California; and the Yocha Dehe Wintun Nation, California.

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 a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after October 21, 2024. If competing requests for repatriation are received, the University of California, Berkeley 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 California, Berkeley 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: September 12, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–21531 Filed 9–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038730; PPWOCRADN0–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 is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were collected at the Genoa Indian School, Nance County, NE, and an unknown location.

DATES: Repatriation of the human remains in this notice may occur on or after October 21, 2024.

ADDRESSES: Jane Pickering, Peabody Museum of Archaeology and Ethnology, Harvard University, 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

Human remains representing, at minimum, one individual was collected at the Genoa Indian School, Nance County, NE. The human remains are

hair clippings collected from one individual who was recorded as being 18 years old and identified as ''Omaha.'' S.B. Davis took the hair clippings at the Genoa Indian School between 1930 and 1933. Davis sent the hair clippings to George Woodbury, who donated the hair clippings to the PMAE in 1935. No associated funerary objects are present.

Human remains representing, at minimum, one individual was collected at an unknown location. The human remains are hair clippings collected from one individual whose age was not recorded and identified as ''Omaha.'' Dr. Earnest Albert Hooten took the hair clippings at an unknown location. Hooten sent the hair clippings to George Woodbury, who donated the hair clippings to the PMAE in 1935. No associated funerary objects are present.

Cultural Affiliation

Based on the available information and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains described in this notice.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate lineal descendants, Indian Tribes, and Native Hawaiian organizations, the PMAE has determined that:

- The human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- There is a reasonable connection between the human remains described in this notice and the Omaha Tribe of Nebraska.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **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 in this notice to a requestor may occur on or after October 21, 2024. If competing requests for repatriation are received, the PMAE 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 PMAE is responsible for sending a copy of this notice to the Indian Tribe 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: September 12, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–21533 Filed 9–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038739; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Reclamation, Columbia-Pacific Northwest Region, Boise, ID

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, Interior Region 9: Columbia-Pacific Northwest Region (Reclamation Region 9) 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 October 21, 2024.

ADDRESSES: Send written requests for repatriation of the human remains and associated funerary objects identified in this notice to Dr. Sean Hess, Supervisory Regional Archaeologist, Columbia-Pacific Northwest Regional Office, Bureau of Reclamation, 1150 N Curtis Road, Boise, ID 83706, telephone (208) 378–5316, email *shess@usbr.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 Reclamation Region 9, 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, seven individuals have been identified. The three associated funerary objects are one piece of shell, one unidentified animal dewclaw, and one lot of soil. This notice represents the second repatriation of materials from site 45OK7 and was initiated in 2021 due to the discovery of items relocated in museum collections at both Central Washington University and Eastern Washington University. The original Notice of Inventory Completion was published in the **Federal Register** on June 21, 2011 (76 FR 36153–36154).

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

Reclamation Region 9 has determined that:

- The human remains described in this notice represent the physical remains of seven individuals of Native American ancestry.
- The three 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 Confederated Tribes of the Colville Reservation.

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 October 21, 2024.

If competing requests for repatriation are received, Reclamation Region 9 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. Reclamation Region 9 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: September 12, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–21542 Filed 9–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038729; PPWOCRADN0–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 is a known lineal descendant connected to the human remains in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after October 21, 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 Sherman Institute, Riverside County, CA, and are hair clippings collected from one individual, Allen Lavine (Lovine), who was recorded as being 17 years old and identified as ''Digger.'' Samuel H. Gilliam took the hair clippings at the Sherman Institute between 1930 and 1933. Gilliam 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, a lineal descendant is 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.
- A known lineal descendant, Beverly Hipbshman, is 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 descendant 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 October 21, 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: September 12, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–21532 Filed 9–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038736; PPWOCRADN0–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), the 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.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after October 21, 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, seven individuals have been identified. The 39 associated funerary objects are bone, stone and antler tools, carved bone, midden samples, and shells with red ochre.

Three different projects (conducted in 1975, 1976, and 2010) related to excavation and monitoring of the Birch Bay Sewer line resulted in the human remains and associated funerary objects listed in this notice.

In 1975, Western Washington State College signed a contract with Arcomm Construction Company, Inc. of Seattle to conduct ''salvage'' archaeology during the development of the Birch Bay sewage treatment facility. The project was led by Jeannette Gaston and

Garland Grabert (WWU). Most of the work consisted of monitoring and salvage archaeology during construction activities throughout the summer of 1975.

The work conducted in 1976 was associated with, but separate from, the 1975 Birch Bay Sewage Treatment Plant Survey described above. Washington State Parks and Recreation Commission (WSPRC) contracted with the Office of Public Archaeology at the University of Washington, who then subcontracted WWU, for reconnaissance and testing of the areas of Birch Bay State Park to be affected by developmental plans. Field operations, led by Garland Grabert and R.L. Spear, began on August 30 and continued until September 17, 1976.

In 2010, Drayton Archaeological Research (DAR) carried out monitoring and data recovery excavations at 45WH9. This effort was part of the mitigation for the installation of a sewer force main replacement in the road right-of-way by the Birch Bay Water and Sewer District. No known individuals were identified. No hazardous chemicals are known to have been used to treat the human remains while in the custody of WWU.

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 seven individuals of Native American ancestry.
- The 39 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 the 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 October 21, 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: September 12, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–21539 Filed 9–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038732; PPWOCRADN0–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 is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were collected at the U.S. Indian Vocational School, Bernalillo County, NM and University of New Mexico, Bernalillo County, NM.

DATES: Repatriation of the human remains in this notice may occur on or after October 21, 2024.

ADDRESSES: Jane Pickering, Peabody Museum of Archaeology and Ethnology, Harvard University, 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, at minimum, 18 individuals were collected at the U.S. Indian Vocational School, Bernalillo County, NM. The human remains are hair clippings collected from one individual who was recorded as being 27 years old, one individual who was recorded as being 17 years old, one individual who was recorded as being 16 years old, three individuals who were recorded as being 15 years old, six individuals who were recorded as being 14 years old, and six individuals who were recorded as being 13 years old and identified as ''Laguna.'' Reuben Perry took the hair clippings at the U.S. Indian Vocational School between 1930 and 1933. Perry sent the hair clippings to George Woodbury, who donated the hair clippings to the PMAE in 1935. No associated funerary objects are present.

Based on the information available, human remains representing, at minimum, two individuals were collected at the University of New Mexico, Bernalillo County, NM. The human remains are hair clippings collected from one individual who was recorded as being 16 years old and one individual who was recorded as being 15 years old and identified as ''Laguna.'' Clyde Kay Maben Kluckhohn took the hair clippings at the University of New Mexico between 1930 and 1933. Kluckhohn sent the hair clippings to George Woodbury, who donated the hair clippings to the PMAE in 1935. No associated funerary objects are present.

Cultural Affiliation

Based on the available information and the results of consultation, cultural affiliation is clearly identified by the information available about 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 20 individuals of Native American ancestry.

• There is a reasonable connection between the human remains described in this notice and the Pueblo of Laguna, New Mexico.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **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 in this notice to a requestor may occur on or after October 21, 2024. If competing requests for repatriation are received, the PMAE 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 PMAE is responsible for sending a copy of this notice to the Indian Tribe 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: September 12, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–21535 Filed 9–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038735; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: Denver Museum of Nature & Science, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Denver Museum of Nature & Science intends to repatriate certain a cultural item that meets the definition of an object of cultural patrimony 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 October 21, 2024.

ADDRESSES: Chris Patrello, Denver Museum of Nature & Science, 2001 Colorado Boulevard, Denver, CO 80205, telephone (303) 370–6378, email *chris.patrello@dmns.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 Denver Museum of Nature & Science, 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 object of cultural patrimony is a *Xheitl S'aaxhw* (Thunderbird Clan Hat) belonging to the Ketchikan Indian Community. The clan hat (AC.11360) was originally collected in Ketchikan, Alaska, by a Mr. Zeigler at an unknown date. In 1965, the clan hat was purchased by the Michael R. Johnson Gallery. In 1973, the clan hat was purchased by Mary and Francis Crane, who donated their collection to the Denver Museum of Nature & Science between 1968 and 1983.

Determinations

The Denver Museum of Nature & Science has determined that:

• The one object of cultural patrimony described in this notice has 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.

• There is a reasonable connection between the cultural item described in this notice and the Ketchikan Indian Community.

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 October 21, 2024. If competing requests for repatriation are received, the Denver Museum of Nature & Science must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural item are considered a single request and not competing requests. The Denver Museum of Nature & Science 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: September 12, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–21538 Filed 9–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038734; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Disposition: U.S. Department of the Interior, National Park Service, Timucuan Ecological and Historic Preserve, Jacksonville, FL

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, National Park Service, Timucuan Ecological and Historic Preserve (TIMU) 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 October 21, 2024. If no claim for disposition is received by September 22, 2025, the human remains in this notice will become unclaimed human remains.

ADDRESSES: Chris Hughes, Superintendent, Timucuan Ecological

and Historic Preserve, 13165 Mount Pleasant Road, Jacksonville, FL 32225, telephone (904)–805–7510, email *chris_hughes@nps.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 Superintendent, TIMU, and additional information on the human remains in this notice, including the results of consultation, can be found in the related records.

Abstract of Information Available

Based on the information available, human remains representing, at least, three individuals have been reasonably identified. No associated funerary objects are present. Human remains were discovered eroding out of the Green Trail in Duval County, FL on June 21st 2023. National Park Service archeologists opened a small excavation unit and additional human remains were discovered. Artifacts removed from the site were determined to be historic and not associated with the burials. The remains of the ancestors were collected and transferred to the Southeast Archeology Center (SEAC) in Tallahassee, FL to be housed.

Determinations

TIMU has determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- The Miccosukee Tribe of Indians; Seminole Tribe of Florida; and The Seminole Nation of Oklahoma have 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 September 22, 2025, the human remains in this notice will become unclaimed human remains. Claims for disposition may be submitted by:

1. Any lineal descendant, Indian Tribe, or Native Hawaiian organization 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 they have priority for disposition.

Disposition of the human remains in this notice may occur on or after October 21, 2024. If competing claims for disposition are received, TIMU 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. TIMU 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: September 12, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–21537 Filed 9–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038731; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: 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) intends to repatriate certain cultural items that meet the definition of sacred 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 October 21, 2024.

ADDRESSES: Deanna Byrd, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 384–0672, *deannabyrd@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 summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of eight lots of cultural items have been requested for repatriation. The eight lots of sacred objects are one lot of faunal remains, one lot of floral remains, one lot of small percussion instruments, one lot of obsidian knives, one lot of stone implements, one lot of fabric bags, one lot of iron dishes, and one lot of netting. Grace Nicholson purchased these sacred objects from Dr. Bob Fred Hogan, a known Tribal member of the Big Valley Band of Pomo Indians of the Big Valley Rancheria, California, in 1905–1906. Nicholson purchased these sacred objects on behalf of Lewis Hobart Farlow who donated them to the PMAE in 1906. The PMAE scanned sixty organic items from the Dr. Bob Fred Hogan collection with x-ray fluorescence (XRF) at the request of Tribal Chairman Flaman Craig McCloud, Jr. Results determined the presence of the following heavy metals: iron, lead, arsenic, and mercury.

Determinations

The PMAE has determined that:

- The eight lots of sacred objects described in this notice are specific ceremonial objects 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 items described in this notice and the Big Valley Band of Pomo Indians of the Big Valley Rancheria, California.

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 October 21, 2024. If competing requests for repatriation are received, the PMAE 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 PMAE 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: September 12, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–21534 Filed 9–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038733; PPWOCRADN0–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 is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were collected at the Sherman Institute, Riverside County, CA.

DATES: Repatriation of the human remains in this notice may occur on or after October 21, 2024.

ADDRESSES: Jane Pickering, Peabody Museum of Archaeology and Ethnology, Harvard University, 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, at minimum, three individuals were collected at the Sherman Institute, Riverside County, CA. The human remains are hair clippings collected from one individual who was recorded as being 19 years old, one individual who was recorded as being 18 years old, and one individual who was recorded as being 17 years old and identified as ''Nez Perce.'' Samuel H. Gilliam took the hair clippings at the Sherman Institute between 1930 and 1933. Gilliam sent the hair clippings to George Woodbury, who donated the hair clippings to the PMAE in 1935. No associated funerary objects are present.

Cultural Affiliation

Based on the available information and the results of consultation, cultural affiliation is clearly identified by the information available about 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 three individuals of Native American ancestry.
- There is a reasonable connection between the human remains described in this notice and the Nez Perce Tribe.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **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 in this notice to a requestor may occur on or after October 21, 2024. If competing requests for repatriation are received, the PMAE 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 PMAE is responsible for sending a copy of this notice to the Indian Tribe 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: September 12, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–21536 Filed 9–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038738; PPWOCRADN0–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 has determined that there is no lineal descendant and no Indian Tribe or Native Hawaiian organization with cultural affiliation.

DATES: Upon request, repatriation of the human remains in this notice may occur on or after October 21, 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, one individual has been identified. There are no associated funerary objects present. The nearly complete male calvarium was transferred to Kansas State University Sociology, Anthropology and Social Work-Osteology Lab from Kansas State University Division of Biology in 1999, after being identified as possibly Native American. No prior history or provenience known.

Human remains representing, at least, one individual has been identified.

There are no associated funerary objects present. The female calvarium was transferred to Kansas State University Sociology, Anthropology and Social Work- Osteology Lab from Kansas State University Division of Biology in 1999, after being identified as possibly Native American. No prior history or provenience known.

Human remains representing, at least, one individual has been identified. There are no associated funerary objects present. Assemblage consists of fragmented remains including 48 skull fragments and one long bone. Adult male of unknown age. Remains show signs of cremation. Human skeletal fragments that were on display at in small museum display in Fairchild Hall, Kansas State University Manhattan Campus. The museum display and assemblage predate the Anthropology program at the university. No other information is known.

Human remains representing, at least, one individual has been identified. This assemblage of fragmented remains including one distal phalanx of an adult of indeterminate sex. Skeletal fragments that were on display at in small museum display in Fairchild Hall, Kansas State University Manhattan Campus. The museum display and assemblage predate the Anthropology program at the university and have a note stating, 'Fort Riley Area'. No other information is known.

Lastly, human remains representing, at least, one individual has been identified. The fragmentary pieces represent one male approximately 45–55 years old and were transferred to Kansas State University in the early 1970s. No known provenience or known background other than a note stating, 'James Starr mound' and an osteological analysis form stating, 'James Starr Mound Grave 10 and cremation'. This is not associated with James Starr Mound in Illinois as the Illinois state archive was contacted and no professional excavations have ever been done at the mounds. No associated funerary objects accompany these remains.

Consultation

Invitations to consult were sent to the Cheyenne and Arapaho Tribes, Oklahoma, Citizen Potawatomi Nation, Oklahoma; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Kaw Nation, Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Pawnee Nation of Oklahoma; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Prairie Band Potawatomi Nation; The Osage Nation; and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma. In attendance were the Cheyenne and Arapaho Tribes, Oklahoma; Iowa Tribe of Kansas and Nebraska; Ponca Tribe of Nebraska; Prairie Band Potawatomi Nation; and The Osage Nation.

Cultural Affiliation

The following types of information about the cultural affiliation of the human remains in this notice are available: geographical. The information, including the results of consultation, identified no Indian Tribe or Native Hawaiian organization connected to the human remains.

Determinations

The Kansas State University has determined that:

- The human remains described in this notice represent the physical remains of five individuals of Native American ancestry.
- No known lineal descendant who can trace ancestry to the human remains in this notice has been identified.
- No Indian Tribe or Native Hawaiian organization with cultural affiliation to the human remains in this notice has been clearly or reasonably identified.

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 any lineal descendant, Indian Tribe, or Native Hawaiian organization 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.

Upon request, repatriation of the human remains described in this notice may occur on or after October 21, 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 are considered a single request and not competing requests. Kansas State University is responsible for sending a copy of this notice to any consulting lineal descendant, Indian Tribe, or Native Hawaiian organization.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: September 12, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–21541 Filed 9–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038746; PPWOCRADN0–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), the Western Washington University, Department of Anthropology (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.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after October 21, 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, seven individuals have been identified. The eight associated funerary objects are bone, stone and antler tools, an eagle talon and phalanx, and red ochre.

In November of 1980, Western Washington University entered a contract (C530–563–02) with the Washington Department of Ecology and the Lummi Indian Business Council. The purpose of the contract was to

conduct an archaeological survey and impact mitigation along 31 miles of the proposed sewer pipeline right-of-way and two treatment plant locales located on the Lummi Indian Reservation. Work began under the direction of Dr. Garland Grabert (WWU) in December of 1980 and continued until the summer of 1982.

During this work, numerous archaeological sites were recorded, and materials were collected from both excavation and monitoring activities (Grabert and Griffin 1983, Archaeological Investigation on Lummi Peninsula, Whatcom County, Washington, Reports in Archaeology No. 18, Department of Anthropology, Western Washington University, Bellingham, Washington). No known individuals were identified. No hazardous chemicals are known to have been used to treat the human remains while in the custody of WWU.

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 seven individuals of Native American ancestry.
- The eight 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 the 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 October 21, 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: September 12, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–21546 Filed 9–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038745; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Disposition: U.S. Department of the Interior, Bureau of Reclamation, Missouri Basin Region, Nebraska-Kansas Area Office, McCook, NE

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, Nebraska-Kansas Area Office (Reclamation Nebraska-Kansas Area Office) intends to carry out the disposition of human remains and associated funerary objects 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 and cultural items in this notice may occur on or after October 21, 2024. If no claim for disposition is received by September 22, 2025, the human remains and cultural items in this notice will become unclaimed human remains and cultural items.

ADDRESSES: Send written claims for disposition of the human remains and cultural items identified in this notice to Catherine Griffin, Bureau of Reclamation, Nebraska-Kansas Area Office, 1706 West 3rd Street, McCook, NE 69001, telephone (308) 345–8324, email *cgriffin@usbr.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 Reclamation Nebraska-Kansas Area Office, and additional information on the human remains and 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, 14 individuals have been reasonably identified. The 10 associated funerary objects are one lot of bracelets, three lots of ceramic sherds, one lot of chipped stone debitage, two stone scraper tools, one stone tool fragment, one projectile point fragment, and one lot of animal bone. During a period between 1992 to 2020, the human remains and associated funerary objects were discovered and removed from federal lands in Jewell, Mitchell, and Norton Counties, KS, and Frontier and Greeley Counties, NE.

Determinations

The Reclamation Nebraska-Kansas Area Office has determined that:

- The human remains described in this notice represent the physical remains of 14 individuals of Native American ancestry.
- The 10 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.
- The Pawnee Nation of Oklahoma; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma have priority for disposition of the human remains and cultural items described in this notice.

Claims for Disposition

Written claims for disposition of the human remains and cultural items in this notice must be sent to the appropriate official identified in this notice under **ADDRESSES**. If no claim for disposition is received by September 22, 2025, the human remains and cultural items in this notice will become unclaimed human remains and cultural items. Claims for disposition may be submitted by:

1. Any lineal descendant, Indian Tribe, or Native Hawaiian organization 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 they have priority for disposition.

Disposition of the human remains and cultural items in this notice may occur on or after October 21, 2024. If competing claims for disposition are received, the Reclamation Nebraska-Kansas Area Office must determine the most appropriate claimant prior to disposition. Requests for joint disposition of the human remains and cultural items are considered a single request and not competing requests. The Reclamation Nebraska-Kansas Area Office 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: September 12, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–21545 Filed 9–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038740; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: California Department of Transportation, Bishop, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), California Department of Transportation (Caltrans) 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 in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after October 21, 2024.

ADDRESSES: Jennifer Blake, Caltrans, 500 South Main Street, Bishop, CA 93514, telephone (760) 937–3894, email *jennifer.blake@dot.ca.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 Caltrans 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 1,864 cultural items have been requested for repatriation. The 735 unassociated funerary objects are debitage, bifaces, flake tools, faunal bone fragments, groundstone fragments, ceramic sherds, beads, and modern/historic items. The 1,129 objects of cultural patrimony are debitage, modified bone, projectile points, bifaces, flake tools, faunal bone, cores, groundstone fragments, ceramic sherds, paleobotanical samples, and modern/historic items. These cultural items are housed at three repositories under the following accession numbers: at the University of California, Davis, Acc 406–19 from site CA–INY–371/H; at California State University, Bakersfield, Acc 5953–1 from site CA–INY–5953H, Acc 5958 from site CA–INY–5958/H, Acc 5964 from site CA–INY–5964, Acc 5966 from site CA–INY–5966, Acc 5981 from site CA–INY–5981, Acc 5984 from site CA–INY–5984, and Acc 5990 from site CA–INY–5990/H; and at the University of California, Riverside, Acc 308 from site CA–INY–5961/H, Acc 309 from site CA–INY–5962/H, Acc 311 from site CA–INY–5969/5971/H, Acc 312 from site CA–INY–5990/H, Acc 265 from site CA–INY–7716, Acc 281 from site CA–INY–7746, and Acc 313 from site CA–INY–7746. The collections are from sites located in the Owens Valley of the Eastern Sierra region of California, near Owens Lake. The collections were recovered from Caltrans right of way between 1993–2011 during a surface or subsurface archaeological investigation in compliance with state and federal environmental laws in support of Caltrans' Olancha-Cartago Four Lane Project. Objects in these collections are culturally affiliated with the Paiute and Western Shoshone. Modern-day tribes with ancestral ties to this area include the Lone Pine Paiute-Shoshone Reservation, the Big Pine Paiute Tribe of the Owens Valley, the Bishop Paiute Tribe, the Fort Independence Indian Community of Paiutes, and the Death Valley Timbisha-Shoshone Tribe. To the best of Caltrans' knowledge, the cultural items in this archaeological collection have not been treated with hazardous substances.

Determinations

Caltrans has determined that:

- The 735 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 1,129 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.
- There is a reasonable connection between the cultural items described in this notice and the Lone Pine Paiute-Shoshone Tribe.

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 October 21, 2024. If competing requests for repatriation are received, Caltrans 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. Caltrans 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: September 12, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–21543 Filed 9–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038744; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Disposition: U.S. Army Garrison, Fort Leonard Wood, MO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Army Garrison Fort Leonard Wood intends to carry out the disposition of human remains and associated funerary objects 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 and cultural items in this notice may occur on or after October 21, 2024. If no claim for disposition is received by September 22, 2025, the human remains and cultural items in this notice will become unclaimed human remains or cultural items.

ADDRESSES: Stephanie Nutt, Archaeologist/Cultural Resources Manager, 8112 Nebraska Avenue, Building 11400, Fort Leonard Wood, MO 65473, telephone (573) 596–7607, email *Stephanie.L.Nutt.civ@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 Fort Leonard Wood 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, three individuals have been reasonably identified. No associated funerary objects are present. The individuals were removed from Freeman Cave, site 23PU58, in Pulaski County, MO. The individuals were removed from disturbed deposits during archaeological excavation and evaluation of the site for listing on the National Register for Historic Places by the Public Service Archaeology Program at the University of Illinois at Urbana-Champaign between 1995 and 1997. The individuals were later identified during an analysis of the faunal remains. The site dates from the Middle Archaic (5000–2500 BC) to the Late Woodland (A.D. 450–950).

Based on the information available, human remains representing, at least, four individuals have been reasonably identified. No associated funerary objects are present. The individuals were removed from Saltpeter Cave, site 23PU209, in Pulaski County, MO. The individuals were removed during a geotechnical stabilization project and archaeological assessment performed by the Illinois State Museum on three cave sites on Fort Leonard Wood property in 1997. The individuals were later identified during an analysis of the faunal remains. The site dates from the Archaic (7800–700 BC) to Mississippian (A.D. 950–1600)

Based on the information available, human remains representing, at least, four individuals have been reasonably identified. No associated funerary objects are present. The individuals were removed from Joy Cave, site 23PU210, in Pulaski County, MO. The individuals were removed during a geotechnical stabilization and archaeological assessment project performed by the Illinois State Museum on three cave sites on Fort Leonard Wood property in 1997. The individuals were later identified during an analysis of the faunal remains. The site dates from the Early Archaic (7800–5000 BC) to Mississippian (A.D. 950–1600).

Based on the information available, human remains representing, at least, two individuals have been reasonably identified. No associated funerary objects are present. The individuals were removed from Davis Cave #1, 23PU211, in Pulaski County, MO. The individuals were removed during a geotechnical stabilization and archaeological assessment performed by the Illinois State Museum on three cave sites on Fort Leonard Wood property in 1997. The individuals were later identified during an analysis of the faunal remains. The site dates from the Early Archaic (7800–5000 BC) to Mississippian (A.D. 950–1600).

Based on the information available, human remains representing, at least, one individual has been reasonably identified. No associated funerary objects are present. The individuals were removed from Martin Cave B, site 23PU217, in Pulaski County, MO. The individuals were removed as part of the Cultural and Biological Cave Survey Project conducted by the Illinois State Museum Society on Fort Leonard Wood property in 2002. The site dates from the Middle Woodland (200 BC–A.D. 450) to Late Woodland (A.D. 450–950).

Based on the information available, human remains representing, at least, four individuals have been reasonably identified. The 517 funerary objects are 511 mussel shell, four debitage, and two faunal bone fragments. The individuals and associated funerary objects were removed from Martin Cave, site 23PU218, in Pulaski County, MO. The individuals and associated funerary objects were removed as part of an evaluation of Martin Cave for the National Register of Historic Places between 2002 and 2003 by the Illinois State Museum on Fort Leonard Wood property. The site dates from the Middle Woodland (200 BC–A.D. 450) to the Late Woodland (A.D. 450–950).

Based on the information available, human remains representing, at least, seven individuals have been reasonably identified. The 23 funerary objects include eight grayish chert bifaces, one grayish and white chert drill, one gray banded chert scraper, two chipped stones, six antler tool fragments, one antler awl, one bone awl, one mano, one soil sample, and one faunal fragment. The individuals and associated funerary objects were removed from Sadie's Cave, site 23PU235, in Pulaski County, MO. The individuals and associated funerary objects were removed during a research oriented archaeological excavation and site evaluation by the University of Illinois at Urbana-Champaign on Fort Leonard Wood property. The site dates from the Early Archaic (7800–5000 BC) to the Middle Woodland (200 BC–A.D. 450), however human remains were removed from strata assigned to the Archaic.

Based on the information available, human remains representing, at least, two individuals have been reasonably identified. No funerary objects are associated. The individuals were removed from Red Oak Shelter, site 23PU264, in Pulaski County, MO. The individuals were removed by Brockington and Associates, Inc. in 1997. The individuals were identified later during an analysis of the faunal remains. The site dates from the Early

Archaic (7800–5000 BC) to the Late Woodland (A.D. 450–950).

Based on the information available, human remains representing, at least, one individual have been reasonably identified. No funerary objects are associated. The individual was removed from Turnbull Shelter, site 23PU283, in Pulaski County, MO. The individual was removed in 2002 as part of Phase II testing for eligibility for the National Register for Historic Places by the Illinois State Museum Society. The individual was identified later during an analysis of the faunal remains. The site dates to the Late Woodland (A.D. 450–950).

Based on the information available, human remains representing, at least, one individual has been reasonably identified. No funerary objects are associated. The individual was removed from site 23PU291 in Pulaski County, MO. The individual was removed between 1992 and 1993 by the Public Service Archaeology Program of the University of Illinois at Urbana-Champaign during Phase II archaeological excavation on Fort Leonard Wood property. The site dates from the Middle Woodland (200 BC–A.D. 450) to the Late Woodland (A.D. 450–950).

Based on the information available, human remains representing, at least, one individual has been reasonably identified. No funerary objects are associated. The individual was removed from site 23PU421 in Pulaski County, MO. The individual was removed in 1995 by the Public Service Archaeology Program of the University of Illinois at Urbana-Champaign. The site dates to the Late Woodland (A.D. 450–950).

Based on the information available, human remains representing, at least, four individuals have been reasonably identified. The 40,501 funerary objects include 9,606 debitage, 109 utilized debitage, 112 bifaces, 51 hafted bifaces, two axes, 34 cores, 12 uniface tools, one drill, one hammerstone, 30 hematite, 41 unmodified stones, one lithic tool, 142 body sherds, five rim sherds, one lot of body sherds, two lots of shell, 70 shell fragments, four lots of animal bone, 30,242 animal bone fragments, five soil samples, six floatation samples, two ochre, one lot of charcoal, two lots of seeds/nutshells, five misc. metal, eight glass fragments, five pieces of modern wood, and one shoe string. The individuals and associated funerary objects were removed from Little Freeman Cave, site 23PU565 in Pulaski County, MO. The individuals and associated funerary objects were removed from disturbed and intact contexts during Phase II archaeological eligibility evaluations for the National Register of Historic Places. The site dates from generalized Prehistoric (Disturbed contexts) and Middle Archaic (5000–2500 BC) to the Late Archaic (2500–700 BC).

Based on the available information, human remains representing, at least, two individuals have been reasonably identified. No associated funerary objects are present. The individuals were removed from Lohraff Shelter 2, site 23PU719, in Pulaski County, MO. The individuals were removed in 1997 by the Illinois State Museum during a Phase II archaeological excavation and evaluation for the National Register of Historic Places on Fort Leonard Wood property. The site dates to the Late Woodland (A.D. 450–950).

Determinations

Fort Leonard Wood has determined that:

- The human remains described in this notice represent the physical remains of 36 individuals of Native American ancestry.
- The 41,041 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.
- The Osage Nation has priority for disposition of the human remains and cultural items described in this notice.

Claims for Disposition

Written claims for disposition of the human remains and cultural items in this notice must be sent to the appropriate official identified in this notice under **ADDRESSES**. If no claim for disposition is received by September 22, 2025, the human remains and cultural items in this notice will become unclaimed human remains and cultural items. Claims for disposition may be submitted by:

1. Any lineal descendant, Indian Tribe, or Native Hawaiian organization 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 they have priority for disposition.

Disposition of the human remains and cultural items in this notice may occur on or after October 21, 2024. If competing claims for disposition are received, Fort Leonard Wood must determine the most appropriate claimant prior to disposition. Requests for joint disposition of the human remains and cultural items are considered a single request and not competing requests. Fort Leonard Wood 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: September 12, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–21544 Filed 9–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-38768; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before September 14, 2024, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by October 7, 2024.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email, you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, *sherry_frear@nps.gov,* 202–913–3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before September 14, 2024. Pursuant to section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State or Tribal Historic Preservation Officers

KEY: State, County, Property Name, Multiple Name(if applicable), Address/Boundary, City, Vicinity, Reference Number.

CALIFORNIA

Los Angeles County

Santa Monica Civic Auditorium, 1855 Main Street, Santa Monica, SG100010919

San Bernardino County

San Antonio Heights Grove House, 425 E 24th St, San Antonio Heights, vicinity, SG100010920

IDAHO

Elmore County

Hammett School, (Public School Buildings in Idaho MPS), 499 S. School House Rd., Hammett, MP100010906

Idaho County

Riggins High School (Public School Buildings in Idaho MPS), 121 N. Main Street, Riggins, MP100010901

Latah County

Sperry Bridge, (Metal Truss Highway Bridges of Idaho MPS), Sperry Grade Road, Kendrick, MP100010900

IOWA

Des Moines County

Burlington High School, 1201 Valley Street, Burlington, SG100010911

MISSISSIPPI

Hinds County

WJDX Transmitter Building, 5826 North State Street, Jackson, SG100010904

NORTH DAKOTA

Nelson County

Ophaug, Nels, Barn (Common Farm and Ranch Barns in North Dakota MPS), 3087 116th Ave NE, McVille, MP100010902

Towner County

Towner County Fairgrounds Pavilion, 900 1st Street, Cando, SG100010912

OHIO

Franklin County

Grieve, Martin and Louise, House, 5858 Dublin Road, Dublin, SG100010897

Monroe County

Monroe Theatre, 104 North Main Street, Woodsfield, SG100010914

Richland County

Shelby Oakland Mausoleum, 116 S. Gamble St., Shelby, SG100010896

PENNSYLVANIA

Beaver County

Irish-Townsend House, 1229 7th Avenue, New Brighton, SG100010922

RHODE ISLAND

Providence County

Federal Street Historic District, 122, 142 & 160 Clinton Street and 1, 43, & 77 Federal Street, Woonsocket, SG100010921

SOUTH CAROLINA

Charleston County

Spring Street Methodist Church, 68 Spring St., Charleston, SG100010910

Laurens County

Gray Court Downtown Historic District, 329–425 W. Main Street, Gray Court, SG100010908

Richland County

South Carolina Archives Building, 1430 Senate Street, Columbia, SG100010909

VIRGINIA

Frederick County

Green Spring Mill, 617 Green Spring Road, Winchester, SG100010899

Virginia Beach INDEPENDENT CITY

Pleasant Ridge School Historic District, 1392 Princess Anne Road, Virginia Beach, SG100010898

Chesapeake Beach Historic District

Fentress Avenue, Lauderdale Avenue, Lookout Road, Pleasure Avenue, and Seaview Avenue, Virginia Beach, SG100010915

WASHINGTON

Skagit County

Hoogdal School, (Rural Public Schools of Washington State MPS), 22159 Grip Road, Sedro Woolley, MP100010917

An owner objection was received for the following resource(s):

CALIFORNIA

San Francisco County

Lane Medical Library of Stanford University—Lane Medical Library, 2395 Sacramento Street-2040 Webster Street, San Francisco, SG100010916

NEW YORK

Kings County

Bush Terminal Historic District, Roughly bounded by the Bay Ridge Channel, 50th Street, 2nd Avenue, 39th Street, 3rd Avenue, and 32nd Street., Brooklyn, SG100010907

Nomination(s) submitted by Federal Preservation Officers:

The State Historic Preservation Officer reviewed the following nomination(s) and responded to the Federal Preservation Officer within 45 days of receipt of the nomination(s) and supports listing the properties in the National Register of Historic Places.

DISTRICT OF COLUMBIA

District of Columbia

Federal Office Buildings 10A and 10B, 600 and 800 Independence Avenue SW, Washington, SG100010903

WASHINGTON

King County

Federal Office Building, 915 Second Avenue, Seattle, SG100010918

Authority: Section 60.13 of 36 CFR part 60.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2024–21514 Filed 9–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038737; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Disposition: U.S. Department of Agriculture Forest Service, Cherokee National Forest, Cleveland, TN

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 Agriculture Forest Service, Cherokee National Forest intends to carry out the disposition of human remains and associated funerary objects 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 and cultural items in this notice may occur on or after October 21, 2024. If no claim for disposition is received by September 22, 2025, the human remains and cultural items in this notice will become unclaimed human remains or cultural items.

ADDRESSES: Dr. Danielle Shelton, Heritage Program Manager, USDA Forest Service, Cherokee National Forest, 2800 Ocoee Street North, Cleveland, TN 37312, telephone (423) 582–6059, email *stephanie.shelton@usda.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 Cherokee National Forest, and additional information on the human remains and 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. The 2,036 associated funerary objects are beads, pottery, faunal remains, botanical remains, charcoal, soil, floatation materials, and unidentified materials. Lake Hole Burial Cave (40JN159), located in Johnson County, Tennessee, was the site of protohistoric Cherokee cave burials, dated between 1550–1650 CE, that were discovered and looted by grave robbers in the spring of 1990. Nine men were prosecuted under the Archaeological Resources Protection Act (ARPA) and a minimum number of 100 individuals were recovered. Afterwards the Cherokee National Forest installed a locked gate on the cave entrance, but on October 16, 2006, two men entered the cave illegally and disturbed two more individual burials. Although the human remains from Lake Hole Burial Cave were repatriated in 2009, there are two teeth and one small bone that were overlooked during repatriation, as well as the associated funerary objects.

Determinations

The Cherokee National Forest has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The 2,036 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.
- The Cherokee Nation; Eastern Band of Cherokee Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma have priority for disposition of the human remains and cultural item described in this notice.

Claims for Disposition

Written claims for disposition of the human remains and cultural items in this notice must be sent to the appropriate official identified in this notice under **ADDRESSES**. If no claim for disposition is received by September 22, 2025, the human remains and cultural items in this notice will become unclaimed human remains and cultural items. Claims for disposition may be submitted by:

1. Any lineal descendant, Indian Tribe, or Native Hawaiian organization 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 they have priority for disposition.

Disposition of the human remains and cultural items in this notice may occur on or after October 21, 2024. If competing claims for disposition are received, the Forest Service must determine the most appropriate claimant prior to disposition. Requests for joint disposition of the human remains or cultural items are considered a single request and not competing requests. The Forest Service 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: September 12, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–21540 Filed 9–19–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Data Users Advisory Committee; Renewal of the Bureau of Labor Statistics Data Users Advisory Committee

The Acting Secretary of Labor is announcing the renewal of a Federal Advisory Committee. In accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. 10, the Acting Secretary of Labor has determined that the renewal of the Bureau of Labor Statistics Data Users Advisory Committee (the ''Committee'') is in the public interest in connection with the performance of duties imposed upon the Commissioner of Labor Statistics by 29 U.S.C. 1 and 2. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

The Committee provides advice to the Bureau of Labor Statistics from the points of view of data users from various sectors of the U.S. economy, including the labor, business, research, academic and government communities, on matters related to the analysis, dissemination, and use of the Bureau's statistics, on its published reports, and on gaps between or the need for new Bureau statistics.

The Committee will function solely as an advisory body to the BLS, on technical topics selected by the BLS.

The Committee is responsible for providing the Commissioner of Labor Statistics: (1) The priorities of data users; (2) suggestions concerning the addition of new programs, changes in the emphasis of existing programs or cessation of obsolete programs; and (3) advice on potential innovations in data analysis, dissemination and presentation.

The Committee reports to the Commissioner of Labor Statistics, Bureau of Labor Statistics, U.S. Department of Labor.

The Committee will not exceed 20 members. Committee members are nominated by the Commissioner of Labor Statistics and approved by the Secretary of Labor. Membership of the Committee will represent a balance of expertise across a broad range of BLS program areas, including employment and unemployment statistics, occupational safety and health statistics, compensation measures, price indexes, and productivity measures; or other areas related to the subject matter of BLS programs. All committee members will have extensive research or practical experience using BLS data.

The Committee will function solely as an advisory body, in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Federal Advisory Committee Act.

For Further Information Contact: Ebony Davis, Office of Publications and Special Studies, Bureau of Labor Statistics, telephone: 202–691–6636, email: *Davis.Ebony@bls.gov.*

Signed at Washington, DC, this 17th day of September 2024.

Leslie Bennett,

Chief, Division of Management Systems.

[FR Doc. 2024–21526 Filed 9–19–24; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Technical Advisory Committee; Renewal of the Bureau of Labor Statistics Technical Advisory Committee

The Acting Secretary of Labor is announcing the renewal of a Federal Advisory Committee. In accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. 10, the Acting Secretary of Labor has determined that the renewal of the Bureau of Labor Statistics Technical Advisory Committee (the ''Committee'') is in the public interest in connection with the performance of duties imposed upon the Commissioner of Labor Statistics by 29 U.S.C. 1 and 2. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

The Committee presents advice and makes recommendations to the Bureau of Labor Statistics (BLS) on technical aspects of the collection and formulation of economic measures. The Committee functions solely as an advisory body to the BLS, on technical topics selected by the BLS. Important aspects of the Committee's responsibilities include, but are not limited to:

a. Providing comments on papers and presentations developed by BLS research and program staff. The comments will address the technical soundness of the research and whether it reflects best practices in the relevant fields.

b. Identifying research projects that can address technical problems with BLS statistics.

c. Participating in discussions regarding areas where the types or coverage of economic statistics could be expanded or improved and areas where statistics are no longer relevant.

The Committee reports to the Commissioner of Labor Statistics, Bureau of Labor Statistics, U.S. Department of Labor.

The Committee consists of approximately sixteen members who serve as Special Government Employees. Members are appointed by the BLS and are approved by the Secretary of Labor. Committee members are experts in economics, statistics, data science, and survey design. They are prominent experts in their fields and recognized for their professional achievements and objectivity.

The Committee will function solely as an advisory body, in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Federal Advisory Committee Act.

For Further Information Contact: Lisa Fieldhouse, Office of the Commissioner, Bureau of Labor Statistics, telephone: 202–691–5025, email: *Fieldhouse.Lisa@bls.gov.*

Signed at Washington, DC, this 17th day of September 2024.

Leslie Bennett,

Chief, Division of Management Systems.

[FR Doc. 2024–21525 Filed 9–19–24; 8:45 am]

BILLING CODE 4510–24–P

OFFICE OF MANAGEMENT AND BUDGET

Privacy Act of 1974; System of Records

AGENCY: Office of Management and Budget.

ACTION: Notice of a modified of a system of records (SORN).

SUMMARY: Pursuant to the Privacy Act of 1974 and Office of Management and Budget Circular No. A–108, Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act, notice is hereby given that the Office of Management and Budget (OMB) is modifying the following system of records: ''Private Relief Legislation, OMB/LEGIS/01.''

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records is effective upon its publication in today's **Federal Register**, with the exception of the routine uses, which are subject to a 30-day comment period, and will be effective October 21, 2024. Please submit any comments on or before October 21, 2024.

ADDRESSES: You may submit comments through *regulations.gov*.

Instructions: All submissions must contain the subject heading ''Private Relief Legislation.''

Privacy Act Statement: OMB is issuing a modification of this System of Records Notice pursuant to 5 U.S.C. 552a(e)(4). Submission of comments is voluntary. Information you provide will be used to inform sound decision-making regarding this notice. Please note that all submissions received in response to this notice may be posted on *https://www.regulations.gov/* or otherwise released in their entirety, including any personal and business confidential information provided. Do not include in your submissions any copyrighted material; information of a confidential nature, such as personal or proprietary information; or any information you would not like to be made publicly available. The OMB System of Records Notice, OMB Public Input System of Records, OMB/INPUT/01, 88 FR 20913, July 4, 2023 (*https://www.federalregister.gov/documents/2023/04/07/2023-07452/privacy-act-of-1974-system-of-records*), includes a list of routine uses associated with the collection of this information.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed modification, please contact Shraddha A. Upadhyaya by email at *SORN@omb.eop.gov* or (202) 395–9225. You must include ''Private Relief Legislation'' in the subject line.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, OMB conducted a review of its Privacy Act systems of records and determined OMB/LEGIS/01, which was last updated on March 30, 2000, should be modified to update routine uses; contact information; record source categories; policies and practices for storage of records; records retention and disposal; policies and practices for retrieval of records; administrative, technical, and physical safeguards; record access, amendment, and notification procedures; authority for maintenance of the system; and for general clarity.

SYSTEM NAME AND NUMBER:

OMB Private Relief Legislation, OMB/LEGIS/01.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at OMB, 725 17th Street NW, Washington, DC 20503.

SYSTEM MANAGER(S):

Director for Information Management, Legislative Reference Division, 725 17th Street NW, Washington, DC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 8248, *Establishing the Divisions of the Executive Office of the President and Defining their Functions and Duties.*

PURPOSE(S) OF THE SYSTEM:

The system contains records on private relief legislation reviewed by OMB as part of OMB's legislative coordination and clearance process, set forth in OMB Circular No. A–19, revised September, 1979.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the subject of proposed or enacted private relief legislation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The information contained in these records consists of those private relief bills requiring Office of Management and Budget review as specified in OMB Circular A–19, revised September, 1979. The information maintained may include copies of a draft bill proposed by an agency as defined in the Circular, copies of bills introduced by Congress, and if applicable, Congressional committee reports, agency memoranda and letters, OMB memoranda and letters, and other documents as may be needed in connection with the legislative coordination and clearance process. Certain individual records may also contain correspondence from and to the individual about whom the information is maintained.

RECORD SOURCE CATEGORIES:

OMB receives records from Congress and agencies when submitting records for the review of private relief legislation as set forth in OMB Circular No. A–19.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under the Privacy Act, 5 U.S.C. 552a(b), all or a portion of the records or information contained therein may be disclosed outside of OMB as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To appropriate agencies and entities, for the purpose of resolving an inquiry regarding compliance with the Freedom of Information Act.

B. To appropriate agencies and entities, when OMB determines the information in this system of records is reasonably necessary to accomplish OMB's review of the draft private relief legislation.

C. To the Department of Justice (DOJ) when any of the following is a party to litigation before any court, adjudicative, or administrative body or has an interest in such litigation, and the use of such records by DOJ is deemed by OMB to be relevant and necessary to the litigation:

(1) OMB, or any component thereof;

(2) any employee or former employee of OMB in the employee's official capacity;

(3) any employee or former of employee of OMB in the employee's individual capacity where DOJ has agreed to represent the employee; or

(4) a Federal agency, a Federal entity, a Federal official, or the United States, where OMB determines that litigation is likely to affect OMB or any of its components.

D. In a proceeding before a court or adjudicative body before which OMB is authorized to appear, when OMB determines that the records are relevant and necessary to the litigation; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

E. To a congressional office in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

F. To any agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

G. To the National Archives and Records Administration (NARA) for purposes of records management and mail processing inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

H. To NARA, Office of Government Information Services (OGIS), to the extent necessary to fulfil its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with the Freedom of Information Act, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

I. To appropriate agencies, entities, and persons when

(1) OMB suspects or has confirmed that there has been a breach of the system of records;

(2) OMB has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, OMB (including its information systems, programs, and operations), the Federal Government, or national security; and

(3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OMB's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

J. To another Federal agency or Federal entity, when OMB determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in

(1) responding to a suspected or confirmed breach; or

(2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

K. Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate Federal, State, local, territorial, Tribal, international, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

L. To contractors and their agents, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for OMB, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same requirements and limitations on disclosure as are applicable to OMB officers and employees.

M. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are stored in electronic in secure facilities. The records may be stored on magnetic disc, tape, and digital media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by full-text search or by name of individual, bill number, or private law number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

These records are maintained permanently and transferred to the National Archives and Records Administration in accordance with published records schedules of the Office of Management and Budget.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

All electronic records are maintained in secure systems which require multi-factor authentication and that use security hardware and software to include multiple firewalls, encryption, identification, and authentication of users. All security controls are reviewed on a periodic basis by external assessors. The controls themselves include measures for access control, security awareness training, audits, configuration management, contingency planning, incident response, and maintenance. Access to the information technology systems containing the

records in this system is limited to those individuals who need the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

Individuals' requests for access to records should be directed to OMB by following the instructions provided in 5 CFR part 1302.

CONTESTING RECORD PROCEDURES:

Individuals' requests for amendment of a record in this system of records should be directed to OMB by following the instructions provided in 5 CFR part 1302.

NOTIFICATION PROCEDURES:

Individuals' requests for notification as to whether this system of records contains a record pertaining to them should be directed to OMB by following the instructions provided in 5 CFR part 1302.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

65 FR 16977, March 30, 2000.

Shraddha A. Upadhyaya,

Senior Agency Official for Privacy, Office of Management and Budget.

[FR Doc. 2024–20987 Filed 9–19–24; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF MANAGEMENT AND BUDGET

Privacy Act of 1974; System of Records

AGENCY: Office of Management and Budget.

ACTION: Notice of a new system of records (SORN).

SUMMARY: Pursuant to the Privacy Act of 1974 and Office of Management and Budget Circular No. A–108, Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act, notice is hereby given that the Office of Management and Budget (OMB) is establishing the following new system of records: ''OMB Human Capital System, OMB/OMB/PERSL/02.'' This system covers all information pertaining to OMB's human capital operations and services that is neither covered by relevant existing Government-wide systems of records notices (*e.g.,* OPM/GOVT–1, 2, 3, 5, 6, 7, 9, and 10; DOL/GOVT–1; EEOC/GOVT–1; and MSPB–GOVT–1) nor maintained by the Office of Administration and are therefore exempt from the Privacy Act requirements.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records is effective upon its publication in today's **Federal Register**, with the exception of the routine uses, which are subject to a 30-day comment period, and will be effective October 21, 2024. Please submit any comments on or before October 21, 2024.

ADDRESSES: You may submit comments through *regulations.gov.*

Instructions: All submissions must contain the subject heading ''OMB Human Capital System.''

Privacy Act Statement: OMB is issuing this proposed System of Records Notice pursuant to 5 U.S.C. 552a. Submission of comments is voluntary. Information you provide will be used to inform sound decision-making regarding this proposed notice. Please note that all submissions received in response to this notice may be posted on *https://www.regulations.gov/* or otherwise released in their entirety, including any personal and business confidential information provided. Do not include in your submissions any copyrighted material; information of a confidential nature, such as personal or proprietary information; or any information you would not like to be made publicly available. The OMB System of Records Notice, OMB Public Input System of Records, OMB/INPUT/01, 88 FR 20913, July 4, 2023 (*https://www.federalregister.gov/documents/2023/04/07/2023-07452/privacy-act-of-1974-system-of-records*), includes a list of routine uses associated with the collection of this information.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed SORN, please contact Shraddha A. Upadhyaya by email at *SORN@omb.eop.gov* or (202) 395–9225. You must include ''OMB Human Capital System'' in the subject line.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, and the Office of Management and Budget (OMB), Circular No. A–108, OMB proposes to create a new system of records for OMB titled, ''OMB Human Capital System of Records, OMB/OMB/PERSL/02 (OMB Human Capital System).''

The OMB Human Capital System covers all information pertaining to OMB's human capital operations and services that is neither covered by relevant existing Government-wide systems of records notices (*e.g.,* OPM/GOVT–1, 2, 3, 5, 6, 7, 9, and 10; DOL/GOVT–1; EEOC/GOVT–1; and MSPB–GOVT–1) nor maintained by the Office of Administration and are therefore exempt from the Privacy Act requirements. The OMB functions covered by this system include OMB's services and operations related to:

- OMB's mentorship and coaching programs.
- OMB's learning and development programs.
- Employee work schedules and attendance, including telework and remote work agreements.
- OMB's participation in the Federal Pathways Programs, including Internships, Recent Graduates, and Presidential Management Fellows program, as well as OMB-specific internship programs.
- Reasonable accommodation requests.
- Diversity, Equity, Inclusion, and Accessibility and Equal Employment Opportunity programming and outreach. Additionally, Employee Resource Groups, and other similar employee affinity or social groups hosted or supported by OMB.
- Records related to any informal or formal internal investigations conducted in support of OMB or Executive Office of the President (EOP) internal personnel or workplace policies or procedures.
- Records addressing employee issues or complaints internal to OMB, not a part of the Equal Employment Opportunity Commission (EEOC) or Merit Systems Protection Board (MSPB) complaint processes.
- Transportation benefits records.
- Resume banks.
- Recruiting outreach and events, including job fairs.

In accordance with 5 U.S.C. 552a(r), OMB has provided a report of this new system of records to OMB and to Congress.

Below is the description of the OMB Human Capital System.

SYSTEM NAME AND NUMBER:

OMB Human Capital System of Records, OMB/OMB/PERSL/02

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at OMB, 725 17th Street NW, Washington, DC, 20503.

SYSTEM MANAGER(S):

Sarah W. Spooner, 725 17th Street NW, Washington, DC; *Sarah.W.Spooner@omb.eop.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. ch. 5; 5 U.S.C. 3101; E.O. 13150 (April 21, 2000); 26 U.S.C. 132(f);

Federal Employees Clean Air Incentives Act, Public Law 103–172, 5 U.S.C. 7905, as amended; The Rehabilitation Act of 1973, Public Law 93–112, 29 U.S.C. 701 *et seq.,* as amended; The Americans with Disabilities Act of 1990, Public Law 101–336, 42 U.S.C. 12101 *et seq.,* as amended; title VII of the Civil Rights Act, 42 U.S.C. 2000e–16; The Family and Medical Leave Act of 1993, 29 U.S.C. 2601 *et seq.;* E.O. 13164 (July 26, 2000); E.O. 13548 (July 26, 2010); E.O. 13562 (December 27, 2010); 5 U.S.C. 3304; E.O. 14035 (June 25, 2021); Telework Enhancement Act of 2010, Public Law 111–292, 5 U.S.C. ch. 65; 5 U.S.C. subpart E; 5 U.S.C. ch. 41; 5 U.S.C. 3101–3116); E.O. 9397, as amended by E.O. 13478.

PURPOSE(S) OF THE SYSTEM:

OMB performs a wide array of activities related to human capital needs for prospective, current, and former OMB employees who utilize the services and programs described below and those members of the public who request reasonable accommodations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals may include all prospective, current and former employees, volunteers, grantees, contract employees, detailees, and Pathways Program participants at OMB, compensated or uncompensated; individuals who attend or register to attend OMB events; and members of the public who request reasonable accommodations. The system of records covers individuals who apply for and/or otherwise participate in the following programs or services:

- OMB's mentorship and coaching programs.
- OMB's learning and development programs.
- Employee work schedules and attendance, including telework and remote work agreements.
- OMB's participation in the Federal Pathways Programs, including Internships, Recent Graduates, and Presidential Management Fellows program, as well as OMB-specific internship programs.
- Reasonable accommodation requests.
- Diversity, Equity, Inclusion, and Accessibility and Equal Employment Opportunity programming and outreach. Additionally, Employee Resource Groups, and other similar employee affinity or social groups hosted or supported by OMB.
- Records related to any informal or formal internal investigations conducted in support of OMB or EOP internal personnel or workplace policies or procedures.
- Records addressing employee issues or complaints internal to OMB, not a part of the EEOC or MSPB processes.
- Transportation benefits records.
- Resume banks.
- Recruiting outreach and events, including job fairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes records related to the programs and services itemized immediately above. Records in this system contain all or some of the following data: individual's name, physical address, email address, educational affiliation, social security number, position level, pay plan, grade, series, supervisor, organization which employed, building, room, telephone number, mode of transportation to duty location and commuting costs, history of internal/external training attended and other learning and development activities, associated training costs, competencies needed to perform a job, discipline or occupational identification, skill strengths and skill development and needs, disability and requests for reasonable accommodations, self-identification of affiliation with an employee resource group, or attendance or anticipated attendance at OMB events.

RECORD SOURCE CATEGORIES:

OMB receives records from OMB employees and from members of the public, including representatives of Federal, State, or local governments, non-government organizations, and the private sector, as well as from other Federal agencies and entities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under the Privacy Act, 5 U.S.C. 552a(b), all or a portion of the records or information contained therein may be disclosed outside of OMB as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To a course or learning provider for enrollment purposes and to ensure appropriate payments are being made to employees requesting reimbursement of their expenses.

B. To the Office of Personnel Management (OPM) for the purpose of OPM's Federal performance management operations, as authorized by law, but only such information as is necessary and relevant to such operations.

C. To appropriate agencies and entities, for the purpose of resolving an inquiry regarding compliance with the Freedom of Information Act.

D. To appropriate agencies and entities that participate in providing the programs or services described above, when OMB affirmatively determines the information in this system of records is reasonably necessary to effectuate the individual's participation in the program.

E. To the Department of Justice (DOJ) when any of the following is a party to litigation before any court, adjudicative, or administrative body or has an interest in such litigation, and the use of such records by DOJ is deemed by OMB to be relevant and necessary to the litigation:

(1) OMB, or any component thereof;

(2) any employee or former employee of OMB in the employee's official capacity;

(3) any employee or former of employee of OMB in the employee's individual capacity where DOJ has agreed to represent the employee; or

(4) a Federal agency, a Federal entity, a Federal official, or the United States, where OMB determines that litigation is likely to affect OMB or any of its components.

F. In a proceeding before a court or adjudicative body before which OMB is authorized to appear, when OMB determines that the records are relevant and necessary to the litigation; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

G. To a congressional office in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

H. To any agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function. To any agency or organization for the purpose of performing audit, oversight, or investigative functions as authorized by law, but only such information as is necessary and relevant to such audit, oversight, or investigative function.

I. To the National Archives and Records Administration (NARA) for purposes of records management and mail processing inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

J. To NARA, Office of Government Information Services (OGIS), to the extent necessary to fulfil its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with the Freedom of Information Act, and to

facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

K. To appropriate officials and employees of a Federal agency or entity when the information is relevant to a decision concerning the hiring, appointment, or retention of an employee; the assignment, detail, or deployment of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a grant or benefit.

L. To appropriate agencies, entities, and persons when

(1) OMB suspects or has confirmed that there has been a breach of the system of records;

(2) OMB has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, OMB (including its information systems, programs, and operations), the Federal Government, or national security; and

(3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OMB's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

M. To another Federal agency or Federal entity, when OMB determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in

(1) responding to a suspected or confirmed breach; or

(2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

N. Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate Federal, State, local, territorial, Tribal, international, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

O. To contractors and their agents, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for OMB, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same requirements and limitations on disclosure as are applicable to OMB officers and employees.

P. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are stored in electronic or paper form in secure facilities. The records may be stored on magnetic disc, tape, and digital media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by full-text search or by individuals' name, title, organization, or other programmatic identifier assigned to the individual about whom they are maintained.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

These records will be retired and destroyed in accordance with published records schedules of the Office of Management and Budget and the General Records Schedules as approved by NARA.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

All electronic records are maintained in secure systems which require multi-factor authentication and that use security hardware and software to include multiple firewalls, encryption, identification, and authentication of users. All security controls are reviewed on a periodic basis by external assessors. The controls themselves include measures for access control, security awareness training, audits, configuration management, contingency planning, incident response, and maintenance. Access to the information technology systems containing the records in this system is limited to those individuals who need the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

Individuals' requests for access to records should be directed to the system manager. Individuals seeking access to their records in this system of records may submit a request by following the instructions provided in 5 CFR part 1302.

CONTESTING RECORD PROCEDURES:

Individuals' requests for amendment of a record in this system of records should be directed to the system manager. Individuals seeking access to their records in this system of records may submit a request by following the instructions provided in 5 CFR part 1302.

NOTIFICATION PROCEDURES:

Individuals' requests for notification as to whether this system of records contains a record pertaining to them should be directed to the system manager. Individuals seeking access to their records in this system of records may submit a request by following the instructions provided in 5 CFR part 1302.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

This system contains testing and examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service. The Privacy Act, at 5 U.S.C. 552a(k)(6), permits an agency to exempt all such testing or examination material and information from certain provisions of the Act, when disclosure of the material would compromise the objectivity or fairness of the testing or examination process. OMB has claimed exemptions from the requirements of 5 U.S.C. 552a(d), which relate to access to and amendment of records.

The specific material exempted may include, but is not limited to, the following

a. Answer keys.

b. Assessment center exercises.

c. Assessment center exercise reports.

d. Assessor guidance material.

e. Assessment center observation reports.

f. Assessment center summary reports.

g. Other applicant appraisal methods, such as performance tests, work samples and simulations, miniature training and evaluation exercises, structured interviews, and their associated evaluation guides and reports.

h. Item analyses and similar data that contain test keys and item response data.

i. Ratings given for validating examinations.

j. Rating schedules, including crediting plans and scoring formulas for other selection procedures.

k. Rating sheets.

l. Test booklets, including the written instructions for their preparation and automated versions of tests and related selection materials and their complete documentation.

m. Test item files.

n. Test answer sheets.

HISTORY:

None.

Shraddha A. Upadhyaya,

Senior Agency Official for Privacy, Office of Management and Budget.

[FR Doc. 2024–20986 Filed 9–19–24; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF MANAGEMENT AND BUDGET

Privacy Act of 1974; System of Records

AGENCY: Office of Management and Budget.

ACTION: Rescindment of system of records notice.

SUMMARY: The Office of Management and Budget is discontinuing two systems of records, OMB/ADSER/02, Staff Parking Application File and OMB/PERSL/01, Recruiting Records. For the Staff Parking Application File SORN (OMB/ADSER/02), OMB no longer processes or issues parking permits, and as such, does not maintain this system. The Recruiting Records SORN (OMB/PERSL/01) is no longer needed because the Office of Personnel Management issued a government-wide SORN (OPM/GOVT–5) after OMB issued the Recruiting Records SORN in 2000. OPM/GOVT–5 governs all of the records contained in OMB's 2000 Recruiting Records SORN.

DATES: This notice shall be applicable immediately.

ADDRESSES: You may submit comments through *regulations.gov.*

Instructions: All submissions must contain the subject heading ''Rescissions.''

Privacy Act Statement: OMB is issuing this proposed action pursuant to 5 U.S.C. 552(a). Submission of comments is voluntary. Information you provide will be used to inform sound decision-making regarding this proposed notice. Please note that all submissions received in response to this notice may be posted on *https://www.regulations.gov/* or otherwise released in their entirety, including any personal and business confidential information provided. Do not include in your submissions any copyrighted material; information of a confidential nature, such as personal or proprietary information; or any information you would not like to be made publicly available. The OMB System of Records Notice, OMB Public Input System of Records, OMB/INPUT/01, 88 FR 20913, July 3, 2023 (*https://www.federalregister.gov/documents/2023/04/07/2023-07452/privacy-act-of-1974-system-of-records*), includes a list of routine uses associated with the collection of this information.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, please contact Shraddha A. Upadhyaya by email at *SORN@omb.eop.gov* or (202) 395–9225. You must include ''Rescissions'' in the subject line.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, OMB conducted a review of its Privacy Act systems of records and determined that the Staff Parking Application File, OMB/ADSER/02 can be discontinued because records related to staff parking are no longer collected or maintained by OMB. Additionally, OMB/PERSL/01, Recruiting Records can be discontinued because this system of records notice was published in March, 2000, and subsequently OPM issued a system of records notice (OPM/GOVT–5) which governs all of the records previously contained within OMB/PERSL/01.

SYSTEM NAME AND NUMBER:

Staff Parking Application File (OMB/ADSER/02) and Recruiting Records (OMB/PERSL/01).

HISTORY:

Both OMB/ADSER/02, Staff Parking Application File, and OMB/PERSL/01, Recruiting Records, were most recently published on Thursday, March 20, 2000 in the **Federal Register** at 65 FR 16976–16977.

Shraddha A. Upadhyaya,

Senior Agency Official for Privacy, Office of Management and Budget.

[FR Doc. 2024–20988 Filed 9–19–24; 8:45 am]

BILLING CODE 3110–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–610; NRC–2022–0167]

Abilene Christian University; Molten Salt Research Reactor; Construction Permit

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is providing notice of the issuance of Construction Permit No. CPRR–124 to Abilene Christian University (ACU).

DATES: Construction Permit No. CPRR–124 was issued on September 16, 2024.

ADDRESSES: Please refer to Docket ID NRC–2022–0167 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0167. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or via email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Richard Rivera, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7190; email: *Richard.Rivera@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

In accordance with section 2.106 of title 10 of the *Code of Federal Regulations* (10 CFR), the NRC is providing notice of the issuance of Construction Permit No. CPRR–124 to ACU. The construction permit, which is immediately effective, authorizes ACU to construct a research reactor in the Gayle and Max Dillard Science and Engineering Research Center on the ACU campus in Abilene, Texas, as described in ACU's construction permit application, as supplemented. With respect to the construction permit application filed by ACU, the NRC staff performed an environmental review and a safety review, and its evaluations and

conclusions are documented in an environmental assessment and a safety evaluation, respectively. Based, in part, on these documents, the NRC found that the applicable standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations have been met. The NRC also found that any required notifications to other agencies or bodies have been duly made and that, among other things, there is reasonable assurance that the activities authorized by the construction permit will be conducted in compliance with the rules and regulations of the Commission. On the basis of the foregoing, the NRC found that there is reasonable assurance that taking into consideration siting criteria, the proposed facility can be constructed and operated at the proposed location without undue risk to the health and safety of the public, subject to the conditions listed in the construction permit. Furthermore, the NRC found that ACU is technically and financially qualified to engage in the activities authorized and that the issuance of the construction permit will not be inimical to the common defense and security or to the health and safety of the public. Finally, the NRC found that the applicable requirements of subpart A of 10 CFR part 51 have been satisfied. Accordingly, the immediately effective construction permit was issued on September 16, 2024.

II. Availability of Documents

The documents identified in the following table are available to interested persons through ADAMS.

Document description	ADAMS Accession No.
Construction Permit No. CPRR–124	ML24243A040.
Safety Evaluation Related to the Abilene Christian University Construction Permit Application for the Molten Salt Research Reactor.	ML24243A042.
Environmental Assessment for the Construction Permit Application for the Abilene Christian University Molten Salt Research Reactor.	ML23300A053.
ACU Construction Permit Application, as supplemented	ML22227A201 (Package). ML22293B816 (Package). ML23230A392. ML23319A094 (Package). ML24024A009. ML24094A332. ML24109A203. ML24121A271 (Package). ML24164A236. ML24219A258 (Package).

Dated: September 16, 2024.

For the Nuclear Regulatory Commission.

Jeremy Bowen,

Director, Division of Advanced Reactors and Non-Power Production and Utilization Facilities, Office of Nuclear Reactor Regulation.

[FR Doc. 2024–21468 Filed 9–19–24; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2024–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of September 23, 30, and October 7, 14, 21, 28, 2024. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Betty.Thweatt@nrc.gov* or *Samantha.Miklaszewski@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of September 23, 2024

There are no meetings scheduled for the week of September 23, 2024

Week of September 30, 2024—Tentative

There are no meetings scheduled for the week of September 30, 2024.

Week of October 7, 2024—Tentative

Tuesday, October 8, 2024

10:00 a.m. Meeting with the Organization of Agreement States and the Conference of Radiation Control Program Directors (Public Meeting) (Contact: Jeffrey Lynch: 301–415–5041).

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Week of October 14, 2024—Tentative

There are no meetings scheduled for the week of October 14, 2024.

Week of October 21, 2024—Tentative

There are no meetings scheduled for the week of October 21, 2024.

Week of October 28, 2024—Tentative

Wednesday, October 30, 2024

1:00 p.m. Today and Tomorrow Across Region II Business Lines (Public Meeting) (Contact: Katie McCurry: 404–997–4438)

Additional Information: The meeting will be held in the 8th Floor Conference Center, Marquis One Tower, 245 Peachtree Center Avenue NE, Suite 1200, Atlanta, Georgia. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/*.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov*.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: September 18, 2024.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2024–21720 Filed 9–18–24; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–250 and 50–251; NRC–2024–0142]

Florida Power and Light Company; Turkey Point Nuclear Generating, Unit Nos. 3 and 4; Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued an exemption in response to a November 15, 2023, request from Florida Power and Light Company from certain requirements of NRC regulations to use AXIOM® fuel rod cladding at Turkey Point Nuclear Generating, Unit Nos. 3 and 4. Current NRC regulations limit applicability to the use of fuel rod cladding with zircaloy or ZIRLO™.

DATES: The exemption was issued on September 13, 2024.

ADDRESSES: Please refer to Docket ID NRC–2024–0142 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2024–0142. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov*. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Mahoney, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3867, email: *Michael.Mahoney@nrc.gov*.

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: September 16, 2024.

For the Nuclear Regulatory Commission.

Michael Mahoney,

Senior Project Manager, Plant Licensing Branch 4, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

Attachment: Exemption

NUCLEAR REGULATORY COMMISSION

Docket Nos. 50–250 and 50–251

Florida Power and Light Company; Turkey Point Nuclear Generating, Unit Nos. 3 and 4 Exemption

I. Background

Florida Power and Light Company (FPL, the licensee) is the holder of Renewed Facility Operating License Nos. DPR–31 and DPR–41, which authorize operation of Turkey Point Nuclear Generating, Unit Nos. 3 and 4 (Turkey Point). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC) now or hereafter in effect. The facility consists of pressurized-water reactors (PWRs) located in Miami-Dade County, Florida.

II. Request/Action

By application dated November 15, 2023 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML23320A028), FPL, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.12, ''Specific exemptions,'' requested an exemption from certain requirements of 10 CFR 50.46, ''Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors,'' to use AXIOM® fuel rod cladding at Turkey Point.

The regulations in 10 CFR 50.46 are currently limited in applicability to the use of fuel rods with zircaloy or ZIRLO™ cladding. This exemption will allow FPL to use AXIOM® fuel rod cladding at Turkey Point. The special circumstances associated with the exemption request are that application of the regulation in this circumstance is not necessary to achieve the underlying purpose of the rule.

III. Discussion

The regulation in 10 CFR 50.46(a)(1)(i) states, in part, that:

> Each boiling or pressurized light-water nuclear power reactor fueled with uranium oxide pellets within cylindrical zircaloy or ZIRLO cladding must be provided with an emergency core cooling system (ECCS) that must be designed so that its calculated cooling performance following postulated loss-of-coolant accidents [LOCA] conforms to the criteria set forth in paragraph (b) of this section. ECCS cooling performance must be calculated in accordance with an acceptable evaluation model and must be calculated for a number of postulated loss-of-coolant accidents of different sizes, locations, and other properties sufficient to provide assurance that the most severe postulated loss-of-coolant, accidents are calculated.

Since 10 CFR 50.46 specifically refers to fuel with zircaloy or ZIRLO™ cladding, its application to fuel clads with materials other than zircaloy or ZIRLO™ requires an exemption from this section of the regulations.

The exemption request from the licensee relates solely to the types of fuel cladding materials specified in these regulations. As written, the regulations presume the use of zircaloy or ZIRLO™ cladding. Thus, an exemption is necessary to apply 10 CFR 50.46 to cladding materials (*i.e.,* AXIOM®), other than zircaloy or ZIRLO™ cladding. The proposed

request does not exempt Turkey Point from any other requirements of 10 CFR 50.46 regarding acceptance criteria, evaluation model features and documentation, reporting of changes or errors, etc.

Pursuant to 10 CFR 50.12, the NRC may, upon application by any interested person or upon its own initiative, grant exemptions from requirements of 10 CFR part 50 when: (1) the exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and (2) special circumstances, as defined in 10 CFR 50.12(a)(2), are present. The licensee's proposed exemption request which would permit application of the requirements of 10 CFR 50.46 to fuel rods clad with AXIOM® at Turkey Point identifies, in particular, that the special circumstance associated with this exemption request is that the application of the regulation in this circumstance is not necessary to achieve the underlying purpose of the rule.

The technical basis for the use of fuel cladding with AXIOM® in PWRs is documented in Topical Report (TR) WCAP–18546NP–A, Revision 0, ''Westinghouse AXIOM® Cladding for Use in Pressurized Water Reactor Fuel,'' dated March 2021 (ML23089A066). This TR describes Westinghouse's evaluation for the use of the AXIOM® alloy in PWR fuel assemblies as a replacement for ZIRLO™ and Optimized ZIRLO™. This TR discusses material properties of AXIOM®, as well as its behavior under normal operation, anticipated transients, and postulated accident conditions.

As identified in TR WCAP–18546NP–A, Revision 0, the AXIOM® alloy is a proprietary niobium-bearing variant of zirconium. This material also has tin, vanadium, and copper as alloying elements. Westinghouse stated that the AXIOM® alloy was developed to provide enhanced performance with respect to corrosion, hydrogen pickup, growth, and creep. While demonstrating relevant differences in certain material properties and physical behavior, TR WCAP–18546NP–A, Revision 0 identifies that the basic physical properties of AXIOM® are similar to ZIRLO™.

Sections 3.11, 3.12, and 6.2.1.4 of TR WCAP–18546NP–A, Revision 0 provide Westinghouse's rationale for concluding that each of the acceptance criteria in 10 CFR 50.46 is applicable to fuel clad with AXIOM®.

As documented in the NRC staff's SE on TR WCAP–18546NP–A, Revision 0, the staff concluded that the criteria of 10 CFR 50.46 are acceptable for application to AXIOM® cladding. The technical basis for the NRC staff's conclusions is the testing and analysis Westinghouse performed in support of the AXIOM® alloy is described in the NRC staff's relevant safety evaluation. Despite finding application of 10 CFR 50.46 to AXIOM® acceptable from a technical perspective, current regulations in 10 CFR 50.46 are limited in applicability to the use of fuel rods with zircaloy or ZIRLO™ cladding; therefore, an exemption for use of a new cladding material (such as AXIOM®), is required.

A. The Exemption Is Authorized by Law

The NRC has the authority under 10 CFR 50.12 to grant exemptions from the requirements of 10 CFR part 50 upon demonstration of proper justification. The fuel that will be irradiated at Turkey Point is clad with a zirconium-based alloy that is not expressly within the scope of 10 CFR 50.46. However, the NRC staff considers all other aspects of these regulations (*e.g.,* acceptance criteria, prescribed methods, reporting requirements) applicable to the AXIOM® cladding material, and the licensee states that it will ensure that these regulations are satisfied for operation with fuel clad with AXIOM®. As discussed below, the NRC staff determined that special circumstances exist, which support granting the proposed exemption. Furthermore, granting the exemption would not result in a violation of the Atomic Energy Act of 1954, as amended, or the NRC's regulations. Therefore, the exemption is authorized by law.

B. The Exemption Presents No Undue Risk to Public Health and Safety

The NRC staff's previous review of TR WCAP–18546NP–A, Revision 0, which concerns the properties of the AXIOM® alloy, provides assurance that predicted chemical, thermal, and mechanical characteristics of AXIOM®-alloy cladding are acceptable under normal operation, anticipated transients, and postulated accidents. The NRC staff finds that by utilizing the methods and properties listed in the NRC-approved TR (*i.e.,* TR WCAP–18546NP–A), the licensee meets the acceptance criteria and analytical methods in 10 CFR 50.46 to 10 CFR part 50, and thus, ensures acceptable safety margins for fuel clad with AXIOM® that are consistent with those the Commission has established for zircaloy and ZIRLO™. Turkey Point cores involving AXIOM® cladding will continue to be subject to the operating limits specified in the technical specifications and core operating limits report. Thus, granting this exemption request will not pose undue risk to public health and safety.

C. The Exemption Is Consistent with the Common Defense and Security

The exemption will allow the licensee to use an enhanced fuel rod cladding material relative to the zircaloy material for which the requirements of 10 CFR 50.46 were originally established. The NRC staff concludes that the use of AXIOM® fuel rod cladding at Turkey Point will not significantly affect plant operations and is therefore consistent with the common defense and security. Further, the exemption does not involve security requirements and does not create a security risk. Therefore, the exemption is consistent with the common defense and security.

D. Special Circumstances

The regulations in 10 CFR 50.46 do not explicitly apply to fuel clad with AXIOM®. However, the underlying purpose of 10 CFR 50.46 is to provide requirements capable of ensuring adequate core cooling during and after the most limiting postulated LOCA. As discussed above, Westinghouse has demonstrated in an NRC-approved TR (*i.e.* TR WCAP–18546NP–A) that application of the acceptance criteria and analytical methods required in 10 CFR 50.46 to fuel cladding with AXIOM® is acceptable. For the maximum local oxidation limit in 50.46(b)(2), Westinghouse meets the 17 percent limit in the rule for cladding without any hydrogen, but further justified the use of an alternative limit that the NRC finds acceptable for maintaining post quench ductility during a postulated LOCA. The licensee stated in the exemption request that the core reload safety analyses will be used to confirm on a cycle-specific basis that there is no adverse impact on ECCS performance for Turkey Point. Therefore, strict application of the material-specific requirements for fuel cladding in 10 CFR 50.46 is not necessary to achieve the underlying purpose of ensuring adequate core cooling in this instance. Furthermore, granting an exemption to allow application of the balance of these regulations for fuel cladding with AXIOM® at Turkey Point would be consistent with the underlying regulatory purpose.

E. Environmental Considerations

The exemption requested by the licensee includes changes to requirements with respect to installation or use of a facility component located within the restricted area. The NRC staff determined that the exemption meets

the eligibility criteria for the categorical exclusion set forth in 10 CFR 51.22(c)(9) because the granting of this exemption involves: (i) no significant hazards consideration, (ii) no significant change in the types or a significant increase in the amounts of any effluents that may be released offsite, and (iii) no significant increase in individual or cumulative occupational radiation exposure. Therefore, in accordance with 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the NRC's consideration of this exemption request. The basis for the NRC staff's determination of each of the requirements in 10 CFR 51.22(c)(9) is discussed below.

Requirements in 10 CFR 51.22(c)(9)(i)

The NRC staff evaluated the issue of no significant hazards consideration using the standards described in 10 CFR 50.92(c), as presented below:

1. Does the proposed exemption involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed exemption to allow the use of AXIOM® fuel rod cladding does not involve a significant increase in the probability or consequences of an accident previously evaluated.

For the set of previously evaluated accidents, their probability is governed by the failure or malfunction of equipment or components other than the fuel rod cladding. The fuel rod cladding itself is not an accident initiator and does not affect the accident probability. Therefore, the change in fuel rod cladding material does not affect the probability of previously evaluated accidents.

The proposed exemption does not involve a significant increase in the consequences of previously evaluated accidents. This conclusion is demonstrated by the analysis submitted by the licensee in support of the proposed use of AXIOM® cladding that the NRC staff has reviewed in support of the proposed license amendment. The licensee's analysis shows that fuel clad with AXIOM® material performs comparably to fuel cladding materials that have been used previously. This satisfies the acceptance criteria in 10 CFR 50.46(b) for the LOCA event.

Therefore, the proposed exemption does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed exemption create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The use of AXIOM® fuel rod cladding does not create the possibility of a new or different kind of accident from any previously evaluated. The fuel rod cladding is not an accident initiator. The use of AXIOM® cladding has been assessed by the licensee and vendor, and it has been found to exhibit comparable or enhanced behavior relative to Optimized ZIRCLO cladding material specifically identified in 10 CFR 50.46. The NRC staff has previously reviewed this information in its safety evaluation approving TR WCAP–18546NP–A. Use of Westinghouse fuel with AXIOM® cladding in the Turkey Point reactor core is compatible with the plant design and does not introduce any new safety functions for plant structures, systems, or components. Furthermore, the introduction of AXIOM® cladding does not affect any accident mitigation systems and does not introduce any new accident initiation methods.

Therefore, the proposed exemption does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed exemption involve a significant reduction in a margin of safety?

Response: No.

The proposed exemption does not involve a significant reduction in the margin of safety. The licensee's analysis of the spectrum of postulated LOCA events for fuel rods clad with AXIOM® exhibits results comparable to those for the fuel currently in use at Turkey Point for the small-break and the large-break LOCA events. Furthermore, the fuel vendor has generically evaluated the performance of AXIOM® cladding relative to the zircaloy cladding specifically identified in 10 CFR 50.46. The vendor concluded that the performance of the AXIOM® cladding material is quite similar to or enhanced relative to Optimized ZIRCLO cladding material The NRC staff has performed a review of these conclusions and documented in its safety evaluation on TR WCAP–18546NP–A that the AXIOM® material properties and mechanical design methodology are in accordance with applicable regulations and regulatory guidance.

Therefore, the proposed exemption does not involve a significant reduction in a margin of safety.

The NRC staff concludes that the proposed exemption presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of no significant hazards consideration is justified (*i.e.,* satisfies the provision of 10 CFR 51.22(c)(9)(i)).

Requirements in 10 CFR 51.22(c)(9)(ii)

The proposed exemption would allow the use of AXIOM® fuel rod cladding material in the reactors. AXIOM cladding has similar properties and performance characteristics as the currently licensed optimized ZIRLO cladding. Therefore, the use of the AXIOM® fuel rod cladding material will not significantly change the types of effluents that may be released offsite, or significantly increase the amount of effluents that may be released offsite. Therefore, the provision of 10 CFR 51.22(c)(9)(ii) is satisfied.

Requirements in 10 CFR 51.22(c)(9)(iii)

The proposed exemption would allow the use of the AXIOM® fuel rod cladding material in the reactors. AXIOM cladding has similar properties and performance characteristics as the currently licensed optimized ZIRLO cladding. Therefore, the use of the AXIOM® fuel rod cladding material will not significantly increase individual occupational radiation exposure, or significantly increase cumulative occupational radiation exposure. Therefore, the provision of 10 CFR 51.22(c)(9)(iii) is satisfied.

The NRC staff concludes that the proposed exemption meets the eligibility criteria for the categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, in accordance with 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the NRC's proposed granting of this exemption.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants FPL an exemption from the specific requirements of 10 CFR 50.46 for use of AXIOM® fuel rod cladding.

Dated: September 13, 2024.

For the Nuclear Regulatory Commission.

/RA/

Bo M. Pham,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulations.

[FR Doc. 2024–21500 Filed 9–19–24; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2024–684 and CP2024–693; MC2024–685 and CP2024–694; MC2024–686 and CP2024–695; MC2024–687 and CP2024–696; MC2024–688 and CP2024–697; MC2024–689 and CP2024–698; MC2024–690 and CP2024–699]

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:* September 24, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

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.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2024–684 and CP2024–693; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 340 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 16, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jana Slovinska; *Comments Due:* September 24, 2024.

2. *Docket No(s).:* MC2024–685 and CP2024–694; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 350 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 16, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Samuel Robinson; *Comments Due:* September 24, 2024.

3. *Docket No(s).:* MC2024–686 and CP2024–695; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 351 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 16, 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:* September 24, 2024.

4. *Docket No(s).:* MC2024–687 and CP2024–696; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 341 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 16, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* September 24, 2024.

5. *Docket No(s).:* MC2024–688 and CP2024–697; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 342 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 16, 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:* September 24, 2024.

6. *Docket No(s).:* MC2024–689 and CP2024–698; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 343 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 16, 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:* September 24, 2024.

7. *Docket No(s).:* MC2024–690 and CP2024–699; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 344 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 16, 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:* September 24, 2024.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2024–21579 Filed 9–19–24; 8:45 am]

BILLING CODE 7710–FW–P

[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).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101036; File No. 4–631]

Joint Industry Plan; Order Disapproving the Twenty-Third Amendment to the National Market System Plan To Address Extraordinary Market Volatility

September 16, 2024.

I. Introduction

On October 24, 2023, NYSE Group, Inc., on behalf of the Participants [1] to the National Market System Plan to Address Extraordinary Market Volatility (''Plan''), filed with the Securities and Exchange Commission (''Commission''), pursuant to section 11A(a)(3) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [2] and Rule 608 thereunder,[3] a proposal (''Proposal'' or ''Proposed Amendment'') to amend the Plan. The Proposed Amendment was published for comment in the **Federal Register** on November 21, 2023.[4] On February 15, 2024, the Commission instituted proceedings pursuant to Rule 608(b)(2)(i) of Regulation NMS [5] to determine whether to approve or disapprove the Proposed Amendment or to approve the Proposed Amendment with any changes or subject to any conditions the Commission deems necessary or appropriate.[6] On May 14, 2024, the Commission designated a longer period within which to conclude proceedings regarding the Proposed Amendment.[7] On July 18, 2024, the Commission designated a longer period for Commission action on the Proposed Amendment.[8]

This order disapproves the Proposed Amendment.

[1] The Participants are: Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., the Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long-Term Stock Exchange, Inc., MEMX LLC, MIAX Pearl, LLC, NASDAQ BX, Inc., NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (collectively, ''Participants'').

[2] 15 U.S.C. 78k–1(a)(3).

[3] 17 CFR 242.608.

[4] *See* Securities Exchange Act Release No. 98928 (Nov. 14, 2023), 88 FR 81131 (''Notice''). Comments received in response to the Notice can be found on the Commission's website at: *https://www.sec.gov/comments/4-631/4-631.htm.*

[5] 17 CFR 242.608(b)(2)(i).

[6] *See* Securities Exchange Act Release No. 99545 (Feb. 15, 2024), 89 FR 13389 (Feb. 22, 2024) (''OIP''). Comments received in response to the OIP can be found on the Commission's website at: *https://www.sec.gov/comments/4-631/4-631.htm.*

[7] *See* Securities Exchange Act Release No. 100127 (May 14, 2024), 89 FR 43969 (May 20, 2024).

[8] *See* Securities Exchange Act Release No. 100556 (July 18, 2024), 89 FR 59779 (July 23, 2024).

II. Overview

The Participants adopted the Plan to address extraordinary volatility in the securities markets, *i.e.,* significant fluctuations in individual securities' prices over a short period of time, such as those experienced during the ''Flash Crash'' on the afternoon of May 6, 2010. The Plan sets forth procedures that provide for market-wide limit up-limit down requirements to prevent trades in individual NMS Stocks from occurring outside of the specified Price Bands to address instances of extraordinary volatility in NMS Stocks.[9] These limit up-limit down requirements are coupled with Trading Pauses to accommodate more fundamental price moves.

As set forth in more detail in the Plan, the single plan processor, which is responsible for consolidation of information for an NMS Stock pursuant to Rule 603(b) of Regulation NMS under the Exchange Act, calculates and disseminates a lower Price Band and upper Price Band for each NMS Stock. As set forth in Section V of the Plan, the Price Bands are based on a Reference Price for each NMS Stock that equals the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the immediately preceding five-minute period. The Price Bands for an NMS Stock are calculated by applying the Percentage Parameters, as set out in Appendix A to the Plan,[10] for such NMS Stock to the Reference Price, with the lower Price Band being a Percentage Parameter below the Reference Price, and the upper Price Band being a Percentage Parameter above the Reference Price.

Appendix A to the Plan sets out the definitions of Tier 1 and Tier 2 NMS Stocks and the Percentage Parameters for each. Appendix A currently provides that Tier 1 includes all NMS Stocks included in the S&P 500 Index and the Russell 1000 Index, as well as ''eligible'' ETPs, which are ETPs that trade over $2,000,000 notional consolidated average daily volume (''CADV'') over a period from the first day of the previous fiscal half year up until one week before the beginning of the next fiscal half year. Eligible ETPs are listed in Schedule 1 to Appendix A, and the list is reviewed and updated semi-annually. All ETPs that do not meet the ''eligibility'' definition are currently assigned to Tier 2.

[9] *See* Notice, 88 FR at 81144–45 (setting forth the defined terms as used under the Plan). For purposes of this order, all capitalized terms referenced, but not otherwise defined, herein shall have the meanings as defined under the Plan or as defined in the Notice.

[10] *See* Notice, 88 FR at 81148 (Appendix A to the Plan).

For Tier 1 NMS Stocks, Appendix A defines the Percentage Parameters as:

- 5% for Tier 1 NMS Stocks with a Reference Price more than $3.00;
- 20% for Tier 1 NMS Stocks with a Reference Price equal to $0.75 and up to and including $3.00; and
- The lesser of $0.15 or 75% for Tier 1 NMS Stocks with a Reference Price less than $0.75.

For Tier 2 NMS Stocks, Appendix A defines the Percentage Parameters as:

- 10% for Tier 2 NMS Stocks with a Reference Price of more than $3.00;
- 20% for Tier 2 NMS Stocks with a Reference Price equal to $0.75 and up to and including $3.00; and
- The lesser of $0.15 or 75% for Tier 2 NMS Stocks with a Reference Price less than $0.75.

Appendix A further provides that the Percentage Parameter for a Tier 2 NMS Stock that is a leveraged ETP is the applicable Percentage Parameter set forth above, multiplied by the leverage ratio of such product.

III. Summary of the Proposed Amendment [11]

The Participants propose to amend Appendix A to delete the definition of ETPs ''eligible'' for Tier 1, and to specify that all ETPs except for single-stock ETPs would be assigned to Tier 1. The Proposed Amendment would generally result in tighter Price Bands being applied on Tier 2 ETPs than currently apply. The Participants also propose to delete Schedule 1 to Appendix A as obsolete. Under the Proposal, Appendix A, Section I, paragraph (1) would read as follows:

> Tier 1 NMS Stocks shall include all NMS Stocks included in the S&P 500 Index and the Russell 1000 Index, and all exchange-traded products (''ETP''), except for single stock ETPs, which will be assigned to the same Tier as their underlying stock, adjusted for any leverage factor.

Because all leveraged ETPs (except Tier 2 single-stock ETPs) would be assigned to Tier 1, the Participants also propose to add text into Section I of Appendix A describing how the Percentage Parameters would be set for leveraged ETPs. The Participants propose to insert the following as paragraph (5) of Section I, and to renumber the paragraphs of Section I accordingly:

> Notwithstanding the foregoing, the Percentage Parameters for a Tier 1 NMS

[11] This section summarizes the proposed changes to the Plan and the Participants' analysis supporting the proposed changes, as described in the Notice. The Notice contains the Participants' full discussion of the Proposed Amendment, including the Participants' justifications for the Proposed Amendment. *See* Notice, *supra* note 4.

Stock that is a leveraged ETP shall be the applicable Percentage Parameter set forth in clauses (2), (3), or (4) above, multiplied by the leverage ratio of such product.

At the request of ETP issuers, the Participants conducted a study concerning the calibration of the Percentage Parameters set forth in the Plan with respect to ETPs in Tier 2.[12] The Participants subsequently conducted additional analysis (''Supplemental Analysis'') on the narrowing of the Percentage Parameters.[13] The Participants reached the following conclusions based on the analysis in the study and the Supplemental Analysis (collectively ''Analyses''):

- Tier 1 non-ETPs are far more likely than Tier 2 ETPs to enter into Limit States and Trading Pauses due to the underlying volatility of these securities. This finding suggests that the Price Band width for Tier 2 ETPs is poorly calibrated relative to their actual trading behavior.[14] The Supplemental Analysis performed by the Participants reached the same conclusion using two different methodologies.[15]
- During the period looked at in the study presented in the Proposed Amendment, the notional value of trades that would have been prevented if Tier 2 ETPs had used tighter Tier 1 Price Bands would have been substantial for such thinly traded products, bounded on the lower end at $36.8 million and the upper end at $711.1 million.[16]
- The Participants calculated theoretical Tier 1 (*i.e.,* 5%, adjusted for the leverage factor) Price Bands for all Tier 2 ETPs in the study presented in the Proposed Amendment (''Theoretical Tier 1 Bands'').[17] In this analysis from the study, the Participants compared the execution price to the midpoint price of the National Best Bid or Offer (''NBBO'') at five and ten minutes after such execution. Using this methodology, in the majority of cases where a trade would have been prevented by the narrower Theoretical Tier 1 Bands, prices reverted by the end of the following five- and ten-minute periods, suggesting that having these thinly traded ETPs in Tier 1 would protect investors from executing trades at inferior prices that may occur due to transitory gaps in liquidity rather than fundamental valuation changes.[18] In the Supplemental Analysis, the Participants used a different methodology, specifically comparing the midpoint of the NBBO at five and ten minutes after the trade to the midpoint of the NBBO [19] at the time of execution, to demonstrate price movement after theorical block trades and again reached conclusions they state support the Proposed Amendment.[20]
- In most cases where ETPs have been reclassified from Tier 2 to Tier 1, market quality improved as evidenced by the lower quote volatility, tighter spreads, and increased liquidity for ETPs that moved from Tier 2 to Tier 1.[21]
- Using tighter Tier 1 bands for all ETPs would provide greater investor protection from temporary liquidity gaps, which are facilitated by the wider Price Bands in Tier 2.[22]
- The number of Limit States and Trading Pauses decreased when Tier 2 ETPs moved to Tier 1, and increased when Tier 1 ETPs moved to Tier 2.[23]

Based on these conclusions, the Participants state that they believe that moving Tier 2 ETPs to Tier 1 would improve market quality, more effectively dampen volatility, decrease the number of unnecessary Limit States and Trading Pauses, and thereby provide greater investor protection.[24]

IV. Discussion

A. The Applicable Standard of Review

Under Rule 608(b)(2) of Regulation NMS, the Commission shall approve a national market system plan or proposed amendment to an effective national market system plan, with such changes or subject to such conditions as the Commission may deem necessary or appropriate, if it finds that such plan or amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Exchange Act.[25] Under Rule 700(b)(3)(ii) of the Commission's Rules of Practice, the ''burden to demonstrate that a NMS plan filing is consistent with the Exchange Act and the rules and regulations issued thereunder that are applicable to NMS plans is on the plan participants that filed the NMS plan filing.'' [26] The Commission shall disapprove a national market system plan or proposed amendment if it does not make such a finding.[27]

For the reasons described below, the Participants have not demonstrated that the Proposal meets the standard under Rule 608(b)(2) of Regulation NMS. As such, the Commission is disapproving the Proposed Amendment because it cannot make the finding that the Proposed Amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Exchange Act.[28]

[12] *See* Notice, 88 FR at 81133.

[13] The Participants submitted a letter with the Supplemental Analysis in support of the Proposed Amendment. *See* Letter from Robert Books, Chair, Operating Committee of the Plan, dated June 17, 2024 (''Participants' Letter'').

[14] *See* Notice, 88 FR at 81142.

[15] *See* Participants' Letter at 3 (''When combined with the data in the Proposal's Table 2 concerning the incidence of Limit States and Trading Pauses among Tier 1 non-ETPs and Tier 2 ETPs and non-ETPs, these additional volatility statistics provide further support for the Participant's conclusion in the Proposal . . . that the current Price Bands are not well-calibrated to the realized volatility for Tier 2 ETPs and should not be twice as wide as those for Tier 1 non-ETPs.'').

[16] *See* Notice, 88 FR at 81142. *See also id.* at 81135–36 (explaining how the Participants calculated the upper and lower ranges of the notional value of trades).

[17] *Id.* at 81135.

[18] *Id.* at 81142.

[19] While the Supplemental Analysis stated that it compared the midpoint of the NBBO at five and ten minutes after the trade to the midpoint of the quote at the time of execution, in the context of the analysis performed, the Commission understands that ''quote'' meant the NBBO at the time of execution, given the use of the midpoint at five and ten minutes in the Supplemental Analysis and the use of the NBBO midpoint in the Participant's study that was part of the Proposal.

[20] *See* Participants' Letter at 4 (stating that the results of the Supplemental Analysis show that ''more than 60% of the time, prices 5 and 10 minutes after a theoretically prevented trade reverted away from the offending trade price towards prior prices. Share volume reversion remained above 50% after five minutes and above 60% after 10 minutes. This tendency toward reversion is further evidence in support of narrowing the bands to Tier 1-levels.''). The Participants state they conducted this additional price reversion analysis to account for concerns with the prior analysis, which compared the execution prices of Tier 2 ETPs to the midpoint of the NBBO five and ten minutes after such execution. *See* Participants' Letter at 4.

[21] *See* Notice, 88 FR at 81142.

[22] *Id.*

[23] *Id.*

[24] *See* Notice, 88 FR at 81142. *See also* Participants' Letter at 6.

[25] 17 CFR 242.608(b)(2).

[26] 17 CFR 201.700(b)(3)(ii). In addition, Rule 700(b)(3)(ii) of the Commission's Rules of Practice states that ''[a]ny failure of the plan participants that filed the NMS plan filing to provide such detail and specificity may result in the Commission not having a sufficient basis to make an affirmative finding that a NMS plan filing is consistent with the Exchange Act and the rules and regulations issued thereunder that are applicable to NMS plans.'' *Id.*

[27] 17 CFR 242.608(b)(2). Approval or disapproval of a national market system plan, or an amendment to an effective national market system plan (other than an amendment initiated by the Commission), shall be by order. *Id.*

[28] 17 CFR 242.608(b)(2).

B. Comments Received

Certain commenters express support for the Proposed Amendment.[29] One commenter states that it is important to maintain the leverage factor adjustment when moving leveraged ETPs into Tier 1.[30] Another commenter, writing on behalf of a ''diverse cross-section of market participants,'' states that using Tier 1 Percentage Parameters for all ETPs would better protect investors during temporary liquidity gaps.[31] The commenter states that the risk of an inefficient execution away from the fair value of the ETP's holdings (as far as 10% away from a Tier 2 ETP's Reference Price) rises in the case of a liquidity gap resulting from an outsized or aggressive order, temporary uncertainty about any inputs into the calculation of the ETP's fair value, or lower levels of market participation.[32] This commenter also states that the application of Tier 1 Percentage Parameters may enhance investor protection, provide a better ETP execution experience for market participants, and would improve transparency and efficiency, particularly during periods of extreme volatility.[33] Another commenter states that the Participants' data presented in the Proposed Amendment showed that while narrow Price Bands resulted in more trading halts in the time period studied, had narrower Price Bands been in place for ETPs during periods of extreme volatility, retail investor executions at inferior prices would likely have been prevented.[34] Some commenters that support the proposal state that ETPs are assigned to tiers based on an assumption that lower-volume ETPs are more suited for wider Price Parameters, and state that the data presented in the Proposed Amendment suggest that this assumption was wrong.[35] Some commenters that support the Proposal state that the analysis from the study in the Proposed Amendment demonstrated that on average, Tier 2 ETPs across asset classes exhibit lower quote volatility than Tier 1 non-ETP stocks.[36] In light of the findings derived from the study, some commenters state that the imposed semi-annual migration of ETPs from one tier to the other appears to be overly complex, arbitrary, and unnecessary.[37] One commenter states that there is no reason to expect the Tier 1 Price Band is inappropriate for Tier 2 ETPs that are based on a single reference asset, stating that approximately 33% of single asset commodity based ETPs representing a wide range of commodity types are Tier 1 securities.[38]

Some commenters oppose the Proposed Amendment,[39] with some commenters stating that the proposed tighter Price Bands would effectively limit the natural price discovery process, which would infringe upon free market principles[40] and may lead to increased volatility.[41] One commenter further states that leveraged derivatives, such as options and futures, allow significant positions to be taken with relatively less capital.[42] The same commenter states that the Proposal caters to the interests of larger, institutional investors who may benefit from reduced volatility and more predictable price movements at the expense of smaller, retail investors.[43] Some commenters state that the Proposal enables the Participants to control the price of a security inappropriately.[44]

C. Participants' Findings and Commission Response

The Commission approved the Plan in 2012 on a pilot basis, recognizing that after the Participants and the public gain experience with the operations of the Plan, modifications may be necessary or appropriate.[45] At the time the Commission permanently approved the Plan in 2019, the Commission recognized that robust, data-driven assessments of the Plan's effectiveness are important to ensure that the Plan remains designed to achieve its objective,[46] and the Commission supports continuing efforts to improve the operation of the Plan consistent with Rule 608 of Regulation NMS under the Exchange Act.[47]

The Participants state that assigning all ETPs, except for single stock ETPs, to Tier 1 would improve market quality, more effectively dampen volatility, provide greater investor protection, and decrease the number of unnecessary Limit States and Trading Pauses for Tier 2 ETPs.[48] For these reasons, the Participants state that the Proposed Amendment is consistent with Rule

[29] *See* Letters from Samara Cohen, Chief Investment Officer of ETF and Index Investments, BlackRock, et al., dated Dec. 18, 2023 (''BlackRock Letter''); Kenneth Fang, Associate General Counsel, and Kevin Ercoline, Assistant General Counsel, Investment Company Institute, dated Mar. 14, 2024 (''ICI Letter'') (expressing support for the comments made in the BlackRock Letter); Ellen Greene, Managing Director, Equities & Options Market Structure, Securities Industry and Financial Markets Association (''SIFMA'') and Kevin Ehrlich, Managing Director, SIFMA Asset Management Group, dated Apr. 22, 2024 (''SIFMA Letter'').

[30] *See* ICI Letter at 4. *See also* SIFMA Letter at 3 (stating that multiplying the Tier 1 Percentage Parameters by an ETP's leverage ratio, as proposed, would address potential volatility in these products).

[31] *See* BlackRock Letter at 1.

[32] *Id.* at 2.

[33] *See id.* at 1–2. Some commenters state that, in instances of sustained order imbalances and/or gaps in liquidity in the market for an ETP, a trading pause would help attract liquidity from diverse market participants and promote price discovery through the reopening mechanism, helping to keep ETP prices in line with the value of underlying holdings. *See* BlackRock Letter at 2. *See also* ICI Letter at 3 (stating that during periods of extreme volatility and transitory gaps in liquidity, it may be beneficial for a trading pause to be triggered); SIFMA Letter at 2.

[34] *See* ICI Letter at 3.

[35] *See* BlackRock Letter at 2. *See also* ICI Letter at 4 (stating that the Participants' data demonstrate that an assumption that lower-volume ETPs were more suited for wider Price Bands was not accurate).

[36] *See* BlackRock Letter at 2. *See also* ICI Letter at 4 (stating Tier 2 ETPs on average exhibit lower quote volatility than Tier 1 non-ETP stocks); SIFMA Letter at 2–3 (stating that the Participants' study showed that ETPs assigned to Tier 2 had quote volatilities lower than both Tier 1 ETPs and Tier 2 non-ETPs).

[37] *See* BlackRock Letter at 2. *See also* SIFMA Letter at 4 (stating that approval of the Proposed Amendment ''would benefit investors by reducing complexity and enhancing fair and orderly markets for trading ETPs'').

[38] *See* SIFMA Letter at 3 (stating additionally that several ETPs consisting of currency products are also assigned to Tier 1).

[39] *See, e.g.,* Letters from Alexander Kuchta dated Nov. 27, 2023 (''Kuchta Letter''); Rax Nahali dated Nov. 27, 2023 (''Nahali Letter''); and Rene Wright dated Nov. 27, 2023 (''Wright Letter'').

[40] *See* Kuchta Letter. *See also* Joe Edwards dated Nov. 27, 2023 (''Edwards Letter'') (stating that ''[t]his rule goes against the ideals of a free and fair market''); Nahali Letter (stating that ''[i]f the markets are as free and fair as the SEC suggests they are, there is no need for this rule to be in place'').

[41] *See* Kuchta Letter (stating that ''as trades accumulate at the band limits, the resumption of trading could trigger sudden and sharp price movements, contrary to the proposal's intent to reduce volatility'').

[42] *See id.*

[43] *See id.*

[44] *See* Mazundar Letter. *See also* Nahali Letter (stating the rule ''would allow the exchanges to collude and set prices where they want them.'').

[45] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498, 33510 (June 6, 2012) (''LULD Plan Approval Order'').

[46] *See* Securities Exchange Act Release No. 85623 (Apr. 11, 2019), 84 FR 16086, 16090 (Apr. 17, 2019).

[47] 17 CFR 242.608.

[48] *See* Notice, 88 FR at 81141. The Participants state that when ETPs moved from Tier 2 to Tier 1 there was an improvement in market quality and a decrease in the number of Trading Pauses, Limit States, or the amount of time spent in Limit States, as compared with ETPs that remained in Tier 2 during the period studied by the Participants. The Participants state that this is likely because market participants will change their behavior and provide more liquidity to ETPs if the bands are tightened. The Participants also state that market participants adjusted to tighter Price Bands after Amendment 18 to the Plan narrowed the Price Bands near the open and close of trading. However, the Participants state that this analysis concerning Trading Pauses and Limit States may not offer strong support for its conclusions given the relatively small number of ETPs that move between Tier 1 and Tier 2 designations; further, the Participants state that, ''in some cases, changes in the volume of trades are what cause an ETP to change from one tier to another, and the improvements in market quality may be attributable to that increased volume, and not the tier change in and of itself.'' *Id.*

608(b)(2). As discussed in detail below, the Participants have not carried their burden of demonstrating why the Proposed Amendment is consistent with Rule 608 of Regulation NMS.

In the Proposal, the Participants state that, except for single-stock, commodity, and foreign exchange-based ETPs, ETPs are diversified instruments and that the analysis in the Proposal supports the modern portfolio theory that portfolios of securities exhibit lower volatility than individual securities, unless those products are perfectly correlated. At the same time, the Participants acknowledge that the ETPs studied cover several asset classes, including domestic equities, international equities, fixed income, currency, commodity, and digital currency ETPs.[49] The Participants' Analyses, however, provide aggregate statistical information with respect to all Tier 2 ETPs despite securities within this group having different trading characteristics. These Analyses and the resulting aggregate statistical information concern the volatility characteristics of Tier 2 ETPs and the potential costs (*i.e.,* trading activity disruption) and benefits (*i.e.,* protecting investors from trading at inferior prices that may occur because of transitory gaps in liquidity rather than fundamental value changes; market quality improvement) of designating all Tier 2 ETPs as Tier 1 securities. The Commission is concerned that these aggregate statistical analyses for Tier 2 ETPs do not reflect the trading characteristics and potential effects of the Proposed Amendment for many Tier 2 ETPs.

According to the Annual Report for 2023 by the Operating Committee of the Plan, in 2023 there were over two thousand ETPs designated as Tier 2 securities.[50] While the Proposed Amendment would exclude single stock ETPs from automatically being designated as Tier 1 securities,[51] the Proposal would not exclude other Tier 2 ETPs, including those based on other single reference assets,[52] that may exhibit substantially different trading characteristics than those reflected in the Proposal's aggregate statistical analysis concerning the over two thousand Tier 2 ETPs or otherwise provide data demonstrating why these Tier 2 ETPs would be appropriately designated as Tier 1 securities regardless of their different trading characteristics. The above-mentioned issues were raised by the Commission in the Notice and OIP.[53]

For example, key elements of the Analyses aggregate all trades of Tier 2 ETPs together.[54] Such a method will effectively ignore Tier 2 ETPs that trade infrequently—this is because any analysis that uses aggregate trading statistics will be driven by the ETPs with a high level of trading activity, while ETPs with a low level of trading will have a low weight in the statistical analysis. This result is compounded by combining leveraged and non-leveraged Tier 2 ETPs in the same group because trading activity among Tier 2 ETPs is highly skewed by leveraged ETPs. All leveraged ETPs are in Tier 2 regardless of their trading volume, and some have a high level of volume.[55] In contrast, a non-leveraged ETP is only in Tier 2 if it has less than $2 million CADV per day over the past six months. This implies that an aggregate analysis of all Tier 2 ETP trades will be driven by a relatively small number of high-volume leveraged ETPs, and such analysis will effectively ignore the vast majority of Tier 2 ETPs.[56] Because elements of the Analyses are driven by a small number of high-volume leveraged ETPs, it is not appropriate to extend the conclusions from the Analyses to the nearly 2,000 non-leveraged Tier 2 ETPs with substantially less volume; therefore, key analyses—such as the analysis of price dynamics around the Price Bands—do not support moving all 2,000 Tier 2 ETPs into Tier 1. A more granular statistical analysis could show that, for certain ETPs that are currently in Tier 2, the move to Tier 1 and resultant narrower Price Bands would result in excessive Straddle States, Limit States and Trading Pauses that are not due to extraordinary volatility caused by transitory gaps in liquidity, which these measures are designed to mitigate, but instead would unduly interrupt trading activity driven by fundamental value changes. For this reason, the Participants' Analyses do not provide sufficient detail and specificity concerning these securities for the Commission to make an affirmative finding that the Proposed Amendment meets the standard for approval.[57]

In addition to the issues discussed above, in the Notice and OIP the Commission addressed potential issues with respect to the Participants' statements regarding the Proposed Amendment's benefits and analysis concerning the volatility characteristics of Tier 2 ETPs as compared to Tier 1

[49] *Id.* at 81134.

[50] *See* Annual Report for 2023 of the Operating Committee of the Plan to Address Extraordinary Market Volatility, May 3, 2024 (*available at https://www.luldplan.com/studies*).

[51] The Participants state that the purpose of having different LULD tiers is to assign Price Bands that are commensurate with a security's underlying volatility and that single stock ETPs should be assigned to the same LULD tier as the underlying security because the ETP should closely track the price movement and volatility of its underlying security. *See* Notice, 88 FR at 81133.

[52] With respect to the comment that there are many single reference asset ETPs that currently are Tier 1 securities, those securities are designated as Tier 1 securities because their CADV meets the standard set forth in the Plan for ETPs that are designated as Tier 1 securities. *See supra* note 3838 38and accompanying text. The fact that some single reference asset ETPs may be appropriately characterized as Tier 1 securities under the Plan does not demonstrate that all single reference asset ETPs would be appropriately designated as Tier 1 securities because different single reference asset ETPs may have different trading characteristics that result in them being appropriately categorized as Tier 2 securities. The Participants' Analyses do not provide sufficient detail and specificity concerning these securities for the Commission to make an affirmative finding that the Proposed Amendment meets the standard for approval. *See* 17 CFR 201.700(b)(3)(ii). *See also infra* note 56.

[53] *See* Notice, 88 FR at 81143 and OIP, 89 FR at 13394.

[54] In the analysis in the Proposed Amendment, Table 3, 4, 5, and Chart 1 aggregate all Tier 2 ETP trades into a single group; Table B of the Supplemental Analysis does likewise. These tables quantify the amount of volume that would be affected by tighter bands, and the price dynamics around the tighter bands.

[55] For example, in the second half of 2023, TQQQ, SQQQ, and SOXL averaged daily volume in excess of $1 billion; these are all ETPs with a leverage ratio of three. The 20 Tier 2 ETPs with the highest dollar volume each averaged over $100 million per day during this period. For this analysis, a stock's tier is assigned based on FINRA's OTC Transparency Data, *http://www.finra.org/industry/OTC-Transparency,* which classifies stocks by tier on a weekly basis. A stock is considered an ETP if its security description in the TAQ database is 'ETF,' 'ETN,' or 'ETV.' The TAQ database also contains information on the ETPs' Price Bands, which the Commission uses to infer the ETPs' leveraged ratios (*e.g.,* a Price Band of 30% during the day implies that the ETP has a leverage ratio of three). Finally, trading volume for each stock comes from WRDS intra-day indicators.

[56] The OIP raised the issue that an aggregated approach to evaluating Tier 2 ETPs may not support moving all Tier 2 ETPs into Tier 1. *See* OIP, 89 FR at 13394. In response, the Participants provided a disaggregated analysis of commodity ETPs in the Supplemental Analysis that they believe shows that commodity ETPs should not be excluded from Tier 1 designation under the Proposed Amendment because they have similar characteristics to ETPs already in Tier 1; however, this disaggregated analysis contained only 65 Tier 2 ETPs. *See* Participants' Letter at 4–6. This disaggregated analysis does not sufficiently address the Commission's concerns because it does not provide insight as to whether it is appropriate to move other Tier 2 ETPs to Tier 1. Commission analysis indicates that, in the second half of 2023, the 20 Tier 2 ETPs with the highest share volume comprised 80% of all share volume among Tier 2 ETPs. Those same ETPs account for 74% of all Tier 2 ETP dollar volume, and 76% of all Tier 2 ETP trade volume. This implies that the trade-weighted aggregated analysis in the Proposed Amendment (*see supra* note 54) was likely driven by approximately 20 out of the 2,000 Tier 2 ETPs; separately analyzing 65 Tier 2 ETPs still overlooks the vast majority of Tier 2 ETPs.

[57] *See* 17 CFR 242.608(b)(2). *See also* 17 CFR 201.700(b)(3)(ii).

securities that are not ETPs.[58] The Participants state that the Proposed Amendment would protect investors from executing trades at inferior prices that may occur due to transitory gaps in liquidity rather than fundamental valuation,[59] and some commenters state their support for this element of the Proposal's analysis.[60] However, as discussed further below, the study presented in the Proposed Amendment and the Supplemental Analysis supporting this investor protection benefit are not robust or compelling. The Participants rely on the Analyses, which documented price reversion after Theoretical Tier 1 Bands had been breached in Tier 2 ETPs, as evidence that investors transacted at inferior prices and would have benefited from tighter Price Bands.[61]

There are three concerns with the price reversion analysis provided in the study presented in the Proposed Amendment and the Supplemental Analysis. First, as stated above, the price reversion analyses in the study in the Proposed Amendment and Supplemental Analysis are done on an aggregate basis for all Tier 2 ETPs. Many Tier 2 ETPs may show different price reversion results than reflected in the Analyses. Second, the conclusions from the study's price reversion analysis are not robust because that price reversion analysis compared *trade prices* that occurred outside of the Theoretical Tier 1 Bands to *subsequent midpoint prices.* This methodology is flawed because by comparing the execution price to a subsequent midpoint price, the methodology could incorrectly identify a price reversion—which is cited as evidence of inferior trades—even if nothing else changes with respect to the security (*e.g.,* fundamental value, bid and ask prices stay constant) or even if the midpoint price continues to move in the same direction.[62] The Commission requested comment concerning the analysis included with the Proposal in the Notice and OIP,[63] and the Participants performed a Supplemental Analysis to address concerns that the Proposal's analysis could overestimate the degree of price reversion.[64] In particular, the Participants performed a price reversion analysis that compared the midpoint of the NBBO at five and ten minutes after the trade to the midpoint of the NBBO at the time of execution.[65] While this methodology in the Supplemental Analysis [66] is more robust than the methodology of the study included in the Proposed Amendment, it also showed a decrease in the amount of price reversion experienced by Tier 2 ETPs. This raises a third concern. In particular, the additional price reversion analysis reflects some reversion metrics dropping from 74% in the Proposal to 52% in the Supplemental Analysis. Given that prices fluctuate unpredictably over such short horizons, prices should revert 50% of the time and continue in the same direction 50% of the time; therefore, this estimated reversion probability of 52% in the Supplemental Analysis is little better than chance and does not support the Participants' statement that investors would have been protected by the tighter band.[67] The reduction in the estimated amount of price reversion also increases the likelihood that some individual Tier 2 ETPs experience price continuation—rather than reversion—near the Theoretical Tier 1 Bands, but this possibility cannot be detected when all two thousand Tier 2 ETPs are included in the aggregate statistical analysis.

The Participants also state that Tier 2 ETPs are less volatile than Tier 1 non-ETP securities, and that this lesser volatility is evidence that the current Price Bands for Tier 2 ETPs are poorly calibrated.[68] Some commenters supported this element of the Proposal's analysis.[69] However, that volatility analysis is also flawed.[70] First, as discussed above, the Participants' Analyses are insufficiently granular as they combine nearly two thousand non-leveraged Tier 2 ETPs into a single group and compare them to all Tier 1 non-ETPs. Yet there may be many non-leveraged Tier 2 ETPs that reflect substantially different trading characteristics, and the Participants' Analyses do not provide sufficient detail and specificity concerning these securities for the Commission to make an affirmative finding that the Proposed Amendment meets the standard for approval.[71]

Some non-leveraged Tier 2 ETPs—due to their relatively low trading volume—may experience trades that are spread out over time. When the time between trades is longer, the amount of new information in the market since the last trade will generally be higher, resulting in greater price changes—*i.e.,* greater volatility—from trade-to-trade.[72] A tighter Price Band for these securities will be likely to inhibit this new information from being incorporated into trade prices and the Participants' Analyses do not address this possibility and its potential impact.[73] Second, volatility is an imprecise metric for determining Price Bands. This is because volatility is averaged over many days and many stocks, while the Price Bands are meant to curb extraordinary volatility (*e.g.,* the velocity of significant price moves).[74] Average levels of volatility, therefore, are a coarse metric in determining whether a stock can sustain tighter Price Bands.[75] Third, the

[58] *See* Notice, 88 FR at 81143 and OIP, 89 FR at 13395.

[59] *See* Notice, 88 FR at 81137–38.

[60] *See supra* notes 31–33 and accompanying text.

[61] *See* Notice, 88 FR at 81137; Participants' Letter at 4.

[62] For example, consider a trade that crosses below the lower Theoretical Tier 1 Band. It is likely that this trade executed at the bid (because the bid price is lower than the ask). Assume the bid is at $9 and the ask is at $11. If there is no price reversion—that is, the bid ($9) and ask ($11) stay the same after this trade—then the subsequent midpoint price ($10) would be higher than the trade price ($9), resulting in the methodology incorrectly identifying this as a price reversion. It is also possible that prices exhibited continuation—that is, prices continued to fall—but the subsequent midpoint did not fall below the original bid. Both of these cases would incorrectly be coded as a ''price reversion'' in the Proposal's analysis; the Proposal's analysis therefore appears to overestimate the degree of price reversion.

[63] *See* Notice, 88 FR at 81143 and OIP, 89 FR at 13394–95.

[64] *See* Participants' Letter at 4.

[65] *Id.*

[66] *Id.*

[67] The Supplemental Analysis shows higher reversion when measured as a fraction of trades, which implies that trades with a low number of shares are more likely to revert. This analysis does not calculate reversion on a dollar-weighted basis, so it is unclear what fraction of dollars may have been executed during a transitory gap in liquidity.

[68] *See* Notice, 88 FR at 81134–37.

[69] *See supra* notes 34–36 and accompanying text.

[70] *See* Notice, 88 FR at 81143 and OIP, 89 FR at 13395.

[71] *See* 17 CFR 242.608(b)(2). *See also* 17 CFR 201.700(b)(3)(ii).

[72] Changes in stock valuations are often modelled as a ''random walk.'' In such a model, the stock's value moves randomly at successive steps; as the number of steps increases, the dispersion in the stock's value also increases (*i.e.,* the change in stock value is more volatile when it is measured over a longer horizon (because there are more steps as the horizon increases)). When a stock trades relatively infrequently, there are more such steps between trades, which generates greater volatility from one trade to the next.

[73] As discussed in the previous paragraph, many Tier 2 ETPs may show different price reversion results than reflected in the aggregate statistical analysis. For example, when a stock's trades are spread out over time, it will experience greater price changes trade-to-trade due to the greater amount of information between trades; such price changes will be less likely to revert after crossing the Theoretical Tier 1 Bands because the price change is driven by new information rather than a temporary liquidity gap.

[74] *See* LULD Plan Approval Order, 77 FR at 33508–33510. As the participants' analysis shows in Table 2 of the Proposed Amendment, limit states and trading pauses are rare events.

[75] The methodology studying theoretical blocked trades more precisely captures the relevant periods of extraordinary volatility because this method includes only relatively rare events in which prices move several percentage points within a short time period. But, as discussed previously, this analysis

Continued

Proposal's analysis measured volatility using changes in the midpoint price of Tier 2 ETPs from second-to-second. This method of analysis is not robust for studying the volatility of securities that trade infrequently or have low quoting activity because the estimated volatility will be biased toward zero for these securities.[76] As part of the Supplemental Analysis the Participants provided a new analysis of the volatility Tier 2 ETPs.[77] While this analysis uses a more robust method for evaluating the volatility of Tier 2 ETPs as compared to Tier 1 non-ETPs, it presents the same concerns discussed above. In particular, it is an insufficiently granular statistical analysis of all Tier 2 ETP volatility, and there may be many Tier 2 ETPs that exhibit different trading characteristics, which the Analyses do not take into consideration. This possibility is evident in the distributional statistics in the Supplemental Analysis: the average quote volatilities for Tier 2 ETPs (both leveraged and non-leveraged) are multiples of the median quote volatilities, implying that the distribution is skewed by observations with volatility far higher than the average. Tier 1 ETPs exhibit less evidence of skewness. Therefore, the supplemental volatility analysis does not support moving all Tier 2 ETPs into Tier 1.

Accordingly, based on the study in the Proposal and the Supplemental Analysis and for the reasons discussed throughout this order, the Commission cannot find that designating over two thousand ETPs as Tier 1 securities and subjecting them to tighter Price Bands is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act, as required for approval of a plan amendment pursuant to Rule 608(b)(2). Designating Tier 2 ETPs as Tier 1 securities based on an aggregate statistical analysis could result in excessive Straddle States, Limit States and Trading Pauses in certain affected ETPs due to tighter Price Bands, and thus unduly impede trading in many securities for market participants that trade in these securities.

V. Conclusion

For the reasons set forth above, the Commission does not find, pursuant to Section 11A of the Act,[78] and Rule 608(b)(2) thereunder,[79] that the Proposed Amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.

It is therefore ordered, pursuant to Section 11A of the Act, and Rule 608(b)(2) thereunder, that the Proposed Amendment (File No. 4–631) be, and it hereby is, disapproved.

By the Commission.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–21508 Filed 9–19–24; 8:45 am]

BILLING CODE 8011–01–P

was aggregated in a way that makes its results impossible to generalize to the typical Tier 2 ETP.

[76] For example, consider two ETPs with the same fundamental volatility but different levels of trading activity. Suppose the first ETP is traded frequently with quote updates every second; it therefore has 23,400 second-to-second returns during the trading day (sixty updates per minute for 6.5 hours). Suppose that the second ETP only receives a quote update once per minute; it will have 390 second-to-second returns, and 23,010 seconds with an unchanged midpoint (*i.e.,* a return of 0). The Proposal's methodology is likely to estimate a substantially lower volatility for the second ETP due to the fact that the vast majority of observations are coded as a 0. Using the NBBO files in the TAQ database for the second half of 2023, the Commission estimates that the median non-leveraged Tier 2 ETP receives approximately 2,900 NBBO updates per day; this implies that the second-to-second volatility calculation for the median Tier 2 ETP will use at least 20,500 seconds with a return of 0 due to a lack of data (23,400 seconds per day, less the 2,900 NBBO updates). In contrast, the median Tier 1 security receives over 23,400 NBBO updates per day. It is likely therefore that the Proposal's methodology underestimates the volatility of non-leveraged Tier 2 ETPs due to the prevalence of missing returns. The Participants disagreed with this assessment of their methodology, stating that ''quotes for even thinly-traded ETPs change frequently as market makers update their valuations of ETPs' underlying portfolios, so it is not the case that the computation of quote volatility is biased by many zeroes.'' *See* Participants' Letter at 2. The Participants did not provide any evidence to support this statement.

[77] *See* Participants' Letter at 2–4.

[78] 15 U.S.C. 78k–1.

[79] 17 CFR 242.608(b)(2).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–438, OMB Control No. 3235–0495]

Proposed Collection; Comment Request; Extension: Rule 154

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The federal securities laws generally prohibit an issuer, underwriter, or dealer from delivering a security for sale unless a prospectus meeting certain requirements accompanies or precedes the security. Rule 154 (17 CFR 230.154) under the Securities Act of 1933 (15 U.S.C. 77a) (the ''Securities Act'') permits, under certain circumstances, delivery of a single prospectus to investors who purchase securities from the same issuer and share the same address (''householding'') to satisfy the applicable prospectus delivery requirements.[1] The purpose of rule 154 is to reduce the amount of duplicative prospectuses delivered to investors sharing the same address.

Under rule 154, a prospectus is considered delivered to all investors at a shared address, for purposes of the federal securities laws, if the person relying on the rule delivers the prospectus to the shared address, addresses the prospectus to the investors as a group or to each of the investors individually, and the investors consent to the delivery of a single prospectus. The rule applies to prospectuses and prospectus supplements. Currently, the rule permits householding of all prospectuses by an issuer, underwriter, or dealer relying on the rule if, in addition to the other conditions set forth in the rule, the issuer, underwriter, or dealer has obtained from each investor written or implied consent to householding.[2] The rule requires issuers, underwriters, or dealers that wish to household prospectuses with implied consent to send a notice to each investor stating that the investors in the household will receive one prospectus in the future unless the investors

[1] The Securities Act requires the delivery of prospectuses to investors who buy securities from an issuer or from underwriters or dealers who participate in a registered distribution of securities; *see* Securities Act sections 2(a)(10), 4(1), 4(3), 5(b) [15 U.S.C. 77b(a)(10), 77d(1), 77d(3), 77e(b); *see also* rule 174 under the Securities Act (17 CFR 230.174) (regarding the prospectus delivery obligation of dealers); rule 15c2–8 under the Securities Exchange Act of 1934 (17 CFR 240.15c2–8) (prospectus delivery obligations of brokers and dealers).

[2] Rule 154 permits the householding of prospectuses that are delivered electronically to investors only if delivery is made to a shared electronic address and the investors give written consent to householding. Implied consent is not permitted in such a situation. *See* rule 154(b)(4).

provide contrary instructions. In addition, at least once a year, issuers, underwriters, or dealers relying on rule 154 for the householding of prospectuses relating to open-end management investment companies that are registered under the Investment Company Act of 1940 (''mutual funds'') and each series thereof must explain to investors who have provided written or implied consent how they can revoke their consent.[3] Preparing and sending the notice and the annual explanation of the right to revoke are collections of information.

The rule allows issuers, underwriters, or dealers to household prospectuses if certain conditions are met. Among the conditions with which a person relying on the rule must comply are providing notice to each investor that only one prospectus will be sent to the household and, in the case of issuers that are mutual funds and any series thereof, providing to each investor who consents to householding an annual explanation of the right to revoke consent to the delivery of a single prospectus to multiple investors sharing an address. The purpose of the notice and annual explanation requirements of the rule is to ensure that investors who wish to receive individual copies of prospectuses are able to do so.

Although rule 154 is not limited to mutual funds, the Commission believes that it is used mainly by mutual funds and by broker-dealers that deliver prospectuses for mutual funds. The Commission is unable to estimate the number of issuers other than mutual funds that rely on the rule.

The Commission estimates that, as of March 2024, there are approximately 12,118 mutual fund series registered on Form N–1A, approximately 1,060 of which are directly sold and therefore deliver their own prospectuses. Of these, the Commission estimates that approximately half (530 mutual fund series): (i) do not send the implied consent notice requirement because they obtain affirmative written consent to household prospectuses in the fund's account opening documentation; or (ii) do not take advantage of the householding provision because of electronic delivery options which lessen the economic and operational benefits of rule 154 when compared with the costs of compliance. Therefore, the Commission estimates that each of the 530 directly sold mutual fund series will spend an average of 20 hours per year complying with the notice requirement of the rule, for a total of 10,600 burden hours. In addition, of the approximately 1,060 mutual fund series that are directly sold, the Commission estimates that approximately 75% (or 795) will each spend 1 hour complying with the annual explanation of the right to revoke requirement of the rule, for a total of 795 hours.

The Commission estimates that, as of March 2024, there were approximately 70 broker-dealers that have customer accounts with mutual funds, and therefore may be required to deliver mutual fund prospectuses. The Commission estimates that each affected broker-dealer will spend, on average, 20 hours complying with the notice requirement of the rule, for a total of 1,400 hours. In addition, each broker-dealer will also spend one hour complying with the annual explanation of the right to revoke requirement, for a total of 70 hours. Therefore, the total number of respondents for rule 154 is 865 (795[4] mutual fund series plus 70 broker-dealers), and the estimated total hour burden is approximately 12,865 hours (11,395 hours for mutual fund series, plus 1,470 hours for broker-dealers).

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by November 19, 2024.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Oluwaseun Ajayi, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: September 17, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–21555 Filed 9–19–24; 8:45 am]

BILLING CODE 8011–01–P

[3] *See* rule 154(c).

[4] The Commission estimates that 530 mutual funds prepare both the implied consent notice and the annual explanation of the right to revoke consent + 265 mutual funds that prepare only the annual explanation of the right to revoke.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101025; File No. SR–IEX–2024–16]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Supplementary Material .16 to IEX Rule 5.110 (Supervision), So That IEX Members Who Participate in the Recently Approved FINRA Pilot Program on Remote Inspections Will Also Satisfy the Internal Inspection Requirements Found in IEX's Rules

September 16, 2024.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 4, 2024, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act,[4] and Rule 19b–4 thereunder,[5] the Exchange is filing with the Commission a proposed rule change to adopt Supplementary Material .16 to IEX Rule 5.110 (Supervision), so that IEX Members[6] who participate in the recently-approved FINRA pilot program on remote inspections (the ''Remote

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] *See* IEX Rule 1.160(s).

Inspections Pilot Program'')[7] will also satisfy the internal inspection requirements found in IEX's rules.

The text of the proposed rule change is available at the Exchange's website at *www.iextrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

IEX proposes to adopt Supplementary Material .16 to IEX Rule 5.110, which would provide that any IEX Member that participates in the FINRA Remote Inspections Pilot Program,[8] thereby satisfying the internal inspections requirements in FINRA Rule 3110(c), would also satisfy the equivalent internal inspections requirements in IEX Rule 5.110(c). This proposed rule change would supplant Supplementary Material .15 to IEX Rule 5.110, which allowed Members to fulfill any calendar year 2024 internal inspection obligations set forth in IEX Rule 5.110(c) by conducting remote inspections of the applicable offices of supervisory jurisdiction (''OSJs''),[9] branch offices (both supervisory and non-supervisory),[10] and non-branch locations.[11] This temporary relief, which was analogous to relief that FINRA provided for, automatically sunset on June 30, 2024.[12] As described below, adding Proposed Supplementary Material .16 to IEX Rule 5.110 would harmonize IEX's internal inspections obligations for its Members with FINRA's comparable obligations for its members, thereby avoiding confusion to IEX Members with respect to the applicability of participation in the FINRA Remote Inspections Pilot Program with respect to compliance with IEX Rule 5.110.[13] Additionally, because Proposed Supplementary Material .16 to IEX Rule 5.110 incorporates by reference FINRA Rule 3110.18, this rule change enables IEX Rule 5.110 to continue to be incorporated into the agreement between IEX and FINRA to allocate regulatory responsibility for common rules (the ''17d–2 Agreement'').[14]

Standards for Supervision of Remote Offices

The responsibility of firms to supervise their associated persons is a critical component of broker-dealer regulation.[15] Members must supervise all of their associated persons, regardless of their location, compensation or employment arrangement, or registration status. IEX Rule 5.110, which is substantially identical to FINRA Rule 3110(c), requires any Member, regardless of size or type, to have a supervisory system for the activities of its associated persons that is reasonably designed to achieve compliance with the applicable securities laws and regulations and IEX rules, and that sets forth the minimum requirements for such supervisory system.[16] The internal inspection obligation under IEX Rule 5.110(c) and FINRA Rule 3110(c) is one component of such system.

IEX Rule 5.110(c) sets forth three main requirements for inspections. First, an inspection of an office or location must occur on a designated frequency. The periodicity of the required inspection varies depending on the classification of the location or the nature of the activities that take place: OSJs and supervisory branch offices must be inspected at least annually;[17] non-supervisory branch offices must be inspected at least every three years;[18] and non-branch locations must be inspected on a periodic schedule, presumed to be at least every three years.[19] Second, a Member must retain a written record of the date upon which each review and inspection occurred, reduce a location's inspection to a written report and keep each inspection report on file either for a minimum of three years or, if the location's inspection schedule is longer than three years, until the next inspection report has been written.[20] If applicable to the location being inspected, the inspection report must include the testing and verification of the Member's policies and procedures, including supervisory policies and procedures, in specified areas.[21] Third, to prevent compromising the effectiveness of inspections due to conflicts of interest, the rule requires a Member to ensure that the person conducting the inspection is not an associated person assigned to the location or is not directly or indirectly supervised by, or otherwise reporting to, an associated person assigned to that location.[22] All OSJs, branch offices, and

[7] *See* Securities Exchange Act Release No. 97398 (April 28, 2023), 88 FR 28620 (May 4, 2023) (''Remote Inspections Pilot Program Proposal''); Securities Exchange Act Release No. 98982 (November 17, 2023), 88 FR 82464 (November 24, 2023) (''Remote Inspections Pilot Program Approval Order'') (SR–FINRA–2023–007).

[8] *See* FINRA Rule 3110.18.

[9] *See* IEX Rule 5.110(f)(1).

[10] *See* IEX Rule 5.110(f)(2)(A).

[11] *See* Supplementary Material .15 to IEX Rule 5.110 (''Temporary Relief to Allow Remote Inspections for Calendar Years 2021, 2022, 2023, and Through the Earlier of the Effective Date of the Remote Inspections Pilot Program or June 30, 2024'').

[12] *See Id.* The equivalent temporary relief offered by FINRA also sunset on June 30, 2024. *See* FINRA Rule 3110.17

[13] IEX notes that all IEX Members are currently FINRA members, or in the process of becoming FINRA members.

[14] *See* Securities Exchange Act Release No. 93324 (October 14, 2021), 86 FR 58110 (October 20, 2021) (File No. 4–700). The 17d–2 Agreement includes a certification by IEX that states that the requirements contained in certain Exchange rules are identical to, or substantially similar to, certain FINRA rules that have been identified as comparable.

[15] *See generally* SEC Division of Market Regulation, Staff Legal Bulletin No. 17: Remote Office Supervision (March 19, 2004) (''SLB 17'') (SEC guidance on remote office supervision), *https://www.sec.gov/interps/legal/mrslb17.htm;* and Regulatory Notice 11–54 (November 2011) (''Notice 11–54'') (joint SEC and FINRA guidance on effective policies and procedures for broker-dealer branch inspections).

[16] *See* IEX Rule 5.110(a)

[17] *See* IEX Rule 5.110(c)(1)(A).

[18] *See* IEX Rule 5.110(c)(1)(B).

[19] *See* IEX Rule 5.110(c)(1)(C) and Supplementary Material .13 to IEX Rule 5.110 (''General Presumption of Three-Year Limit for Periodic Inspection Schedules'').

[20] *See* IEX Rule 5.110(c)(2).

[21] *See* IEX Rule 5.110(c)(2)(A) (providing that the inspection report must include, without limitation, the testing and verification of the Member's policies and procedures, including supervisory policies and procedures for: (1) safeguarding of customer funds and securities; (2) maintaining books and records; (3) supervision of supervisory personnel; (4) transmittals of funds from customers to third party accounts, from customer accounts to outside entities, from customer accounts to locations other than a customer's primary residence, and between customers and registered representatives, including the hand delivery of checks; and (5) changes of customer account information, including address and investment objectives changes, and validation of such changes).

[22] IEX Rule 5.110(c)(3) provides a limited exception from this requirement if a firm determines compliance is not possible either because of the firm's size or its business model. Supplementary Material .14 to IEX Rule 5.110 (Exception to Persons Prohibited from Conducting Inspections) reflects IEX's expectation that a firm generally will rely on the exception in instances where the firm has only one office or has a business model where small or single-person offices report directly to an OSJ manager who is also considered the offices' branch office manager. However, these situations are non-exclusive, and a firm may still rely on the exception in other instances where it

non-branch locations are subject to IEX Rule 5.110(c).

Further, Supplementary Material .12 to IEX Rule 5.110 sets out factors that constitute a reasonable review. This provision emphasizes establishing reasonable supervisory procedures and conducting reviews of locations, taking into consideration, among other things, the Member's size, organizational structure, scope of business activities, number and location of the Member's offices, the nature and complexity of the products and services offered by the Member, the volume of business done, the number of associated persons assigned to a location, the disciplinary history of registered representatives or associated persons, and any indicators of irregularities or misconduct (*i.e.,* ''red flags'').[23] The provision further states that the procedures established and reviews conducted must provide that the quality of supervision at remote (*i.e.,* geographically dispersed) locations is sufficient to ensure compliance with applicable securities laws and regulations and with IEX rules, and that Members must be especially diligent with respect to a non-branch location where a registered representative engages in securities activities. This provision incorporates guidance FINRA has previously issued about supervising associated persons working in geographically dispersed offices.[24]

Notably, all of the above requirements about supervision and inspections of OSJs, branch offices, and non-branch locations reflected a business environment in which Members conducted in-person inspections of all of their offices.[25]

FINRA's Recent Attempts To Change the In-Person Inspection Requirements of OSJs, Branch Offices, and Non-Branch Locations

In the Remote Inspections Pilot Program Proposal, FINRA described its efforts during the past several years to offer its members the option of remotely conducting internal inspections of their OSJs, branch offices, and non-branch locations.[26] As stated therein, FINRA believed that as more recordkeeping moved from paper to electronic records, and as more meetings were conducted virtually using platforms such as Zoom and WebEx, the burden on FINRA members of conducting in-person inspections for all their remote office locations became harder to justify.[27]

Thus, when the COVID–19 pandemic required many securities industry professionals to work from home, FINRA implemented several forms of regulatory relief to its members, including introducing FINRA Rule 3110.17, which IEX also introduced as Supplementary Material .15 to IEX Rule 5.110, to permit remote internal inspections of their OSJs, branch offices, and non-branch locations.

The pandemic accelerated the industry's adoption of a broad remote work environment and IEX recognizes that the pandemic has profoundly changed attitudes on where work can occur. As a result of this change many firms have adopted, in varying scale, hybrid work models involving personnel who are working at least part time from alternative work locations (*e.g.,* private residences). As part of an effort to modernize its rules to reflect evolving technologies and business models, in April 2023, FINRA filed the Remote Inspections Pilot Program Proposal with the Commission to establish a voluntary, three-year remote inspections pilot program that would allow eligible firms to conduct inspections of all or some offices or locations, remotely, subject to the specified terms therein.[28] The SEC approved the FINRA Remote Inspection Pilot Program Proposal in November 2023,[29] and FINRA commenced the pilot program on July 1, 2024.[30]

FINRA's Remote Inspections Pilot Program

FINRA's Remote Inspection Pilot Program builds on the terms of the temporary relief in FINRA Rule 3110.17, while requiring members to provide even more information about their remote inspections to allow FINRA to assess the overall impact and effectiveness of remote inspections.[31] The pilot program is designed to provide broader systemized information to supplement the information obtained through the FINRA examination process in an environment where offices and locations were closed. The information firms would be required to produce as a pilot program participant will help FINRA more accurately assess the overall impact and effectiveness of remote inspections.[32]

FINRA's Remote Inspection Pilot Program includes, among other things, the following requirements for participating firms:

- Risk Assessment. Prior to electing a remote inspection for an office or location, participating firms must develop a reasonable risk-based approach to using remote inspections and conduct and document a risk assessment for that office or location.[33]
- Written Supervisory Procedures for Remote Inspections. Participating firms must establish, maintain, and enforce written procedures that are reasonably designed for conducting remote inspections and reasonably designed to achieve compliance with applicable securities laws and regulations.[34]
- Effective Supervisory System. Participating firms must have an effective supervisory system for remote inspections that will be held to the same standards of review (set forth under FINRA Rule 3110.12). Where a member's remote inspection of an office or location identifies any ''red flags,'' the member may need to impose additional supervisory procedures for that office or location or may need to provide for more frequent monitoring of that office or location, including potentially a subsequent on-site visit on an announced or unannounced basis.[35]
- Documentation Requirement. Participating firms must maintain and preserve a centralized record for each of the Pilot Years specified in the pilot program that separately identifies: (1) all offices or locations that were inspected remotely; and (2) any offices or locations for which the member determined to impose additional supervisory procedures or more frequent monitoring, as provided in FINRA Rule 3110.18(d). A member's documentation of the results of a remote inspection for an office or location must identify any additional supervisory procedures or more frequent monitoring for that office or location that were imposed as a result of the remote inspection, including whether an on-site

cannot comply because of its size or business model, provided the firm complies with the documentation requirements under the rule.

[23] Such red flags may include: customer complaints; a large number of elderly customers; a concentration in highly illiquid or risky investments; an unexplained increase or change in the types of investments or trading concentration that a representative is recommending or trading; an unexpected improvement in a representative's production, lifestyle, or wealth; questionable or frequent transfers of cash or securities between customer or third party accounts, or to or from the representative; a representative that serves as a power of attorney, trustee or in a similar capacity for a customer or has discretionary control over a customer's account(s); a representative with disciplinary records; customer investments in one or a few securities or class of securities that is inconsistent with firm policies related to such investments; churning; trading that is inconsistent with customer objectives; numerous trade corrections, extensions, liquidations; or significant switching activity of mutual funds or variable products held for short time periods. *See* SLB 17, *supra* note 15.

[24] *See* NASD [FINRA] Notice to Members 98–38 (May 1998) and 99–45 (June 1999).

[25] *See* SLB 17 and Notice 11–54, *supra* note 15.

[26] *See* Remote Inspections Pilot Program Proposal, *supra* note 7.

[27] See Id.

[28] See Id.

[29] *See* Remote Inspections Pilot Program Approval Order, *supra* note 7.

[30] *See* FINRA Regulatory Notice 24–02.

[31] *See* Remote Inspections Pilot Program Proposal, *supra* note 7.

[32] See Id.

[33] *See* FINRA Rule 3110.18(b).

[34] *See* FINRA Rule 3110.18(c).

[35] *See* FINRA Rule 3110.18(d).

inspection was conducted at such office or location.[36]

• Firm Level Requirements. Participating firms must meet certain firm-level eligibility requirements to participate in the program set forth in FINRA Rule 3110.18(f)(1). For example, a firm cannot participate if it is designated as: (i) Restricted Firm under FINRA Rule 4111 or (ii) a Taping Firm under FINRA Rule 3170. Additionally, firms with suspended or new (effective less than 12 months) FINRA memberships or that have been found by the SEC or FINRA to have violated FINRA Rule 3110(c) are ineligible to participate. Participating firms must also comply with firm-level conditions to participate in the program. For example, a firm must have a recordkeeping system that keeps records current and promptly accessible, and that does not maintain physical or electronic records at the location subject to remote inspection. Additionally, participating firms must have firm-wide tools such as electronic recordkeeping systems, system security tools such as secure network connections and effective cybersecurity protocols, and tools specifically applied to each office or location based on the activities of associated persons, products offered, or any restrictions on the activity of the office or location.[37]

• Location Level Requirements. Participating firms must exclude from participating in the program any locations that do not meet the location level eligibility criteria set forth in FINRA Rule 3110.18(g)(1) (*e.g.,* the location includes: (i) persons subject to a disciplinary action, a statutory disqualification, or a mandated heightened supervisory plan; (ii) persons engaged in proprietary trading; or (iii) the handling of customer funds or securities). Additionally, eligible locations must use the firm's electronic communication system and may not maintain any original copies of books or records at the location.[38]

• Data and Information Collection Requirement. Participating firms must collect and on a quarterly basis produce to FINRA data consisting of separate counts for OSJs, supervisory branch offices, non-supervisory branch offices, and non-branch locations. This data must include information about the number of remote inspections conducted and any significant findings. Firms shall establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the data collection and transmission requirements.[39]

• Election to Participate in Remote Inspections Pilot Program. Participating firms must opt-in to the pilot program in a manner specified by FINRA.[40]

• Failure to Satisfy Conditions and Determination of Ineligibility. Participating firms that fail to satisfy terms of the Remote Inspections Pilot Program will be ineligible to participate in the pilot program and return to conducting only on-site inspections.[41] FINRA may also make a determination to revoke a member's eligibility to participate if FINRA finds it to be in the public interest.[42]

• Definitions of Pilot Year periods. Includes clarifications that Pilot Year 1 is the second half of 2024, and Pilot Year 4 is the first half of 2027.[43]

Proposal

IEX proposes to adopt Supplementary Material .16 to IEX Rule 5.110. This proposed new supplementary material reads as follows:

> Members that are obligated to conduct an inspection of an office of supervisory jurisdiction, branch office or non-branch location pursuant to, as applicable, paragraphs (c)(1)(A), (B) and (C) under IEX Rule 5.110 may satisfy such obligation by participating in the FINRA Remote Inspections Pilot Program, as set forth in FINRA Rule 3110.18. The FINRA Remote Inspections Pilot Program shall cover required inspections of such offices or locations for a period of three years starting on September 4, 2024 (''pilot period''), and such pilot period shall expire on July 1, 2027. If the pilot period is not extended, this Supplementary Material will automatically sunset on July 1, 2027. Members will not be able to participate in the FINRA Remote Inspections Pilot Program after such date.[44]

As stated in proposed new Supplementary Material .16 to IEX Rule 5.110, any IEX Member that participates in the FINRA Remote Inspections Pilot Program, thereby satisfying the internal inspections requirements in FINRA Rule 3110(c), will satisfy the equivalent internal inspections requirements in IEX Rule 5.110(c).

IEX is not proposing to add the entire FINRA Remote Inspections Pilot Program to its rules, because it would be unnecessarily duplicative and burdensome for IEX Members to submit the data and information required as part of the Remote Inspections Pilot Program to both IEX and FINRA.[45] Based upon conversations with FINRA staff, IEX understands that adopting Proposed Supplementary Material .16 to IEX Rule 5.110 would update IEX Rule 5.110 so that it remains substantially similar to FINRA Rule 3110, such that they remain common rules subject to the 17d–2 Agreement.[46] As a result, regulatory responsibility for IEX Rule 5.110 would continue to be allocated to FINRA.

As noted above, all IEX Members were temporarily eligible to conduct remote office inspections until June 30, 2024. This proposed rule change allows those Members who have enrolled in FINRA's Remote Inspections Pilot Program to continue to use remote inspections as part of an effective supervisory system.[47] IEX believes this Remote Inspections Pilot Program is a reasonable alternative for firms to fulfill their IEX Rule 5.110(c) obligations while permitting FINRA to collect data as the regulatory authority in this area under the 17d–2 Agreement to assess the efficacy and long-term viability of a permanent remote office inspections program. IEX emphasizes that the inspection requirement is one aspect of a firm's overall supervisory system, and that the inspection, whether done in accordance with the FINRA Remote Inspections Pilot Program, or on-site, would be held to the existing standards of review under Supplementary Material .12 to IEX Rule 5.110 (Standards for Reasonable Review).[48]

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)[49] of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act[50] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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. The Exchange's rule proposal is intended to harmonize IEX's supervision rules, specifically with respect to the requirements for inspections of Members' branch offices and other locations, with those of FINRA, on which they are based. As discussed in the Purpose section, because Proposed Supplementary Material .16 to IEX Rule 5.110 incorporates by reference FINRA Rule 3110.18, this rule change enables

[36] *See* FINRA Rule 3110.18(e).

[37] *See* FINRA Rule 3110.18(f).

[38] *See* FINRA Rule 3110.18(g).

[39] *See* FINRA Rule 3110.18(h).

[40] *See* FINRA Rule 3110.18(i).

[41] *See* FINRA Rule 3110.18(j).

[42] *See* FINRA Rule 3110.18(k).

[43] *See* FINRA Rule 3110.18(l).

[44] Proposed Supplementary Material .16 to IEX Rule 5.110.

[45] Pursuant to this proposed rule change, IEX Members will be required to collect and on a quarterly basis produce to FINRA data regarding its participation in the Remote Inspections Pilot Program. *See* FINRA Rule 3110.18(h). But Members will not be required to produce that information directly to IEX.

[46] *See supra* note 14.

[47] IEX notes that any inspections conducted by its Members in the brief period between July 1, 2024 and the effective date of this filing will not satisfy IEX Rule 5.110(c), but believes this will not be an issue for its Members because the remote inspections process outlined in the pilot program is an ongoing process that cannot be completed in the few days between the start of the FINRA's pilot program and the effectiveness of this rule filing.

[48] Those standards provide, in part, that based on the factors set forth under that supplementary material, Members ''may need to provide for more frequent review of certain locations.''

[49] 15 U.S.C. 78f.

[50] 15 U.S.C. 78f(b)(5).

IEX Rule 5.110 to continue to be incorporated into the 17d–2 Agreement, resulting in less burdensome and more efficient regulatory compliance. Specifically, the proposed change will conform the Exchange's rules to changes made to corresponding FINRA rules insofar as a Member's compliance with FINRA Rule 3110.18 shall mean the Member is also in compliance with Supplementary Material .16 to IEX Rule 5.110, thus promoting the application of consistent regulatory standards with respect to rules that FINRA enforces pursuant to the 17d–2 Agreement. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system in accordance with Section 6(b)(5) of the Act.[51]

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issue but rather to provide greater harmonization among IEX and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for common members and facilitating FINRA's performance of its regulatory performance on the pending 17d–2 Agreement.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A)[52] of the Act and Rule 19b–4(f)(6)[53] thereunder. Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing.[54]

A proposed rule change filed under Rule 19b–4(f)(6)[55] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[56] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay to permit the Exchange to harmonize its rules with FINRA, as described herein, upon effectiveness of the proposed rule filing.

The Exchange stated that this proposed rule change is non-controversial because it does not present any new or novel issues. In particular, IEX is harmonizing its supervision rules with those of FINRA, on which they are based and which have been previously approved by the Commission. By conforming the Exchange's rules to FINRA's, the proposed rule change would promote the application of consistent regulatory standards with respect to rules that FINRA enforces pursuant to the 17d–2 Agreement. As such, the Exchange believes that the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system in accordance with Exchange Act Section 6(b)(5).

In addition, the Exchange stated that since the FINRA Remote Inspections Pilot Program commenced on July 1, 2024, waiving the 30-day operative delay would provide assurances to IEX members who enroll in the Remote Inspections Pilot Program that they can plan the remainder of their 2024 inspection program under a harmonized rule set, with just a short window of time in which the FINRA pilot program was not part of IEX's rules,[57] while at the same time helping ensure that IEX members continue to perform their supervisory obligations. Further, the Exchange stated that waiver of the operative delay should reduce any potential confusion that may otherwise occur on the part of IEX members as to the applicable rules governing inspections of branch offices and other locations. For these reasons, the Commission believes that waiver of the 30-day operative delay for this proposed rule change is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[58]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[59] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–IEX–2024–16 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–IEX–2024–16. 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

[51] 15 U.S.C. 78f(b)(5).

[52] 15 U.S.C. 78s(b)(3)(A).

[53] 17 CFR 240.19b–4(f)(6).

[54] 17 CFR 240.19b–4(f)(6)(iii).

[55] 17 CFR 240.19b–4(f)(6).

[56] 17 CFR 240.19b–4(f)(6)(iii).

[57] *See supra* note 47.

[58] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[59] 15 U.S.C. 78s(b)(2)(B).

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–IEX–2024–16 and should be submitted on or before October 11, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[60]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–21491 Filed 9–19–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–172, OMB Control No. 3235–0169]

Submission for OMB Review; Comment Request; Extension: Form N–5

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Form N–5 (17 CFR 239.24 and 274.5) is the form used by small business investment companies (''SBICs'') to register their securities under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (''Securities Act'') and the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''Investment Company Act''). Form N–5 is the registration statement form adopted by the Commission for use by an SBIC that has been licensed as such under the Small Business Investment Act of 1958 or which has received the preliminary approval of the Small Business Administration (''SBA'') and has been notified by the SBA that the company may submit a license application Form N–5 is an integrated registration form and may be used as the registration statement under both the Securities Act and the Investment Company Act. The purpose of Form N–5 is to meet the filing and disclosure requirements of both the Securities Act and Investment Company Act, and to provide investors with information sufficient to evaluate an investment in an SBIC. The information that is required to be filed with the Commission permits verification of compliance with securities law requirements and assures the public availability and dissemination of the information.

The Commission did not receive any filings on Form N–5 in the last three years (or in the three years before that). Nevertheless, for purposes of this PRA, we conservatively estimate that at least one Form N–5 will be filed in the next three years, which translates to about 0.333 filings on Form N–5 per year. The currently approved internal burden of Form N–5 is 352 hours per response. We continue to believe this estimate for Form N–5's internal hour burden is appropriate. Therefore, the number of currently approved aggregate burden hours, when calculated using the current estimate for number of filings, is about 117 internal hours per year.

The currently approved external cost burden of Form N–5 is $12,524 per filing. The requested external cost burden for filing one Form N–5 would be $14,746 per year. This estimated burden is based on the estimated wage rate of $584/hour, for 25.25 hours, for outside legal services to complete the form and provide the required hyperlinks.

Estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms. Compliance with the collection of information requirements of Form N–5 is mandatory. Responses to the collection of information will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by October 21, 2024 to (i) *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* and (ii) Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Oluwaseun Ajayi, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: September 17, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–21596 Filed 9–19–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101034; File No. SR–CboeEDGX–2024–058]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Relating to Volume Tiers

September 16, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 3, 2024, Cboe EDGX Exchange, Inc. (''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to amend its Fee Schedule. The text of the

[60] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange 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. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule applicable to its equities trading platform (''EDGX Equities'') by: (1) introducing a new Market Quality Tier and (2) revising the criteria of Non-Displayed Add Volume Tier 3. The Exchange proposes to implement these changes effective September 3, 2024.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory [sic] responsibilities under the Securities Exchange Act of 1934 (the ''Act''), to which market participants may direct their order flow. Based on publicly available information,[3] no single registered equities exchange has more than 16% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a ''Maker-Taker'' model whereby it pays rebates to members that add liquidity and assesses fees to those that remove liquidity. The Exchange's Fee Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Currently, for orders in securities priced at or above $1.00, the Exchange provides a standard rebate of $0.00160 per share for orders that add liquidity and assesses a fee of $0.0030 per share for orders that remove liquidity.[4] For orders in securities priced below $1.00, the Exchange provides a standard rebate of $0.00003 per share for orders that add liquidity and assesses a fee of 0.30% of the total dollar value for orders that remove liquidity.[5] Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Market Quality Tier

Under footnote 1 of the Fee Schedule, the Exchange currently offers various Add/Remove Volume Tiers that provide enhanced rebates for orders yielding fee codes B,[6] V,[7] Y,[8] 3,[9] and 4.[10] In particular, the Exchange offers two Market Quality Tiers that provide an enhanced rebate where a Member reaches certain add and remove volume-based criteria. The Exchange now proposes to introduce a new Market Quality Tier. The proposed criteria for proposed Market Quality Tier 3 is as follows:

• Proposed Market Quality Tier 3 provides a rebate of $0.0030 per share for securities priced above $1.00 for qualifying orders (*i.e.,* orders yielding fee codes B, V, Y, 3, or 4) where (1) Member adds an ADV [11] (excluding fee codes ZA [12] and ZO [13]) ≥ 0.30% of the TCV; [14] and (2) Member adds an ADV ≥ 0.11% of the TCV as Non-Displayed orders that yield fee codes DM,[15] HA,[16] HI,[17] MM,[18] or RP; [19] and (3) Member adds a Tape B ADV ≥ 0.40% of the Tape B TCV.

Non-Displayed Add/Remove Volume Tiers

Also under footnote 1, the Exchange offers various Non-Displayed Add/Remove Volume Tiers. In particular, the Exchange offers five Non-Displayed Add Volume Tiers that provide enhanced rebates for orders yielding fee codes DM, HA, MM and RP, where a Member reaches certain add or remove volume-based criteria. The Exchange now proposes to revise the criteria of Non-Displayed Add Volume Tier 3. The current criteria for Non-Displayed Add Volume Tier 3 is as follows:

• Non-Displayed Add Volume Tier 3 provides a rebate of $0.0025 per share for securities priced above $1.00 for qualifying orders (*i.e.,* orders yielding fee codes DM, HA, MM, or RP) where a Member has an ADAV [20] ≥ 0.12% of TCV for Non-Displayed orders that yield fee codes DM, HA, HI, MM or RP.

The proposed criteria for Non-Displayed Add Volume Tier 3 is as follows:

• Non-Displayed Add Volume Tier 3 provides a rebate of $0.0025 per share for securities priced above $1.00 for qualifying orders (*i.e.,* orders yielding fee codes DM, HA, MM, or RP) where a Member has an ADAV ≥ 0.11% of TCV for Non-Displayed orders that yield fee codes DM, HA, HI, MM or RP.

The proposed introduction of proposed Market Quality Tier 3 and

[3] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (August 22, 2024), available at *https://www.cboe.com/us/equities/market_statistics/*.

[4] *See* EDGX Equities Fee Schedule, Standard Rates.

[5] *Id.*

[6] Fee code B is appended to orders that add liquidity to EDGX in Tape B securities.

[7] Fee code V is appended to orders that add liquidity to EDGX in Tape A securities.

[8] Fee code Y is appended to orders that add liquidity to EDGX in Tape C securities.

[9] Fee code 3 is appended to orders that add liquidity to EDGX in Tape A or Tape C securities during the pre and post market.

[10] Fee code 4 is appended to orders that add liquidity to EDGX in Tape B securities during the pre and post market.

[11] ADV means average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or subset thereof, per day. ADV is calculated on a monthly basis.

[12] Fee code ZA is appended to Retail Orders that add liquidity to EDGX.

[13] Fee code ZO is appended to Retail Orders that add liquidity to EDGX in the pre- and post-market.

[14] TCV means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

[15] Fee code DM is appended to orders that add liquidity to EDGX using MidPoint Discretionary orders and execute within the discretionary range.

[16] Fee code HA is appended to non-displayed orders that add liquidity to EDGX.

[17] Fee code HI is appended to non-displayed orders that add liquidity to EDGX and receive price improvement.

[18] Fee code MM is appended to non-displayed orders that add liquidity to EDGX using Mid-Point Peg.

[19] Fee code RP is appended to non-displayed orders that add liquidity to EDGX using Supplemental Peg.

[20] ADAV means average daily added volume calculated as the number of shares added per day, calculated on a monthly basis.

proposed modification to Non-Displayed Add Volume Tier 3 are intended to provide Members an opportunity to earn an enhanced rebate by increasing their order flow to the Exchange in both displayed and non-displayed orders, which further contributes to a deeper, more liquid market and provides even more execution opportunities for active market participants. Incentivizing an increase in liquidity adding and removing volume through enhanced rebate opportunities encourages Members on the Exchange to contribute to a deeper, more liquid market, providing for overall enhanced price discovery and price improvement opportunities on the Exchange. As such, increased overall order flow benefits all Members by contributing towards a robust and well-balanced market ecosystem.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[21] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[22] requirements that the rules of an 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 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[23] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as well as Section 6(b)(4)[24] as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

As described above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The Exchange believes that its proposal to introduce a new Market Quality Tier 3 and revise the criteria of Non-Displayed Add Volume Tier 3 reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members. Specifically, the Exchange's proposal to introduce a new Market Quality Tier 3 and revise the criteria of Non-Displayed Add Volume Tier 3 is not a significant departure from existing criteria, is reasonably correlated to the enhanced rebates offered by the Exchange and other competing exchanges,[25] and will continue to incentivize Members to submit order flow to the Exchange. Additionally, the Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges,[26] including the Exchange,[27] and are reasonable, equitable and non-discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Competing equity exchanges offer similar tiered pricing structures, including schedules of rebates and fees that apply based upon members achieving certain volume and/or growth thresholds, as well as assess similar fees or rebates for similar types of orders, to that of the Exchange.

In particular, the Exchange believes its proposal to introduce a new Market Quality Tier 3 and revise the criteria of Non-Displayed Add Volume Tier 3 is reasonable because the revised tiers will be available to all Members and provide all Members with an opportunity to receive an enhanced rebate. The Exchange further believes its proposal to introduce a new Market Quality Tier 3 and revise the criteria of Non-Displayed Add Volume Tier 3 will provide a reasonable means to encourage liquidity-adding displayed and non-displayed orders in Members' order flow to the Exchange and to incentivize Members to continue to provide liquidity adding and liquidity removing volume to the Exchange by offering them an opportunity to receive an enhanced rebate on qualifying orders. An overall increase in activity would deepen the Exchange's liquidity pool, offer additional cost savings, support the quality of price discovery, promote market transparency and improve market quality, for all investors.

The Exchange believes that its proposed introduction of proposed Market Quality Tier 3 and proposed revision of Non-Displayed Add Volume Tier 3 is reasonable as it does not represent a significant departure from the criteria currently offered in the Fee Schedule. The Exchange also believes that the proposal represents an equitable allocation of fees and rebates and is not unfairly discriminatory because all Members will be eligible for the proposed new tier and have the opportunity to meet the tier's criteria and receive the corresponding enhanced rebate if such criteria is met. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would definitely result in any Members qualifying the new proposed tiers. While the Exchange has no way of predicting with certainty how the proposed changes will impact Member activity, based on the prior months volume, the Exchange anticipates that at least one Member will be able to satisfy proposed Market Quality Tier 3 and at least one Member will be able to satisfy proposed Non-Displayed Add Volume Tier 3. The Exchange also notes that proposed changes will not adversely impact any Member's ability to qualify for enhanced rebates offered under other tiers. Should a Member not meet the proposed new criteria, the Member will merely not receive that corresponding enhanced rebate.

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. Rather, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(5).

[23] *Id.*

[24] 15 U.S.C. 78f(b)(4).

[25] *See* Nasdaq Price List, Add and Remove Rates, Rebate to Add Displayed Liquidity, Shares executed at or Above $1.00, available at *https://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2. See also* MEMX Equities Fee Schedule, Liquidity Provision Tiers, available at *https://info.memxtrading.com/equities-trading-resources/us-equities-fee-schedule/*.

[26] *See e.g.,* BZX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

[27] *See e.g.,* EDGX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.''

The Exchange believes the proposed rule changes do not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the introduction of proposed Market Quality Tier 3 and the revised criteria of Non-Displayed Add Volume Tier 3 will apply to all Members equally in that all Members are eligible for the tiers, have a reasonable opportunity to meet the tiers' criteria and will receive the enhanced rebate on their qualifying orders if such criteria is met. The Exchange does not believe the proposed change burdens competition, but rather, enhances competition as it is intended to increase the competitiveness of EDGX by amending existing pricing incentives in order to attract order flow and incentivize participants to increase their participation on the Exchange, providing for additional execution opportunities for market participants and improved price transparency. Greater overall order flow, trading opportunities, and pricing transparency benefits all market participants on the Exchange by enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

Next, the Exchange believes the proposed rule changes does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 16% of the market share.[28] Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [29] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission*, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .''[30] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [31] and paragraph (f) of Rule 19b–4 [32] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–CboeEDGX–2024–058 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–CboeEDGX–2024–058. 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–CboeEDGX–2024–058 and should be submitted on or before October 11, 2024.

[28] *Supra* note 3.

[29] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[30] *NetCoalition* v. *SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[31] 15 U.S.C. 78s(b)(3)(A).

[32] 17 CFR 240.19b–4(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–21492 Filed 9–19–24; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

AGENCY: Small Business Administration.

ACTION: 60-Day notice; request for comments.

SUMMARY: The Small Business Administration (SBA) is publishing this notice in compliance with the Paperwork Reduction Act (PRA) of 1995, as amended, to solicit public comments on the information collection described below. The PRA requires publication of this notice before submitting the information collection to the Office of Management and Budget (OMB) for review and approval.

DATES: Submit comments on or before November 19, 2024.

ADDRESSES: Comments should refer to the information collection by title or OMB Control Number (3245–0417) and submitted by the deadline above to: *PPP_Info_Collections@sba.gov.*

FOR FURTHER INFORMATION CONTACT: You may obtain information including a copy of the forms and supporting documents from the Agency Clearance Officer, Curtis Rich, at (202) 205–7030, or *curtis.rich@sba.gov,* or from Adrienne Grierson, Program Manager, Office of Financial Program Operations, at 202–205–6573, or *adrienne.grierson@sba.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 1102 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116–136, authorized SBA to guarantee loans made by banks or other financial institutions under a temporary program titled the ''Paycheck Protection Program'' (PPP). These loans were available to eligible small businesses, certain non-profit organizations, veterans' organizations, Tribal business concerns, independent contractors, and self-employed individuals adversely impacted by the COVID–19 Emergency. SBA's authority to guarantee PPP loans expired on August 8, 2020. On December 27, 2020, SBA received reauthorization under the Economic Aid Act, Public Law 116–260, to resume guaranteeing PPP loans through March 31, 2021. The Economic Aid Act also allowed certain eligible borrowers that previously received a PPP loan to receive a second draw PPP loan (''Second Draw PPP Loan Program'') and amended certain other PPP statutory provisions. On March 11, 2021, the American Rescue Plan Act, Public Law 117–2, was enacted, amending various PPP statutory provisions. On March 30, 2021, the PPP Extension Act of 2021 was enacted, extending the SBA's PPP program authority through June 30, 2021.

This information collection is used for the Second Draw PPP Loan Program. This approval is set to expire on November 30, 2024. Although SBA's program authority has expired, this information collection is still needed. SBA recently published an Interim Final Rule on Paycheck Protection Program—Extension of Lender Records Retention Requirements (89 FR 68090, August 23, 2024), extending the PPP loan records retention requirements for PPP lenders to ten years from the date of disposition of each individual PPP loan. Because the PPP lender recordkeeping requirements have been extended, this information collection needs to be extended accordingly. Therefore, as required by the Paperwork Reduction Act, SBA is publishing this notice as a prerequisite to seeking OMB's approval to use this information collection beyond November 30, 2024. There are no proposed changes to any of the forms.

Summary of Information Collection

Title: Paycheck Protection Loan Program—Second Draw

OMB Control Number: 3245–0417.

(I) SBA Form 2483—Paycheck Protection Program Second Draw Application

Estimated Number of Respondents: 0.
Estimated Annual Responses: 0.
Estimated Annual Hour Burden: 14,962.

(II) SBA Form 2483–SD–C—Paycheck Protection Program Second Draw Application for Schedule C Filers Using Gross Income

Estimated Number of Respondents: 0.
Estimated Annual Responses: 0.
Estimated Annual Hour Burden: 9,316.

(III) SBA FORM 2484–SD—Paycheck Protection Program Second Draw Lender's Application for 7(A) Guaranty

Estimated Number of Respondents: 0.
Estimated Annual Responses: 0.
Estimated Annual Hour Burden: 24,278.

Solicitation of Public Comments

SBA invites the public to submit comments, including specific and detailed suggestions on ways to improve the collection and reduce the burden on respondents. Commenters should also address (i) whether the information collection is necessary for the proper performance of SBA's functions, including whether it has any practical utility; (ii) the accuracy of the estimated burdens; (iii) ways to enhance the quality, utility, and clarity of the information to be collected; and (iv) the use of automated collection techniques or other forms of information technology to minimize the information collection burden on those who are required to respond.

Curtis Rich,

Agency Clearance Officer.

[FR Doc. 2024–21493 Filed 9–19–24; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

SBA Investment Capital Advisory Committee Meeting

AGENCY: Small Business Administration.

ACTION: Notice of Federal advisory committee meeting: SBA Investment Capital Advisory Committee.

SUMMARY: The U.S. Small Business Administration (SBA) will hold the SBA Investment Capital Advisory Committee (ICAC) on Tuesday, October 1, 2024. Members will convene as an independent source of advice and recommendation to SBA on matters relating to institutional investment market trends, critical technology investments, and policy impacting small businesses and their ability to access patient capital. The meeting will be streamed live to the public.

DATES: Tuesday, October 1, 2024, from 10:30 a.m. to 4:00 p.m. Eastern Daylight Time (EDT).

ADDRESSES: The Investment Capital Advisory Committee will meet, and the meeting will be live streamed for the public. Register at *https://bit.ly/OCT2024-ICAC.*

FOR FURTHER INFORMATION CONTACT: Brittany Sickler, Designated Federal Officer, Office of Investment and Innovation, SBA, 409 3rd Street SW, Washington, DC 20416, (202) 369–8862 or *ICAC@sba.gov.* The meeting will be livestreamed to the public, and anyone wishing to submit questions to the SBA Investment Capital Advisory Committee

[33] 17 CFR 200.30–3(a)(12).

can do so by submitting them via email to *ICAC@sba.gov*. Individuals who require an alternative aid or service to communicate effectively with SBA should email the point of contact listed above and provide a brief description of their preferred method of communication.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. appendix 2), SBA announces the meeting of the Investment Capital Advisory Committee (the ''ICAC''). The ICAC is tasked with providing advice, insights, and recommendations to SBA on matters broadly related to facilitating greater access and availability of patient investment capital for small business; promoting greater awareness of SBA Investment and Innovation division programs and services; cultivating greater public-private engagement, cooperation, and collaboration; and, developing and evolving SBA programs and services to address long-term capital access gaps faced by small businesses and the investment managers that seek to support them. The final agenda for the meeting will be posted on the ICAC website at *https://www.sba.gov/about-sba/organization/sba-initiatives/investment-capital-advisory-committee* and on the October 1, 2024, ICAC Meeting Registration Page (*https://bit.ly/OCT2024-ICAC*) prior to the meeting. Copies of the meeting minutes will be available by request within 90 days of the meeting date.

Public Comment

Any member of the public may submit pertinent questions and comments concerning ICAC affairs at any time before or after the meeting and participate in the livestreamed meeting of the SBA Investment Capital Advisory Committee on Tuesday, October 1. Comments may be submitted to Brittany Sickler at *ICAC@sba.gov*. Those wishing to participate live are encouraged to register by or before Tuesday, September 24, 2024, using the registration link provided above. Advance registration is strongly encouraged.

Dated: September 16, 2024.

Andrienne Johnson,

Committee Management Officer.

[FR Doc. 2024–21511 Filed 9–19–24; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice: 12531]

Department of State Performance Review Board Members

SUMMARY: The Department of State (DOS) announces the persons who will serve on the Senior Executive Service 2024 Performance Review Board.

DATES: This appointment is effective October 2, 2024.

FOR FURTHER INFORMATION CONTACT: Debby Valentine, Chief, Executive Resources and Performance Management Division, Bureau of Global Talent Management, Office of Civil Service Talent Management, Department of State. Phone: 771–206–2818; email: *ValentineDA@state.gov*.

SUPPLEMENTARY INFORMATION: This action is being taken in accordance with Title 5, U.S.C., section 4314(c)(4), which requires that members of performance review boards be appointed in a manner to ensure consistency, stability, and objectivity in performance appraisals and requires that notice of the appointment of an individual to serve as a member be published in the **Federal Register**.

The membership of the Department of State Performance Review Board is as follows:

Sherry Hannah—Career PRB Chair
Christopher Backemeyer
Lisa Grosh
Jeanne Juliao
Eric Stein
Joshua Romero, Non-Career PRB Chair
Jeremy Bernton
Suzy George
Mark Iozzi

Kim R. Bruner,

Director, Bureau of Global Talent Management, Civil Service Talent Management, Department of State.

[FR Doc. 2024–21569 Filed 9–19–24; 8:45 am]

BILLING CODE 4710–15–P

DEPARTMENT OF STATE

[Public Notice: 12545]

Notice of Department of State Sanctions Actions Pursuant to Executive Order Regarding Blocking Property With Respect to Specified Persons Undermining the Peace and Stability in the West Bank

SUMMARY: The Department of State is publishing the names of one or more persons that have been placed on the Department of Treasury's List of Specially Designated Nationals and Blocked Persons (SDN List) administered by the Office of Foreign Asset Control (OFAC) based on the Department of State's determination, in consultation with other departments, as appropriate, that one or more applicable legal criteria of the Executive Order regarding blocking property with respect to specified persons undermining the peace and stability in the West Bank were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: Aaron P. Forsberg, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647–7677, email: *ForsbergAP@state.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning sanctions programs are available on OFAC's website, *https://ofac.treasury.gov/sanctions-programs-and-country-information/west-bank-related-sanctions*.

Notice of Department of State Actions

On August 28, 2024, the Department of State, in consultation with other departments, as appropriate, determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. FILANT, Yitzhak Levi (Hebrew: יצחק לוי פילנט) (a.k.a. "LEVY, Yitzhak"), Yitzhar, West Bank; DOB 15 Dec 1987; nationality Israel; Gender Male; National ID No. 301184255 (Israel) (individual) [WEST-BANK-EO14115].

   Designated pursuant to section 1(a)(i)(B)(1) of E.O. 14115 for being a foreign person who is responsible for or complicit in, or has directly or indirectly engaged or attempted to engage in planning, ordering, otherwise directing, or participating in an act of violence or threat of violence targeting civilians, affecting the West Bank.

Entities

1. HASHOMER YOSH (Hebrew: השומר יו"ש) (a.k.a. GUARDIANS OF JUDEA & SAMARIA; a.k.a. GUARDIANS OF JUDEA AND SAMARIA; a.k.a. GUARDIANS OF YEHUDA AND THE SHOMRON; a.k.a. HASHOMER YEHUDAH V'SHOMRON), 2 Esh Hakodesh, Shilo 4483000, West Bank;

Organization Established Date 2013; Target Type Charity or Nonprofit Organization; Registered Charity No. 580575629 (Israel) [WEST-BANK-EO14115].

Designated pursuant to section 1(a)(iii) of E.O. 14115 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, YINON LEVI, MEITARIM FARM, NERIYA BEN PAZI, and ZVI BAR YOSEF, persons blocked pursuant to E.O. 14115.

Amy E. Holman,

Principal Deputy Assistant Secretary, Bureau of Economic and Business Affairs, Department of State.

[FR Doc. 2024–21548 Filed 9–19–24; 8:45 am]

BILLING CODE 4710–AE–P

DEPARTMENT OF STATE

[Public Notice: 12546]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Madinat al-Zhara: The Radiant Capital of Islamic Spain'' 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 ''Madinat al-Zhara: The Radiant Capital of Islamic Spain'' at the Institute for the Study of the Ancient World, New York University, New York, New York, 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. 2024–21523 Filed 9–19–24; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12548]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Gauguin in the World'' 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 ''Gauguin in the World'' at the Museum of Fine Arts, Houston, in Houston, Texas, 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. 2024–21581 Filed 9–19–24; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

Release of Waybill Data

The Surface Transportation Board has received a request from the Harris County Toll Road Authority (WB24–42—8/20/24) for permission to use select data from the Board's 2022 Masked Carload Waybill Samples. A copy of this request may be obtained from the Board's website under docket no. WB24–42.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Alexander Dusenberry, (202) 245–0319

Stefan Rice,

Clearance Clerk.

[FR Doc. 2024–21495 Filed 9–19–24; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2024–0065]

Agency Information Collection Activities: Notice of Request for Reinstatement of a Previously Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for reinstatement of a previously approved information collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for reinstatement of an existing information collection that is summarized below under **SUPPLEMENTARY INFORMATION.** We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by November 19, 2024.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 0065 by any of the following methods:

website: For access to the docket to read background documents or commentsreceived go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.*

Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kasandre Reeves, (564) 544–0350, Office of Highway Policy Information, Highway Funding and Motor Fuels division (HPPI–10) Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: 500-Series Reporting Guidebook.

OMB Control: 2125–0032.

Background: A 500-Series Data Reporting Guidebook provides for the collection of information by describing policies and procedures for assembling highway related data from the existing files of State agencies. The data includes motor-vehicle registration and fees, motor-fuel use and taxation, driver licensing, and highway taxation and finance. Federal, State, and local governments use the data for transportation policy discussions and decisions. Motor-fuel data are used in attributing receipts to the Highway Trust Fund and subsequently in the apportionment formula that are used to distribute Federal-Aid Highway Funds. The data are published annually in the FHWA's Highway Statistics. Information from Highway Statistics is used in the joint FHWA and Federal Transit Administration required biennial report to Congress, Status of the Nation's Highways, Bridges, and Transit: Conditions and Performance, which contrasts present status to future investment needs.

Respondents: State and local governments of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Marianas, and the Virgin Islands share this burden.

Frequency: On an on-going basis as the 500-Series Data Reporting Guidebook will be updated annually.

Estimated Average Burden per Response: The estimated average reporting burden per response for the annual collection and processing of the data is 754 hours for each of the States (including local governments), the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Marianas, and the Virgin Islands.

Estimated Total Annual Burden Hours: The estimated total annual burden for all respondents is 42,206 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued on: September 16, 2024.

Jazmyne Lewis,

Information Collection Officer.

[FR Doc. 2024–21488 Filed 9–19–24; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2024–0097]

Agency Information Collection Activities; Renewal of an Approved Information Collection Request: Safe Driver Apprenticeship Driver Program

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval. This ICR was previously approved under emergency procedures on April 4, 2024, and expires on September 30, 2024. The ICR is necessary for FMCSA to continue data collection under a pilot program which seeks to determine the safety impacts of allowing 18- to 20-year-old commercial

driver's license (CDL) holders to operate commercial motor vehicles (CMVs) in interstate commerce. The ICR covers data collected on drivers and carriers participating in the pilot program. No comments were received in response to the 60-day **Federal Register** notice.

DATES: Comments on this notice must be received on or before October 21, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Nicole Michel, Mathematical Statistician, Research Division, DOT, FMCSA, West Building, 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; 202–366–4354; *Nicole.michel@dot.gov*.

SUPPLEMENTARY INFORMATION: *Title:* Safe Driver Apprenticeship Pilot Program.

OMB Control Number: 2126–0075.

Type of Request: Renewal of an information collection previously approved under emergency authority.

Respondents: Motor carriers; drivers.

Estimated Number of Respondents: 14,830 total (1,600 motor carriers and 13,230 CMV drivers); 5,410 annually (1,000 carriers and 4,410 CMV drivers).

Estimated Time per Response: 20 minutes per response for carrier, apprentice, and experienced driver application forms; 15 minutes per response for safety benchmark certifications; 60 minutes per month per driver for monthly driving and safety data; 90 minutes per month for miscellaneous data submission.

Expiration Date: September 30, 2024.

Frequency of Response: Application (motor carrier, apprentice driver, and experienced driver): once; safety benchmark certifications: twice per apprentice driver; monthly driving and safety data: carrier submits monthly data on each apprentice driver; miscellaneous data submissions: monthly.

Estimated Total Annual Burden: 169,343 hours total, or 56,448 hours annually (motor carriers: 164,933 hours total, or 54,978 hours annually; drivers: 4,410 hours total, or 1,470 hours annually).

Background

Current regulations on driver qualifications (49 CFR part 391.11(b)(1)) state that a driver must be 21 years of age or older to operate a CMV in interstate commerce. Currently, drivers under the age of 21 may operate CMVs only in intrastate commerce subject to State laws and regulations.

Section 23022 of the Bipartisan Infrastructure Law (BIL), as enacted as the Infrastructure Investment and Jobs Act, requires the Secretary of Transportation to conduct a commercial driver Apprenticeship Pilot Program. An *apprentice* is defined as a person under the age of 21 who holds a CDL. Under this program, these apprentices will complete two probationary periods, during which they may operate in interstate commerce only under the supervision of an experienced driver in the passenger seat. An *experienced driver* is defined in section 23022 as a driver who is not younger than 26 years old, has held a CDL and been employed for at least the past 2 years, and has at least 5 years of interstate CMV experience and meets the other safety criteria defined in the BIL.

The first probationary period must include at least 120-hours of on-duty time, of which at least 80 hours are driving time in a CMV. To complete this probationary period, the employer must determine competency in:

1. Interstate, city traffic, rural two-lane, and evening driving;
2. Safety awareness;
3. Speed and space management;
4. Lane control;
5. Mirror scanning;
6. Right and left turns; and
7. Logging and complying with rules relating to hours of service.

The second probationary period must include at least 280 hours of on-duty time, including not less than 160 hours driving time in a CMV. To complete this probationary period, the employer must determine competency in:

1. Backing and maneuvering in close quarters;
2. Pre-trip inspections;
3. Fueling procedures;
4. Weighing loads, weight distribution, and sliding tandems;
5. Coupling and uncoupling procedures; and
6. Trip planning, truck routes, map reading, navigation, and permits.

After completion of the second probationary period, the apprentice may begin operating CMVs in interstate commerce unaccompanied by an experienced driver.

In addition to data regarding successful completion of the probationary periods, the BIL requires collection of data relating to any incident in which a participating apprentice is involved, as well as other data relating to the safety of apprentices. Additional information collected will include crash data (*e.g.,* incident reports, police reports, insurance reports), inspection data, citation data, safety event data (as recorded by all safety systems installed on vehicles, to include advanced driver assistance systems, automatic emergency braking systems, onboard monitoring systems, required forward-facing video systems, and optional in-cab video systems, if a carrier chooses to provide this data) as well as exposure data (*e.g.,* record of duty status logs, on-duty time, driving time, and time spent away from home terminal). This data will be submitted monthly through participating motor carriers.

The data collected will be used to report on the following items, as required by section 23022 of the BIL:

1. The findings and conclusions on the ability of technologies or training provided to apprentices as part of the pilot program to successfully improve safety;
2. An analysis of the safety record of participating apprentices as compared to other CMV drivers;
3. The number of drivers that discontinued participation in the apprenticeship program before completion;
4. A comparison of the safety records of participating drivers before, during, and after each probationary period; and
5. A comparison of each participating driver's average on-duty time, driving time, and time spent away from home terminal before, during, and after each probationary period.

FMCSA will monitor the monthly data being reported by the motor carriers and will identify drivers or carriers that may pose a risk to public safety. While removing unsafe drivers or carriers may bias the dataset, it is a necessary feature for FMCSA to comply with § 381.505, which requires development of a monitoring plan to ensure adequate safeguards to protect the health and safety of pilot program participants and the general public. Knowing that a driver or carrier was removed from the pilot program for safety reasons will help FMCSA minimize bias in the final data analysis.

The statutory mandate for this pilot program is contained in section 23022 of the BIL. FMCSA's regulatory authority for initiation of a pilot program is § 381.400. The Apprentice Pilot Program supports the DOT strategic goal of economic strength while maintaining DOT's and FMCSA's commitment to safety.

The Consolidated Appropriations Act of 2024 (Pub. L. 118–42) revised FMCSA's authority regarding the Safe Driver Apprenticeship Pilot (SDAP)

Program. Section 422 of that Act states that FMCSA may not require the use of inward facing cameras or require a motor carrier to register an apprenticeship program with the Department of Labor as a condition for participation in the SDAP program. As such, the application and monthly report forms were revised to remove those two elements as mandatory requirements, and this revision was approved under the emergency review request. However, the Agency will continue to ask carriers whether they use inward facing cameras and whether they have a Registered Apprenticeship program approval number and will give carriers the option of providing that information. With this request for renewal of the approved ICR, FMCSA does not expect to see any change in the number of respondents, responses, or the overall burden of this information collection.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority of 49 CFR 1.87.

Thomas P. Keane,

Associate Administrator, Office of Research and Registration.

[FR Doc. 2024–21519 Filed 9–19–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2023–0267]

RIN 2126–AB56

FMCSA Registration System Modernization

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of hybrid public meeting.

SUMMARY: FMCSA announces a hybrid (in-person and virtual) public meeting to engage stakeholders, which includes motor carriers, brokers, freight forwarders, insurance companies, financial institutions, process agents, blanket companies, and transportation service providers; to get their perspective on improving the registration experience with FMCSA. This is the third iteration of the FMCSA Registration Modernization Stakeholder Day. The first meeting was held in person at FMCSA on January 17, 2024, and the second meeting was held virtually on May 29, 2024.

DATES: This hybrid (in-person and virtual) meeting will be held on October 21, 2024, from 1 to 4 p.m. EST. Parties interested in attending either in-person or virtually must register at the link provided below by 11:59 p.m. EST, on October 14, 2024.

ADDRESSES: The in-person meeting will take place at DOT Headquarters, 1200 New Jersey Ave. SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Gio Vizcardo, Knowledge Manager, Office of Registration, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–0356; *mcrs-social@dot.gov*.

Services for individuals with disabilities: For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Gio Vizcardo using one of the above means by 11:59 p.m. EST, on September 21, 2024.

SUPPLEMENTARY INFORMATION:

Background

FMCSA is developing a new online registration system, to improve the transparency and efficiency of FMCSA's registration procedures as well as implement statutory requirements related to the registration program. FMCSA seeks user perspectives on improving the registration experience when engaging with FMCSA's registration system. During this meeting, FMCSA will invite attendees to participate after the initial presentations. FMCSA moderators will facilitate discussions on what potential users would like to see, as well as what would not be helpful from a user experience perspective.

Meeting Information

This meeting is intended for current and potential users of a new online registration system, including but not limited to:

- Motor carriers;
- Brokers and freight forwarders;
- Insurance companies/financial institutions and process agents/blanket companies; and
- Transportation service providers.

Those interested in attending this meeting must register at *https://www.fmcsa.dot.gov/registration/fmcsa-registration-modernization-stakeholder-day-iii* by 11:59 p.m. EST, on October 14, 2024. Please note that attendance will be capped at the first 100 (for in-person attendees) and 500 (for virtual attendees) registrants. In-person attendees will have an opportunity to conduct user-testing on portions of the new registration system.

The full meeting agenda will be available on the registration site in advance of the meeting.

Vincent G. White,

Deputy Administrator.

[FR Doc. 2024–21518 Filed 9–19–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2024–0104]

Notice of Proposed Nonavailability Waiver of Buy America Requirements for Certain High-Speed Rail Products for the California Inaugural High-Speed Rail Service Project

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice; request for comment.

SUMMARY: The Federal Railroad Administration (FRA) is seeking comments on whether to grant a waiver of its Buy America requirements to the California High-Speed Rail Authority (the Authority) to use certain products that are not produced in the United States for use in the California Inaugural High-Speed Rail Service Project between Merced, California and Bakersfield, California (Project). FRA is funding the Project under the Federal-State Partnership for Intercity Passenger Rail Program (FSP Program); therefore, FRA's Buy America requirements apply to the Project. FRA's Buy America requirements include both FRA's statutory requirements, which require 100 percent of the manufactured products and steel and iron used in an FRA-funded project to be produced in the United States, and the Build America, Buy America Act (BABA), which requires that all construction materials used in the FRA-funded project be produced in the United States. FRA is not proposing to waive the applicable BABA requirements for construction materials used in the Project. The proposed waiver would apply to the aluminum car shells, signal systems, high-speed rail turnouts and fire alarm systems based on the domestic nonavailability of such

products, as identified by the Authority. The Authority estimates that over 98 percent of the total direct dollar expenditures for the Project would be spent on domestically sourced products and labor, including 100 percent of the civil infrastructure costs.

DATES: Comments must be received by October 7, 2024.

ADDRESSES: Please submit all comments electronically to the Federal eRulemaking Portal. Go to *https://www.regulations.gov* and follow the instructions for submitting comments.

Instructions: All submissions must refer to the Federal Railroad Administration and the docket number in this notice (FRA–2024–0104). Note that all submissions received, including any personal information provided, will be posted without change and will be available to the public on *https://www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477), or at *https://www.transportation.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Shreyas Bhatnagar, Regional Supervisor, Office of Regional Outreach & Project Delivery, Office of Railroad Development, FRA, telephone: (202) 495–8630, email: *Shreyas.Bhatnagar@dot.gov* or Ryan Arbuckle, Chief, Program Coordination and Strategy, Office of Railroad Development, FRA, telephone: (202) 617–0212, email: *Ryan.Arbuckle@dot.gov.* For legal questions, please contact Faris Mohammed, Attorney-Adviser, Office of the Chief Counsel, FRA, telephone: (202) 763–3230, email: *Faris.Mohammed@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Project History and Background

On December 7, 2022, FRA published a Notice of Funding Opportunity (NOFO) announcing application requirements and procedures to obtain grant funding under the FSP Program for projects not located on the Northeast Corridor for Fiscal Year 2022. The FSP Program provides a Federal funding opportunity to improve passenger rail service. On February 3, 2023, FRA published a notice adding funding and extending the application period for the FSP Program NOFO. On March 22, 2023, FRA published a notice (March Notice) inviting high-speed rail project sponsors to voluntarily submit, in advance of being selected to receive FRA funding, a domestic sourcing and workforce plan (DSWP) to demonstrate how the sponsor will maximize the use of domestic goods, products and materials, consistent with FRA's Buy America requirements.[1]

The Authority applied for FSP Program funding expressing its intent to advance the California High-Speed Rail System through completion of the Inaugural High-Speed Rail Service Project between the cities of Merced and Bakersfield in the Central Valley of California.[2] Consistent with FRA's March Notice, the Authority submitted a DSWP,[3] which included an initial request for a waiver of FRA's Buy America requirements for certain products that the Authority indicated are not produced in the United States. In December 2023, FRA selected the Project to receive $3,073,600,000 in funding under the FSP Program. In a letter dated September 13, 2024, the Authority requested a waiver from FRA's Buy America requirements consistent with the Authority's DSWP.

The Authority is responsible for developing product specifications and procuring materials for use in the Project and expects to use FSP Program funds for costs associated with those procurements. The Authority's procurement process is separate from FRA's review of the Authority's request for a waiver of Buy America requirements, and FRA is not involved in the development of product specifications or the Authority's procurement process. FRA's role is limited to reviewing the Authority's request for a waiver, consistent with 49 U.S.C. 22905(a)(2).

In August 2023, the Authority issued a Request for Qualifications (RFQ) to procure six trainsets for the Project that could meet FRA's Passenger Equipment Safety Standards governing Tier III equipment (Tier III Rule), which establishes safety standards for high-speed rail equipment and operations that travel at speeds above 125 mph.[4] Two Original Equipment Manufacturers (OEMs) responded to the Authority's RFQ; however, neither OEM indicated that they would be able to supply a fully Buy America-compliant trainset in their responses. Both OEMs indicated they would need a waiver from FRA's Buy America requirements for the aluminum car shells (shell, structure, and vehicle paintwork), as the car shells are not produced in the United States. In April 2024, the Authority issued a Request for Proposals for the six trainsets. In addition to trainsets, the Authority identified additional products that are not produced domestically, which would also require a waiver. The Authority expects to complete its procurement process for the trainsets and other contracts later this year.

Based on information gathered through the procurement process and through market research, the Authority revised its initial DSWP, which further explains how the Authority will meet FRA's Buy America requirements and identifies any necessary waivers for noncompliant products. FRA reviewed the DSWP, including the market research conducted by the Authority.

This notice summarizes FRA's Buy America requirements, the Authority's request for a waiver, and FRA's findings and proposed waiver.

II. FRA's Buy America Requirements and Policy

Projects that receive funding under FRA's FSP Program are subject to FRA's Buy America requirements. FRA's Buy America requirements include both: (i) FRA's statutory requirements for steel, iron, and manufactured goods at 49 U.S.C. 22905(a); and (ii) requirements under the Build America, Buy America Act (BABA) and related guidance at 2 CFR 184.6 for construction materials. This means that FRA can fund a project only if the steel, iron, and manufactured goods used in the project are produced in the United States. 49 U.S.C. 22905(a). In addition, FRA-funded projects must also comply with the relevant provisions of BABA, including the requirement that all construction materials used in the project must also be produced in the United States. Public Law 117–58, 70914(a); 2 CFR 184.6.

FRA strictly enforces compliance with its Buy America requirements to ensure that FRA-funded projects maximize the use of materials produced in the United States. FRA expects recipients to work with suppliers to conduct thorough market research and adequately consider, where appropriate, qualifying alternate items, products, or materials that can also meet the recipient's technical specifications. Compliance with FRA's Buy America requirements supports domestic industry and well-paying jobs.

[1] Advancing High-Speed Rail Projects Intended for Operations Over 160 Miles Per Hour Through Domestic Sourcing Plans and Buy America Compliance, 88 FR 17289 (March 22, 2023).

[2] The California High-Speed Rail System is a multi-phase effort that is planned between to provide service between San Francisco to Los Angeles and provide a competitive transportation mode with estimated speeds capable of 186 (or greater) miles per hour.

[3] The DSWP contains proprietary information that FRA has determined is confidential business information. As such, FRA is not making the DSWP available to the public at this time; however, pertinent non-proprietary information provided in the DSWP is discussed in this notice.

[4] *See* 49 CFR part 238.

III. FRA's Authority To Waive Buy America Requirements

There are limited circumstances in which FRA can waive its Buy America requirements under 49 U.S.C. 22905(a) and BABA. FRA will grant a waiver request that is consistent with the statutory criteria for a waiver and where a project sponsor has adequately justified the need for a waiver.

FRA may waive its Buy America requirements if FRA determines that: applying the Buy America requirements would be inconsistent with the public interest; the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality; rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time; or including domestic material will increase the cost of the overall project by more than 25 percent. 49 U.S.C. 22905(a)(2); *see also* Public Law 117–58, 70914(b) (prescribing similar statutory conditions for waivers); and 2 CFR 184.7 (doing the same).

Specifically, when determining whether the steel, iron and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality pursuant to 49 U.S.C. 22905(a)(2)(B), FRA considers whether the recipient has used appropriate due diligence, such as market research or by soliciting proposals through an open procurement process, to identify domestic products or domestically available alternative products that meet the recipient's specifications. A comparable product that performs a similar function is not necessarily a domestic alternative; the product must also meet the recipient's specific requirements. FRA's statutory requirements do not require recipients to change product specifications in order to utilize domestic products that do not meet the recipient's original specifications. If there are no domestically produced products that also meet the recipient's specifications, and the recipient has exercised appropriate diligence, FRA may waive its Buy America requirements based on nonavailability, consistent with 49 U.S.C. 22905(a)(2)(B).

If FRA determines a waiver is appropriate, FRA will provide notice and seek comment from the public in accordance with the requirements of both section 22905(a) and BABA, if applicable. In addition, FRA will consult with the National Institute of Standards and Technology's Manufacturing Extension Partnership (NIST MEP) before granting a waiver, consistent with section 70916 of BABA. Unless otherwise specified, waiver decisions are non-precedential and are only applicable to the entities and products for the specific project identified in the final waiver.

IV. The Authority's Request for Waiver

In response to FRA's March Notice, the Authority submitted a DSWP outlining the efforts that would be used to ensure maximum use of available domestic materials in the Project if the Authority's application was selected for funding under the FSP Program. In the DSWP, the Authority explained that the Project would require the use of products that are not produced in the United States, which would require a waiver of FRA's Buy America requirements. The Authority did not identify any construction materials covered under BABA that would require a waiver. The Authority explained that the use of these non-compliant products is necessary to ensure the safety and reliability of the high-speed rail system. Specifically, the Authority requested a waiver for the following:

- Car Shells (shell structure, frame, vehicle paintwork) for six trainsets
- Eurobalises and Euroloops [5]
- Counting Heads and Axle Counter Sensors
- Truck Press (test stand)
- Turnout Systems including Derailers
- Fire Alarm Systems

FRA recently conducted a similar analysis for these high-speed rail products in its final nonavailability waiver for the Brightline West High-Speed Passenger Train Project (Brightline West Waiver) based on a request from the Nevada Department of Transportation (NDOT) and Brightline West, the private project sponsor. [6] Brightline West conducted market research for these same products and coordinated with potential suppliers and the NIST MEP to locate domestic suppliers. In the final waiver, FRA concluded that the high-speed rail products, which are the same items for which the Authority seeks a waiver, are not produced in the United States based on Brightline West's market research and coordination with potential suppliers. In developing its waiver request, the Authority noted that it closely coordinated with Brightline West to identify products that are not currently produced in the United States.

The Authority requested a waiver for aluminum car shells for the six trainsets that will be purchased for and used in the Project. The request is based on responses from two OEMs that indicated they could not provide a fully compliant trainset without a waiver for the car shells, which are not produced in the United States. The Authority notes that the car shells are a necessary feature for the safe and efficient operation of the high-speed rail trainset. Specifically, the Authority explains the car shells are required to achieve high speeds, due to aluminum's strength and light weight, and it has taken decades of development in technology by highly specialized experts that can shape, mold, and weld these car shells to the required safety and quality standards, including crashworthiness.

FRA previously considered the domestic availability of aluminum car shells in the Brightline West Waiver, sought public comment on this finding and utilized the NIST MEP's supplier scouting program to identify potential domestic suppliers. FRA concluded the car shells are not produced in the United States. Here, the Authority proposes to use the same, or substantially similar, car shells to those described in the Brightline West Waiver.

Similar to the Brightline West High-Speed Passenger Train Project, the Authority proposes to use the European Rail Traffic Management System (ERTMS) for the Project. The Authority proposes to use ERTMS to ensure safety of the high-speed rail system and expects to conform to FRA's Tier III Rule, which allows for service-proven high-speed rail technologies from around the world (in this case, Europe) to be introduced to the United States with minimal modification.[7]

Although the Authority's procurement process for the signal system is still ongoing, the Authority requested a waiver for eurobalises and euroloops that can be used in the ERTMS for the Project, as these products will be required for the ERTMS regardless of the selected supplier. FRA previously considered the

[5] Eurobalise and euroloops are products installed between the rails of a railway that are part of the European train control system. These products store infrastructure data (*e.g.,* position reference, speed limits, line gradient, works on the line) and can send this information to the train.

[6] Notice of Nonavailability Waiver of Buy America Requirements for the Nevada Department of Transportation to Purchase Certain High-Speed Rail Products, 89 FR 45934 (May 24, 2024).

[7] ERTMS has not yet been tested, certified, and approved for operation in the United States. Design documentation, testing, and submission of a PTC Safety Plan and associated HSR–125 document will be required to obtain PTC certification and approval to operate. The operational experience of ERTMS across the European high-speed rail network will provide operational safety and reliability data to support the PTC Safety Plan and HSR–125 document.

availability of eurobalises and euroloops in the Brightline West Waiver and concluded these products are not produced in the United States.

In addition, and similar to the Brightline West Waiver, the Project will also require the use of specialty high-speed rail turnouts to allow trains to smoothly diverge to a passing siding, which plays a key role in safety and stability of train operations. The Project will also require fire alarm panels and devices for use in stations, garages, and maintenance facilities. The Authority has researched known suppliers but did not identify a domestic manufacturer for these products, which FRA also previously concluded are not produced in the United States.[8]

The Authority explains in the DSWP that over 98 percent of the total direct dollar expenditures for the Project will be spent on domestically sourced products and labor, including 100 percent of the civil infrastructure costs. In addition, the Project has created approximately 13,000 domestic jobs across the construction period and includes a community benefits agreement designed to assist small businesses and job seekers in finding or obtaining construction contracts.[9] The Authority has also reached an agreement with rail labor, which may result in ongoing operations and maintenance work being performed by union labor.[10] The DSWP further explains efforts the Authority will take to facilitate, where feasible, a ramp up in domestic production capabilities.

At the time of this proposed waiver, the Authority has not selected an OEM for the trainsets and has not completed its procurement process for the Project. As noted above, the Authority's procurement process is separate from FRA's consideration of nonavailability under 49 U.S.C. 22905(a)(2)(B). FRA expects the Authority to make its procurement decision based on the needs for the Project and to select products that meet the Authority's specifications. If, based on the final procurement, there are changes to the items described in the final waiver, the Authority may need to request additional waivers from FRA.

[8] 89 FR 45934.

[9] For more information on the Community Benefits Agreement, *see: https://hsr.ca.gov/business-opportunities/general-info/community-benefits-agreement/.*

[10] In November 2023, 13 rail unions representing more than 160,000 workers signed a Memorandum of Understanding with California High-Speed Rail Authority, establishing a commitment for the use of highly skilled union labor required to operate and maintain the system.

V. Findings and Proposed Waiver

FRA has preliminarily determined that these products are not produced in the United States in a sufficient and reasonably available amount or are not of a satisfactory quality, consistent with 49 U.S.C. 22905(a)(2)(B). FRA finds that the Authority has conducted appropriate due diligence through market research to identify potential suppliers for the Project. The Authority's research included discussions with potential suppliers and coordination with Brightline West. FRA previously considered the products described in the Authority's request with respect to the Brightline West High-Speed Passenger Train Project and determined the products were not produced in the United States, which included consultation with NIST–MEP through its supplier scouting program.[11] Given the short amount of time between FRA's previous findings and the Authority's request, FRA is relying on its findings in the Brightline West Waiver to support its determination with respect to the Authority's request. Based on its review of the waiver request, the Authority's DSWP, and FRA's previous findings in the Brightline West Waiver, FRA proposes to waive its Buy America requirements for the products listed above in Section IV.

The proposed waiver would apply only to products listed in Section IV for use in the Project. FRA is not proposing to waive any requirements under BABA, as the proposed waiver does not apply to any construction materials used in the Project. The proposed waiver would not apply to other FRA recipients or to other grants that might be made to the Authority for other projects (including any future phases related to the Project). This proposed waiver will expire upon the end of the period of performance and closeout of the grant agreement for the Project.

VI. Request for Comment

FRA will consider comments received during the comment period, consistent with BABA and 2 CFR 184.7. FRA may consider comments received after this period to the extent practicable. Consistent with 49 U.S.C. 22905(a)(4), if FRA determines it is necessary to waive its Buy America requirements, FRA will publish its decision in the **Federal Register** and provide an opportunity for public comment on such finding for a reasonable period of time not to exceed 15 days. After such period, FRA's decision will be effective.

[11] 89 FR 45934.

Issued in Washington DC

Amitabha Bose,

Administrator.

[FR Doc. 2024–21574 Filed 9–19–24; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Limitation on Claims Against Proposed Public Transportation Project—West Santa Ana Branch Transit Corridor Project, Cities of Los Angeles, Vernon, Huntington Park, Bell, Cudahy, South Gate, Downey, Paramount, Bellflower, Cerritos, and Artesia; County of Los Angeles, California

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) regarding the West Santa Ana Branch Transit Corridor Project, Cities of Los Angeles, Vernon, Huntington Park, Bell, Cudahy, South Gate, Downey, Paramount, Bellflower, Cerritos, and Artesia; County of Los Angeles, California. The corridor is also known as the Southeast Gateway Line. The purpose of this notice is to publicly announce FTA's environmental decisions on the subject project, and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: A claim seeking judicial review of FTA actions announced herein for the listed public transportation project will be barred unless the claim is filed on or before February 18, 2025.

FOR FURTHER INFORMATION CONTACT: Kathryn Loster, Assistant Chief Counsel, Office of Chief Counsel, (312) 705–1269, or Saadat Khan, Environmental Protection Specialist, Office of Environmental Programs, (202) 366–9647. FTA is located at 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 9:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions subject to 23 U.S.C. 139(l) by issuing certain approvals for the public transportation project listed below. The actions on the project, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the project to comply with the

National Environmental Policy Act (NEPA) and in other documents in the FTA environmental project files for the project. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information. Contact information for FTA's Regional Offices may be found at *https://www.transit.dot.gov/about/regional-offices/regional-offices.*

This notice applies to all FTA decisions on the listed project as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA (42 U.S.C. 4321–4375), section 4(f) requirements (49 U.S.C. 303), section 106 of the National Historic Preservation Act (54 U.S.C. 306108), Endangered Species Act (16 U.S.C. 1531), Clean Water Act (33 U.S.C. 1251), Rivers and Harbors Act (33 U.S.C. 408), the Uniform Relocation and Real Property Acquisition Policies Act (42 U.S.C. 4601), and the Clean Air Act (42 U.S.C. 7401–7671q). This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register**. The project modifications and actions that are the subject of this notice follow:

Project name and location: West Santa Ana Branch Transit Corridor Project (Project), Cities of Los Angeles, Vernon, Huntington Park, Bell, Cudahy, South Gate, Downey, Paramount, Bellflower, Cerritos, and Artesia; County of Los Angeles, California.

Project sponsor: Los Angeles County Metropolitan Transportation Authority (LACMTA), City of Los Angeles, County of Los Angeles, California.

Project description: The Project would construct an approximately 14.5-mile light rail transit (LRT) line from the northern terminus at the City of Los Angeles/Florence-Firestone unincorporated area of Los Angeles County to a southern terminus in the City of Artesia. The Project would be primarily within the right-of-way (ROW) of the Union Pacific Railroad, Port of Long Beach, Port of Los Angeles, or LACMTA. The Project would also include nine LRT stations along the new alignment, one infill station on the C (Green) Line, and five parking facilities.

Final agency actions: Section 106 no adverse effect determination, dated March 12, 2024; section 4(f) *de minimis* impact determination, dated March 29, 2024; West Santa Ana Branch Corridor Project Record of Decision (ROD), dated August 23, 2024.

Supporting documentation: West Santa Ana Branch Transit Corridor Project Final Environmental Impact Statement/Final Environmental Impact Report (Final EIS/EIR), dated March 29, 2024. West Santa Ana Branch Transit Corridor Project Draft EIS/EIR, dated July 30, 2021. The ROD, Final EIS/EIR, Draft EIS/EIR and associated documents can be viewed and downloaded from: https://www.metro.net/projects/southeastgateway/

Authority: 23 U.S.C. 139(l)(1).

Megan Blum,

Deputy Associate Administrator for Planning and Environment.

[FR Doc. 2024–21582 Filed 9–19–24; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2024–0055]

Agency Information Collection Activities; Notice and Request for Comment; Reporting of Information and Documents About Potential Defects

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on an extension without change of a currently approved collection of information.

SUMMARY: NHTSA invites public comments about our intention to request approval from the Office of Management and Budget (OMB) for an extension without change of a currently approved information collection. Before a Federal agency can collect certain information from the public, it must receive approval from OMB. Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. *This document describes a collection of information for which NHTSA intends to seek OMB approval on the reporting of information and documents about potential safety defects.*

DATES: Comments must be submitted on or before November 19, 2024.

ADDRESSES: You may submit comments identified by the Docket No. NHTSA–2024–0055 through any of the following methods:

- *Electronic Submissions:* Go to the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail or Hand Delivery:* Docket Management, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone can search for 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.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *https://www.transportation.gov/privacy.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets via the internet.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Jeff Quandt, Trends Analysis Division (NEF–108), Room W48–312, National Highway Traffic Safety Administration, 1200 New Jersey Ave., Washington, DC 20590. Telephone (202) 366–5207. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate

of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) how to enhance the quality, utility, and clarity of the information to be collected; and (d) how 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, *e.g.* permitting electronic submission of responses. In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB.

Title: Reporting of Information and Documents About Potential Defects.

OMB Control: 2127–0616.

Type of Request: Extension without change of a currently approved information collection.

Type of Review Requested: Regular.

Requested Expiration Date of Approval: 3 years from date of approval.

Summary of the Collection of Information: This notice requests comment on NHTSA's intention to seek approval from OMB to extend without change a currently approved collection of information, OMB No. 2127–0616, covering requirements in 49 CFR 579, *Reporting of Information and Communications about Potential Defects.* Part 579 implements, and addresses with more specificity, requirements from the Transportation Recall Enhancement Accountability and Documentation (TREAD) Act (Pub. L. 106–414), which was enacted on November 1, 2000, and is codified at 49 U.S.C. 30166.

The purpose of part 579 is to enhance motor vehicle safety by specifying information and documents that manufacturers of motor vehicles and motor vehicle equipment must provide to NHTSA concerning possible safety-related defects and non-compliances in their products, including the reporting of safety recalls and other safety campaigns the manufacturers conduct outside the United States. Under part 579, there are three categories of reporting requirements: (1) Requirements at § 579.5 to submit notices, bulletins, customer satisfaction campaigns, consumer advisories, and other communications (found in subpart A of part 579); (2) requirements at § 579.11 to submit information related to safety recalls and other safety campaigns in the foreign countries (found in subpart B of part 579); and (3) requirements at §§ 579.21–28 to submit Early Warning Information (found in subpart C of part 579). The Early Warning Reporting (EWR) requirements (U.S.C. 30166(m); 49 CFR part 579, subpart C) specify that manufacturers of motor vehicles and motor vehicle equipment must submit to NHTSA information periodically or upon NHTSA's request, that includes claims or notices for incidents involving death or injury; numbers of property damage claims, consumer complaints, warranty claims, and field reports; copies of field reports; and other information that may assist NHTSA in identifying potential safety-related defects. The intent of this information collection is to provide early warning of such potential safety-related defects to NHTSA.

Description of the Need for the Information and Proposed Use of the Information: The information required under 49 U.S.C. 30166 and 49 CFR part 579 is used by NHTSA to promptly identify potential safety-related defects in motor vehicles and motor vehicle equipment in the United States. When a trend in incidents arising from a potentially safety-related defect is discovered, NHTSA relies on this information, along with other agency data, to determine whether to open a defect investigation.

Affected Public: Manufacturers of motor vehicles and motor vehicle equipment.

Estimated Number of Respondents: NHTSA receives part 579 submissions from approximately 297 manufacturers per year. We estimate that there will be a total of 297 respondents per year to this extension of the OMB No. 2127–0616, instead of the previously estimated 337 respondents per year.

Estimated Total Annual Burden Hours: When this approved information collection was last renewed in April 2022, NHTSA estimated the annual burden associated with this collection to be 53,810 burden hours. NHTSA is updating these estimates to better align with the current volume of submissions. NHTSA now estimates the annual burden hours associated with this collection to be 54,088 hours based on analysis of EWR reporting data from the 2021 through 2023 reporting years.

NHTSA estimated the burdens associated with this collection by calculating the burden associated with submitting information under each subpart of part 579. In addition to these burdens, NHTSA also estimates that manufacturers will incur computer maintenance burden hours, which are estimated on a per manufacturer basis.

Requirements Under Part 579, Subpart A

The first component of this collection request covers the requirements found in part 579 subpart A, § 579.5, Notices, bulletins, customer satisfaction campaigns, consumer advisories, and other communications. Section 579.5 requires manufacturers to furnish (1) a copy of all notices, bulletins, and other communications sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser, in the United States, regarding any defect in its vehicles or items of equipment (including any failure of malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications), whether or not such defect is safety-related and (2) a copy of each communication relating to a customer satisfaction campaign, consumer advisory, recall, or other safety activity involving the repair or replacement of motor vehicles or equipment, that the manufacturer issued to, or made available to, more than one dealer, distributor, lessor, lessee, other manufacturer, owner, or purchaser, in the United States. Manufacturers are required to submit these documents monthly. Section 579.5 does not require manufacturers to create these documents. Instead, only copies of these documents must be submitted to NHTSA, and manufacturers must index these communications and email them to NHTSA within 5 working days after the end of the month in which they were issued. Therefore, the burden hours are only those associated with collecting the documents and submitting copies to NHTSA.

NHTSA estimates that it receives approximately 17,615 notices a year. We estimate that it takes about 5 minutes to collect, index, and submit each notice to NHTSA. Therefore, we estimate that it takes 1,468 hours for manufacturers to submit notices as required under Section 579.5 (17,615 notices × 5 minutes = 88,075 minutes or 1,468 hours).

To calculate the labor cost associated with submitting Section 579.5 notices, bulletins, customer satisfaction campaigns, consumer advisories and other communications that are sent to more than one dealer or owner, NHTSA looked at wage estimates for the type of personnel submitting the documents. While some manufacturers employ clerical staff to collect and submit the documents, others use technical computer support staff to complete the task. Because we do not know what percent of the work is completed by clerical or technical computer support staff, NHTSA estimates the total labor costs associated with these burden hours by looking at the average wage for the higher-paid technical computer

support staff. The Bureau of Labor Statistics (BLS) estimates that the average hourly wage for Computer Support Specialists (BLS Occupation code 15–1230) in the Motor Vehicle Manufacturing Industry is $37.62.[1] The Bureau of Labor Statistics estimated that private industry workers' wages represented 70.4 percent of employer costs for employee compensation in December 2023 (ECEC adjustment).[2] Based on the BLS average hourly wage and ECEC adjustment factor, NHTSA estimates the hourly labor costs to be $53.44 for Computer Support Specialists ($37.62 ÷ 0.704 = $53.44). The incremental labor cost per submission is estimated to be $4.45 ($53.44 per hour × 5 minutes). NHTSA estimates the total labor cost associated with the 1,468 burden hours for § 579.5 submissions to be $78,387 ($4.45 × 17,615 submissions). Table 1 provides a summary of the burden estimates using the average annual submission count for monthly reports submitted pursuant to § 579.5 and the estimated burden hours and labor costs associated with those submissions. The average number of annual submissions under § 579.5 decreased by approximately 29 percent from the currently approved information collection, dropping from 24,884 to 17,615 manufacturer communication submissions. The incremental cost per submission rose from $3.73 to $4.45, a 19 percent increase. The annual burden hours dropped from 2,074 to 1,468, matching the 29 percent drop in submissions. The annual labor costs dropped from $92,817 to $78,387, a 16 percent decrease with the reduction in submissions partially offset by the increased labor cost per submission.

TABLE 1—BURDEN ESTIMATE FOR § 579.5 SUBMISSIONS

Average annual § 579.5 submissions	Estimated burden per submission (minutes)	Average hourly labor cost	Labor cost per submission	Total burden hours	Total labor costs
17,615	5	$53.44	$4.45	1,468	$78,386.75 or $78,387.

Requirements Under Part 579, Subpart B (Foreign Reporting)

The second component of this information collection request covers the requirements found in part 579 subpart B, ''Reporting of Safety Recalls and Other Safety Campaigns in Foreign Countries.'' Pursuant to § 579.11, whenever a manufacturer determines to conduct a safety recall or other safety campaign in a foreign country, or whenever a foreign government has determined that a safety recall or other safety campaign must be conducted, covering a motor vehicle, item of motor vehicle equipment, or tire that is identical or substantially similar to a vehicle, item of equipment, or tire sold or offered for sale in the United States, the manufacturer must report to NHTSA not later than 5 working days after the manufacturer makes such determination or receives written notification of the foreign government's determination. Section 579.11(e) also requires each manufacturer of motor vehicles to submit, not later than November 1 of each year, a document that identifies foreign products and their domestic counterparts.

To provide the information required for foreign safety campaigns, manufacturers must (1) determine whether vehicles or equipment that are covered by a foreign safety recall or other safety campaign are identical or substantially similar to vehicles or equipment sold in the United States, (2) prepare and submit reports of these campaigns to the agency, and (3) where a determination or notice has been made in a language other than English, translate the determination or notice into English before transmitting it to the agency.

NHTSA estimates that there is no burden associated with determining whether an individual safety recall covers a foreign motor vehicle or item of motor vehicle equipment that is identical or substantially similar to those sold in the United States because manufacturers can simply consult the list that they are required to submit each year. Therefore, the only burden associated with determining whether a foreign safety recall or other safety campaign is required to be reported to NHTSA is the burden associated with creating the annual list. NHTSA continues to estimate that it takes approximately 9 hours per manufacturer to develop and submit the list. The 9 hours are comprised of 8 attorney hours and 1 hour for IT work. NHTSA receives these lists from 99 manufacturers, on average, resulting in 891 burden hours (99 vehicle manufacturers × 8 hours for attorney support = 792 hours) + (99 vehicle manufacturers × 1 hour for IT support = 99 hours).

NHTSA estimates that preparing and submitting each foreign defect report (foreign recall campaign) requires 1 hour of clerical staff and that translation of determinations into English requires 2 hours of technical staff (note: This assumes that all foreign campaign reports require translation, which is unlikely). Between 2021 and 2023 NHTSA received a yearly average of 262 foreign campaign reports. NHTSA estimates that in each of the next three years, NHTSA will receive, on average, 262 foreign recall reports. NHTSA estimates that each report will take 3 hours (1 hour to prepare by a clerical employee and 2 hours for translation). Therefore, NHTSA estimates that the burden hours associated with submitting these reports will be 786 hours (3 hours per report × 262 reports).

Therefore, NHTSA estimates the total annual burden hours for reporting foreign campaigns and substantially similar vehicles is 1,677 hours (891 hours for submitting annual lists + 786 hours for submitting foreign recall and safety campaign reports). This is an increase of 87 burden hours from our previous estimate (1,677 hours for the current estimate—1,590 hours for the previous estimate). Table 2 provides a summary of the estimated burden hours for Part 579 Subpart B submissions.

[1] May 2023 National Industry-Specific Wage Estimates—Motor Vehicle Manufacturing, U.S. Bureau of Labor Statistics, Computer Support Analyst (Code 15–1230), $37.62, *https://www.bls.gov/oes/2023/may/naics4_336100.htm#15-0000,* divided by 70.4 percent for total employer costs for employee compensation, *https://www.bls.gov/news.release/archives/ecec_03132024.pdf.* Last Accessed August 12, 2024.

[2] March 2024 News Release—Employer Costs for Employee Compensation—December 2023, U.S. Bureau of Labor Statistics. Last Accessed August 12, 2024.

TABLE 2—BURDEN HOUR ESTIMATES FOR FOREIGN REPORTING

Submission type	Annual number of submissions	Burden hours per report	Total burden hours
Foreign Campaign Report	262	1 hour clerical + 2 hours translation = 3 hours	786
Annual List	99	8 hours attorney + 1 hour IT = 9 hours	891
Total			1,677

To calculate the labor cost associated with Part 579 foreign reporting submissions, NHTSA looked at wage estimates for the type of personnel submitting the documents. As stated above, NHTSA estimates that submitting annual lists under § 579.11(e) will involve 8 hours of attorney time and 1 hour of IT work. The average hourly wage for Lawyers (BLS Occupation code 23–1000) in the Motor Vehicle Manufacturing Industry is $112.21.[3] After applying the 70.4 percent ECEC adjustment, NHTSA estimates the hourly labor costs for manufacturers to be $159.39 for Lawyers. The ECEC adjusted hourly cost for Computer Support Specialists (BLS Occupation code 15–1230) in the Motor Vehicle Manufacturing Industry is $53.44 as reviewed in the discussion of Table 1 data in the Subpart A reporting burden analysis. NHTSA estimates the incremental labor cost associated with submitting each annual list to be $1,328.56 or $1,329 ($159.39 per hour × 8 attorney hours + $53.44 per hour × 1 IT hour), resulting in an estimated annual labor cost of $131,527 for submitting all 99 annual lists each year.

NHTSA estimates that submitting each foreign recall or safety campaign report involves 1 hour of clerical work and 2 hours of translation work. The average hourly wage for Office Clerks (BLS Occupation code 43–9061) in the Motor Vehicle Manufacturing Industry is $26.65 [4] and the average hourly wage for Interpreters and Translators (BLS Occupation code 27–3091) is $30.33.[5] Therefore, NHTSA estimates the ECEC adjusted hourly labor costs to be $37.86 for Office Clerks and $43.08 for Interpreters and Translators. NHTSA estimates the total labor cost associated with submitting one foreign recall or safety campaign report to be $124.02 or $124 ($37.86 per hour × 1 Clerical hour + $43.08 per hour × 2 Translator hours) and $32,493.24 or $32,493 for all 262 foreign recall or safety campaign reports NHTSA estimates will be submitted annually.

Table 3 provides a summary of the labor costs associated with the foreign reporting requirements in part 579, subpart B. NHTSA estimates that the total labor costs associated with the annual list requirement and the requirement to report foreign recalls and safety campaigns is $164,020.68 or $164,021 ($131,527.44 + $32,493.24).

TABLE 3—ANNUAL LABOR COST ESTIMATES FOR FOREIGN REPORTING

Submission type and labor category	Hours per submission	Hourly labor cost	Labor cost per submission	Number of submissions	Total labor cost
Annual List-Lawyer	8	$159.39	$1,275.12	99	$126,236.88
Annual List-Computer Specialist	1	53.44	53.44	99	5,290.56
Totals for Annual List	9		1,328.56		131,527.44
Foreign Campaign Report-Clerical	1	37.86	37.86	262	9,919.32
Foreign Campaign Report-Translator	2	43.08	86.16	262	22,573.92
Totals for Foreign Campaign Report	3		124.02		32,493.24
Total Labor Costs for Part 579 Subpart B Requirements					164,020.68 or 164,021

Requirements Under Part 579, Subpart C, Reporting of Early Warning Information

The third component of this information collection covers the requirements found in part 579 subpart C, ''Reporting of Early Warning Information.'' Besides production information, there are five major categories requiring reporting of incidents or claims in Subpart C, with the specific requirements and applicability of those categories varying by vehicle and equipment type and, in some circumstances, manufacturer volume. Sections 579.21–27 require manufacturers to submit the following: (1) Production information; (2) reports on incidents involving death or injury in the United States that are identified in claims or notices alleging that the death or injury was caused by a possible defect; (3) reports on incidents identified in a claim against a manufacturer that involve one or more deaths in a foreign country and involve

[3] May 2023 National Industry-Specific Wage Estimates,—Motor Vehicle Manufacturing, U.S. Bureau of Labor Statistics, Lawyers (Code 23–1011), $112.21, *https://www.bls.gov/oes/2023/may/naics4_336100.htm#23-0000,* divided by 70.4 percent for total employer costs for employee compensation, *https://www.bls.gov/news.release/archives/ecec_03132024.pdf.* Last Accessed August 12, 2024.

[4] May 2023 National Industry-Specific Wage Estimates—Motor Vehicle Manufacturing, U.S. Bureau of Labor Statistics, Office Clerks (Code 43–9061), $26.65, *https://www.bls.gov/oes/2023/may/naics4_336100.htm#43-0000,* divided by 70.4 percent for total employer costs for employee compensation, *https://www.bls.gov/news.release/archives/ecec_03132024.pdf.* Last Accessed August 12, 2024.

[5] May 2023 National Occupational Employment and Wage Estimates United States, U.S. Bureau of Labor Statistics, Interpreters and Translators (Code 27–3091), $30.33, *https://www.bls.gov/oes/2023/may/oes273091.htm,* divided by 70.4 percent for total employer costs for employee compensation, *https://www.bls.gov/news.release/archives/ecec_03132024.pdf.* Last Accessed August 12, 2024.

a vehicle or item of equipment that is identical or substantially similar to a vehicle or item of equipment that is offered for sale in the United States; (4) separate reports on the number of property damage claims, consumer complaints, warranty claims, and field reports that involve a specified system or event; (5) copies of field reports; and, for manufacturers of tires, (6) a list of common green tires (applicable to only tire manufacturers). Section 579.28(l) allows NHTSA to request additional information to help identify a defect related to motor vehicle safety. The regulation specifies the time frame for reporting for each category. Foreign recalls of substantially similar vehicles and manufacturer communications are required to be submitted monthly, substantially similar vehicle listings are required annually, and all other report types are required to be submitted every quarter.

Quarterly Reporting

Manufacturers are required to report specific information to NHTSA every quarter. Manufacturers are required to submit production information,[6] non-dealer field reports, aggregate submissions, and death and injury submissions every quarter. Estimates of the burden hours and reporting costs are based on:

- The number of manufacturers reporting;
- The frequency of required reports;
- The number of hours required per report; and
- The cost of personnel to report.

The number of hours for reporting ranges from 1 hour for trailer, child restraint, low volume vehicle, and equipment manufacturers to 8 hours for light vehicle manufacturers (Table 4). Quarterly reporting burden hours are calculated by multiplying hours used to report for a given category by the number of manufacturers for the category and by the four times per year quarterly reporting. Using these methods and the average number of manufacturers who report annually, we estimate the annual burden hours for quarterly reporting of production information at 4,176 hours as detailed below in Table 4.

NHTSA assumes that the hourly wage rate for each quarterly report is split evenly between technical and clerical personnel and a weighted hourly rate is developed from this assumption. Therefore, using the BLS total hourly compensation rates discussed above of $53.44 for a Computer Support Specialist and $37.86 for an Office Clerk, the weighted hourly rate is $45.65 (Technical Mean Hourly Wage of $53.44 × 0.5 + Clerical Mean Hourly Wage of $37.86 × 0.5). The estimated reporting costs are calculated as follows:

($M \times T_p \times \$45.65$) = Quarterly cost of reporting × 4 = Annual cost of reporting * * M = Manufacturers reporting data in the category; T_p = Reporting time for the category; $45.65 = Reporting labor cost compensation rate; 4 = Quarterly reports per year

For example, the estimated reporting cost for light vehicles is $59,892.80 (41 manufacturers × 8 hours × $45.65 compensation rate × 4 quarters), and the total annual labor costs associated with quarterly reporting are estimated to be $190,634. Table 4 includes the estimated burden hours and reporting costs for production information, non-dealer field reports, aggregate submissions, and death and injury submissions, as well as the quarterly and annual labor costs associated with reporting.

TABLE 4—ESTIMATED MANUFACTURER ANNUAL BURDEN HOURS AND LABOR COSTS FOR QUARTERLY REPORTING

Vehicle/equipment category	Average number of manufacturers	Quarterly hours to report per manufacturer	Blended hourly comp. rate	Quarterly labor costs per manufacturer	Annual burden hours for reporting	Annual labor costs
Light Vehicles	41	8	$45.65	$365.20	1,312	$59,892.80
Medium-Heavy Vehicles	41	5	45.65	228.25	820	37,433.00
Buses	30	5	45.65	228.25	600	27,390.00
Emergency Vehicles	9	5	45.65	228.25	180	8,217.00
Motorcycles	16	2	45.65	91.30	128	5,843.20
Trailers	91	1	45.65	45.65	364	16,616.60
Child Restraints	35	1	45.65	45.65	140	6,391.00
Tires	31	5	45.65	228.25	620	28,303.00
Low Volume & Equipment[7]	3	1	45.65	45.65	12	1,095.60
Totals	297	.....	.....	.....	4,176	190,634.40 or 190,634

Early Warning Reporting Field Data Submissions

Table 5 provides an average annual submission count for each category submitted per the requirements of 49 CFR part 579, subpart C: reports on incidents identified in claims or notices involving death or injury in the United States; reports on incidents involving one or more deaths in a foreign country identified in claims involving a vehicle or item of equipment that is identical or substantially similar to a vehicle or item of equipment that is offered for sale in the United States; separate reports on the number of property damage claims, consumer complaints, warranty claims, and field reports that involve a specified system or event; copies of field reports; and, for manufacturers of tires; a list of common green tires; and additional follow-up information per 579.28(l) related to injury and fatality claims. Each reporting category has specific requirements and types of reports that need to be submitted and we state ''N/A'' where there is no requirement for that reporting category.

[6] Low volume and equipment manufacturers are not required to submit production information.

[7] Reporting requirements for low volume vehicle and equipment manufacturers are limited to reporting fatal incidents in the United States and foreign countries and responding to inquiries about those incidents, see § 579.27 and § 579.28(l). Table 4 manufacturer counts are calculated by dividing the number of total manufacturer reporting quarters (1 manufacturer reporting in 1 quarter = 1 manufacturer reporting quarter) by 4 quarters to show the number of equivalent full manufacturer reporting years (4 manufacturer reporting quarters).

TABLE 5—ANNUAL AVERAGE OF EWR SUBMISSIONS BY MANUFACTURERS
[2021–2023]

Category of claims	Light vehicles § 579.21	Bus, emergency, heavy, & medium vehicles § 579.22	Motorcycles § 579.23	Trailers § 579.24	Child restraints § 579.25	Tires § 579.26	Low volume vehicles & equipment § 579.27	Totals
Incidents Involving Injury or Fatality in U.S	6,338	223	109	44	133	35	11	6,893
Incidents Involving Fatality in Foreign Country	38	0	2	1	0	0	0	41
Reports on Number of Claims Involving Specific System or Event	7,985	831	23	55	NA	298	NA	9,192
Mfr. Field Reports	83,360	18,650	1,456	81	2,859	NA	NA	106,406
Common Green Tire Reporting	NA	NA	NA	NA	NA	99	NA	99
Average Number of Follow-Up Sequences per 579.28(l)	1,425	91	67	14	64	44	13	1,718
Totals	99,146	19.795	1,657	195	3,056	476	24	124,349

The submission totals summarized in Table 5 represent a 10 percent increase from the currently approved information collection with two reporting categories responsible for all of the increase. Submission totals increased for manufacturer field reports and follow-up sequence inquiries conducted per § 579.28(l) but saw a net decrease of 34 percent for the other four categories combined. Average annual injury and fatality claims in the United States dropped from 11,887 to 6,893 claims per year, a 42 percent decrease; foreign death claims dropped from 330 to 41 per year, an 88 percent decrease; claims involving specific systems or events dropped from 12,212 to 9,192, a 25 percent decrease; and common green tire reports dropped from 112 to 99 per year, a 12 percent decrease. Manufacturer field reports, which accounted for the majority of submissions in both the current and prior approved information collection requests, rose from 88,409 to 106,406 per year, a 20 percent increase.[8] Death and injury follow-up sequence inquiries conducted per § 579.28(l) saw a much larger change, rising from 190 to 1,718 average incident inquiries per year, an increase of 804 percent. The net effect of these changes was an increase from 113,140 to 124,349 submissions per year on average.

The agency estimates that an average of 5 minutes is required for a manufacturer to process each report, except for foreign death claims and follow-up responses. We estimate foreign death claims and follow-up responses per § 579.28(l) require an average of 15 minutes to process. Multiplying the total average number of minutes by the number of submissions NHTSA receives in each reporting category yields the burden hour estimates found below in Table 6. Our previous estimates of EWR associated submission burden hours totaled 9,515 hours, and we now update that total to 10,655 burden hours, a 12 percent increase, associated with the above noted claim categories.

TABLE 6—ANNUAL MANUFACTURER BURDEN HOUR ESTIMATES FOR EWR SUBMISSIONS

Category of claims	Annual average of EWR submissions	Average time to process each report	Estimated annual burden hours
Incidents Involving Injury or Fatality in U.S	6,893	5	574
Incidents Involving Fatality in Foreign Country	41	15	10
Reports on Number of Claims Involving Specific System or Event	9,192	5	766
Mfr. Field Reports	106,406	5	8,867
Common Green Tire Reporting	99	5	8
Average Number of Follow-Up Sequences per 579.28(l)	1,718	15	430
Totals	124,349	.....	10,655

We have also calculated hourly labor costs for each claim type with an incremental reporting burden based on time to process and labor costs for employee positions required for processing each submission. Table 7 shows the employee positions required for processing submissions for each claim type, the time required for each position to process each submission, and the weighted hourly rates for each claim type. The employee positions analyzed in Table 7 include three that have been introduced in prior sections of this information collection request: Lawyers (BLS Occupation code 23–1000), Computer Support Specialists (BLS Occupation code 15–1230), and Office Clerks (BLS Occupation code 43–9061).[9] Cost analysis for Computer Support Specialists was provided in the discussion of Table 1 data for Subpart A labor costs analysis and analyses for Lawyers and Office Clerks were provided in the discussion of Table 3 data for Subpart B labor cost burden analysis. Labor cost analysis for

[8] Manufacturer field reports rose from 78 percent of EWR submissions in the currently approved information collection to 86 percent of submissions in the current information collection request.

[9] Table 7 references Computer Support Specialists as ''Technical'' and Office Clerks as ''Clerical''.

Engineers (BLS Occupation code 17–2000) is introduced in Table 7. The average hourly wage for Engineers in the Motor Vehicle Manufacturing Industry is $52.56.[10] After applying the 70.4 percent ECEC adjustment, NHTSA estimates the hourly labor costs for manufacturers to be $74.66 for Engineers. Table 7 shows the weighted hourly rates for each submission claim type.

TABLE 7—ESTIMATED MANUFACTURER TIME ALLOCATION BY CLAIM TYPE AND WEIGHTED HOURLY RATE

Claim type	Estimated time (in minutes) to review a claim					Weighted hourly rate
	Lawyer (rate: $159.39)	Engineer (rate: $74.66)	Technical (rate: $53.44)	Clerical (rate: $37.86)	Total time	
Incidents Involving Injury or Fatality in U.S	3	0	0	2	5	$110.78
Incidents Involving Fatality in Foreign Country	3	10	0	2	15	86.70
Reports on Number of Claims Involving Specific System or Event	0	0	3	2	5	47.21
Mfr. Field Reports	0	0	3	2	5	47.21
Common Green Tire Reporting	0	0	0	5	5	37.86
Average Number of Follow-Up Sequences per 579.28(l)	3	10	0	2	15	86.70

These rates are calculated by summing the weighted employer costs for each employee position required to review each submission claim type using the formula:

$$\sum_{i=1}^{n} Ci\ x\ (\frac{Ti}{Tt}) = \text{Weighted Hourly Rate (W) for each claim type*}$$

*C_i = Employer cost for position *i*; T_i = Claim type review time for position *i*; T_t = Total review time for the claim type; n = 4 (number of employee positions in Table 7)

The annual labor costs for submissions of claims data are shown in Table 8. Labor Cost per Submission is the product of the Average Time to Process Each Report and the Weight Hourly Rate calculated in Table 7. Annual labor cost is the product of the labor cost per submission and the average annual submissions.

TABLE 8—ESTIMATED EWR ANNUAL LABOR COSTS BY CATEGORY

Category of claims	Annual average of EWR submissions	Average time to process each report	Weighted hourly rate	Estimated labor cost per submission	Estimated annual labor cost
Incidents Involving Injury or Fatality in U.S	6,893	5	$110.78	$9.23	$63,633.88
Incidents Involving Fatality in Foreign Country	41	15	86.70	21.68	888.68
Reports on Number of Claims Involving Specific System or Event	9,192	5	47.21	3.93	36,162.86
Mfr. Field Reports	106,406	5	47.21	3.93	418,618.94
Common Green Tire Reporting	99	5	37.86	3.16	312.35
Average Number of Follow-Up Sequences per 579.28(l)	1,718	15	86.70	21.68	37,237.65
Totals	124,349				556,854.35 or 556,854

The total annual manufacturer burden hours for subpart C reporting of EWR data (Sections 579.21–28) is calculated by summing the burden hour estimates for quarterly reporting in Table 4 (4,176 hours) and submission reporting in Table 6 (10,655 hours). This produces an EWR annual burden hour estimate of 14,831 hours. The total annual labor cost for subpart C reporting is calculated by summing the labor cost estimates in Table 4 ($190,634.40) and Table 8 ($556,854.35), producing a total annual labor cost estimate for Subpart C reporting of $747,488.75 or $747,489.

Computer Maintenance Burden

In addition to the burden associated with submitting documents under each subpart of Part 579, NHTSA also estimates that manufacturers will incur computer maintenance burden hours associated with the information collection requirements. The estimated manufacturer burden hours associated with aggregate data submissions for consumer complaints, warranty claims, and dealer field reports are included in reporting and computer maintenance hours. The burden hours for computer maintenance are calculated by multiplying the hours of computer use (for a given category) by the number of manufacturers reporting in a category. NHTSA estimates that light vehicle manufacturers will spend approximately 347 hours per year on computer maintenance and that other vehicle manufacturers will spend about 22 percent as much time as light vehicle manufacturers on computer

[10] May 2023 National Industry-Specific Wage Estimates—Motor Vehicle Manufacturing, U.S. Bureau of Labor Statistics, Engineers (Code 17–2000), $52.56, *https://www.bls.gov/oes/2023/may/naics4_336100.htm#17-0000,* divided by 70.4 percent for total employer costs for employee compensation, *https://www.bls.gov/news.release/archives/ecec_03132024.pdf.* Last Accessed August 12, 2024.

maintenance. Therefore, NHTSA estimates that medium-heavy truck, trailer, motorcycle manufacturers, emergency vehicle, and bus manufacturers will each spend approximately 86.5 hours on computer maintenance each year. NHTSA estimates that tire manufacturers and child restraint manufacturers will also spend 86.5 hours on computer maintenance per year. Therefore, NHTSA estimates the total burden for computer maintenance to be 36,112 hours per year (based on there being an estimated 41 light vehicle manufacturers, 41 medium-heavy vehicle manufacturers, 91 trailer manufacturers, 16 motorcycle manufacturers, 9 emergency vehicle manufacturers, 30 bus manufacturers, 31 tire manufacturers, and 35 child restraint manufactures).

To calculate the labor cost associated with computer maintenance hours, NHTSA looked at wage estimates for the type of personnel submitting the documents. The ECEC adjusted average hourly wage for Computer Support Specialists (BLS Occupation code 15–1230) in the Motor Vehicle Manufacturing Industry is $53.44 as reviewed in the discussion of Table 1 data in the Subpart A reporting burden analysis. For the estimated total of 36,112 annual computer maintenance burden hours, NHTSA estimates the associated labor costs will be approximately $1,929,799. Table 9 shows the annual estimated burden hours for computer maintenance by vehicle/equipment category and the estimated labor costs associated with those burden hours.

TABLE 9—ESTIMATED MANUFACTURER ANNUAL BURDEN HOURS FOR COMPUTER MAINTENANCE FOR REPORTING

Vehicle/equipment category	Average number of manufacturers	Hours for computer maintenance per manufacturer	Average hourly labor cost	Annual labor cost per manufacturer	Total annual burden hours	Total annual labor costs
Light vehicles	41	347	$53.44	$18,543.68	14,227	$760,290.88
Medium-Heavy Vehicles	41	86.5	53.44	4,622.56	3,547	189,524.96
Buses	30	86.5	53.44	4,622.56	2,595	138,676.80
Emergency Vehicles	9	86.5	53.44	4,622.56	779	41,603.04
Motorcycles	16	86.5	53.44	4,622.56	1,384	73,960.96
Trailers	91	86.5	53.44	4,622.56	7,872	420,652.96
Child Restraints	35	86.5	53.44	4,622.56	3,028	161,789.60
Tires	31	86.5	53.44	4,622.56	2,682	143,299.36
Totals	.....	.....	.....	.....	36,112	$1,929,798.56 or $1,929,799

Based on the foregoing, we estimate the burden hours for industry to comply with the current part 579 reporting requirements (EWR requirements, foreign campaign requirements and part 579.5 requirements) to be 54,088 hours per year. The total annual burden hours, labor costs, and changes from for this information collection consisting of manufacturer communications under section 579.5 (subpart A), foreign reporting (subpart B), EWR submissions and reporting (subpart C), and computer maintenance are outlined in Table 10 below.

TABLE 10—TOTAL MANUFACTURER BURDEN HOURS AND LABOR COSTS

Reporting type	Currently approved part 579 information collection request		Pending part 579 information collection request		Changes in burden hours and labor costs	
	Annual burden hours	Annual labor costs	Annual burden hours	Annual labor costs	Annual burden hours	Annual labor costs
Subpart A: Manufacturer Communications § 579.5 (Table 1)	2,074	$92,817	1,468	$78,387	* (606)	* ($14,430)
Subpart B: Foreign Reporting (Tables 2 & 3)	1,590	139,464	1,677	164,021	87	24,557
Subpart C: EWR Submissions and Quarterly Reporting (Tables 4 & 6/8)	14,731	621,260	14,831	747,489	100	126,229
Computer Maintenance (Table 9)	35,415	1,585,861	36,112	1,929,799	697	343,938
Total	53,810	2,439,402	54,088	2,919,696	278	480,294

* Reduction from currently approved ICR.

The burden estimates show overall increases in annual burden hours of 278 hours and annual labor costs of $480,294 from the Part 579 information collection request approved in April 2022. These represent increases of 0.5 percent in burden hours and 19.7 percent in labor costs. The changes in annual burden hours are due to changes in the number of submissions in Tables 1, 2, and 6 and changes in the number of manufacturers reporting in each category in Tables 4 and 9. The changes in annual labor costs are attributed to changes in burden hours as well as changes in labor costs for the manufacturer employee positions required for reporting Part 579 information. The wage estimates have been adjusted to reflect the latest available rates from the Bureau of Labor Statistics.

Estimated Total Annual Burden Cost: NHTSA estimates the collection requires no additional costs to the respondents beyond the labor costs associated with the burden hours to

collect and submit the reports to NHTSA and the labor hours and associated labor costs for computer maintenance.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

Eileen Sullivan,

Associate Administrator, Enforcement.

[FR Doc. 2024–21509 Filed 9–19–24; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–OST–2024–0104]

Advanced Research Projects Agency—Infrastructure; Request for Information

AGENCY: Department of Transportation (DOT).

ACTION: Notice; request for information (RFI).

SUMMARY: The U.S. Department of Transportation's (U.S. DOT) Advanced Research Projects Agency—Infrastructure (ARPA–I) is seeking statements of qualifications from eligible entities, defined by the Consolidated Appropriations Act, 2024 as ''an accredited university of higher education in the northeast United States that has experience leading a regional university transportation center [defined as a current or past U.S. DOT-funded Regional University Transportation Center (UTC) grantee] and a proven record of developing, patenting, deploying, and commercializing innovative composite materials and technologies for bridge and other transportation applications, as well as conducting research and developing prototypes using very large-scale polymer-based additive manufacturing''. The purpose of this Request for Information (RFI) is for the U.S. DOT to determine the eligibility of entities seeking to perform research, development, and demonstration tasks on durability, resiliency, and sustainability of bridges and other infrastructure to be funded by ARPA–I as stated in the Consolidated Appropriations Act, 2024. This request for information is not a request for proposals or a notice of funding opportunity. Subsequent to this RFI, ARPA–I intends to develop a Cooperative Agreement with a single institution of higher education if only one respondent is found to be eligible, or to issue a subsequent Request for Proposals to the multiple eligible institutions of higher education identified. Respondents are required to meet the legislative requirements detailed in the Consolidated Appropriations Act, 2024.

DATES: Written submissions must be received by October 21, 2024.

Submission Instructions: Responses should be submitted electronically as a Microsoft Word document, not to exceed 15 single-sided pages in length, and 15 MB in file size. Recommended format for responses includes Times New Roman 12-point font and 1 inch page margins. Responses should be emailed to *ARPA-I@dot.gov* (with the Subject Line of ''ARPA–I RFI Response <Institution Name>''.

FOR FURTHER INFORMATION CONTACT: For questions about this RFI, please email *ARPA-I@dot.gov*. You may also contact Mr. Timothy A. Klein, Director, Technology Policy and Outreach, Office of the Assistant Secretary for Research and Technology (202–366–0075), U.S. DOT or by email at *timothy.klein@dot.gov*.

SUPPLEMENTARY INFORMATION: This RFI seeks information that will assist ARPA–I in carrying out its research and development funding responsibilities as set forth in the Consolidated Appropriations Act, 2024 (Pub. L. 118–42; Division F, Title I; March 9, 2024) and authorized under 49 U.S.C. 119, ''Advanced Research Projects Agency—Infrastructure''.

About ARPA–I

The *Advanced Research Projects Agency—Infrastructure (ARPA–I)* is an agency within U.S. DOT (see *https://www.transportation.gov/arpa-i*) that Congress established ''to support the development of science and technology solutions that overcomes long-term challenges and advances the state of the art for United States transportation infrastructure.'' (49 U.S.C. 119(b)). ARPA–I is modeled after the Defense Advanced Research Projects Agency (DARPA) within the U.S. Department of Defense and the Advanced Research Projects Agency-Energy (ARPA–E) within the U.S. Department of Energy. ARPA–I offers a once-in-a-generation opportunity to improve our nation's transportation infrastructure, both physical and digital, and supports DOT's strategic goals of Safety, Economic Strength and Global Competitiveness, Equity, Climate and Sustainability, and Transformation. ARPA–I focuses on developing and implementing technologies, rather than developing policies and processes or providing regulatory support. ARPA–I has a single overarching goal and focus: to fund external innovative advanced research and development (R&D) programs that develop innovative technologies, systems, and capabilities to improve transportation infrastructure in the United States.

The aims of ARPA–I include ''lowering the long-term costs of infrastructure development, including costs of planning, construction, and maintenance; reducing the lifecycle impacts of transportation infrastructure on the environment, including through the reduction of greenhouse gas emissions; contributing significantly to improving the safe, secure, and efficient movement of goods and people; promoting the resilience of infrastructure from physical and cyber threats; and ensuring that the United States is a global leader in developing and deploying advanced transportation infrastructure technologies and materials.'' (49 U.S.C. 119(c)(1)). Funding the development and use of advanced infrastructure technologies to address these challenges is expected to be a key future activity of ARPA–I.

ARPA–I FY 2024 Budget and Activities

The Consolidated Appropriations Act, 2024 (Pub. L. 118–42; Division F, Title I; March 9, 2024) directed that ''$10,000,000 shall be for necessary expenses of the Advanced Research Projects Agency—Infrastructure (ARPA–I) as authorized by section 119 of title 49, United States Code: provided further, that within the funds made available under the preceding proviso, not less than $8,000,000 shall be available for research on durability, resiliency, and sustainability of bridges and other infrastructure and shall be directed to an accredited university of higher education in the northeast United States that has experience leading a regional university transportation center [defined as a current or past U.S. DOT-funded Regional University Transportation Center (UTC) grantee selected under 49 U.S.C. 5505] and a proven record of

developing, patenting, deploying, and commercializing innovative composite materials and technologies for bridge and other transportation applications, as well as conducting research and developing prototypes using very large-scale polymer-based additive manufacturing''.

Specific Information Required

This RFI seeks information from respondents that will assist ARPA–I and the U.S. Department of Transportation in carrying out their responsibilities under Public Law 118–42. This RFI is not a request for proposals or a notice of funding opportunity. ARPA–I and the U.S. Department of Transportation are seeking responses only from respondents that meet the criteria presented in the Consolidated Appropriations Act, 2024 (Pub. L. 118–42; Division F, Title I; March 9, 2024) as quoted above.

Respondents are requested to supply the following information at a minimum in their written response (statement of qualifications):

A. Name of the responding entity (''respondent'').

B. Respondent's physical address, SAM number, and Census tract.

C. Respondent's Business Contact information, including that individual's title, name, address, telephone number and email address.

D. Respondent's Research Contact information, including that individual's title, name, address, telephone number and email address.

E. Confirmation through the provision of supporting details that the respondent is ''an accredited university of higher education in the northeast United States that has experience leading a regional university transportation center'' [defined as a current or past U.S. DOT-funded Regional University Transportation Center (UTC) grantee selected under 49 U.S.C. 5505].

F. Confirmation through the provision of supporting details that the respondent has ''a proven record of developing, patenting, deploying, and commercializing innovative composite materials and technologies for bridge and other transportation applications''.

G. Confirmation through the provision of supporting details that the respondent has a proven record of ''conducting research and developing prototypes using very large-scale polymer-based additive manufacturing''.

H. A description of the respondent's research and development (R&D) experience in developing innovative science and technology solutions in the ''durability, resiliency, and sustainability of bridges and other infrastructure''.

Confidential Business Information

Do not submit information disclosure of which is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information ''CBI'') to ARPA–I. Responses submitted to ARPA–I cannot be claimed as CBI. Responses received by ARPA–I will waive any CBI claims for the information submitted.

Issued in Washington, DC, on September 16, 2024.

Robert C. Hampshire,

Principal Deputy Assistant Secretary for Research and Technology.

[FR Doc. 2024–21512 Filed 9–19–24; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of five individuals and one entity that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of the individuals and entity are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Lisa M. Palluconi, Acting Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Compliance, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://ofac.treasury.gov/*).

Notice of OFAC Action

On September 16, 2024, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following individuals and entity are blocked under the relevant sanctions authorities listed below.

Individuals

1. ARTEMIOU, Artemis, CY–3046 Limassol, Patmou, Zakaki 11A, Cyprus; Hungary; DOB 15 Dec 1979; nationality Cyprus; Gender Female (individual) [CYBER2].

Designated pursuant to section 1(a)(ii) of Executive Order 13694 of April 1, 2015, ''Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities,'' 80 FR 18077, 3 CFR, 2015 Comp., p. 297, as amended by Executive Order 13757 of December 28, 2016, ''Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities,'' 82 FR 1, 3 CFR., 2016 Comp., p. 659 (''E.O. 13694, as amended''), for being responsible for or complicit in, or having engaged in, directly or indirectly, cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States that are reasonably likely to result in, or have materially contributed to, a significant threat to the national security, foreign policy, or economic health or financial stability of the United States and that have the purpose or effect of causing a significant misappropriation of funds or economic resources, trade secrets, personal identifiers, or financial information for commercial or competitive advantage or private financial gain.

2. BITZIOS, Felix, Valaoritou 9, Filothei, Attica 15237, Greece; DOB 01 May 1974; POB Athens, Greece; nationality Greece; Gender Male; Passport AT1170869 (Greece); National ID No. AA026331 (Greece) (individual) [CYBER2].

Designated pursuant to section 1(a)(ii) of E.O. 13694, as amended, for being responsible for or complicit in, or having engaged in, directly or indirectly, cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States that are reasonably likely to result in, or have materially contributed to, a significant threat to the national security, foreign policy, or economic health or financial stability of the United States and that have the purpose or effect of causing a significant misappropriation of funds or economic resources, trade secrets, personal identifiers, or financial information for commercial or competitive advantage or private financial gain.

3. GAMBAZZI, Andrea Nicola Costantino Hermes, United Arab Emirates; 6 King Street, Frome, England BA11 1BH, United Kingdom; DOB 06 Dec 1967; POB Lugano, Switzerland; nationality Switzerland; Gender Male; Passport X4320258 (Switzerland) (individual) [CYBER2].

Designated pursuant to section 1(a)(ii) of E.O. 13694, as amended, for being responsible for or complicit in, or having engaged in, directly or indirectly, cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States that are reasonably likely to result in, or have materially contributed to, a significant threat to the national security, foreign policy, or economic health or financial stability of the United States and that have the purpose or effect of causing a significant misappropriation of funds or economic resources, trade secrets, personal identifiers, or financial information for commercial or competitive advantage or private financial gain.

4. HARPAZ, Merom, Alfa 5, Elliniko 16777, Greece; DOB 07 Jun 1964; POB Haifa, Israel; nationality Israel; alt. nationality Romania; Gender Male; Passport 39002405 (Israel); alt. Passport 056353456 (Romania); Tax ID No. 975704151 (individual) [CYBER2].

Designated pursuant to section 1(a)(ii) of E.O. 13694, as amended, for being responsible for or complicit in, or having engaged in, directly or indirectly, cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States that are reasonably likely to result in, or have materially contributed to, a significant threat to the national security, foreign policy, or economic health or financial stability of the United States and that have the purpose or effect of causing a significant misappropriation of funds or economic resources, trade secrets, personal identifiers, or financial information for commercial or competitive advantage or private financial gain.

5. KARAOLI, Panagiota, 40 Filosofou Lapithi, Limassol, Cyprus; DOB 24 Jun 1974; nationality Cyprus; Gender Female; Passport E003856 (individual) [CYBER2].

Designated pursuant to section 1(a)(ii) of E.O. 13694, as amended, for being responsible for or complicit in, or having engaged in, directly or indirectly, cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States that are reasonably likely to result in, or have materially contributed to, a significant threat to the national security, foreign policy, or economic health or financial stability of the United States and that have the purpose or effect of causing a significant misappropriation of funds or economic resources, trade secrets, personal identifiers, or financial information for commercial or competitive advantage or private financial gain.

Entity

6. ALIADA GROUP, INC., VG Torta, OMC Chambers, Wickhams Cay 1., Virgin Islands, British; Organization Type: Activities of holding companies; Registration Number 1926732 (Virgin Islands, British) [CYBER2].

Designated pursuant to section 1(a)(ii) E.O. 13694, as amended, for being responsible for or complicit in, or having engaged in, directly or indirectly, cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States that are reasonably likely to result in, or have materially contributed to, a significant threat to the national security, foreign policy, or economic health or financial stability of the United States and that have the purpose or effect of causing a significant misappropriation of funds or economic resources, trade secrets, personal identifiers, or financial information for commercial or competitive advantage or private financial gain.

Dated: September 16, 2024.

Lisa M. Palluconi,

Acting Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2024–21490 Filed 9–19–24; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4506

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 4506, Request for Copy of Tax Return.

DATES: Written comments should be received on or before November 19, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include OMB Control No. 1545–0429 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke, at (202)–317–6009, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *lanita.vandyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request for Copy of Tax Return.

OMB Number: 1545–0429.

Form Number: Form 4506.

Abstract: Internal Revenue Code section 7513 allows taxpayers to request a copy of a tax return or related documents. Form 4506 is used for this purpose. The information provided will be used for research to locate the tax form and to ensure that the requestor is the taxpayer or someone authorized by the taxpayer to obtain the documents requested.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, farms, and Federal, state, local, or tribal governments.

Estimated Number of Respondents: 325,000.

Estimated Time per Respondent: 48 min.

Estimated Total Annual Burden Hours: 260,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 16, 2024.

Molly J. Stasko,

Senior Tax Analyst.

[FR Doc. 2024–21504 Filed 9–19–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1116

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning, Foreign Tax Credit (Individual, Estate, or Trust).

DATES: Written comments should be received on or before November 19, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include OMB Control No. 1545–0121 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke, at (202)–317–6009, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *lanita.vandyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Foreign Tax Credit (Individual, Estate, or Trust).

OMB Number: 1545–0121.

Form Number: 1116, Schedules B and Schedule C.

Abstract: Form 1116, Schedules B and Schedule C are used by individuals (including nonresident aliens), estates, or trusts who paid foreign income taxes on U.S. taxable income, to compute the foreign tax credit. This information is used by the IRS to determine if the foreign tax credit is properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Responses: 454,326.

Estimated Time per Respondent: 7.30 hours.

Estimated Total Annual Burden Hours: 2,531,600.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 16, 2024.

Molly J. Stasko,

Senior Tax Analyst.

[FR Doc. 2024–21503 Filed 9–19–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Information Collection Tool Relating to the Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning return by a shareholder of a passive foreign investment company or qualified electing fund and return by a shareholder making certain late elections to end treatment as a passive foreign investment company.

DATES: Written comments should be received on or before November 19, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov*. Include OMB control number 1545–1002 or Form 8821 and Form 8821–A in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Molly Stasko, at (202) 317–6206 or Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Molly.J.Stasko@irs.gov*.

SUPPLEMENTARY INFORMATION:

Titles: Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund and Return by a shareholder making certain late elections to end treatment as a passive foreign investment company.

OMB Number: 1545–1002.

Form Numbers: 8621and 8621–A.

Abstract: Form 8621 is filed by a U.S. shareholder who owns stock in a foreign investment company. The form is used to report income, make an election to extend the time for payment of tax, and to pay an additional tax and interest amount. The IRS uses Form 8621 to determine if these shareholders have correctly reported amounts of income, made the election correctly, and have correctly computed the additional tax and interest amount. Form 8621–A is necessary for certain taxpayers/shareholders who are investors in passive foreign investment companies (PFIC's) to request late deemed sale or late deemed dividend elections (late purging elections) under Reg. 1.1298–3(e). The form provides a taxpayer/shareholder the opportunity to fulfill the requirements of the regulation in making the election by asserting the following: (i) the election is being made before an IRS agent has raised on audit the PFIC status of the foreign corporation for any taxable year of the taxpayer/shareholder; (ii) the taxpayer/shareholder is agreeing (by submitting Form 8621–A) to eliminate any prejudice to the interests of the U.S. government on account of the taxpayer/

shareholder's inability to make timely purging elections; and (iii) the taxpayer/shareholder shows as a balance due on Form 8621–A an amount reflecting tax plus interest as determined under Reg. 1.1298(e)(3).

Current Actions: IRS is making an administrative change to merge the previously approved OMB 1545–1950–Form 8621–A into the OMB approval of 1545–1002. There are no changes to either form or its use.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profit organizations and individuals.

Form 8621:

Estimated Number of Respondents: 1,333.

Estimated Time per Response: 48 hours, 44 min.

Estimated Total Annual Burden Hours: 64,971.

Form 8621–A:

Estimated Number of Respondents: 1.

Estimated Time per Respondent: 78 hours, 30 minutes.

Estimated Total Annual Burden Hours: 79 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 17, 2024.

Sara L. Covington,

IRS Tax Analyst.

[FR Doc. 2024–21515 Filed 9–19–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Administering the Government Securities Act Regulations

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on this request.

DATES: Comments should be received on or before October 21, 2024 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Bureau of the Fiscal Service

Title: Administering the Government Securities Act Regulations (17 CFR chapter IV).

OMB Control Number: 1506–0064.

Type of Review: Extension without change of a currently approved collection.

Description: The regulations require government securities broker and dealers to make and keep certain records concerning their business activities and their holdings of government securities, to submit financial reports, and to make certain disclosures to investors. The regulations also require depository institutions to keep certain records of non-fiduciary custodial holdings of government securities. The regulations and associated collections are fundamental to customer protection and dealer financial responsibility.

Forms: G–FIN–4, G–FIN–5, G–405 Part I, G–405 Part II, G–405 Part IIA, G–405 Part III, G–405 Schedule I.

Affected Public: Private Sector (Government securities brokers and dealers and financial institutions).

Estimated Number of Respondents: 2,879.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 2,879.

Estimated Time per Response: Varies by form and recordkeeping requirement. Average is 71.65 hours per response.

Estimated Total Annual Burden Hours: 206,293.

Authority: 44 U.S.C. 3501 et seq.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2024–21510 Filed 9–19–24; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0017]

Agency Information Collection Activity under OMB Review: VA Fiduciary's Account, Court Appointed Fiduciary's Account, Certificate of Balance on Deposit and Authorization to Disclose Financial Records

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent by October 21, 2024.

ADDRESSES: To submit comments and recommendations for the proposed information collection, please type the following link into your browser:

www.reginfo.gov/public/do/PRAMain, select ''Currently under Review—Open for Public Comments'', then search the list for the information collection by Title or ''OMB Control No. 2900–0017.''

FOR FURTHER INFORMATION CONTACT: VA PRA information: Maribel Aponte, 202–461–8900, *vacopaperworkreduact@va.gov*.

SUPPLEMENTARY INFORMATION:

Title: VA Fiduciary's Account (21P–4706b), Court Appointed Fiduciary's Account (21P–4706c), Certificate of Balance on Deposit and Authorization to Disclose Financial Records (21P–4718a).

OMB Control Number: 2900–0017 *https://www.reginfo.gov/public/do/PRASearch*.

Type of Review: Revision of a previously approved collection.

Abstract: The Department of Veterans Affairs (VA), through its Veterans Benefits Administration (VBA), administers an integrated program of benefits and services established by law for Veterans, service personnel and their survivors. Information is requested by VA Forms 21P–4706b and VA Form 21P–2706c for fiduciaries to submit their annual accountings. VA currently uses VA Form 21P–4718a, as evidence and disclosure to support the accountings submitted by fiduciaries. Regulatory authority is found in 38 U.S.C. 5502 and Public Law 108–454, section 502–504.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 89 FR 58882, July 19, 2024.

Affected Public: Individuals or Households.

Estimated Annual Burden: 10,000.

Estimated Average Burden per Respondent: 60 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 30,000.

Authority: 44 U.S.C. 3501 *et seq.*

Dorothy Glasgow,

VA PRA Clearance Officer, (Alt.) Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–21520 Filed 9–19–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0386]

Agency Information Collection Activity: Interest Rate Reduction Refinancing Loan Worksheet

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent by October 21, 2024.

ADDRESSES: To submit comments and recommendations for the proposed information collection, please type the following link into your browser: *www.reginfo.gov/public/do/PRAMain,* select ''Currently under Review—Open for Public Comments'', then search the list for the information collection by Title or ''OMB Control No. 2900–0386.''

FOR FURTHER INFORMATION CONTACT: VA PRA information: Maribel Aponte, 202–461–8900, *vacopaperworkreduact@va.gov.*

SUPPLEMENTARY INFORMATION:

Title: Agency Information Collection Activity: Interest Rate Reduction Refinancing Loan VA Form 26–8923.

OMB Control Number: 2900–0386 *https://www.reginfo.gov/public/do/PRASearch.*

Type of Review: Revision of a currently approved collection.

Abstract: An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 89 FR 57994, July 16, 2024.

Affected Public: Individuals or Lenders.

Estimated Annual Burden: 86,647.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 173,293.

Authority: 44 U.S.C. 3501 *et seq.*

Dorothy Glasgow,

VA PRA Clearance Officer, (Alt.) Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–21554 Filed 9–19–24; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 89 Friday,
No. 183 September 20, 2024

Part II

Federal Communications Commission

47 CFR Parts 14 and 64
Incarcerated People's Communication Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 14, 64

[WC Docket Nos. 12–375, 23–62; FCC 24–75; FR ID 237400]

Incarcerated People's Communication Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) adopts rules addressing all intrastate, interstate, and international audio and video incarcerated people's communication services (IPCS), including video visitation services. The reforms include adopting permanent rate caps for audio IPCS and interim rate caps for video; prohibiting IPCS providers from making site commission payments associated with IPCS and preempting state and local laws and regulations requiring such commissions; prohibiting IPCS providers from imposing any separate ancillary service charges on IPCS consumers; strengthening the Commission's requirements for access to IPCS by incarcerated people with disabilities; permitting IPCS providers to offer optional alternate pricing plans that comply with the rate caps; strengthening existing consumer disclosure and inactive account requirements; revising the existing annual reporting and certification requirements; facilitating enforcement of the new IPCS rules; and delegating authority to the Commission's Wireline Competition Bureau (WCB), Consumer and Governmental Affairs Bureau (CGB), and Office of Economics and Analytics (OEA).

DATES:

Effective date: This rule is effective November 19, 2024, except for amendatory instruction 7 (§§ 64.611(l)(2), (3), (5), (6)); amendatory instruction 15 (§ 64.6040(f)); amendatory instruction 17 (§ 64.6060); amendatory instruction 20 (§ 64.6090); amendatory instruction 22 (§ 64.6110); amendatory instruction 23 (§ 64.6120); amendatory instruction 25 (§ 64.6130(d) through (f), and (h) through (k)); amendatory instruction 27 (§ 64.6140(c), (d), (e)(2) through (4), (f)(2), and (f)(4)), which are delayed indefinitely. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date of these provisions.

Delegation of authority: The delegations of authority to WCB, CGB, and OEA are effective on November 19, 2024.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554. 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 and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY).

FOR FURTHER INFORMATION CONTACT: Stephen Meil, Pricing Policy Division of the Wireline Competition Bureau, at (202) 418–7233 or via email at *stephen.meil@fcc.gov,* regarding the portions of this document relating to matters other than communications services for incarcerated people with disabilities, and Michael Scott, Disability Rights Office of the Consumer and Governmental Affairs Bureau, at (202) 418–1264 or via email at *michael.scott@fcc.gov,* regarding the portions of this document relating to communications services for incarcerated people with disabilities.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's (Commission's) Report and Order, document FCC 24–75, adopted on July 18, 2024 and released on July 22, 2024, in WC Docket Nos. 12–375 and 23–62. This summary is based on the public redacted version of the document, the full text of which can be obtained from the Commission's Electronic Document Management System (EDOCS) website at *www.fcc.gov/edocs* or via the Commission's Electronic Comment Filing System (ECFS) website at *www.fcc.gov/ecfs*, or is available at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-24-75A1.pdf*.

Synopsis

I. Introduction

1. Today we take the most significant steps thus far to fulfill the dream of Martha Wright-Reed, who advocated tirelessly to ensure that incarcerated people would be able to communicate with family and loved ones at just and reasonable rates. While this document implements the requirements of the Martha Wright-Reed Just and Reasonable Communications Act of 2022 (Martha Wright-Reed Act or Act), this proceeding began over twenty years ago when a determined grandmother petitioned the Federal Communications Commission to take action against the egregiously high telephone rates and charges that were impeding incarcerated people's ability to stay connected with their families and friends. Martha Wright-Reed championed the idea of easing the financial burdens imposed on incarcerated people and their families simply to make a phone call. As a blind elderly woman, who could neither write letters nor travel such long distances for in-person visits, she often spent hundreds of dollars a month in long distance phone calls to stay in touch with her incarcerated grandson. In her honor, and in the face of years of litigation frustrating the Commission's reform efforts in this area, Congress passed the Martha Wright-Reed Act, significantly expanding the Commission's jurisdiction over incarcerated people's communications services (IPCS) and directing the Commission to ''establish a compensation plan to . . . ensure just and reasonable charges for telephone and advanced communications services in correctional and detention facilities.''

2. In this item, we exercise the authority granted the Commission by Congress and adopt comprehensive reforms that will significantly reduce the financial burdens incarcerated people face to communicate with their loved ones. We first reduce existing rate caps for all incarcerated people's audio communication services, by implementing a methodology specifically permitted by Congress in the Act, and establish, for the first time, interim rate caps for incarcerated people's video communications services. We also materially reduce the prices consumers pay for IPCS by limiting the costs that can be recovered through IPCS rates to only costs that the Commission finds are used and useful in the provision of IPCS. We also permit states to maintain rates lower than the Commission's rate caps. We next end IPCS providers' long-standing practice of making site commission payments to carceral facilities, the costs of which were passed through to consumers via higher IPCS rates. We further strengthen the requirements for access to IPCS by incarcerated people with disabilities, and adopt stronger consumer protection rules. We also permit providers, for the first time, to offer optional alternate pricing plans, subject to conditions to protect and benefit IPCS consumers.

A. Executive Summary

3. The Report and Order implements the expanded authority granted to the Commission by the Martha Wright-Reed Act to establish a compensation plan that ensures both just and reasonable rates and charges for incarcerated

people's audio and video communications services and fair compensation for incarcerated people's communications service providers. The Report and Order fundamentally reforms the regulation of IPCS in all correctional facilities, regardless of the technology used to deliver these services, and significantly lowers the IPCS rates that incarcerated people and their loved ones will pay. These comprehensive reforms:

- Utilize the expanded authority Congress granted the Commission, in conjunction with the FCC's preexisting statutory authority, to adopt just and reasonable IPCS rates and charges for all intrastate, interstate, and international audio and video IPCS, including video visitation services;
- Lower existing per-minute rate caps for audio IPCS and establish initial interim per-minute rate caps for video IPCS, based on industry-wide cost data submitted by IPCS providers, while permitting states to maintain IPCS rates lower than the Commission's rate caps;
- Lower the overall prices consumers pay for IPCS and simplify the pricing structure by incorporating the costs of ancillary services in the rate caps and prohibiting providers from imposing any separate ancillary service charges on IPCS consumers;
- Prohibit IPCS providers from making site commission payments for IPCS and preempt state and local laws and regulations requiring such commissions;
- Limit the costs associated with safety and security measures that can be recovered in the per-minute rates to only those costs that the Commission finds are used and useful in the provision of IPCS;
- Allow, subject to conditions, IPCS providers to offer alternate pricing plans for IPCS that comply with the rate caps we establish;
- Revise and strengthen accessibility requirements for IPCS for incarcerated people with disabilities;
- Revise and strengthen existing consumer disclosure and inactive account requirements; and
- Revise the existing annual reporting and certification requirements.

4. We adopt the following rate caps:

TABLE ONE—NEW RATE CAPS BY TIER

Tier (ADP)	Audio (permanent) (per minute)		Video (interim) (per minute)	
	Current caps	New caps	Current caps	New caps
Prisons (any ADP)	*$0.14	*$0.06*	N/A	*$0.16*
Large Jails (1,000+)	*0.16	*0.06*	N/A	*0.11*
Med. Jails (350 to 999)	0.21	*0.07*	N/A	*0.12*
Small Jails (100 to 349)	0.21	*0.09*	N/A	*0.14*
Very Small Jails (0 to 99)	0.21	*0.12*	N/A	*0.25*

*Current cap figures that include a $0.02 additive for facility costs, which equates to the allowance made for facility-incurred IPCS costs reflected in contractually-prescribed site commissions, the closest available comparison.

II. Background

A. The Martha Wright-Reed Just and Reasonable Communications Act of 2022

5. The Martha Wright-Reed Just and Reasonable Communications Act of 2022 (Martha Wright-Reed Act or Act), was enacted on January 5, 2023. It represents the culmination of a years-long effort to comprehensively address unreasonably high rates and charges that incarcerated people and their families pay for communications services. The Act expands and clarifies the scope of the Commission's authority over IPCS under section 276 of the Communications Act of 1934, as amended (Communications Act) by modifying section 276 to require the Commission to ensure that the rates and charges for incarcerated people's intrastate and interstate communications services be just and reasonable. It also modifies the requirement in section 276(b)(1)(A) that providers be fairly compensated by eliminating the requirement that compensation occur on a ''per call'' basis and for ''each and every [call].'' Thus, with the new amendments, section 276(b)(1)(A) directs the Commission to establish a compensation plan to ''ensure that all payphone service providers are fairly compensated and all rates and charges are just and reasonable for completed intrastate and interstate communications using their payphone or other calling device.'' The Act further augments the Commission's jurisdiction by modifying the Communications Act to expand the definition of payphone service in correctional institutions to encompass advanced communications services, including ''any audio or video communications service used by inmates . . . regardless of technology used.''

6. The Martha Wright-Reed Act also amends section 2(b) of the Communications Act to reinforce that the Commission's jurisdiction extends to intrastate, as well as interstate and international, communications services used by incarcerated people. The Communications Act generally allocates regulatory authority over intrastate, interstate, and international communications services between the Commission and the states. It grants authority to the Commission to ensure that ''[a]ll charges, practices, classifications, and regulations for and in connection with'' interstate or international common carrier communications services are ''just and reasonable,'' and directs the Commission to ''prescribe such rules and regulations as may be necessary in the public interest to carry out'' this mandate.

7. Section 2(b) of the Communications Act generally preserves states' jurisdiction over ''charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communication service.'' The Commission is thus ''generally forbidden'' from regulating ''intrastate communication service, which remains the province of the states.'' Stated differently, section 2(b) ''erects a presumption against the Commission's assertion of regulatory authority over intrastate communications.'' But Congress can enact statutory provisions that overcome this presumption, including by expressly excluding provisions of the Communications Act from section 2(b). Section 276 of the Communications Act always has been

clear that the Commission has authority to establish compensation plans for ''intrastate and interstate'' payphone calls, and the Martha Wright-Reed Act also specifically modified section 2(b) to include section 276, as amended, in an explicit exception. This amendment makes abundantly clear that the Commission's authority under section 276 encompasses intrastate IPCS.

8. In direct response to the D.C. Circuit's decision in *GTL* v. *FCC,* the Act expressly allows the Commission to ''use industry-wide average costs,'' as well as the ''average costs of service of a communications service provider'' in setting just and reasonable rates and charges. In implementing the Act, the Commission is required to consider the ''costs associated with any safety and security measures necessary to provide'' telephone service and advanced communications services. Finally, the statute directs the Commission to promulgate regulations necessary to implement the statutory provisions not earlier than 18 months and not later than 24 months after its January 5, 2023 enactment date.

B. Early Reform Efforts

9. Prior to the enactment of the Martha Wright-Reed Act, the Commission had previously taken a number of steps to reform communications services for incarcerated people. In 2012, the Commission initiated its inmate calling services (ICS) rulemaking principally in response to petitions filed by Martha Wright and her fellow petitioners seeking relief from ''excessive'' inmate calling services rates. In the *2013 ICS Order,* the Commission found that rates for calling services for incarcerated people greatly exceeded the reasonable costs of providing those services and adopted interim interstate rate caps of $0.21 per minute for debit and prepaid calls, and $0.25 per minute for collect calls. The Commission also launched its First Mandatory Data Collection to obtain industry cost data to help develop permanent rate caps. In 2014, the Commission sought comment on establishing permanent rate caps for both interstate and intrastate calls and on reforming charges for services ancillary to the provision of inmate calling services.

10. In 2015, the Commission adopted a comprehensive regulatory framework for interstate and intrastate inmate calling services that included permanent rate caps for interstate and intrastate inmate calling services calls, and imposed limits on ancillary service charges. Specifically, the *2015 ICS Order* set tiered rate caps for interstate calls based on the type and size of correctional facilities and calculated these caps using industry-wide average costs as reported in the First Mandatory Data Collection. The Commission excluded all site commission payments from industry costs, having found such payments were not reasonably related to the provision of inmate calling services. The Commission also extended the interim interstate rate caps it had adopted in 2013 to intrastate calls, pending the effectiveness of the new rate caps, and sought comment on rate regulation of international inmate calling services calls. Finally, the *2015 ICS Order* established a Second Mandatory Data Collection to guide further reforms, and began an annual filing obligation to collect information on providers' interstate, intrastate, and international rates, as well as their ancillary service charges, among other information.

11. While an appeal of the *2015 ICS Order* was still pending, the Commission reconsidered the full exclusion of site commission payments from its permanent rate cap calculations. The Commission's *2016 ICS Reconsideration Order* increased the permanent rate caps adopted in the *2015 ICS Order* to account for claims that certain correctional facility costs reflected in site commission payments are directly and reasonably related to the provision of inmate calling services.

C. The GTL v. FCC Decision

12. The permanent rate caps adopted in the *2015 ICS Order* were vacated by the D.C. Circuit in *GTL* v. *FCC* in 2017 on three principal grounds. First, the panel majority held that the Commission lacked the statutory authority to cap intrastate calling services rates because the Commission's authority over intrastate calls under section 276 of the Communications Act did not authorize it to impose intrastate rate caps, and the Commission's authority under section 201(b) of the Communications Act did not extend to intrastate rates. Second, the D.C. Circuit concluded that the Commission had erred by categorically excluding site commissions from inmate calling services providers' costs used to set rate caps. Because some site commissions were ''mandated by state statute,'' while others were ''required by state correctional institutions,'' the court concluded that some portion of site commissions might be legitimately included in provider costs, and remanded to the Commission to determine what portion of site commissions were directly related to the provision of inmate calling services. Third, the court found that the Commission's use of a weighted average per-minute cost in setting rate caps, on the existing record as analyzed in the *2015 ICS Order,* was arbitrary and capricious, in part because this approach, as the Commission had applied it, rendered calls with above-average costs unprofitable and thus did ''not fulfill the mandate of [section] 276 that 'each and every' '' call be fairly compensated.

13. The D.C. Circuit also remanded the Commission's ancillary service charge caps, finding that—on the available record—the Commission ''had no authority to impose ancillary fee caps with respect to intrastate calls.'' Although the court found ancillary service charge caps on interstate calls ''justified,'' it could not ''discern from the record whether ancillary fees [could] be segregated between interstate and intrastate calls,'' and remanded the issue for the Commission to determine whether it could segregate ancillary service fee caps between interstate calls and intrastate calls. The court also vacated the video visitation annual reporting requirements adopted in the *2015 ICS Order* as ''beyond the statutory authority of the Commission.''

14. In a related case decided later that year, the D.C. Circuit ''summarily vacated'' the *2016 ICS Reconsideration Order* ''insofar as it purports to set rate caps on inmate calling service'' because the revised rate caps in that order were ''premised on the same legal framework and mathematical methodology'' rejected by the court in *GTL* v. *FCC.* As a result of the D.C. Circuit's decisions in *GTL* and *Securus Techs.* v. *FCC,* the interim rate caps that the Commission adopted in 2013 ($0.21 per minute for debit/prepaid calls and $0.25 per minute for collect calls) remained in effect for interstate inmate calling services calls.

D. More Recent Reform Efforts

15. Following the D.C. Circuit's remand in *GTL* v. *FCC*, the Commission took additional actions to address unreasonable rates and charges for communications services for incarcerated people. In February 2020, the Wireline Competition Bureau (Bureau or WCB) issued a document seeking to refresh the record on issues related to ancillary service charges to respond to the D.C. Circuit's remand. The Bureau sought comment on whether ancillary service charges may be ''segregated between interstate and intrastate calls and, if so, how.'' It also sought comment on the definition of jurisdictionally mixed services and how the Commission should proceed if any

permitted ancillary service is deemed jurisdictionally mixed.

16. In August 2020, the Commission adopted the *2020 ICS Order on Remand* (85 FR 67450 (Oct. 23, 2020)), in which it found that ancillary service charges generally are jurisdictionally mixed and cannot be practicably segregated between the interstate and intrastate jurisdictions, except in a limited number of cases. The Commission therefore concluded that inmate calling services providers are generally prohibited from imposing ancillary service charges other than those permitted by the Commission's rules, and from imposing charges in excess of the Commission's ancillary service fee caps. In an accompanying document, the Commission proposed reform of the inmate calling services rates then within its jurisdiction based on its analysis of industry data collected in the Second Mandatory Data Collection, as well as information collected in the 2020 Annual Reports.

17. In May 2021, the Commission adopted the *2021 ICS Order,* which, among other actions, set new interim interstate rate caps for prisons and larger jails, reformed the treatment of site commissions, and capped international calling rates. The Commission first eliminated separate rate caps for all collect calls and retained the existing $0.21 per minute interstate rate cap for debit and prepaid calls for correctional facilities with average daily populations below 1,000. The Commission then lowered the interstate interim rate caps from $0.21 per minute for debit and prepaid calls to $0.12 per minute for prisons and $0.14 per minute for jails with average daily populations of 1,000 or more incarcerated people. It allowed site commission payments mandated by federal, state, or local law, to be passed through to consumers, without any markup, and capped other site commission payments that result from contractual obligations or negotiations with providers to no more than $0.02 per minute for prisons and jails with average daily populations of 1,000 or more. The Commission adopted a modified waiver process that permits providers to seek waivers of the rate and ancillary services fee caps on a facility-by-facility or contract-by-contract basis. The Commission also delegated authority to WCB and the Office of Economics and Analytics (OEA) to conduct a Third Mandatory Data Collection to collect uniform cost data to use in setting permanent rate and ancillary services fee caps that more closely reflect inmate service providers' costs of providing service.

18. In 2021, the Commission sought comment on, among other matters, the provision of communications services to incarcerated people with disabilities, and the methodology to be employed in setting permanent interstate and international rate caps. It also sought comment on general reform of the treatment of site commission payments in connection with interstate and international calls, and additional reforms to the Commission's ancillary service charges rules.

19. In September 2022, the Commission issued the *2022 ICS Order,* which adopted requirements to improve access to communications services for incarcerated people with disabilities and to reduce certain charges and curtail abusive practices related to ICS. The Commission required inmate calling services providers to provide access to substantially all relay services eligible for Telecommunications Relay Services (TRS) Fund support in any correctional facility where broadband is available and where the average daily population incarcerated in that jurisdiction (*i.e.,* in that city, county, state, or the United States) totals 50 or more persons. It also required that where inmate calling services providers are required to provide access to substantially all forms of TRS, they also must provide access to American Sign Language (ASL) direct, or point-to-point, video communication. Additionally, the Commission lowered its caps on certain provider charges and barred certain abusive practices to lessen the financial burden on incarcerated people and their loved ones when using calling services.

20. The Commission also issued 2022 seeking stakeholder input and evidence relating to additional reforms concerning incarcerated people with disabilities. It sought further comment on reforms concerning providers' rates, charges, and practices in connection with interstate and international calling services, including further refining the Commission's rules concerning the treatment of balances in inactive accounts, expanding the breadth and scope of the Commission's consumer disclosure requirements, using the Commission's data collections to establish just and reasonable permanent caps on interstate and international rates and associated ancillary service charges, and allowing providers to offer pilot programs for alternative pricing structures.

E. Implementation of Martha Wright-Reed Act

21. Following the enactment of the Martha Wright-Reed Act in January 2023, the Commission issued 2023 and *2023 IPCS Order* in March 2023 to begin the process of implementing that Act. In 2023, the Commission sought comment on how it should interpret the Martha Wright-Reed Act's provisions expanding the Commission's authority over communications services for incarcerated people, including the Act's requirement that rates and charges for incarcerated people's communications services be just and reasonable, the Act's expansion of the Commission's authority to include advanced communications services, including video services, the expansion of the Commission's jurisdiction to include intrastate communications services, and other aspects of the Act. It also sought comment on how the Martha Wright-Reed Act affects the Commission's ability to ensure that IPCS services and associated equipment are accessible to and usable by people with disabilities. Finally, 2023 incorporated unresolved issues previously raised in WC Docket No. 12–375 into the current dual-captioned proceeding.

22. In the *2023 IPCS Order,* the Commission reaffirmed its prior delegation of data collection authority to WCB and OEA, and directed them to update and restructure their most recent data collection as appropriate in light of the requirements of the new statute. In July 2023, WCB and OEA exercised this delegated authority and adopted the *2023 Mandatory Data Collection Order* (88 FR 27850, May 3, 2023) to collect information on the additional services and providers subject to the Commission's newly expanded authority and address the Act's other provisions where necessary.

III. Discussion

A. Unique Marketplace for Incarcerated People's Communications Services

23. The history of this proceeding makes crystal clear that the IPCS marketplace ''is not a well functioning market with competitive forces that would drive prices towards costs.'' Once a provider successfully competes for a contract to serve a facility, it has a monopoly over the provision of IPCS at that facility. Incarcerated people play no role in the process of selecting IPCS providers or the services they offer and have no choice but to pay the rates and charges imposed if they wish to call their family or other loved ones. Consumers have no means of switching to another provider and no means of redress even if the IPCS provider ''raises rates, imposes additional fees, adopts unreasonable terms and conditions for use of the service, or offers inferior

service.'' As a result, there are no competitive forces to constrain providers from imposing rates and charges that far exceed the costs required to provide the services. This absence of competitive alternatives to discipline IPCS rates justifies rate regulation independent of the problematic role that site commissions historically have played. We thus reject arguments that the elimination of site commission payments calls into question the need for rate regulations. In stating its preference for relying on competition and market forces to discipline prices, the Commission has acknowledged ''there is little dispute that the [IPCS] market is a prime example of market failure.'' This market failure persists today. Indeed, one provider aptly summarizes the IPCS market dynamics today as follows:

> Fundamentally, due to the inherent structure of the [IPCS] marketplace, [IPCS] providers' rational economic incentive is to entice confinement facilities to award the provider a service contract as the facility, and confinement facilities' rational economic incentive is to award contracts to [IPCS] providers who provide the greatest payments (monetary or otherwise) to the facility. Notably absent from the foregoing calculus are the [IPCS] consumers themselves, despite the fact that they are the ones who ultimately pay for [IPCS] service.

24. Despite Commission actions over the years to constrain rates and charges in the audio IPCS marketplace, the monopolistic nature of the marketplace has not changed, and remains ''characterized by increasing rates, with no competitive pressures to reduce rates.'' The ''unusual market dynamics'' of the IPCS marketplace and the ''inability of market forces to constrain IPCS rates'' are also evident in a still nascent portion of the marketplace—video IPCS, making clear that ''some form of regulatory constraint . . . is needed to ensure that end user rates are just and reasonable.'' The bipartisan Martha Wright-Reed Act is a directive that the Commission provide such regulatory constraint on the IPCS marketplace through ensuring ''just and reasonable charges for telephone and advanced communications services in correctional and detention facilities.''

25. Some commenters argue that the IPCS marketplace is competitive because contracts are awarded based on a bidding process, an argument that appears challenging to square with Congress's enactment of the Martha Wright-Reed Act. Independently, the Commission has not been persuaded by such arguments in the past, and we find no further evidence in the record that might warrant a departure from this conclusion. Instead, we continue to find that ''because correctional officials typically allow only one provider to serve any given facility . . . there are no competitive constraints on a provider's rates once it has entered into a contract to serve a particular facility.'' Indeed, the Commission has found that providers' cost data reflect this lack of competition in the industry. And the Commission has explained how factors such as site commissions ' ''distort[ ] the [IPCS] marketplace' by creating incentives for the facilities to select providers that pay the highest site commissions, even if those providers do not offer the best service or lowest rates.'' Thus, even if there is ''competition'' in the bidding market as some providers assert, it is not the type of competition the Commission recognizes as having an ability to ''exert downward pressure on rates for consumers.''

B. Impact on Consumers and Society

26. The Commission has long recognized—and worked to combat—the negative consequences that unreasonable communications rates and charges have on incarcerated people, their families and loved ones, and society at large. The record in this proceeding provides overwhelming evidence of the substantial burden excessive communications rates have on the ability of incarcerated people to stay connected and maintain the vital, human bonds that sustain families and friends when a loved one is incarcerated. In fact, ''[t]he high costs of keeping in contact drive more than 1 in 3 families, who are already financially burdened, into debt for phone calls and visits with their loved ones.'' As the Prison Policy Initiative explains, ''[t]he cost of everyday communication is arguably the worst price-gouging that people behind bars and their loved ones face.'' Color of Change highlights these burdens through the story of Maria Marshall, who, ''after spending $120 in just two weeks to maintain contact with both her teenage son and her ex-husband behind bars, was forced to make the difficult choice between the two, as she struggled to pay exorbitant phone rates and could only afford one of their accounts.'' Brian Howard, a formerly incarcerated person, speaks for all too many in stating, ''though we have committed a crime and became incarcerated, we incarcerate our family as well.''

27. The Commission held several public listening sessions to learn firsthand from individuals directly impacted by unreasonable IPCS rates and charges. In these sessions, witnesses testified to the high cost of communications as being the primary barrier to keeping families connected—despite the well documented benefits of ''maintaining communication with loved ones during incarceration.'' Universally, testimony from formerly incarcerated individuals stresses the burden that unreasonable communications rates and charges have had on their ability to communicate with their families. For example, Colette Payne, both formerly incarcerated and having an incarcerated son, relates how, because of the cost of phone calls, ''I wasn't always able to speak with my own children during my incarceration.'' Kim Thomas, a formerly incarcerated person, explains the anguish of mothers ''who gave birth while incarcerated and did not get to see their child for 18 months, physically or in any other way.'' Other formerly incarcerated people emphasize how the high cost of communications prevents mothers from regularly speaking to their children. One grandmother, whose daughter is incarcerated, details how her four young grandchildren are only able to speak to their mother every ''week and a half and two weeks if that'' because communications are so expensive. Jada Cochran, who gave birth in prison and whose mother raised her four young children while she was incarcerated, cried as she lamented that her mother could not afford many calls, despite the fact they were her ''lifeline to my family, to my children.'' Brione Smith, a teenager whose father is incarcerated, describes being devastated when she could not reach her father after her best friend and grandfather died within a few weeks of each other.

28. Participants at the Commission's listening sessions explain how the unreasonably high communications rates at times force incarcerated people and their families to choose between basic necessities, such as between food, and communications. For example, Deon Nowell reports at the Chicago listening session how some incarcerated people had to beg for food to reserve enough money to call their families. Ana Navarro describes how families must choose between communication or rent, food, or school supplies. Kim Thomas, a formerly incarcerated person, explains how incarcerated people earn ''about 15 cents an hour. . . . So if you calculate that out, it's not very much money, and you choose to make a phone call or buy soap.'' Incarcerated people with disabilities that impact their ability to communicate continually experience barriers to access because ''prison

administrators fail to understand their communication needs.''

29. The benefits of communications between incarcerated people and their families are wide-ranging and well-documented. For decades, studies have linked regular contact with family with lowering rates of recidivism and increasing likelihood of successful reentry into society after release. During the listening sessions, the formerly incarcerated emphasized how communication with family decreases recidivism and sustains hope. Children who have regular communications with an incarcerated parent have ''better relationships with that parent.'' Without these connections, incarcerated people tend to lose contact with the outside world and can lose hope of reengaging with society and their loved ones. Others suggest that unlawful activities within correctional facilities would likely decrease if communications services were affordable and accessible. Rosalind Akins, whose grandson was formerly incarcerated, describes how ''[p]eople become induced mentally ill because they can't communicate.'' Deon Nowell explains that lower communications rates will ''help [the incarcerated people] make the right decision. That's why it's called rehabilitation. Help [the incarcerated people] to make the right decision, especially when it deals with the costs of communications.''

30. The Martha Wright-Reed Act charges us with evaluating and breaking down the financial barriers to communications between incarcerated people and their families, consequently lessening the burden of having to choose between buying food and communicating with their family members, and helping facilitate a successful transition to a life outside of correctional facilities. The Act gives us the tools we need to meet these objectives. We anticipate that by lessening the financial burdens of staying connected, the reforms we adopt today will promote increased communication—allowing the preservation of essential family ties, keeping vital family connections alive by enabling incarcerated people to parent their children and connect with their spouses, and helping families stay intact.

C. Interpreting the Martha Wright-Reed Act and the Commission's Authority Thereunder

1. Purpose and Scope of the Martha Wright-Reed Act

31. In the Martha Wright-Reed Act, Congress gave the Commission a clear mandate to fix a ''broken system,'' one in which the rates and charges that incarcerated people pay to communicate with those they love far exceed the amounts other Americans pay. The 2023 IPCS Notice of Proposed Rulemaking (NPRM) (88 FR 20804, April 7, 2023) sought comment on the proper interpretation of the scope and purpose of the Martha Wright-Reed Act's amendments. We conclude that the Martha Wright-Reed Act, taken as whole, fundamentally validates the Commission's broad exercise of authority over IPCS. The record reflects widespread agreement that the Martha Wright-Reed Act ''confers plenary authority on the Commission'' to regulate a wide range of communications services, including telephone and certain advanced communications services, provided to incarcerated people regardless of the technology or device used or a communication's status as interstate or intrastate. More specifically, as certain commenters observe, the Martha Wright-Reed Act's amendments to section 276 of the Communications Act provide the Commission with authority over all IPCS rates and charges, complemented by the Commission's section 201(b) of the Communications Act authority over interstate and international IPCS. The Commission has previously interpreted ''interstate,'' as used in section 276 of the Communications Act, to include international calling services. Consistent with our historical understanding of our statutory authority—including in the IPCS context in the near-term lead-up to the enactment of the Martha Wright-Reed Act—we adopt that interpretation today, a step that no commenter opposes. Independently, insofar as our rules treat international IPCS calls the same as domestic IPCS calls, the record does not persuade us that it would be practicable to make the sort of real-time jurisdictional determinations that would enable our rules to distinguish international calls from domestic calls in those scenarios, in any event. Congress's directives guide our implementation of the Commission's responsibilities as described in further detail below.

32. IPCS providers, state and local officials, and public interest advocates broadly agree that this expanded authority over communications services provided to incarcerated people includes not just audio services, but also certain advanced communications services that were previously outside the Commission's ratemaking authority. No commenter challenges this overall interpretation of the purpose and scope of the Martha Wright-Reed Act or suggests a more limited view of the Commission's authority. We find no basis for disagreeing with this consensus view, and thus, we exercise the full degree of our authority in this regard to adopt a compensation plan ensuring just and reasonable rates and charges, as well as fair compensation for providers of incarcerated people's audio and video communications services. We analyze below the specific amendments to section 276 of the Communications Act included in the Martha Wright-Reed Act that collectively expand our jurisdiction over IPCS and interpret each amendment, consistent with the overarching goal of the Act—just and reasonable rates for IPCS consumers and fair compensation for IPCS providers.

2. Addition of ''Other Calling Device[s]''

33. At the outset of our analysis, we address the fact that the Martha Wright-Reed Act extends the Commission's authority over IPCS to include not just communications using traditional payphones, but also communications using ''other calling device[s].'' As amended, section 276(b)(1)(A) of the Communications Act directs the Commission to establish a compensation plan so all payphone service providers are fairly compensated for communications ''using their payphone or other calling device.'' Based on the record and consistent with the Commission's proposal in 2023, we interpret the term ''other calling device[s]'' in the Martha Wright-Reed Act broadly to encompass all devices that incarcerated people either use presently or may use in the future to engage in covered communications with individuals not confined within their correctional institutions. Our interpretation is further confirmed by Congress's expansion of our authority over advanced communications services in section 3(1)(E) of the Communications Act, to include ''any audio or video communications service used by inmates . . . *regardless of technology used*.''

34. There is support in the record for this expansive interpretation. As the Public Interest Parties explain, ''Congress chose to use expansive language covering 'any technology used' to grant the Commission authority as broadly as possible, intending to cover any and all technologies that an incarcerated person may use to communicate [by audio or video] today or in the future.'' The breadth of Congress's language and the ''absence of additional qualifying language'' limiting the scope of the term ''other calling

device[s]'' persuades us that a broad reading of this term is intended. Under this reading, the Commission's authority extends to ''all types of calling devices'' that incarcerated people may now or in the future use to communicate by audio or video with those not confined in the incarcerated person's correctional institution. Furthermore, the Commission has long understood section 276(b)(1)(A) of the Communications Act to set requirements governing TRS communications using TRS devices in correctional facilities. Given that backdrop, coupled with the fact that TRS is designed to ensure service functionally equivalent to telephone service, we conclude that ''payphone[s]'' and ''other calling devices'' under section 276(b)(1)(A) include devices that people with disabilities use for purposes of ''communications'' regardless of whether the devices convey those communications using audio and/or video, or also (or instead) text, braille, or another communications medium.

35. To be clear, as proposed in 2023, the interpretation of ''other calling device[s]'' we adopt today encompasses all wireline and wireless phones, computers, tablets, and other communications equipment capable of sending or receiving audio or video communications described in section 276(d) of the Communications Act, regardless of transmission format. And, ''[c]onsistent with the Commission's mandate to provide Telecommunications Relay Service ('TRS') for incarcerated people with disabilities,'' this statutory phrase also includes all wireline and wireless equipment, whether audio, video, text, other communications medium, or some combination thereof that incarcerated people with disabilities presently use to communicate, through any payphone service, with the non-incarcerated, including but not limited to videophones, captioned telephones, and peripheral devices for accessibility, such as braille display readers, screen readers, and TTYs.

36. Finally, as proposed in 2023, our interpretation of ''other calling device[s]'' includes other potential devices, not yet in use, to the extent incarcerated people, including those with disabilities, use them for covered communications in the future. Such a future-oriented interpretation is necessary to ensure that IPCS rates and charges remain just and reasonable, and that providers continue to be fairly compensated, as IPCS technology evolves. It also will, to the extent possible, keep IPCS providers from shifting ''exploitative practices to spaces left unregulated'' by our actions today.

3. The Requirement To Establish a Compensation Plan

37. The Martha Wright-Reed Act preserved the requirement in section 276(b) of the Communications Act that the Commission ''establish a compensation plan'' as a principal means of achieving the statutory goals with regard to IPCS. As amended, section 276(b)(1)(A) requires that this compensation plan ensure that ''all payphone service providers are fairly compensated'' for completed communications and that ''all rates and charges [for those communications] are just and reasonable.'' The statute further requires the Commission to implement this statutory directive by rule. We now turn to the legal framework envisioned by the statute for establishing a compensation plan that will realize these statutory goals.

a. Addition of the ''Just and Reasonable'' Requirement to Section 276(b)(1)(A)

38. We adopt the Commission's proposal that the term ''just and reasonable,'' added to section 276(b)(1)(A) of the Communications Act by the Martha Wright-Reed Act, be interpreted as having the same meaning as the term ''just and reasonable'' in section 201(b) of the Communications Act. Prior to the Martha Wright-Reed Act, section 276(b)(1)(A) contained no ''just and reasonable'' requirement. Instead, that section required the Commission to evaluate payphone rates on a per-call basis and to ensure that providers were fairly compensated for each and every completed call. Congress, however, modified this approach in the Act by removing the ''per call'' and ''each and every'' completed call language from section 276(b)(1)(A), which instead now requires that all payphone service providers be fairly compensated, and that all rates and charges imposed by those providers be ''just and reasonable.'' Not only is there strong support in the record for the conclusion that ''just and reasonable'' for the purposes of revised section 276(b)(1)(A) has the same meaning as ''just and reasonable'' in section 201(b), but the rules of statutory construction and judicial precedent buttress this finding.

39. By way of example, the Public Interest Parties explain, and we agree, that ''[t]racking the Section 201(b) meaning is the most sound reading of the statute and of congressional intent,'' consistent with the understanding ''that Congress was aware of the Section 201(b) standard—and the Commission's decades of relevant precedent interpreting it—when it chose to add the identical term to Section 276.'' The Supreme Court likewise explained in *FCC* v. *AT&T* that ''identical words and phrases within the same statute should normally be given the same meaning.'' Both of these tenets have particular force here. The identical terms ''just and reasonable'' appear in section 201(b) and have now been added to section 276(b)(1)(A), both sections of Title II of the Communications Act, to describe the required end result of our ratemaking. The Martha Wright-Reed Act also was enacted against the regulatory backdrop of—and in response to—the *GTL* v. *FCC* decision, where the D.C. Circuit found that the Commission unreasonably relied on the ''just and reasonable'' standard of section 201(b) when implementing the differently-worded language of section 276. Further, in the wake of *GTL* v. *FCC,* the Commission continued to regulate rates and practices for interstate and international IPCS services under its section 201(b) ''just and reasonable'' authority, informed by the obligation to ensure ''fair'' compensation under section 276(b)(1)(B).

40. Nothing in the text of the Martha Wright-Reed Act leads us to believe that Congress intended to alter that general regulatory approach in our implementation of section 276(b)(1)(A) in the case of services we previously have regulated under section 201(b). Instead, that regulatory backdrop reinforces our conclusion that ''just and reasonable'' is best interpreted in a manner that harmonizes the application of that standard in sections 201(b) and 276(b)(1)(A). The record also provides no reason to interpret ''just and reasonable'' differently in the two sections of the Communications Act. We thus find that ''just and reasonable'' has the same meaning in both statutory provisions and regardless of the services to which the phrase is applied.

41. *The Used and Useful Framework.* As Congress has imported section 201(b)'s ''just and reasonable'' standard into section 276(b)(1)(A), we next find that the standard the Commission has used to determine just and reasonable rates under 201(b) should also apply to our ratemaking under section 276(b)(1)(A). Historically, the ''used and useful'' framework has ''both informed the Commission's regulatory cost accounting and ratemaking rules and operated to protect the interests of ratepayers and carriers.'' The record supports our conclusion that this framework provides the most appropriate mechanism for ensuring just and reasonable rates and charges for

IPCS, and therefore applies to all IPCS over which we now have authority.

42. Accordingly, we rely on ''the 'used and useful' doctrine and its associated prudent expenditure standard'' to assess the costs that should either be included or excluded from our rate cap calculations to ensure just and reasonable rates and charges for IPCS. Under this framework, the determination of just and reasonable rates focuses on affording regulated entities an opportunity to recover their ''prudently incurred investments and expenses that are 'used and useful' in the provision of the regulated service for which rates are being set.'' The used and useful framework permits regulated entities to earn a reasonable return on their resources dedicated to public use but it does not allow them to include a markup for profit beyond that. This ''used and useful'' framework, which ''is rooted in American legal theory and particularly in the constitutional limitations on the taking of private property for public use,'' balances the ''equitable principle that public utilities must be compensated for the use of their property in providing service to the public'' with the ''[e]qually central . . . equitable principle that the ratepayers may not fairly be forced to pay a return except on investment which can be shown directly to benefit them.'' In this Order, we use the term ''used and useful framework'' to refer collectively to the ''used and useful'' standard and the ''prudent expenditure'' standard. In applying these principles, ''the Commission considers whether the investment or expense 'promotes customer benefits, or is primarily for the benefit of the carrier.' '' There are several elements of the Commission's used and useful analysis. First, the Commission considers the need to compensate providers ''for the use of their property and expenses incurred in providing the regulated service.'' Second, the Commission looks to the ''equitable principle that ratepayers should not be forced to pay a return except on investments that can be shown to benefit them.'' In this regard, the Commission considers ''whether the expense was necessary to the provision of'' the services subject to the ''just and reasonable''. And third, the Commission considers ''whether a carrier's investments and expenses were prudent (rather than excessive).'' As the Commission has explained, ''[t]he used and useful and prudent investment standards allow into the rate base portions of plant that directly benefit the ratepayer, and exclude any imprudent, fraudulent, or extravagant outlays.''

43. As one commenter suggests, the used and useful framework allows us to recognize all IPCS costs that benefit IPCS users, including any such costs incurred by correctional facilities, as costs that should be recovered though IPCS rates and charges. Conversely, that framework allows us to exclude from that recovery any costs that do not benefit IPCS users, either because they were imprudent or because they were for non-IPCS products or services, regardless of whether the provider or the facility incurred them. In short, the used and useful framework functions as an ''equitable principle'' that prevents ratepayers from having to pay for costs that are ''primarily for the benefit of the carrier,'' while allowing regulated entities to be compensated for providing service.

44. Some commenters express concerns over our reliance on the used and useful framework in the IPCS context, describing the framework as being ''a vestige of rate-of-return regulation.'' To the contrary, we find that the framework remains the most practical and effective method for determining the costs providers and facilities reasonably incur in providing IPCS. As historically applied by the Commission, the used and useful framework limits the costs recoverable through regulated rates and charges to ''prudently incurred investments and expenses that are 'used and useful' in the provision of the regulated service.'' Contrary to Pay Tel's and Securus's representations, our application of the used and useful standard is not ''novel'' or otherwise inappropriate as applied in the Report and Order. The used and useful standard is ''a standard regulatory agencies have been using for decades'' to ''determine whether a regulated company's expenses are justified. Nothing about the Commission's approach here is novel. Instead, it reflects the familiar ratemaking exercise the Commission routinely undertakes to determine those capital costs and expenses that may be recovered through regulated rates. To the extent Pay Tel's argument is premised on the notion that the used and useful standard ''is nowhere specified in the Martha Wright-Reed Act or in Section 276,'' we explain above that as Congress has imported section 201(b)'s ''just and reasonable'' standard into section 276(b)(1)(A), the used and useful framework that the Commission's has used to determine just and reasonable rates under section 201(b) provides the most appropriate mechanism for determining just and reasonable rates under section 276(b)(1)(A). And, in any event, section 201(b) is similarly silent on the applicability of the used and useful standard. Further, we do not, as Pay Tel suggests, rely on the used and useful framework ''to the exclusion of 'fair compensation.' '' As we explain below, the text of section 276(b)(1)(A), as amended by the Martha Wright-Reed Act, requires the Commission to implement both provisions in tandem, which we do in setting rate caps using a zone of reasonableness approach. We disagree with those commenters who argue that competition in the IPCS market makes application of the used and useful standard unnecessary. That argument conflates the bidding market (*i.e.,* the market in which IPCS providers compete against each other to win contracts with correctional facilities) with the retail market (*i.e.,* the market in which IPCS consumers pay rates and charges for the communications services that we must ensure are just and reasonable). Indeed, the Commission has previously determined that ''even if there is competition in the bidding market . . . it is not the type of competition the Commission recognizes as having an ability to exert downward pressure on rates for consumers.'' Pay Tel and ViaPath contend that ''IPCS providers [should be] free to best determine how to manage their investments and expenses.'' Allowing providers such complete flexibility would run contrary to the plain text in the Martha Wright-Reed Act and congressional directive to the Commission. Moreover, this type of behavior has thus far resulted in unreasonable IPCS rates and charges for consumers, underscoring the need for us to apply the used and useful (or a similar) framework to prevent the inclusion of imprudent and non-IPCS costs in IPCS rates and charges.

45. We also find unpersuasive arguments that we should allow all prudently incurred ''operating expenses'' to be recovered through IPCS rates and charges even if those expenses are not used and useful in the provision of IPCS and related ancillary services. The National Sheriffs' Association, in particular, expresses concern that the costs of some expenditures that correctional officials find prudent, including expenditures for certain safety and security measures, will be excluded from our ratemaking calculus. It claims that relying on the used and useful standard is inconsistent with section 4 of Martha Wright-Reed Act, which specifies that ''[n]othing in the Act shall be construed to . . . prohibit the

implementation of any safety and security measures'' related to IPCS ''at a State or local prison, jail, or detention facility.''

46. The National Sheriffs' Association's reasoning, however, does not fully comport with the language of the Martha Wright-Reed Act addressing safety and security measures. Section 3(b)(2) of that Act requires that we ''consider costs associated with any safety and security measures necessary to provide'' IPCS in promulgating implementing rules and in ''determining just and reasonable rates'' for IPCS. But neither section 3(b)(2) nor any other provision of the Martha Wright-Reed Act concludes or requires that *every* safety and security measure that a correctional institution chooses to implement in connection with IPCS is ''necessary to provide'' IPCS, or mandate that we require consumers to pay for *all* those measures through IPCS rates.

47. Rather, when read in conjunction with section 3(b)(2) and the other provisions of the Martha Wright-Reed Act, section 4 simply makes clear that, in directing the Commission to develop a compensation plan to ensure just and reasonable IPCS rates and charges, Congress did not intend to intrude on the ability of correctional institutions to ''adopt policies that, in their judgment, are needed to preserve safety and security.'' Our actions in this Order make no such intrusion. We do not prohibit any correctional institution from implementing any safety and security measure that it deems appropriate or desirable. We do, however, ensure that IPCS consumers do not bear the costs of those safety and security measures that are not necessary to provide IPCS regardless of how desirable these measures may be to correctional institutions. Section 4 does not preclude such an outcome.

48. The Commission has relied on the used and useful framework to ensure just and reasonable rates for decades. Our decision to apply that framework in determining which costs should be recoverable from consumers through IPCS rates and charges is fully consistent with the Communications Act, as amended by the Martha Wright-Reed Act, as well as with Commission precedent, including Commission regulation of IPCS rates that formed the regulatory backdrop to the enactment of the Martha Wright-Reed Act. The used and useful framework, including its prudent expenditure component, embodies core ratemaking principles that the Commission has long used to separate the costs that captive ratepayers should pay for regulated services from those that are either properly attributable to other products or services or excessive. In applying that framework, along with the ''necessary'' standard that section 3(b)(2) of the Martha Wright-Reed Act specifies for the costs of safety and security measures and the other standards set forth in that Act, we discharge our statutory duties, consistent with record support, without intruding into matters outside our authority.

b. Effect on Other Laws

49. Section 4 of the Martha Wright-Reed Act provides additional direction regarding the effect of the Act on existing laws. Section 4 consists of two clauses that are meant to guide the interpretation of the remainder of the Act. The first clause of section 4 of the Act specifies that ''[n]othing in this Act shall be construed to modify or affect any Federal, State or local law to require telephone service or advanced communications services at a State or local prison, jail, or detention facility.'' We interpret ''this Act,'' as used in section 4 of the Martha Wright-Reed Act, as referring the Martha Wright-Reed Act, rather than the Communications Act. All parties commenting on the meaning of section 4 accept this interpretation. In 2023, the Commission sought comment on the meaning of this statutory language. The Commission asked whether ''the language of this clause simply mean[s] that the Martha Wright-Reed Act does not create any new obligation for state or local facilities to provide any form of incarcerated people's calling services.'' The National Sheriffs' Association supports this interpretation, adding that the language of the Martha Wright-Reed Act would not support ''any new requirement to make IPCS available.'' The United Church of Christ and Public Knowledge likewise agree that ''this provision demonstrates that the Act does not affirmatively require any additional service offerings'' at correctional institutions. No commenter disputes this interpretation of the first clause of section 4. We conclude that this clause means that the Martha Wright-Reed Act neither expressly nor by implication modifies any federal, state or local law in a manner that would require the provision of any new or additional incarcerated people's communications services at any state or local correctional institution.

50. The second clause of section 4 specifies that nothing in the Martha Wright-Reed Act ''shall be construed to . . . prohibit the implementation of any safety and security measures related to'' telephone service or advanced communications services at a State or local prison, jail, or detention facility. In 2023, the Commission sought comment on how to interpret this clause and asked, in particular, whether the clause means that the Martha Wright-Reed Act, with its focus on ''just and reasonable ratemaking'' was ''not intended to interfere with any correctional official's decision on whether to implement any type of safety or security measure that the official desires in conjunction with audio or video communications services.'' Two commenters support this interpretation of the second clause of section 4. In contrast, the United Church of Christ and Public Knowledge contend more narrowly that ''this provision demonstrates that the Act does not . . . prohibit safety and security measures.''

51. While the Commission's initial request for comment seems to suggest the more expansive reading of the second clause of section 4 that the National Sheriffs' Association supports, we now conclude that a narrower reading of that clause will more closely reflect the limited scope of the statutory language. We find that the National Sheriffs' Association's interpretation is overbroad and would expand the reach of the second clause beyond its intended scope. When read in conjunction with the other provisions of the Martha Wright-Reed Act, the second clause of section 4 of that Act simply makes clear that, in directing the Commission to develop a compensation plan to ensure just and reasonable IPCS rates and charges, Congress did not intend to prohibit correctional institutions from implementing policies that, in their judgment, are needed to preserve safety and security. Consistent with that interpretation and the specific language of section 4, we interpret the second clause of section 4 as precluding us from construing any provision of that Act as making such a prohibition regarding the implementation of any safety and security measures at any federal, state, or local correctional institution.

51. The National Sheriffs' Association expresses concern that the costs of some expenditures for certain safety and security measures will be excluded from our ratemaking calculus. The National Sheriffs' Association relies on its broader interpretation of section 4 to assert that the Commission must not ''interfere with the operation of jails by eliminating their ability to recover [safety and security] costs'' through IPCS rates. Although the National Sheriffs' Association admits that excluding certain safety and security costs from IPCS rates ''is not a prohibition per se,'' it claims that, in

practice, disallowing any costs associated with safety and security measures that law enforcement officials have approved effectively prohibits the measures from being implemented.

53. The National Sheriffs' Association's reasoning, however, does not comport with the broader statutory context of the Martha Wright-Reed Act addressing safety and security measures. In particular, section 3(b)(2) of that Act requires that we ''consider costs associated with any safety and security measures necessary to provide'' IPCS in promulgating implementing rules and in ''determining just and reasonable rates'' for IPCS. The best interpretation of the Martha Wright-Reed Act will ensure a meaningful role for both section 3(b)(2) and section 4.

54. If section 3(b)(2), of its own force, required the Commission to allow recovery of all costs identified by providers or correctional facilities as safety and security costs in regulated rates, as some commenters suggest, then there would seem to be little to no possible risk that such safety and security measures could be ''prohibited'' because they would, instead, be affirmatively funded by IPCS ratepayers. That would leave section 4 with little or no risk to address in that regard, and thus the relevant language of section 4 would be of substantially diminished significance. We reject Securus' suggestion that failure to find all safety and security measures ''necessary'' and recoverable would violate the Administrative Procedure Act (APA). As revealed by our consideration of the relevant issues and the record before us on safety and security issues below, we fully ensure that we have ''acted within a zone of reasonableness and, in particular, ha[ve] reasonably considered the relevant issues and reasonably explained the decision.'' We recognize that section 3(b)(2) is focused on ''costs associated with any safety and security measures *necessary* to provide'' IPCS, Martha Wright-Reed Act § 3(b)(2) (emphasis added), while section 4 is focused on ''safety and security measures *related to*'' IPCS. Martha Wright-Reed Act § 4 (emphasis added). Despite the potential that ''necessary'' in section 3(b)(2) is a narrower standard than ''related to'' in section 4, it is not clear how much practical significance that would have if, as some commenters contend, the Commission is required to simply defer to providers' and/or correctional facilities' on what safety and security costs must be recoverable in IPCS rates. But even under a stricter standard, we are persuaded that mandatory recovery through IPCS rates of all ''costs associated with any safety and security measures necessary to provide'' IPCS would leave the relevant proviso of section 4 of substantially diminished significance.

55. Conversely, if section 4 were read to require recovery of the full array of safety and security costs—deferring to the correctional facilities' decision to approve the use of particular measures when doing so—there would seem to be little meaningful left for the Commission to ''consider'' in that regard under section 3(b)(2). Matters such as identifying the magnitude of such costs and how they should be allocated already would be necessitated by the ''just and reasonable'' requirement in section 276(b)(1)(A) of the Communications Act, as amended by the Martha Wright-Reed Act, if section 4 were interpreted to require such recovery. That, in turn, would leave section 3(b)(2) of substantially diminished significance.

56. Our interpretation of those provisions, by contrast, preserves a meaningful role for each, particularly when understood in light of the relevant regulatory backdrop. In the years leading up to the enactment of the Martha Wright-Reed Act, one of the most-debated issues was the recovery through IPCS rates of payments providers made to correctional facilities, ostensibly—at least in some instances—associated with safety and security measures. Some parties argued for a categorical prohibition on any such recovery, while other parties advocated for full recovery through IPCS rates of virtually any such asserted costs or payments. For its part, the Commission sought to navigate these competing claims by seeking to use the best available evidence to assess whether there were costs—such as safety and security costs—with a sufficient nexus to IPCS to potentially warrant recovery of those costs in IPCS rates; using the best available data to seek to quantify those costs; and continuing to evaluate additional tools it might use to address the continued concerns about such cost recovery, including possible preemption. Our reading of section 3(b)(2) reflects an approach to safety and security costs analogous to the middle path the Commission historically has sought to take. By requiring that such costs be ''considered''—but *only* that they be ''considered''—the Martha Wright-Reed Act makes clear that it is not putting a thumb on the scale of either extreme position by categorically precluding or categorically allowing recovery of claimed safety and security costs through regulated IPCS rates. At the same time, section 4 of the Martha Wright-Reed Act makes clear that the Commission cannot use that Act as a basis to go so far as outright ''prohibit[ing] the implementation of any safety and security measures related to'' IPCS—such as by preempting even the implementation of such measures—while not foreclosing the possibility that correctional facilities ultimately must look elsewhere besides IPCS provider payments passed through in IPCS rates to fund some (or many) of those measures.

57. Our actions in this Order do not prohibit any correctional institution from implementing any safety and security measure that it deems appropriate or desirable. We do, however, ensure that IPCS consumers do not bear the costs of those safety and security measures that are not used and useful or necessary to provide IPCS regardless of how desirable these measures may be to correctional institutions. Section 4 does not preclude such an outcome.

58. In addition, without conceding the factual merits of the National Sheriffs' Association's claim regarding our ability to exclude costs of safety and security measures that are neither used and useful nor necessary from our ratemaking analysis, as a statutory matter we observe that in other contexts where Congress wanted to prevent not only the prohibition of certain conduct, but even things that effectively prohibit such conduct, it has done so explicitly. Particularly because our interpretation best reconciles sections 3(b)(2) and 4 of the Martha Wright-Reed Act, we are not persuaded to infer a *de facto* prohibition—a prohibition in fact—from the language of section 4 as the National Sheriffs' Association suggests. With respect to the factual merits of the National Sheriffs' Association claims, we have provided for the recovery generally of used and useful costs, including costs for necessary safety and security measures, through the rate caps we adopt today. We find our actions adequately address concerns about a *de facto* prohibition of safety and security measures in this context.

c. Implementation of the ''Fairly Compensated'' Standard in Section 276(b)(1)(A)

59. We now turn to the requirement that we establish a compensation plan to ensure IPCS providers are fairly compensated. We conclude that, in addition to ensuring ''just and reasonable'' rates and charges, our compensation plan for IPCS must accord meaning to the ''fairly compensated'' clause in section 276(b)(1)(A) and its relationship to the

''just and reasonable'' rates and charges mandate.

60. *Meaning of the Fair Compensation Standard.* We conclude that our compensation plan for IPCS must give full effect to both the ''just and reasonable'' and the ''fairly compensated'' clauses in section 276(b)(1)(A). In 2023, the Commission sought comment on how it should balance the interests of both consumers and industry in giving effect to both clauses. As proposed in 2023, we determine that giving effect to both standards requires a balanced approach that ''emphas[izes] consumers' (particularly incarcerated people's) and providers' right to just and reasonable rates and charges for each audio and video communications service now encompassed within the statutory definition of 'payphone service,' '' as well as ensuring that such rates ensure that ''all payphone providers are fairly compensated.'' We thus reject Securus's claim that the Order ''simply collapses the fair compensation standard into the just and reasonable standard.'' As we explain, our rate-making methodology and statutory interpretation of the Martha Wright-Reed Act ensure that both standards are given full effect.

61. We view these clauses as imposing two interdependent statutory mandates, each of which we must seek to fully implement. As discussed below, as a general matter a range of possible outcomes potentially can be found ''just and reasonable'' and a range of possible outcomes potentially can be found to ''fairly compensate'' IPCS providers. Because of that, we anticipate being able to find areas of overlap in those two ranges that will satisfy both statutory mandates. We find this expectation particularly reasonable given that the ''just and reasonable'' precedent under section 201(b)—which we carry into our application of section 276(b)(1)(A)—already involves a balancing that accounts for the service provider's interests.

62. With respect to the ''just and reasonable'' mandate, as discussed above, that directive leads us to balance the ''equitable principle that public utilities must be compensated for the use of their property in providing service to the public'' with the ''[e]qually central . . . equitable principle that the ratepayers may not fairly be forced to pay a return except on investment which can be shown directly to benefit them,'' drawing on Commission precedent under section 201(b). In determining rates that are ''just and reasonable'' we look to whether costs to be recovered were prudently incurred and used and useful in the provision of the services at issue. That framework does not inevitably lead to a single ''just and reasonable'' rate, however, but allows for a range of rates with the agency potentially able to find any rate with that zone to be ''just and reasonable.''

63. There also is a body of precedent regarding the interpretation of the ''fairly compensated'' mandate historically present in section 276(b)(1)(A)—but our approach here must account for certain ways in which the Martha Wright-Reed Act altered the operative statutory approach, necessitating related departures from that historical precedent. Under that precedent, regulated rate levels historically were viewed as in accordance with the ''fairly compensated'' standard if they ''allow providers to generate sufficient revenue from each interstate and international call—including any ancillary service fees attributable to that call—(1) to recover the direct costs of that call; and (2) to make a reasonable contribution to the provider's indirect costs related to inmate calling services.'' As the Commission recognized in the *2002 Pay Telephone Order*—and recognized again in the *2021 ICS Order*—the ''lion's share of payphone costs are those that are 'shared' or 'common' to all services,'' and there are ''no logical or economic rules that assign these common costs to 'each and every call.' '' As a result, ''a wide range of compensation amounts may be considered 'fair.' '' Securus argues that we have departed from the *2002 Pay Telephone Order's* fair compensation determination based on overall profitability to determine fair compensation evaluating ''profitability on a call-by-call basis.'' We disagree. Further, Securus has not explained the difference between these two views of profitability, and has not articulated why a provider would not be profitable overall if it were profitable on a call-by-call basis.

64. *The Continued Role of the Fair Compensation Standard.* Prior to the enactment of the Martha Wright-Reed Act, section 276(b)(1)(A) of the Communications Act required that the Commission ''establish a per call compensation plan'' ensuring that service providers be ''fairly compensated for each and every completed'' call. The Martha Wright-Reed Act eliminated the ''per call'' and ''each and every'' call requirements and added a new dimension to section 276 by requiring that our compensation plan for IPCS ''ensure that . . . all rates and charges'' for incarcerated people's communications services ''are just and reasonable.'' We disagree with UCC's argument that it would be ''arbitrary and capricious'' to require fair compensation for providers. This is contrary to the explicit statutory text of section 276(b)(1)(A) that requires fair compensation. In 2023, the Commission sought comment on how the Martha Wright-Reed Act's amendments to section 276(b)(1)(A) affect the ''fairly compensated'' requirement in that section. In particular, the Commission sought comment on Congress's intent in striking the ''per call'' and ''each and every [call]'' language from section 276(b)(1)(A) and the effect of its removal on the ''fairly compensated'' requirement, particularly in light of the Martha Wright-Reed Act's new requirement that all IPCS rates and charges be just and reasonable.

65. The record persuades us that in striking the ''per call'' and ''each and every [call]'' language, Congress modified but did not eliminate the requirement that providers be fairly compensated for completed intrastate and interstate communications. Instead, as Pay Tel explains, the fair compensation requirement ''was left as an independent requirement by the Martha Wright-Reed Act, reflecting a purposeful decision by Congress to retain the requirement as an essential component of [IPCS] reform.'' We agree that we should not ''effectively read the requirement out of the statute or diminish its importance.'' Instead, we address the fair compensation and just and reasonable standards as interdependent standards as we implement the requirements of section 276(b)(1)(A).

66. At the same time, we reject suggestions that the ''just and reasonable'' mandate could be treated as subsidiary to the ''fairly compensated'' mandate. We therefore reject any argument that IPCS rates or ancillary services charges ''must be *higher* than they otherwise would be under a 'just and reasonable' '' analysis in order ''to achieve 'fairness.' '' The text of section 276(b)(1)(A) as amended by the Martha Wright-Reed Act requires the Commission to implement both provisions in tandem. And because the two mandates potentially can be satisfied through a range of outcomes, the record here does not persuade us that we will be forced into a situation where one mandate must yield for the other mandate to be met.

67. *Interpreting the Fair Compensation Standard in Light of the Martha Wright-Reed Act.* While we conclude that our compensation plan for IPCS must accord meaning to the ''fairly compensated'' clause in section 276(b)(1)(A), we also conclude that the

Martha Wright-Reed Act alters our interpretation and application of that clause in certain key ways. For one, deletion of the ''per call'' and ''each and every [call]'' language from section 276(b)(1)(A) fundamentally changes the requirements of that clause. Consistent with the Commission's preliminary interpretation in 2023, we find that these statutory amendments signal ''Congress's intent to restrict the application of the 'fairly compensated' requirement with respect to [IPCS] by no longer requiring the Commission to ensure that its compensation plan allows for 'fair' compensation for 'each and every' completed call.'' Thus, while we must ensure that providers receive fair compensation for completed intrastate and interstate communications, we are not obliged to establish a per-call based compensation plan, as section 276(b)(1)(A) previously required.

68. The Martha Wright-Reed Act also affects how we implement section 276(b)(1)(A)'s directive that our compensation plan for IPCS ''ensure that all payphone service providers are fairly compensated'' for completed communications, consistent with the Act's amendments to section 276(b)(1)(A). Section 3(b)(1) of the Martha Wright-Reed Act grants us explicit authority to use ''industry-wide average costs.'' Use of industry-wide average costs, of necessity, evaluates provider compensation on a more aggregated—rather than provider-by-provider—basis. Section 3(b)(1) expressly permits the use of such data in ''determining just and reasonable rates'' as one permissible example, alongside more general authority to use industry-wide average costs ''[i]n implementing this Act and the amendments made by this Act,'' and ''promulgating regulations under'' the Martha Wright-Reed Act's amendments to the Communications Act. Nothing in the Martha Wright-Reed Act compels the Commission to use ''the average costs of service of a communications service provider'' in determining just and reasonable rates. Martha Wright-Reed Act § 3(b)(1). We thus reject Securus's argument that the Commission somehow ''ignored'' the possibility of using such costs in setting its rate caps. Based on that language we interpret Congress as authorizing us to rely on industry-wide average costs in implementing the ''fairly compensated'' mandate—and its interplay with the ''just and reasonable'' mandate—as amended and codified in section 276(b)(1)(A) by the Martha Wright-Reed Act. We consequently interpret Congress' permission to use industry-wide average costs to mean that rate caps based on costs evaluated on an aggregated basis generally will satisfy the requirement that all payphone service providers be fairly compensated. The record supports this interpretation. Consistent with the Martha Wright-Reed Act, and its amendments to section 276(b)(1)(A), we therefore adopt rate caps based on industry-wide average cost data submitted by IPCS providers in response to the Commission's 2023 Mandatory Data Collection, as described below.

69. We also observe that these provisions of the Martha Wright-Reed Act respond directly to the D.C. Circuit's holding in *GTL* v. *FCC* that setting rate caps based on industry-wide average costs was ''patently unreasonable'' because ''calls with above-average costs'' would not be fairly compensated on a per call basis. The elimination by Congress of the ''per call'' and ''each and every [call]'' language from section 276(b)(1)(A) leads to the interpretation that compensation need not be evaluated on a per-call basis. In addition, our reading of section 3(b)(1) of the Martha Wright-Reed Act persuades us that fair compensation need not be evaluated on a provider-by-provider basis—still subject, of course, to Constitutional limits on rate regulation as applied to individual providers.

70. At the same time, the flexibility in evaluating costs described in section 3(b)(1) of the Martha Wright-Reed Act is tempered by certain requirements to consider particular costs or cost characteristics under section 3(b)(2) of that Act. Section 3(b)(2) provides that the Commission ''shall consider costs associated with any safety and security measures necessary to provide a service.'' Under that provision, the Commission also must consider cost differences associated with ''small, medium, or large facilities or other characteristics.'' Consistent with that provision, we therefore also evaluate such costs considerations in the rate caps we adopt, as described below.

71. Consistent with the Commission's analysis in the *2021 ICS Order,* we find that a provider will be fairly compensated within the meaning of section 276(b)(1)(A), as amended by the Martha Wright-Reed Act, if the rates and charges we find just and reasonable afford it an opportunity to be fairly compensated at the level of the contract, regardless of the contributions that any particular communication or service makes toward the provider's shared and common costs, ensuring efficient providers have an opportunity to obtain fair compensation when bidding on contracts. We decline to set rate caps that ensure cost recovery for providers with unusually high costs because to let unusual cases determine rates generally would result in unjust and unreasonable rates. Instead, if such providers exist, they can seek a waiver. In that *Order,* the Commission found that compensation could be fair, when measured on a per-call basis, even if ''each and every completed call'' did not ''make the same contribution to a provider's indirect costs'' (*i.e.,* costs shared among, or common to, groups of calls) and even if the provider did not ''recover the total 'cost' it claims in connection with each and every separate inmate calling services call.'' Instead, the Commission recognized that ''the lion's share'' of inmate calling services costs were shared or common costs and that there were a range of economically sound methods of assigning these costs to individual calls. Under this approach, a provider will be fairly compensated if the rates and fees it is permitted to charge will afford it an opportunity to recover industry-average costs associated with prudent investments used and useful in providing IPCS and associated ancillary services at the facilities the provider serves.

d. Rates and Charges

72. We interpret the statutory language ''rates and charges'' to encompass the amounts imposed on consumers by IPCS providers as the Commission proposed in 2023. Section 276(b)(1)(A), as amended by the Act, requires that ''all rates and charges'' imposed by providers for the eligible communications are just and reasonable. The *2023 IPCS NPRM* proposed to interpret ''rates'' to include ''the amounts paid by consumers of incarcerated people's communications services for calls or other audio or video communications covered by the statute or [the Commission's] rules.'' And 2023 proposed to interpret ''charges'' to include ''all other amounts assessed on consumers of incarcerated people's communications services'' including ''ancillary service charges, authorized fees, mandatory taxes and fees, and any other charges a provider may seek to impose on consumers.'' The record supports these interpretations. We are persuaded that the statutory language ''rates and charges'' encompasses the amounts imposed on IPCS consumers, as we proposed in 2023, whether ''rates'' and ''charges'' are interpreted individually or if ''rates and charges'' is understood as an all-encompassing category.

73. The regulation of ''rates and charges'' lies at the core of the Martha Wright-Reed Act, and the amendments to section 276. Prior to the enactment of the Martha Wright-Reed Act, the Commission's rules commonly used the term ''rates'' when referring to the amounts consumers paid for inmate calling services calls, while at other times referring to such amounts as ''charges.'' The Commission's rules also at times use the term ''rates'' in connection with ancillary service charges. Nonetheless, on balance we conclude that under our rules in place at the time of the enactment of the Martha Wright-Reed Act, the term ''rates'' should be understood as referring to the amounts paid by consumers of incarcerated people's communications services for calls, supporting our adoption of the interpretation of that term proposed in 2023. Our interpretation also comports with the broad ordinary meaning of the term ''rate.''

74. We also conclude that ''charge[s]'' properly are interpreted as including ancillary services charges, mandatory taxes, mandatory fees, and authorized fees. The Commission's rules at the time of the Martha Wright-Reed Act's enactment defined ''Ancillary Service Charge'' as ''any charge Consumers may be assessed for, or in connection with, the interstate or international use of Inmate Calling Services that are not included in the per-minute charges assessed for such individual calls.'' Although the ancillary service charges that were permitted to be assessed under the Commission's rules were limited to five discrete categories, Congress notably did not use the term ''ancillary service charges'' in the Martha Wright-Reed Act, instead using the more generic term ''charges.'' Consequently, we do not find it appropriate to focus narrowly on the scope of ancillary service charges specifically permitted to be assessed under the Commission's rules. Rather, consistent with Congress's use of the broader term ''charges,'' we look to the distinction drawn between per-minute rates and any other ''charge[s] Consumers may be assessed for, or in connection with, the interstate or international use of Inmate Calling Services.'' That encompasses not only ancillary service charges permitted under the Commission's rules, but the other amounts identified in 2023 such as mandatory taxes, mandatory fees, and authorized fees. This interpretation likewise comports with the broad ordinary meaning of the term ''charge.''

75. As an alternative basis for our decision, we conclude that ''rates and charges'' can be interpreted collectively as reflecting a ''belt and suspenders'' approach to the Commission's regulatory authority under section 276(b)(1)(A) that encompasses the full array of amounts assessed on IPCS customers discussed above. The statutory context and regulatory history are consistent with that understanding. For example, leading up to the enactment of the Martha Wright-Reed Act, the Commission relied on authority under section 201(b)—which refers to ''charges'' but includes no express reference to ''rates''—to adopt rules governing ''rates and charges'' for IPCS. Treating ''rates and charges'' as a doublet that emphasizes that meaning of these overlapping terms also harmonizes section 3(b) of the Martha Wright-Reed Act—which addresses the Commission's consideration of certain cost information when, among other things, ''determining just and reasonable *rates*''—with the fact that the Act amended section 276(b)(1)(A) to include a mandate that the Commission ensure that ''*rates and charges* are just and reasonable'' for IPCS. This understanding of ''rates and charges'' also is understandable given the Commission's own sometimes inconsistent usage of ''rates'' and ''charges'' in its IPCS rules in effect at the time of enactment of the Martha Wright-Reed Act. Given that statutory context and regulatory history, ''rates and charges'' need not necessarily be understood as embodying two distinct concepts, but rather as ensuring that Congress collectively encompassed the full range of amounts assessed on IPCS customers over which it wanted the Commission to have authority. Further, this interpretation of ''rates and charges'' reflects the substantial overlap in the ordinary meaning of those terms.

76. Notably, section 276(b)(1)(A) also specifies that ''*all* rates and charges'' be just and reasonable. By specifying that ''all,'' as opposed to some smaller subset of ''rates and charges,'' are to be just and reasonable, Congress obviously intended to grant us broad regulatory oversight of ''rates and charges.'' We find that the requirement that ''all'' rates and charges be just and reasonable applies both to the rates providers impose and the rates consumers ultimately pay. Thus, the totality of the rates and charges a provider assesses on or collects from consumers must be just and reasonable. We find support for this in the record and judicial precedent.

77. Thus, we disagree with ViaPath that we should interpret ''rates and charges'' as excluding mandatory taxes, mandatory fees, and authorized fees. ViaPath contends that our ''current IPCS rules acknowledge'' that ''authorized fees and mandatory taxes and fees are separate and apart from ancillary service charges.'' As we explain above, the Martha Wright-Reed Act uses a broader term than ''ancillary service charges,'' and we conclude it best effectuates Congress' choice for our interpretation to sweep more broadly than the specific categories of ancillary service charges permitted under our existing rules. Nor are we persuaded by ViaPath's efforts to rely on rules and precedent from the operator services context. We find the statutory and regulatory considerations that we have described here to be much more pertinent to understanding Congress's actions against that precise legal backdrop than precedent and rules cited by ViaPath that were adopted in a context that we find at most tangentially related to our regulation of IPCS as relevant here.

78. To exclude any tax or fee that a provider might impose on IPCS consumers from the term ''all rates and charges'' would risk opening the door to assessments that could undercut the requirement of section 26(b)(1)(A) that amounts IPCS providers impose—and that IPCS customers pay—be just and reasonable. Indeed, the Commission recognized as much in the *2015 ICS Order* (80 FR 79135, December 18, 2015) when it repeatedly referred to mandatory taxes, mandatory fees, and authorized fees as charges and banned all inmate calling services ''fees or charges beyond mandatory taxes and fees, and authorized fees that the carrier has the discretion to pass through to consumers without any mark up.'' The Commission concluded that this ban would help ensure just and reasonable rates for inmate calling services. The record at that time demonstrated that providers had been marking up taxes and regulatory fees before passing them on to consumers and that those inflated fees had contributed to unreasonable inmate calling services rates and charges. Given the history of inflated ICS charges, there can be no assurance of a just and reasonable end result for IPCS if the definition of rates and charges were limited in the manner ViaPath proposes, which would allow providers to impose additional charges on consumers or to mark up their authorized fees, mandatory taxes, or mandatory fees before recovering them from consumers. Indeed, a recent class action lawsuit alleges that an IPCS provider charges consumers inflated fees under the guise of taxes. The rules we adopt today do not alter the circumstances in which providers may pass authorized fees, mandatory taxes,

and mandatory fees through to consumers. We therefore conclude that the statute requires us to consider the totality of the rates and charges a provider assesses or collects from consumers to ensure that all IPCS rates and charges are just and reasonable.

e. Authority To Regulate IPCS Providers' Practices

79. In 2023, the Commission sought comment on whether section 276(b)(1)(A)'s mandate that we ''establish a compensation plan to ensure that . . . all rates and charges'' for incarcerated people's communications services be ''just and reasonable'' extends to ensuring that the providers' practices, classifications, and regulations for or in connection with those services are just and reasonable. The Commission also asked for comment on the extent of its section 276(b)(1)(A) authority, if any, to address providers' practices, classifications, and regulations, as well as any limitations on that authority. Based on the record, we conclude that the Martha Wright-Reed Act provides us with limited authority to regulate IPCS providers' practices, classifications, and regulations (collectively, ''practices'') as a necessary part of our obligation to establish a compensation plan to ensure fair IPCS compensation to providers and just and reasonable rates and charges for IPCS consumers and providers under section 276(b)(1)(A). In addition, section 201(b)'s grant of authority over practices for or in connection with interstate and international common carrier incarcerated people's communications services enables us to act in certain circumstances, as well. We address these two sources of authority below.

80. *Section 276(b)(1)(A) Compensation Plan Requirement.* We conclude that the section 276 requirement that the Commission ''establish a compensation plan'' to achieve the goals of fair compensation for providers and just and reasonable rates and charges for consumers and providers, requires more of the Commission than the simple act of setting rates and charges. When implementing section 276(b)(1)(A) historically, the Commission has not limited itself just to the regulation of rate levels when seeking to effectuate the ''fairly compensated'' requirement that preceded the Martha Wright-Reed Act. By adding the ''just and reasonable'' mandate, while leaving the directive to establish a ''compensation plan'' unaltered, we understand Congress to intend that the Commission undertake an integrated set of actions designed to work in concert to achieve the statute's central goals of fair compensation and just and reasonable rates and charges.

81. Long prior to the enactment of the Martha Wright-Reed Act, the Commission implemented section 276(b)(1)(A)'s mandate to establish a compensation plan to ensure payphone providers are fairly compensated by addressing the practical details associated with charging for, and receiving payment for, payphone services. In its implementation of section 276(b)(1)(A) over time, the Commission adopted various requirements in particular payphone contexts apart from simply rate setting. Such requirements have included, among other things: (1) requiring the transmission of information to enable tracking of calls from payphones; (2) allocating responsibility for paying compensation for payphone calls; and (3) defining the permissible arrangements between payphone providers and the carriers paying them compensation for payphone calls. A unifying premise of these requirements is that their inclusion in a compensation plan enabled the Commission to advance the fair compensation mandate in section 276(b)(1)(A).

82. In light of the Martha Wright-Reed Act's addition of the ''just and reasonable'' mandate in section 276(b)(1)(A), we find that the statute's direction to establish a compensation plan likewise necessarily carries with it the authority to prescribe regulations to govern providers' practices to the extent that those practices implicate the Commission's ability to ensure that rates and charges are just and reasonable. In this way, the ''compensation plan'' requirement—which the Martha Wright-Reed Act left unaltered—gives the Commission authority in the case of the ''just and reasonable'' mandate that is comparable to what it historically has possessed when crafting compensation plans to account for the ''fairly compensated'' mandate. As the Public Interest Parties indicate, the responsibility to establish a comprehensive plan ensuring just and reasonable rates and charges ''necessarily encompasses a corresponding responsibility to ensure that IPCS providers do not evade [the Commission's rate and fee] caps through their other practices, classifications, and regulations.'' Given the mandate of the Martha Wright-Reed Act and its revisions to section 276(b)(1)(A), we find that the Commission's authority over rates and charges necessarily extends to practices that affect our ability to ensure that rates and charges are just and reasonable, as well as that providers are fairly compensated.

83. If section 276(b)(1)(A) instead were read only to allow us to regulate IPCS rate levels, providers' practices could thwart Congress' direction to ensure just and reasonable rates and charges for consumers and fair compensation for IPCS providers. The risk that providers' practices could subvert the goals of the statute is not speculative. For example, in light of evidence that inmate calling services providers were ''engaging in unjust and unreasonable practices and imposing unfair rates by instituting minimum or maximum amounts that may be deposited for prepaid calling accounts,'' the Commission prohibited providers from instituting prepaid account minimums and required that any provider that limits deposits set the maximum purchase amount at no less than $50 per transaction. Securus asks that we ''set minimum funding amounts to allow [IPCS providers] to better manage costs. We decline on the record before us to adopt its proposal, but will continue to monitor its concerns. And, more recently, the Commission concluded that all funds deposited into a debit-calling or prepaid calling account and not spent on products or services are generally the property of the account holder and that any action inconsistent with this finding is an unjust and unreasonable practice. The Commission also has found affirmative requirements, such as consumer disclosure rules, necessary to ensure that rates and charges as implemented are just and reasonable as applied to consumers. In sum, we find that section 276, as amended by the Martha Wright-Reed Act, gives us authority over providers' practices to the extent they may affect the Commission's ability to ensure just and reasonable IPCS rates and charges and fair compensation for all incarcerated people's communications services. Those services include the full range of services now subject to Commission authority as a result of the Martha Wright-Reed Act, including intrastate IPCS and the advanced communications services now included in the statutory definition of ''payphone service.''

84. We agree with commenters insofar as they note that Congress did not incorporate the entirety of the section 201(b) legal framework to ensure just and reasonable practices, classification, and regulations into section 276(b)(1)(A). At the same time, we reject claims that we lack any authority at all over IPCS provider practices under section 276(b)(1)(A). In particular, we reject arguments that our interpretation

fails to properly credit Congress' decision to use different language in section 201(b) and section 276(b)(1)(A). To the contrary, we honor Congress's choice because we do not interpret our section 276(b)(1)(A) authority over IPCS practices to be as extensive as the Commission's authority over common carrier practices under section 201(b). At the same time, we also must honor Congress's choice to leave intact the requirement that the Commission ''establish a compensation plan'' in the regulation mandated by section 276(b)(1)(A). As indicated by our analysis above, the compensation plan provision goes beyond the establishment of individual rates and necessarily entails a harmonized set of requirements that act as a coordinated whole to achieve the new statutory mandate of just and reasonable rates and charges.

85. *Section 201(b) Authority Over Interstate and International Practices.* Apart from the statutory directives in section 276 taken as a whole that support our finding of jurisdiction over certain IPCS practices to the extent they bear on just and reasonable rates and charges, we conclude that section 201(b) provides an independent statutory basis for regulating providers' practices with regard to IPCS. This authority explicitly extends to IPCS-related practices for or in connection to the interstate and international telecommunications services that are within our section 201(b) authority, as well as to practices for or in connection with other IPCS services within our section 276 authority to the extent those practices cannot practicably be separated from practices applicable to services within our section 201(b) authority.

86. Section 201(b) grants the Commission jurisdiction over ''practices, classifications, and regulations'' of carriers ''for or in connection with'' interstate and international communications services, including those services used to provide IPCS. That authority has been interpreted by the Commission to extend ''to the intrastate portion of jurisdictionally mixed services 'where it is impossible or impractical to separate the service's intrastate from interstate components' and state regulation of the intrastate component would interfere with valid federal rules applicable to the interstate component.'' In 2023, the Commission sought comment on whether it could use this ''impossibility exception'' to regulate practices for or in connection with incarcerated people's intrastate communications services and to audio and video services that were unregulated prior to the enactment of the Martha Wright-Reed Act. The record is mixed on this issue.

87. The Commission has previously applied section 201(b) and the impossibility exception to regulate providers' practices that affect both interstate and intrastate inmate calling services. In the *2020 ICS Remand Order,* the Commission relied on section 201(b) in adopting rules applicable to both interstate and intrastate ancillary service charges, finding that ''ancillary service charges generally cannot be practically segregated between the interstate and intrastate jurisdiction except in the limited number of cases where, at the time a charge is imposed and the consumer accepts the charge, the call to which the service is ancillary is a clearly intrastate-only call.'' In the *2022 ICS Order,* the Commission exercised its 201(b) authority to prohibit provider seizure of outstanding balances in inactive accounts that could be used to pay for interstate, intrastate, and nonregulated services, and to set limitations on ancillary service fees in order to curtail the incentives for providers to engage in revenue-sharing schemes that drive up prices charged to inmate calling services consumers.

88. Consistent with this precedent, we conclude that our section 201(b) authority over providers' practices extends to the full range of ''payphone service[s],'' as defined in section 276(d), to the extent the practices for or in connection with the payphone services outside of our separate section 201(b) authority cannot practicably be separated from the practices for or in connection with the payphone services within that authority. Consistent with the Commission's finding in the *2020 ICS Remand Order,* we find that this inseverability generally extends to providers' rate and ancillary services charge practices in connection with interstate and intrastate IPCS to the extent that IPCS-related practices cannot practicably be separated into interstate, intrastate or non-section 201(b) regulated services components.

4. Amendment to Section 2(b) of the Communications Act

89. In the next step of our analysis, we address the Martha Wright-Reed Act's confirmation of our jurisdiction to regulate the rates of all forms of intrastate IPCS to ensure they are not unreasonably high. Section 276(b)(1)(A) always has been clear that the Commission has authority to establish compensation plans for ''intrastate and interstate'' payphone calls, and as explained above, the Martha Wright-Reed Act amended that provision to clearly establish the Commission's authority to ensure just and reasonable rates for both intrastate and interstate communications, as newly encompassed by section 276(d). Above and beyond that, the Martha Wright-Reed Act added section 276 to the express exceptions to the general preservation of state authority in section 2(b) of the Act. Consistent with the Commission's proposal in 2023, we conclude that the collective effect of the amendments to section 276 as to intrastate communications, when coupled with the Martha Wright-Reed Act's amendment to section 2(b) of the Communications Act, is to remove any doubt that our authority over IPCS includes both interstate and intrastate jurisdiction.

5. Inclusion of Advanced Communications Services Within the Definition of Payphone Service

90. In 2023, the Commission recognized that the Martha Wright-Reed Act had expanded its section 276 authority over ''payphone service'' in correctional institutions to include ''advanced communications services,'' as defined in sections 3(1)(A), 3(1)(B), 3(1)(D), and new (3)(1)(E) of the Communications Act. The Commission asked how this expansion of statutory authority applies to each type of enumerated advanced communications service for incarcerated people. We conclude that the Martha Wright-Reed Act not only retains the Commission's preexisting authority over audio communications in the carceral setting, but extends that authority to include four categories of advanced communications services—''interconnected VoIP service,'' ''non-interconnected VoIP service,'' ''interoperable video conferencing service,'' and ''any audio or video communications service used by inmates for the purpose of communicating with individuals outside the correctional institution where the inmate is held, regardless of technology used''—within the definition of ''payphone service. We also conclude, as proposed in 2023, that the language in the new statute confers on the Commission broad jurisdiction to develop a compensation plan for the categories of audio and video communications included in the definition of ''payphone service'' in order to ensure that IPCS providers are fairly compensated and all IPCS rates and charges are just and reasonable. We likewise find that the expansion of the types of services and devices over which we have authority correspondingly includes entities that may not have previously been subject to

our rules and that now fall under our regulatory oversight. Below, we discuss, in turn, the four types of advanced communications services now included in the definition of ''payphone service.''

a. Interconnected and Non-Interconnected VoIP Services (47 U.S.C. 153(1)(A) to (B))

91. The Martha Wright-Reed Act expressly confirms the Commission's authority over interconnected and non-interconnected VoIP services, adding interconnected and non-interconnected VoIP services, as referenced in sections 3(1)(A) and 3(1)(B) of the Communications Act, to section 276(d)'s definition of ''payphone service.'' Based on universal support in the record, we find that this authority includes audio services using interconnected or non-interconnected VoIP, and extends to each entity that provides IPCS via interconnected or non-interconnected VoIP, including entities that provide those services via non-traditional equipment such as tablets or kiosks. As the Commission has observed, ''[s]ection 276 makes no mention of the technology used to provide payphone service. . . . Thus, the use of VoIP or any other technology for any or all of an ICS provider's service does not affect our authority under section 276.'' Our authority over inmate calling services is therefore unaffected by the application of VoIP technology; rather, the expansion of our inmate calling services authority to include VoIP technology reflects the Commission's long-held understanding of inmate calling services as inherently technology neutral. If a particular service meets the relevant definition in the Commission's rules, it is a form of inmate calling services and subject to the Commission's inmate calling services rules. To the extent an entity provides any of these services in ''correctional institutions,'' it will be subject to the rules we adopt in the Report and Order.

b. Interoperable Video Conferencing Service (47 U.S.C. 153(1)(D))

92. The Martha Wright-Reed Act extends our section 276 authority to ''interoperable video conferencing service'' by adding a reference to sub-paragraph 3(1)(D) of the Communications Act to the definition of ''payphone service'' in section 276(d). The Communications Act defines ''interoperable video conferencing service'' as ''a service that provides real-time video communications, including audio, to enable users to share information of the user's choosing.'' This definition encompasses video conferencing applications commonly in use outside the incarceration context, including applications that rely on transmission over the internet; and the rules we adopt in the Report and Order extend to such applications and similar applications should they be used in the incarceration context.

93. One commenter suggests that ''[i]n the absence of a Commission adopted definition of 'interoperable,' it is difficult to identify which video services made available to incarcerated persons qualify for potential rate regulation.'' That argument is outdated. In the *Access to Video Conferencing Order,* the Commission revisited its previous views regarding the interpretation of the statutory term ''interoperable video conferencing service'' and concluded that there was ''no persuasive reason to modify or limit the scope of the statutory definition of this term.'' There, the Commission explained that the statutory definition of ''interoperable video conferencing service'' encompasses a variety of video communication services that are commonly used today, or that may be used in the future, to enable two or more users to share information with one another. In 2011, the Commission interpreted a qualifying phrase in the definition—''to enable users to share information of the user's choosing''—to mean that services ''provid[ing] real-time video communications, including audio, *between two or more users*'' would be included, ''even if they can also be used for video broadcasting purposes (*only from one user*).'' It rejected arguments that the term ''interoperable'' had meaning independent of the statutory definition or in some way limited the scope of the statutory definition of the service. It concluded that the term interoperable ''may simply reflect the fact that any video service satisfying [the statutory] definition . . . necessarily involves some level of interoperability among the particular devices and software employed by users of that service.'' We find arguments to the contrary to have been fully addressed by the Commission's actions in the *Access to Video Conferencing* proceeding.

94. As the Commission has explained, the definition of interoperable video conferencing services does not reflect an intention to exclude any service based on whether it is used primarily for point-to-point or multi-point conversations, or based on the type of device used to access the service. Likewise, the definition does not depend on the options offered to users for connecting to a video conference (*e.g.,* through a dial-up telephone connection or by broadband, through a downloadable app or a web browser), what operating systems or browsers users' devices may employ, whether the service works with more than one operating system, or whether the service may be classified as offered to the public or to a private group of users (such as a telehealth platform). The Commission concluded that the important characteristic is that two or more people can use the service to share information with one another in real-time, via video.

95. Our section 276 authority over interoperable video conferencing services in the IPCS context therefore includes all options offered to users for connecting to a video conference, regardless of what operating systems or browsers their devices may use, whether the service works with more than one operating system, or whether the service may be classified as offered to the public or to a private group of users. Where two or more people can use a video conferencing service to share information with one another in real-time, that service is subject to our section 276 authority in the incarceration context. This authority also extends to educational, vocational, or other video programming in which incarcerated people participate in real-time in the incarceration context. To be clear, entertainment and other forms of content that are not real-time communications services are not included in our authority over interoperable video conferencing. They may, however, be subject to our authority under section 3(1)(E), which is not limited to real-time communications services.

96. We disagree that this interpretation somehow constitutes an assertion of authority over internet content. Notwithstanding certain parties' comments suggesting otherwise, we have not proposed to regulate internet content, nor do we do so in the Report and Order. The rules we adopt today are content-neutral, and our authority over interoperable video conferencing services, like our authority over traditional payphone services, is independent of the information communicated though those services. Neither the Communications Act nor the Martha Wright-Reed Act includes any language limiting the content or information that may be offered through interoperable video conferencing, and we do not impose any such limitations in our rules.

97. *Interoperable Video Conferencing Service for People with Disabilities.* Under section 716 of the Communications Act, as amended by the Twenty-First Century

Communications and Video Accessibility Act of 2010 (CVAA), interoperable video conferencing service and equipment used for interoperable video conferencing service must be accessible to and usable by people with disabilities, unless those requirements are not achievable. Consistent with the Commission's analysis in the *Access to Video Conferencing Order,* we find no persuasive reason to modify or limit the scope of these accessibility requirements as they apply in the IPCS context. Instead, we conclude that the accessibility requirements in section 716 of the Communications Act and part 14 of our rules apply, without limitation, to all interoperable video conferencing services provided in correctional institutions and to all equipment that people with disabilities use to access those services. As explained in more detail below, in the *2011 ACS Order* the Commission assumed that the word ''interoperable'' needed to be defined independently of the term ''interoperable video conferencing service.'' In the *Access to Video Conferencing Order,* the Commission revisited this issue and rejected arguments that the term ''interoperable'' had meaning independent of the statutory definition or in some way limited the scope of the statutory definition of the service. The Commission explained that the statutory definition of ''interoperable video conferencing service'' encompasses a variety of video communication services that are commonly used today, or that may be used in the future, to enable two or more users to share information with one another.

c. Any Audio or Video Communications Service (47 U.S.C. 153(1)(E))

98. The Martha Wright-Reed Act added new subsection (E) to section 3(1) of the Communications Act to expand the definition of ''advanced communications services'' to include ''any audio or video communications service used by inmates for the purpose of communicating with individuals outside the correctional institution where the inmate is held, regardless of technology used.'' It also included these same services in the definition of payphone service in section 276(d), expanding the scope of the Commission's authority over incarcerated people's communications services. As proposed in 2023, we interpret the phrase ''any audio or video communications service'' in subsection 3(1)(E) as encompassing every method that incarcerated people may presently, or in the future, use to communicate, by wire or radio, by voice, sign language,'' or other audio or video media, without qualification. The record strongly supports this interpretation. In doing so, we fulfill Congress's intent that a broad range of communications services and technologies be available to incarcerated persons and their loved ones at just and reasonable rates. Congress included all aspects of the section 3(1) definition of advanced communications services in the section 276(d) definition of payphone services with the exception of electronic messaging services defined in section 3(1)(C). Certain commenters address the exclusion of electronic messaging services from the Commission's regulatory jurisdiction in the record, particularly to the extent audio or video communications may be sent via electronic messaging service. On the limited record before us, we decline at this time to determine what is or is not an electronic messaging service for purposes of excluding such services from the scope of the Act's implementation mandate. While we decline to make a determination, we reiterate that under section 716 of the Communications Act, electronic messaging service is required to be accessible to and usable by people with disabilities, including those in carceral facilities. Separately, some commenters argue that the Commission should assert authority over voicemail. Other commenters argue that the Commission may not regulate voicemail because the Commission treats voicemail as an information service. The record in this regard is underdeveloped. Thus, at this time, we decline to address the Commission's regulatory jurisdiction over voicemail in the IPCS context.

99. Our interpretation encompasses technology used by people with disabilities. We find that, consistent with our mandate to provide TRS to incarcerated persons with disabilities, ''any audio or video communications services,'' as used in section 3(1)(E) includes all services currently provided in correctional institutions that an incarcerated person who is deaf, hard of hearing, deafblind, or has speech or other disabilities may use to communicate with individuals outside the correctional institution where the incarcerated person is held, and incorporates all future services and technologies that will assist incarcerated people with disabilities to communicate with the non-incarcerated—or incarcerated people to communicate with non-incarcerated people with disabilities—so long as it involves audio or video communications services.

100. We interpret ''audio or video communications services'' to encompass not only services that are audio and/or video at both ends of the communication, but also services that are audio and/or video at only one end of the communication or otherwise involve audio and/or video for only a segment or portion of the communication. The focus of section 3(1)(E) is not on whether a particular party to a communication is communicating in audio and/or video form, but rather on whether the *service* is an ''audio or video communications service.'' So long as the communications service involves audio and/or video in at least some respect, we conclude the ''audio or video communications service'' criterion is satisfied. The breadth of this interpretation, which may be of particular relevance where communications involving people with disabilities are concerned, is further supported by the fact that Congress chose to include that service within the category of ''advanced communications services'' that are subject to various disability access requirements, along with the recognition in section 276(b)(1)(A) that the communications services covered by that provision would include TRS.

101. Unlike some other services included within the section 3(1) definition of advanced communications services, the services included in section 3(1)(E) are not expressly restricted to real-time or near real-time communications services. We interpret Congress' omission of such limiting language for the comprehensive set of IPCS services covered by section 3(1)(E) as bringing non-real-time communications services generally within the ambit of our IPCS jurisdiction, to the extent an incarcerated person may use them to communicate with the non-incarcerated.

102. While Congress included no limitations to the range of audio and video communications services encompassed in section 3(1)(E), it addressed the parties involved by limiting the definition to audio or video services used for communications between two classes of users, *i.e.,* ''inmates'' and ''individuals outside the correctional institution where the inmate is held.'' While there is no dispute in the record regarding the meaning of the statute's reference to inmates, parties do dispute the meaning of the latter phrase.

103. Consistent with one of the alternatives raised in the Commission's discussion in 2023, we interpret the phrase ''individuals outside the correctional institution where the inmate is held'' to mean, not the precise physical location of the individual with whom the incarcerated person is

communicating, but instead the status of that individual as someone who is ''neither confined in nor employed by the institution, even if [they are] temporarily located on the premises of the institution for purposes of communicating with incarcerated individuals through some form of audio or video communications service.'' The record supports this interpretation. As the Public Interest Parties recognize, ''although the term 'outside the correctional institution' can mean 'not physically within the structure,' it can equally mean 'not held within the institution.' '' The relevant statutory language appears very similar to part of the Commission's longstanding definition of ''inmate calling service,'' which likewise refers to ''individuals outside the Correctional Facility where the Inmate is being held.'' Although the Commission did not definitively interpret the meaning of the ''outside'' language in its IPCS rules prior to the enactment of the Martha Wright-Reed Act, in the inmate calling context it regularly used the term ''outside'' of a correctional facility when referring to the status—rather than the physical location—of the party with whom the inmate was communicating. We recognize that the FCC Form established for purposes of a proposed collection of data on video visitation services described ''Off-Site Video Visitation'' as ''a call that allows an Inmate to communicate via video with another party (or parties) located outside the Facility where the Inmate is being detained.'' That limited example does not overcome our understanding of the broader usage of ''outside'' in Commission decisions in this context, particularly where it referred to communications to another party ''located'' outside the relevant correctional facility—a qualifier signaling physical location that is not present in either the Commission's definition of ICS or the text of section 3(1)(E) of the Communications Act. Because our interpretation is both consistent with the ordinary meaning of ''outside'' and accords with the trend we discern in the regulatory backdrop relevant here, we find that the best reading of ''outside the correctional institution'' in section 3(1)(E) refers to a party's status rather than its physical location. Consistent with the arguments of a number of commenters, we thus conclude that communications with ''individuals outside the correctional institution where the inmate is held'' is best understood to mean communications with individuals who are neither incarcerated in, nor employed by, the incarcerated person's correctional institution, *i.e.,* ''outside'' of the institution's framework, regardless of the physical location where they can use the communication service. By the same token, our analysis leads us to reject claims that we must interpret ''outside the correctional institution'' to refer to the physical location of the party with whom the inmate is communicating. These commenters do not persuade us that anything in the statutory text itself counsels against our interpretation, and insofar as they otherwise have a narrow view of congressional intent underlying the language it adopted, we are not persuaded by that either, as discussed more below.

104. Our interpretation also is supported by our view of congressional intent and associated policy considerations. We agree with Worth Rises that ''[t]here is no evidence that Congress intended for a miniscule regulatory cut-out that leaves IPCS ratepayers unprotected from rate regulation when they are physically located within a building that is property of the correctional authority. Whether the outside called party is on their mobile phone in the lobby of a correctional facility or sitting at a video kiosk booth in the on-site video calling room, they should be protected by the Commission's ratemaking authority.'' This reinforces our conclusion that the best reading of the statutory language is that it refers to the non-incarcerated status of the individual with whom the incarcerated person is communicating, rather than the physical location of individuals with whom an inmate can communicate using a given service.

105. The ordinary tools of statutory interpretation strongly support the view that the qualifier, ''individuals outside the correctional institution where the inmate is held,'' in section 3(1)(E) should be limited to services that only meet the definition of advanced communications services under that specific provision. Section 3(1) consistently has been understood as a disjunctive list of services such that meeting any one of those categories is sufficient to render a service an advanced communications service. While several commenters agree with this interpretation, one commenter contends that ''the limiting phrase of new subsection 3(1)(E)'' applies to all of the services included in section 3(1) ''in the context of IPCS.'' While the scope of section 3(1)(E) outside of the phrase in question is sufficiently expansive to encompass virtually all communications services, the National Sheriffs' Association points to nothing in the Martha Wright-Reed Act or the amended text of section 3(1) that would suggest that Congress intended to override the preexisting operative structure of that provision or subsume the definitions of interconnected VoIP service, non-interconnected VoIP service, and interoperable video conferencing service within section 3(1)(E). Indeed, if the relevant qualifier in section 3(1)(E) either were interpreted to apply to sections 3(1)(A), (B), and (D) or if section 3(1)(E) were read as subsuming sections 3(1)(A), (B), and (D), it is not clear what remaining practical significances sections 3(1)(A), (B), and (D) would have given the existence of section 3(1)(E). Under ordinary canons of statutory interpretation, such an outcome cuts against that reading. Had Congress intended the ''outside the correctional institution'' language in section 3(1)(E) to apply to other advanced communications services, it could have included that language in section 3(1) as a whole, appended it to other subsections of section 3(1) as it deemed appropriate, or incorporated that language into section 276(d). It did none of these things.

106. Nor can the National Sheriffs' Association's interpretation be reconciled with the broader statutory context. The definition of ''advanced communications service'' in section 3(1) does not owe its existence solely to IPCS regulation under section 276 of the Communications Act. Indeed, section 3(1) includes ''electronic messaging service,'' 47 U.S.C. 153(1)(C), which was not included as a specified category of service covered by amended section 276(d) of the Communications Act. Rather, a range of statutory provisions rely on that definition. Interpreting section 3(1) to mean that each of the individual audio and video services listed in sections 3(1)(A), (B), and (D) are subject to the limitation in (E) would result in a substantial narrowing of preexisting statutory requirements dealing with matters such as disability access.

107. Likewise, the National Sheriffs' Association's interpretation cannot readily be squared with section 276(d) as amended by the Martha Wright-Reed Act. In pertinent part, that provision as originally enacted defined ''payphone service'' subject to Commission authority under section 276 as encompassing ''the provision of inmate telephone service in correctional institutions.'' When Congress amended that definition in the Martha Wright-Reed Act to include certain advanced communications services, it made those services subject to the ''in correctional institutions'' limitation, as well. Yet if

the relevant terms in section 3(1) all already were subject to the limitation in 3(1)(E), it is not clear how much work would be left for the section 276(d) qualifier ''in correctional institutions'' to perform. At a minimum, Congress's deliberate choice to subject the advanced communications services covered by section 276(d) to the ''in correctional institutions'' qualifier provides good reason to pause before inferring arguably similar limitations in section 3(1) in a manner that appears contrary to that statutory text.

108. Consequently, we adopt the proposal in 2023 that the language requiring that communications involve ''individuals outside the correctional institution where the inmate is held'' applies only with regard to subparagraph 3(1)(E). We therefore agree with other commenters that the phrase ''outside the correctional institution where the inmate is held'' does not apply outside the context of section 3(1)(E).

6. Onsite Video Visitation

109. In 2023, the Commission sought comment on whether its expanded authority over IPCS extends to onsite video visitation services. The widespread use of onsite video visitation is a relatively recent phenomenon, initially driven by significant health risks posed by the COVID–19 pandemic. During the pandemic, ''nearly every jail and prison'' shifted from in-person visitation to onsite video services to prevent exposure to and the spread of coronavirus. In many instances, correctional institutions continue to restrict onsite visits to video communications in lieu of in-person visits.

110. Consistent with the description in 2023, we define onsite video visitation services as services that enable video communications between a person incarcerated in a correctional institution and a non-incarcerated person visiting that institution. We find that our authority over incarcerated peoples' advanced communications services extends to onsite video visitation on two independent grounds: (a) onsite video visitation's status as an ''interoperable video conferencing service'' within the meaning of section 3(1)(D); and (b) its status as an ''audio or video communications service used by inmates for the purpose of communicating with individuals outside the correctional institution where the inmate is held, regardless of technology used'' within the meaning of section 3(1)(E).

111. *Onsite Video Visitation as an Interoperable Video Conferencing Service under Section § 3(1)(D).* We conclude that onsite video visitation includes each of the elements of the definition of interoperable video conferencing service in section 3(27) of the Communications Act and that it is therefore a ''payphone service'' within the meaning of section 276(d) when provided in correctional institutions. Section 3(27) defines ''interoperable video conferencing service'' as ''a service that provides real-time video communications, including audio, to enable users to share information of the user's choosing.'' Onsite video visitation meets those criteria: it is a real-time service that involves video communications, including audio, and that enables the incarcerated and the non-incarcerated to share information of their choosing. Notwithstanding the National Sheriffs' Association's advocacy to the contrary, we find above that the limitation to ''individuals outside the correctional institution'' included in section 3(1)(E) is specific to the grant of authority in that section and is not generally applicable to section 3(1) as a whole. Thus, to the extent it were relevant in a given scenario, we observe that the definition of interoperable video conferencing service does not include any limitation or requirement that the communications be with individuals outside the correctional institution. Instead, we find the statute best interpreted to mean that any interoperable video conferencing service, a service that includes onsite video visitation, is a payphone service, and therefore subject to our authority under section 276(b)(1)(A), to the extent it is provided in correctional institutions. Onsite video visitation uses the same or functionally similar technology and equipment as is used generally for video IPCS.

112. We also find that Congress intended our authority under section 276 to extend to the full range of interoperable video conferencing services, including onsite video visitation services, given the inclusion of section 3(1)(D) in section 276(d). By this inclusion, Congress eliminated doubt that video visitation was subject to the Commission's authority in response to the D.C. Circuit's *GTL* v. *FCC* decision casting doubt on whether video visitation reporting requirements were within the Commission's authority. As amended by the Martha Wright-Reed Act, the definition of ''payphone service'' in section 276(d) of the Communications Act now includes all interoperable video conferencing services, without qualification, to the extent they are provided in correctional institutions. Given this statutory language, we conclude that our authority under section 276(b)(1)(A) extends to all onsite video visitation services.

113. Our conclusion does not change regardless of whether onsite video visitation is offered free of charge. Though one commenter argues that we should limit our oversight because ''the industry has no history of charging for such services, we find that because such services meet the definition of ''payphone service'' in section 276(d), they fall within the Commission's jurisdiction. We affirm that onsite video visitation services are interoperable video conferencing services, and as such, are subject to our section 276 jurisdiction and the rules we adopt herein.

114. *Onsite Video Visitation as a Video Communications Service under Section 3(1)(E).* In 2023, the Commission sought comment on whether onsite video visitation services constitute ''video communications service[s]'' within the meaning of section 3(1)(E). As an initial matter, we find that, based on the record in response to 2023, onsite video visitation is a video communications service under section 3(1)(E), giving us an alternative basis for exercising section 276 authority over those services independent of section 3(1)(D). We are persuaded by commenters' explanations that ''[o]n-site video visitation service used by an incarcerated person for the purpose of communicating with those neither confined nor employed by the correctional facility fits plainly within the statutory language in section 3(1)(E), as the service is used by incarcerated persons to communicate with . . . persons not held within the institution.''

115. Nor do we find any ''reasonable justification to interpret the Act to allow the Commission to regulate [remote video services] but [not onsite video services].'' We are not persuaded by suggestions that Congress intended to include a limitation based on the physical location of the non-incarcerated person involved in the communication such that we have no authority over onsite video visitation under section 3(1)(E). As discussed above, the language of the statute is best read as focused on the status of the individuals involved in an audio or video communication—not on the physical location of the called party at the time of the communication. Indeed, even assuming *arguendo* that the qualifier in section 3(1)(E) were interpreted to apply to the physical

location rather than status of the individuals with whom an inmate is communicating, the relevant statutory question would be where the *service* can be used, and not where a given *communication* occurs. If an audio or video communications service can be used by inmates for the purpose of communicating with individuals outside the correctional institution where the inmate is held, the details associated with a given individual communication using that service would be irrelevant.

116. Policy considerations likewise support our interpretation. We find it compelling that ''[b]oth remote and on-premises video calls are typically operated by the same IPCS providers, involve the same technological systems, and have the same functions and equipment for the incarcerated user, regardless of the location of the person with whom they are communicating.'' While some providers offer such service for free today, it does not follow that consumers never would or could need the protection of the ''just and reasonable'' standard provided by the Martha Wright-Reed Act for these video communications. Absent Commission oversight of onsite video visitation, both facilities and IPCS providers could, for example, have ''a perverse incentive . . . to reduce the availability of other forms of IPCS as well as in-person visitation.'' We are persuaded that, because these services share providers, equipment, and other technology systems, the only difference between onsite and remote video communications is the location of the non-incarcerated party with whom the incarcerated individual is communicating. We therefore agree that ''[t]here is no reasonable justification to interpret the Act to allow the Commission to regulate one but not the other.''

D. Rate Caps

117. After carefully considering our expanded statutory authority, the data received in response to the 2023 Mandatory Data Collection, and the record developed from the 2023 and the precursor requests for comment, we take a series of actions to establish just and reasonable rates for IPCS while also ensuring fair compensation for providers. Specifically, we adopt the Commission's proposals to set separate rate caps for audio IPCS and video IPCS, and to treat interstate and intrastate communications uniformly, as supported by both the record and provider responses to the 2023 Mandatory Data Collection. We also revise our rate cap tiers, and adopt separate per-minute rate caps within each of those tiers for audio IPCS and video IPCS. Collectively, these steps will achieve the dual directives of the statute to ensure just and reasonable rates for consumers and providers and fair compensation for providers.

118. These actions reflect our application of the ''used and useful'' framework in evaluating the costs of providing IPCS, consistent with the Commission's proposal in 2023. Under this framework, the determination of just and reasonable rates focuses on affording regulated entities an opportunity to recover their ''prudently incurred investments and expenses that are 'used and useful' in the provision'' of the regulated service. In applying this framework, we use provider-submitted data and other information from the record to estimate the costs incurred in providing IPCS, including any safety and security measures used and useful in the provision of these services. Our rate cap calculations incorporate the costs providers reported as their costs of providing ancillary services, consistent with our decision to eliminate separate charges for ancillary services. Finally, our rate caps reflect our best estimate of the costs incurred in implementing the TRS reforms adopted in the *2022 ICS Order* and our best estimate of the costs facilities incur in the provision of IPCS.

119. Accordingly, we adopt the following permanent rate caps for audio IPCS, and interim rate caps for video IPCS:

- For all prisons, $0.06 per minute for audio communications, and $0.16 per minute for video communications;
- For jails with an average daily population (ADP) greater than or equal to 1,000 incarcerated people, $0.06 per minute for audio communications and $0.11 per minute for video communications;
- For jails with an ADP between and including 350 and 999 incarcerated people, $0.07 per minute for audio communications and $0.12 per minute for video communications; and
- For jails with an ADP between and including 100 and 349 incarcerated people, $0.09 per minute for audio communications and $0.14 per minute for video communications.
- For jails with an ADP with 99 or fewer incarcerated people, $0.12 per minute for audio communications and $0.25 per minute for video communications.

We establish these rate caps using a zone of reasonableness approach. This approach allows us to respond to the limitations of the cost-of-service data before us in a manner that appropriately balances fair compensation for IPCS providers with just and reasonable rates and charges for consumers and providers. Through this approach, we afford providers an opportunity to recover the used and useful costs incurred to provide IPCS and also keep IPCS rates affordable for incarcerated people and their loved ones.

1. Rate Cap Structure

120. *Adopting Rate Caps as the Regulatory Mechanism.* We conclude that rate caps are the appropriate mechanism for ensuring that all rates for IPCS are just and reasonable. Consistent with the Commission's prior ratemaking with regard to inmate calling services, we find that rate caps provide the best overall rate structure for IPCS because of the flexibility that rate caps afford providers while still ensuring that the incarcerated individual and their loved ones are protected from unreasonably high rates and charges. We also find that rate caps are preferable to prescriptive rate setting for IPCS because a rate cap approach does not preclude or prevent providers and parties representing facilities from negotiating and entering into agreements to provide IPCS at lower or no cost to incarcerated people and their friends and family, as is shown in the record. The record strongly supports the use of rate caps rather than prescriptive rate setting. Rate caps also allow providers to be responsive to the differing needs of each facility, and ''protect ratepayers as a group from high prices and provide carriers with an incentive to increase productivity.'' As the IPCS industry continues to develop and offer advanced communications services including video communications, we find that flexibility in pricing and in service offerings will be important to ensure that providers and incarcerated people and their friends, families, and loved ones benefit from the rate caps we adopt today.

121. *Separate Rate Caps for Audio IPCS and Video IPCS.* With the Martha Wright-Reed Act's expansion of the Commission's authority to regulate advanced communications services, and in keeping with the Commission's obligation to ensure just and reasonable rates, we adopt separate rate caps for audio IPCS and video IPCS. In adopting these rate caps, we do not intend any modification of the requirements of § 64.6040(d) of our rules, which addresses TRS and certain related services (TTY-to-TTY communications and point-to-point video communication in American Sign Language). For IP CTS, CTS, and point-to-point video communication in ASL, an IPCS provider may assess charges

that do not exceed its charges for an equivalent voice telephone call. Thus, charges for these services will be effectively capped at the applicable rate cap for audio communications. For TTY-to-TTY communication, an IPCS provider may assess a charge that does not exceed 25 percent of the applicable per-minute rate for a voice call. Thus, such charges are effectively capped at 25 percent of the applicable per-minute rate for a voice call. We find the record, including the 2023 Mandatory Data Collection data, overwhelmingly support this approach. Record comments support separate rate caps because of the materially different cost structures of offering audio and video IPCS, and we agree. The data show that video communications typically require more expensive equipment, and even when comparing audio and video communications made using the same equipment, the data suggest that video communications are more expensive to provide. This difference in costs justifies the need to adopt separate rate caps for these services to satisfy our obligations for both providers and consumers of IPCS. Accordingly, we separately analyze audio and video IPCS costs and develop separate rate caps at each tier for both services.

122. As proposed in 2021 and 2023, we adopt permanent rate caps for audio IPCS. The Commission has previously been constrained to adopt only interim rates for these services given persistent limitations of the industry data available to it. We now find that the audio cost data received in response to our most recent data collection provide a sufficient basis for setting permanent audio IPCS rate caps.

123. By contrast, video IPCS involves relatively new services in an emerging market for the correctional industry, and one which the Commission has not previously had the authority to regulate. The reported costs show a marked differential between audio and video costs per minute, which may be attributable, in part, to the respective difference in maturity of the two types of service offerings. As a result of the relative nascency of the video IPCS market generally, the wide variations among facilities in the per-minute costs of providing IPCS, and the likely need to revise any video rate caps in the future to account for growth and evolution of the video IPCS marketplace, we find that the reported costs and demand for video IPCS are best suited for interim rate caps. We find that the video data present similarities to the data that the Commission reviewed in 2021, when the Commission was faced with data that it determined was unreliable, resulting in the adoption of interim rate caps. NCIC argues that the Commission should ''delay the adoption of interim rates until it receives comprehensive data from all video visitation providers, and deliver immediate relief by simply prohibiting flat-rate billing, which is currently being offered at up to $12.99 per session''). While we recognize that the video marketplace is in its nascent stages, we find that the available data sufficiently support the interim rate caps we adopt today. In addition, as we note below, interim rate caps for video are necessary to curb abuses identified in the record concerning other existing rate structures in the video market.

124. *Per-Minute Rate Caps for Audio IPCS and Video IPCS.* We adopt the Commission's proposal to set rate caps for audio and video IPCS on a per-minute basis as the foundation of our efforts to ensure just and reasonable IPCS rates and charges. The record provides no basis to abandon the long-standing per-minute rate caps for audio IPCS, and we find no reason to deviate from this approach. The Commission has historically set per-minute rate caps for audio IPCS. This decision is further supported by our adoption today of rules to permit alternate pricing plans subject to specified conditions. Similarly, given the per-minute rate structure we adopt for audio calls, we find that taking a consistent approach for video communications would offer several benefits for IPCS consumers. First, per-minute rates are simple to understand and reflect the actual duration of the call or communication. As a matter of policy, the Commission has stated that transparency regarding the charges for IPCS ''is critical because it ensures that incarcerated persons and their families understand the prices they are, or will be, charged for the services they use, enabling them to make informed decisions when purchasing those services.'' We find that consistent use of per-minute rates for audio and video IPCS will result in an easier to understand and more transparent regulatory framework. We therefore reject proposals to use other rate metrics, such as per-session charges, in the rate caps that serve as the foundation for ensuring just and reasonable IPCS rates. Per-minute rates also provide greater transparency and offer greater familiarity and flexibility for both industry and consumers.

125. Establishing interim per-minute rate caps for video IPCS is also responsive to concerns voiced in the record about the need to curb abusive practices associated with other existing rate structures for video IPCS. At the same time, however, our new rules permitting providers to deploy alternate pricing plans for both audio and video IPCS, subject to certain conditions, including, in particular, compliance with the overall rate caps adopted here, will permit providers to experiment with optional rate structures that may be beneficial and desirable for IPCS consumers. Taken together, we find these actions satisfy two goals: our default per-minute rates will ensure just and reasonable rates for IPCS consumers and providers and fair compensation for providers; and our optional alternate pricing plan rules will provide some measure of flexibility for the industry, allowing providers and customers to voluntarily opt-in to other pricing arrangements that may be mutually beneficial. The Commission has previously found that when providers used flat-rate charges for audio calls, if the duration of the audio call was less than the maximum time allowable, ''the price for that call is disproportionately high.'' Receiving no record evidence to the contrary, we find that a similar result is likely in the case of per-call or per-session charges for video IPCS.

126. We decline to adopt a model carrier approach to establish the rates for either audio or video IPCS. As proposed in the record, a model carrier approach would set rates by reference to general telecommunications industry-average costs for non-IPCS calls, including a predetermined return, ''and then potentially adjust for costs that may be particular to the provision of service in incarceration facilities.'' Although the Commission has employed a similar approach in other circumstances, we find that our tiered approach based on the currently available IPCS-provider data provides a more accurate estimate of just and reasonable IPCS rates and will better reflect the size variance and the economies of scale in the IPCS market rather than relying on a uniform general telecommunications industry rate setting approach. We find further that the marketplace is still adapting to the requirements of IPCS video communications, which counsels in favor of allowing more time before adopting a model carrier approach. Because we do not base our analysis on the model carrier approach, we find it unnecessary to address arguments concerning the Commission's authority in this respect. At the same time, a model carrier based approach is useful for comparative analysis, and as explained further in a technical appendix, can be used to confirm our

understanding of certain aspects of providers' cost data.

127. *Adopting Rate Caps Derived from Industry Average Costs.* As permitted by the Martha Wright-Reed Act, we use industry average costs reported by IPCS providers at the company-wide and facility levels in response to the 2023 Mandatory Data Collection as the basis for developing the IPCS rate caps we adopt today. In 2021, the Commission sought comment on whether to ''calculate industry-wide mean contract costs per paid minute of use,'' or to ''analyze costs at the facility level.'' We resolve this question by confirming that we analyze costs at the facility level, in the interest of evaluating providers' costs as accurately as possible, consistent with the facility-level cost data staff sought and obtained through the 2023 Mandatory Data Collection. The Commission previously used industry average costs to set inmate calling services rate caps, but the D.C. Circuit rejected that approach as not providing fair compensation for providers on a ''per call'' basis for ''each and every call,'' as was then required by the language of section 276(b)(1)(a) of the Communications Act. The Martha Wright-Reed Act removed the ''each and every call'' language from section 276(b)(1)(a) and authorized the Commission to use ''industry-wide average costs'' in determining just and reasonable rates. We can only conclude, and commenters concur, that the Act thereby removed the limitations set forth in the D.C. Circuit's decision. We also believe that using industry average costs to set rates will best ensure rates that are just and reasonable for consumers and providers and provide fair compensation for providers.

128. We further find that the Act's elimination of the requirement that ''each and every'' completed communication be fairly compensated means that we are no longer required to establish a per-call based compensation plan. Commenters agree. Rate caps based on costs evaluated on an aggregated basis generally will satisfy the requirement that all payphone service providers be fairly compensated. Based on our interpretation of the Act in light of the D.C. Circuit's holding in *GTL* v. *FCC,* as well as the Act's explicit terms, we further find that setting the upper and lower bounds of our zone of reasonableness based on industry-wide average costs at each tier of facilities—without the need to consider one standard deviation or any other measure of deviance from the average—will satisfy this requirement. We find that Congress's express permission to use industry average costs in setting rate caps encompasses the specific approach to using industry average costs that the Commission adopted in the *2015 ICS Order:* setting rate caps at the level of the weighted average of providers' reported costs at each tier. The regulatory history—particularly our understanding of the ways that the Martha Wright-Reed Act sought to respond to the D.C. Circuit's decision in *GTL,* including with specific respect to the use of industry average costs—reinforces the reasonableness of our interpretation.

a. Rate Caps Based on Total Costs

129. Consistent with the changes to our authority, we adopt the proposal to set rate caps that incorporate total IPCS costs by including *all* relevant costs incurred in the provision of IPCS in our calculations of average provider costs. In implementing that approach, we depart from the Commission's previous approach to allowing and capping separate charges for certain ancillary services and instead include the costs related to the provision of those ancillary services in our IPCS rate caps. We also depart from the Commission's use of separate rate additives for facility-incurred costs in the *2021 ICS Order,* in favor of including those costs, to the extent recoverable, in our per-minute rate caps. This will substantially simplify our cap structure. Pay Tel proposes that we account for facility costs ''through an explicit additive to IPCS rate caps,'' as this will ''incentivize facilities to compare service-based, competitive market factors when awarding contracts.'' We find that the approach we adopt here will obtain a fundamentally similar result. After analyzing providers' cost data, we find that the data for calendar year 2022 collected in response to the 2023 Mandatory Data Collection, together with other record evidence, provide a sufficient and reasoned basis on which to take these steps in establishing our rate caps. One commenter notes that we should consider ''free video calls through off-the-shelf video platforms,'' such as Microsoft Teams, Zoom, and Ameelio, as part of the industry-wide definition of IPCS providers. We find that these video platform business models are substantially different from those of most IPCS providers, and we decline at this time to do so. Taken together, reforming our ancillary services charge rules, and including costs incurred by facilities to provide IPCS and TRS-related costs into our rate caps, result in a total cost approach to setting IPCS rate caps which is more straightforward, results in rates which are easier to understand, and will empower incarcerated persons and their loved ones to make better informed choices. We address each of these steps below. Lastly, we disagree with commenters that suggest that we incorporate an inflation factor into our methodology for setting rate caps. Secretariat Economists' data show that, historically, growth in the Telecommunications PPI has been lower, on average, than general measures of inflation. Over the last decade, the average annual change of the Telecommunications PPI was 0.7%, as compared to the average annual change of the broader GDP Deflator over the same time period of 2.6%. Those commenters generally fail to acknowledge the role that productivity increases play in offsetting inflation. Neither study includes data on the rates of increase in productivity in the telecommunications industry. We also note that the data in the Secretariat Economists May 8, 2023 Report shows that inflation in the telecommunications industry has generally been lower than the broader measure of inflation. We find that they fail to establish that productivity increases did not offset the inflation that has incurred since 2022, much less that inflation will outpace productivity gains in the future.

130. *Incorporating Costs Associated with Ancillary Services.* We find that the five types of ancillary services addressed by our rules are intrinsic to the provision of IPCS, and we incorporate the costs of providing these services into our per-minute rate caps for a number of reasons. For one, incorporating the costs of these services into a single rate cap—rather than allowing providers to assess a separate ancillary service charge for each ancillary service—will result in rates and charges that are easier for consumers to understand and easier for providers to administer, while still allowing providers to recover the average costs associated with these ancillary services through our per-minute rates.

131. In addition, in the *2021 ICS Order,* the Commission found that, based on record data, there was ''no reliable way to exclude ancillary service costs'' from the calculations for the provider-related rate cap component, resulting in interim rate caps that included the costs that consumers already paid for through separate ancillary services fees. To address this issue, in 2022 the Commission asked whether ''some or all of [the ancillary] services'' for which separate charges were permitted are ''an inherent part of providing inmate calling services,'' such that the Commission should continue to

''include these costs in [the] per-minute rate cap calculations and eliminate some or all charges for ancillary services.'' As the record shows, all of these fees ''relate to payment and billing,'' and other than the paper bill fee, all of these fees address consumers' means of paying for the service they rely upon. Put otherwise, consumers may pay for IPCS via a payment card or a third-party money transmitter, with the assistance of a live agent, and/or may pay to complete a communication without setting up an account. Although these ancillary services may have qualified as a ''convenience'' in 2015 when the Commission first identified them in its rules, the record indicates that they are now the predominant means by which consumers gain access to IPCS. While alternative methods of funding an account remain available (*e.g.,* by check or money order), we find that automated payment or money transmitter services are ''an intrinsic part'' of accessing the service, like most other services in the 21st-century economy. Indeed, one provider has pointed to the decline in one alternative payment mechanism—collect calls—in support of its proposal that the Commission eliminate the fee for paper statements. In short, ''incarcerated people and their families must either incur [these charges] when making a call or forego contact with their loved ones.''

132. Our decision to incorporate the costs of ancillary service functions in our rate caps also reflects the limitations in the cost data providers submitted for their ancillary services. Like the Commission found in the *2021 ICS Order,* we still cannot reliably isolate the costs of providing each type of ancillary service from other IPCS costs. In contrast to the Second Mandatory Data Collection, the instructions for the 2023 Mandatory Data Collection required providers to report their costs of each ancillary service separately. Nevertheless, we find that providers failed to reliably or consistently allocate their costs among the various ancillary services, or even between ancillary services and other IPCS costs. Incorporating all of these reported costs into the rate cap avoids the risk of setting individual fee caps for each ancillary service that misestimate providers' actual costs. We therefore find that incorporating ancillary service costs into our rate caps is the best means of recovering the aggregated ancillary services costs reported by providers and ensuring just and reasonable IPCS rates. We find that this approach is preferable to allowing double recovery of the same costs by adopting separate rates and charges.

133. Incorporating the costs of providing ancillary services into our rate caps will provide several benefits to IPCS consumers and respond to concerns raised in the record. First, this rate cap structure will eliminate the incentive and ability for providers to charge multiple fees for the same transaction, as a way of exacting revenue from consumers that far exceeds their actual costs of completing the transaction, a problem that is well-documented in the record. The comment record reflects substantial debate (even confusion) as to whether—and if so, under what circumstances—multiple fees can be charged for a single transaction, and more generally, what activity the payment-related fees were intended to encompass. By folding the costs of all ancillary services into our rate caps and eliminating providers' ability to charge for them separately, we also remove the incentive for providers to ''double dip'' in this manner, effectively mooting related concerns under our new rules, and mitigate consumer confusion arising from these practices. Certain providers contend that any circumstances in which they have charged multiple fees are legitimate. Because the rate cap structure we adopt enables providers to recover their average costs of providing ancillary services, as permitted by the Martha Wright-Reed Act, we find it unnecessary to resolve this dispute in this rulemaking. The record also shows that such practices have engendered consumer confusion. We similarly eliminate the ability of providers to engage in other rent-seeking activity described in the record, including concerns that providers may ''steer'' consumers to a more expensive single-call option for an incarcerated person's initial call after incarceration in an effort to artificially inflate revenues through single-call fees. These practices undermine the intent of our rules, and inflate providers' revenues well beyond costs, at the expense of consumers, all while providing no additional consumer value. Indeed, by removing such incentives, we find that the rate cap structure we adopt in this Order may, for example, motivate providers to make it easier to set up an account when consumers receive an IPCS communication for the first time.

134. We likewise find that incorporating ancillary service costs into our rate caps will align rates and charges more fairly with actual user activity. Several commenters point out the seeming unreasonableness and disproportionality of charging a $3.00 fee for a call that may only last one minute, or passing through similar fees for small deposits, causing consumers to ''lose a significant amount'' of their account deposits paying such fees. By incorporating ancillary service costs into our rate caps, we ensure that the cost of any particular communication for any IPCS consumer is more proportionate to its duration. We also eliminate certain distortions that our current fee structure may perpetuate, such as avoiding a live agent, or transferring funds to relatives less frequently in an effort to avoid such charges. Our actions today reduce these barriers to communication.

135. Incorporating ancillary service costs into our rate caps will also simplify the billing process, easing the administrative burden on providers and clarifying the bills and general operational process for consumers. We agree that these changes will ''simplify matters for consumers.'' Similarly, with respect to paper billing fees, by incorporating the costs of these bills into our rate caps we align IPCS billing practices more closely with consumers' experiences for other forms of telecommunications service outside of the carceral context, where separate charges are not assessed for paper bills.

136. Finally, we find that incorporating ancillary service costs into our rate caps aligns our rate and fee structure more effectively with broader patterns in the industry and the diminishing utility of certain ancillary services. As the Commission has previously observed, several jurisdictions have already banned ancillary service charges, either piecemeal or outright. The record affirms that several of these services are declining in use. For example, several providers assert they rarely charge a paper bill fee as few consumers require paper bills, even proposing outright that this fee be eliminated. At least one provider no longer charges a live agent fee, having switched to an automated system during the pandemic. Meanwhile, providers have shifted from offering single-call services through third parties (as defined in our rules) to instead provide these services themselves. The record further suggests that the single-call service, which ostensibly offers the convenience of completing initial contact without setting up an account, may in practice—like paper billing—offer little benefit to consumers, as they still have to enter their payment card information to accept the call. The record does not establish the marginal difference between single-call payment and account creation, and we are not

convinced that the margin would be great enough to significantly deter interested consumers.

137. Some commenters object to the approach of incorporating ancillary service costs into the rate caps. Those commenters argue that this methodology ''does not reflect the manner in which costs are caused by users of the service,'' and ''would impose costs for payment processing on all consumers, rather than just those consumers directly responsible for the cost.'' We are unpersuaded. We find that most of these functions have become ''an intrinsic part of providing'' IPCS because they provide IPCS consumers the means to obtain IPCS, such that consumers typically ''must either incur [these charges] when making a call or forego contact with their loved ones.'' For the same reason, we are not persuaded by Securus's implicit argument that the current ancillary fees are offered ''as a convenience to incarcerated persons or their friends and family and are not intrinsic to the provision of ICS.'' The sole fee unrelated to paying for IPCS, the paper bill fee, is sufficiently rarely used that it has a negligible impact on the per-minute rate caps. It is not necessary that these services be used by ''*all* consumers''; the fact that these services operate as a threshold to most IPCS communications, coupled with the many factors identified above in support of ancillary service cost recovery through our per-minute IPCS rate caps, establishes that our regulatory approach provides for just and reasonable rates for consumers and providers, while also providing appropriate cost recovery for providers. In the *2015 ICS Order,* the Commission found that single-call services were not ''reasonably and directly related to the provision of ICS'' because they ''inflate the effective price end users pay for ICS and result in excessive compensation to providers.'' We find that this pattern has been ameliorated, in part, by the changes to single-call fees adopted in the *2021 ICS Order* and *2022 ICS Order;* we also recognize that providers incur some amount of legitimate costs for providing this service, which for at least some consumers may offer a crucial means of completing an IPCS communication. At the same time, we find that the continuing abuse of this fee described in the record supports elimination of the single-call fee as an independent charge—and suggests that our analysis of ancillary service costs may actually overestimate providers' actual costs. We also find unpersuasive the argument that we should abstain from ''[f]urther changes to, or eliminating, ancillary fees'' because this ''likely will cause new efforts to subvert the FCC's ancillary fee caps.'' NCIC also argues that changes to, or elimination of, ancillary fees would ''require ICS providers to spend thousands of hours renegotiating contracts to comply with a new fee structure.'' The rate caps we adopt today will require contract amendments or renegotiations regardless, and NCIC does not provide evidence or elaboration to support its conclusory assertions regarding the implications of the particular change associated with ancillary fees, so we find this argument unpersuasive. The history of this proceeding demonstrates that ''efforts to subvert [our] ancillary fee caps'' or otherwise abuse ancillary fees is merely an endemic feature of the market. The record contains no evidence that eliminating separate ancillary service fees would amplify this pattern; indeed, the record suggests, and logic supports the fact, that eliminating separate fees would eliminate entirely the incentive and ability to subvert them. For example, the *2015 ICS Order* banned several types of ancillary service charges, *e.g.,* ''account set-up, maintenance, closure, and refund fees.'' The record is bereft of any evidence that the elimination of these fees has encouraged providers to attempt to subvert the Commission's rules.

138. *Incorporating Facility Costs in IPCS Rate Caps.* We also include in our rate caps an estimate of the costs that correctional facilities incur that are used and useful in the provision of IPCS. Previously, the Commission found that correctional facilities incur certain costs that are ''reasonably and directly related'' to the provision of IPCS. However, despite repeated efforts to collect data from which to reliably measure such costs, we find that neither the collected data nor the record before us allow us to identify those costs with reasonable certainty. At best, the record discussion concerning IPCS costs which facilities may bear falls short of the sort of quantitative evidence which would ordinarily support the Commission's ratemaking efforts. Further, requiring accurate cost accounting of facilities' costs would unreasonably burden facilities, and facilities have declined to provide such data voluntarily. Consequently, as proposed in 2023, we make generalized findings based on the available record information before us. Our rate caps, therefore, include our best estimate of the used and useful facility costs incurred in the provision of IPCS.

139. *Incorporating TRS Costs in IPCS Rate Caps.* We also include in our IPCS rate caps an estimate of the costs associated with providing TRS in correctional facilities as required by the *2022 ICS Order* to the extent that they are not recoverable through TRS support mechanisms. Industry and stakeholders overwhelmingly support the provision of communications services to incarcerated people with hearing or speech disabilities, but the record indicates that, in the carceral environment, enabling these services imposes certain costs upon IPCS providers. We find that our inclusion of a TRS cost estimate into our zones of reasonableness accounts for providers' concerns about the imposition of costs at smaller facilities; and further, we disagree that ensuring the availability of functionally equivalent communication services provides ''little'' benefit to those who rely on such services to communicate with their friends, families, and loved ones. We find, as the record demonstrates, that these costs to provide TRS are particularly challenging to recover at the smallest facilities. In light of that record and informed by responses to the 2023 Mandatory Data Collection, we now include cost recovery for the additional infrastructure and hardware costs to deliver TRS in the carceral environment in our rate caps, estimated based on the best available data.

b. Additional Components of Rate Cap Structure

140. *Single Rate Cap for Audio IPCS.* Consistent with the proposal in 2023 and the record, we find that the costs to provide interstate and intrastate audio IPCS are not materially different from each other and therefore adopt a single rate cap that applies to both interstate and intrastate audio IPCS communications at each tier. The Martha Wright-Reed Act's directive to set rates and charges that are ''just and reasonable'' for interstate and intrastate IPCS establishes the framework for our analysis. Examining the record through this lens, we find support for treating the costs of providing interstate and intrastate audio IPCS as functionally identical. The record indicates that providers do not distinguish between the costs of providing interstate and intrastate audio IPCS communications, and we find no reason to do otherwise. We thus set a single rate cap for these communications, and find that this simplified approach will benefit consumers and providers alike. The record supports our conclusion that the adoption of identical rate caps for interstate and intrastate audio IPCS communications will benefit the public interest. For example, one commenter

suggests that adopting a single rate cap for interstate and intrastate audio IPCS communications will benefit providers by ''ensur[ing] a consistent regulatory approach,'' and benefit consumers ''by simplifying and unifying rate structures in a manner more consistent with today's consumer expectations and experiences with other telecommunications services.'' Indeed, at least one provider has already independently set a unitary rate for interstate and intrastate IPCS communications, reflecting that providers are likely to benefit from the implementation of a single rate cap. We agree that a simple unified rate cap will benefit both providers and consumers, and this finding further supports our action today.

141. Our action today is consistent with the Commission's previous findings that provider cost data failed to identify meaningful differences between interstate and intrastate audio IPCS costs. In the Third Mandatory Data Collection, the Bureau offered providers the option to allocate their expenses so as to reflect any cost differences between providing interstate and intrastate ICS, and no providers exercised this option. This fact suggests either that no providers had differences to report, or that any such differences were *de minimis.* Commenters have subsequently recognized the same, and emphasized that providers declined to distinguish between costs for interstate and intrastate audio IPCS in responding to prior mandatory data collections.

142. More recently, 2023 sought comment on whether to ''treat costs for interstate voice services and intrastate voice services as having identical per-unit costs.'' All commenters to address the subject support this approach. Several commenters state that there is no material cost difference between providing interstate and intrastate audio IPCS. Subsequently, in the 2023 Mandatory Data Collection, the Bureau again offered providers the option to allocate their costs between intrastate and interstate audio IPCS. Once more, providers declined to exercise this option. In short, nothing in the record suggests any material differences between interstate and intrastate audio IPCS costs, and we therefore adopt a single unified rate cap for each facility tier. Independently, our adoption of identical rates based on an analysis of the collective (*i.e.,* aggregate of both interstate and intrastate) average costs of providing IPCS is further underpinned by the Martha Wright-Reed Act's authorization to ''use industry-wide average costs'' in setting rates.

143. *Single Rate Cap for Video IPCS.* We also find that interstate and intrastate video IPCS communications have costs that are not materially different, and adopt a single rate cap for interstate and intrastate video IPCS communications at each tier. As with audio IPCS, the adoption of a unified rate cap for interstate and intrastate video IPCS communications is uniformly supported by the record and fully consistent with the treatment of interstate and intrastate video services by providers.

144. In 2023, the Commission sought comment on whether to assume that the average costs for intrastate and interstate video communications services are identical. All commenters to address the subject support taking this approach. Several commenters observe that there are no material cost differences between interstate and intrastate video IPCS, while others note that providers do not separate costs between interstate and intrastate video IPCS internally and will likely face challenges in separating such costs.

145. In the 2023 Mandatory Data Collection, the Bureau offered providers the option to allocate their video IPCS expenses to reflect any cost differences between providing interstate and intrastate video IPCS. No providers exercised this option, supporting our view that such costs are materially indistinguishable between the two jurisdictions. In the absence of any demonstrated material differences between interstate and intrastate video IPCS costs or record data supporting such a distinction, we adopt a single unified rate cap for video IPCS communications for each tier as well. Similar to audio IPCS, setting a single rate cap for video IPCS will benefit both providers and consumers by establishing an efficient and simplified mechanism for video IPCS rate regulation.

c. Rate Cap Tiers

146. In light of the directives established by the Martha Wright-Reed Act and record support, we adopt a rate cap structure that first distinguishes between two types of facilities (jails and prisons) and then four tiers of jails based on size. We agree with commenters that continuing to ''distinguish[ ] between the type of facility (jails vs. prisons), as well as, for jails, between different size facilities'' is a reasonable approach. While one commenter supports differentiation between prisons and jails, it also suggests that myriad factors may be ''glossed over'' by our reliance upon industry averages. As set out in a technical appendix and explained below, we believe this tiering structure best captures the costs across the various types and sizes of facilities, and the record does not establish that such other factors are more cost-causative. The record and the data also support rate cap distinctions based on the ''differences in the costs'' of providing IPCS that relate to facility size and ''other characteristics.'' We adopt the following rate cap tiers to reflect the cost characteristics attributable to differences in facility type and size:

(1) Jails with an average daily population of 0 to 99;

(2) Jails with an average daily population between and including 100 to 349;

(3) Jails with an average daily population between and including 350 to 999;

(4) Jails with an average daily population of 1,000 or more; and

(5) A separate tier for all prisons regardless of average daily population.

We also revise the definition for average daily population in our rules by establishing a date certain each year by which the jail population during the preceding calendar year must be determined. Specifically, we set April 30 as the date on which the annual recalculation of average daily population becomes effective, in order to promote greater uniformity in its application. We find that the combination of size and type rate tiers that we adopt reflect the most critical factors driving providers' costs, and will result in both just and reasonable rates for consumers and providers and fair compensation for providers.

147. *Facility Size.* The Martha Wright-Reed Act directs the Commission to ''consider . . . differences in the costs'' incurred to provide IPCS ''by small, medium, or large facilities'' in setting rates for IPCS. We note that, by requiring only that we ''consider'' cost differences ''by small, medium, or large facilities or other characteristics,'' the statute does not require the Commission to set rate tiers based on facility size or other applicable factors where, after appropriate consideration, we determine that there are not meaningful cost differences attributable to these factors. For example, as discussed below, we do not find support in the record or the data for establishing different size tiers for prisons, and so decline to adopt such tiers. In 2023, the Commission sought comment on how to interpret the requirement imposed by the Martha Wright-Reed Act to ''consider . . . differences in the costs . . . by small, medium, or large facilities or other characteristics'' in

determining rates. The Commission asked for comment on what size categories to adopt and where to set the size thresholds for each category. The Commission proposed that the rate structure adopted in the *2021 ICS Order,* which ''establish[ed] separate caps for prisons and jails, as well as separate rate tiers for different-sized jails,'' seemed consistent with this provision of the Act. However, the Commission sought comment on whether the Act required any change to the approach of analyzing providers' costs ''based on the type and size of correctional institution being served,'' such as by implementing more or fewer rate tiers based on facility type or size.

148. The record nearly uniformly supports maintaining a rate cap structure that distinguishes among jails based on facility size. For administrative simplicity, we decline to apply size tiering to prisons for several reasons. First, as the Commission has previously observed, ''prisons are almost uniformly large,'' allowing them to enjoy greater economies of scale than jails. Second, the data filed in response to the 2023 Mandatory Data Collection do not indicate significant differences in the costs of serving different prison facilities. Finally, only one commenter raised the prospect of tiered rates for prisons. All commenters addressing the issue agree that the Act permits us to maintain this general tiering structure. Several commenters contend that the available data do, in fact, indicate significant variations in costs due to facility size, and that we should therefore set rate tiers accounting for these variations. Indeed, the record in this proceeding ''contains extensive documentation of [the] cost differences, and the reasons for those differences,'' in providing audio and video IPCS among different sizes of jails. Several factors contribute to these cost disparities, particularly the economies of scale associated with serving larger facilities and the fact that smaller facilities are often located in more rural areas. As set forth in Appendices D and G, our data analysis indicates that there remain statistically significant differences in the costs of providing audio and video IPCS among jails of different sizes. The data submitted in response to the Third Mandatory Data Collection further support this conclusion. The record supports adopting four size tiers of jails, expanding the categories contemplated by the Martha Wright-Reed Act. Although we find that the present record and data support establishing rate caps that vary with size tiers for jails, we reiterate that the statute does not require us to set rate tiers as described. After appropriate consideration, however, we determine that the record and data do support a tiering structure for prisons. Specifically, we find evidence that providers incur progressively greater costs in serving jails at the lower tiers of ADP than at the highest tier that we adopt. We found in the *2021 ICS Order* that the available data suggested that ''providers incur higher costs per minute for jails with [ADPs] below 1,000 than for larger jails.'' The data submitted for the 2023 Mandatory Data Collection continues to reflect this pattern. However, at that time we deferred on further rate cap setting with respect to jails with ADPs below 1,000 ''because the available data [did] not allow us to quantify the extent to which providers' costs of serving [such] jails . . . exceed the industry average.'' With the data submitted for the 2023 Mandatory Data Collection, we are now able to determine with greater accuracy the cost differential of providing service to jails with ADPs below 1,000. Consequently, we adopt average daily population cutoffs of 100, 350, and 1,000 incarcerated persons in order to distinguish among different sizes of jails. Although certain commenters suggest other size thresholds, we find that the size tiers we adopt here best fit the data submitted for the 2023 Mandatory Data Collection.

149. While the Martha Wright-Reed Act specifies that we consider cost differences among three sizes of facilities (''small, medium, and large''), we do not interpret that specification as a directive that limits our actions to only three size tiers that correspond to the terms referenced in the statute. Instead, we interpret Congress' intent as mandating that the Commission analyze the relevant data to assess the cost characteristics of different-sized facilities, including those referenced in the statute, and then to reflect that analysis in the rate cap structure the Commission ultimately adopts. Pursuant to their delegated authority, WCB and OEA structured the 2023 Mandatory Data Collection to ensure it included the requisite facility-level data needed to support this analysis. After ''consider[ing] . . . differences in the costs'' incurred to provide IPCS ''by small, medium, or large facilities'' as directed by the Act, we find that the data do reflect size differences among jails—and that the data further support distinguishing a further, fourth size tier of jails to best ensure just and reasonable rates for consumers and providers and fair compensation for providers.

150. We find that the record supports adopting a more granular tiering structure than that referenced in the Act or established by our current rules to better capture cost differences among ''small, medium, and large facilities,'' in addition to creating a separate tier for very small jails. The record supports adopting this tiering arrangement to better reflect the ''differences in the costs'' of serving various sizes of jails, particularly where the record distinguishes jails of the smallest sizes as subject to special per-unit cost differences. Our adoption of an additional tier for very small jails is consistent with the statutory directive to consider cost differences for ''small, medium, and large'' facilities as well as an ''other characteristic'' for which to account. This rate cap structure finds further support in the rate cap tiers previously adopted by the Commission, which also distinguished among facilities based on facility type and size based on average daily population. In the *2015 ICS Order,* the Commission found that there was ''substantial record support'' from commenters for ''rate tiering based on differences between jails and prisons as well as population size'' given the differences in provider costs arising from these factors, a conclusion supported by the Commission's analysis of the First Mandatory Data Collection. The Commission therefore adopted rate cap tiers based on facility type and size, to ''account[ ] for the differences in costs to ICS providers'' and to avoid ''over-compensating ICS providers serving larger, lower-cost facilities.'' In the *2021 ICS Order,* following similar reasoning, the Commission again adopted a rate cap structure distinguishing between prisons and jails and among jails based on size. We also seek comment in the Further Notice on whether obtaining more granular data from providers serving very small jails would allow us to further disaggregate this size tier to better reflect the variability of provider costs and other characteristics in our rate tiers.

151. *Other Characteristics.* In addition to the three specified sizes of facilities, the Martha Wright-Reed Act also directs the Commission to ''consider . . . differences in the costs'' incurred to provide IPCS due to ''other characteristics.'' The Commission sought comment on whether it should continue to use the type of facility as another characteristic in determining its IPCS rate cap structure. Several commenters propose that we maintain a rate cap structure that incorporates

facility type as one of these ''other characteristics,'' by distinguishing between prisons and jails. One commenter also proposes that we consider several other factors that impact providers' costs, including the variations in facilities' costs associated with providing IPCS, the different IPCS systems employed by different facilities, and the fact that facilities in rural areas may be more costly to serve.

152. All commenters that address the ''other characteristics'' language agree that the Act permits the Commission to maintain a distinction between prisons and jails. Several commenters contend that the available data indicate significant variations in costs due to facility type, and that the Commission should therefore set rate tiers to account for these variations. We agree that the record ''contains extensive documentation of [the] cost differences, and the reasons for those differences,'' of providing audio IPCS between prisons and jails. Several factors contribute to these cost disparities, particularly the higher turnover in jails than in prisons, economies of scale associated with serving larger facilities (as prisons tend to be larger than jails), and the fact that jails are often located in more rural areas. Many of these cost differences stem from the fact that prisons, in contrast to jails, are ''used primarily to confine individuals . . . sentenced to terms in excess of one year.'' The consequent differences in average durations of stay and turnover rates between prisons and jails account for much of the disparities in costs between the two types of facilities. As set forth in a technical appendix, our data analysis indicates that there remain statistically significant differences in the costs of providing audio IPCS in prisons versus jails, as well as greater variations from mean costs for jails than for prisons. The data submitted in response to the Third Mandatory Data Collection further support this conclusion. The same pattern applies to the costs of providing video IPCS. We find this evidence credible and sufficient to support incorporating facility type, by adopting separate rate cap tiers for prisons and jails, as an ''other characteristic'' contemplated by the Martha Wright-Reed Act.

153. One commenter proposed specific additional factors beyond facility size and type. The National Sheriffs' Association identifies several other factors that may impact the costs of providing IPCS: that facility staff ''provide more functions in some cases tha[n] in others and that the hourly wage and benefits of jail employees varies by state and locality''; that ''different facilities employ different IPCS systems,'' and ''require different security measures,'' with attendant variation in costs; that ''jails in rural areas are more costly to serve''; and that ''jails allow different amounts of inmate calling.'' Another commenter claims there are no significant differences after accounting for facility size. However, after controlling for provider and state, we find that the main predictors of providers' costs per minute are facility size and type. By contrast, other variables provide negligible independent predictive value. Consequently, we find that such factors are best accommodated through the use of rate caps based on industry-wide average costs, which enable the provision of IPCS to be commercially viable across the tiers we adopt. In sum, we find that incorporating these attributes into our rate caps would provide little benefit in terms of meaningfully reflecting providers' costs, while imposing additional administrative burden on providers and potentially introducing consumer confusion. We also find that, in the absence of any data indicating otherwise, many of the factors identified by the National Sheriffs' Association are simply not well suited for direct incorporation into a rate cap structure. Because these factors vary in a nonlinear manner, they are ill-suited to a tiered rate cap structure, and incorporating them into our rate caps would necessitate an exceedingly granular and therefore intractable system. The National Sheriffs' Association does not point to any concrete data that might reflect the impact of any of these factors on providers' costs. After ''consider[ing] . . . other characteristics'' proposed by commenters as directed by the statute, we decline to incorporate any other additional characteristics in our IPCS rate cap structure. We have insufficient data to evaluate the cost-causative impact of variations in the services provided or staffing costs incurred by facilities. In the 2023 Mandatory Data Collection, we asked providers to submit ''any verifiable, reliable, and accurate information'' they have regarding any expenses incurred by facilities to provide IPCS. However, no provider submitted any information on facilities' costs in response to this request. Given this limitation, we address the role of costs incurred by facilities in providing IPCS separately.

154. *Alternative Proposals.* Not all commenters agree with the tiering structure we adopt in the Report and Order. The National Sheriffs' Association supports adopting three size tiers of jails, proposing that the thresholds be set at ADPs of 350 and 2,500. Conversely, ViaPath argues that the rate caps adopted in the *2021 ICS Order* do not require any modification other than ''necessary adjustments for market changes.'' We disagree, and find that neither proposal takes into account the wider record; nor do they incorporate the data provided in response to the 2023 Mandatory Data Collection. The National Sheriffs' Association relies on data from its 2015 cost survey, which we have previously distinguished. Meanwhile, the rate structure adopted in the *2021 ICS Order* was based on data from the Second Mandatory Data Collection. Furthermore, in the *2021 ICS Order,* the Commission explicitly deferred on setting rate caps for jails with ADPs below 1,000 because the available data did not enable accurate calculation of the relative costs of such facilities—a gap that, as noted above, has been rectified with the data submitted for the 2023 Mandatory Data Collection. Consequently, we find that both of these proposals fail to accurately account for the current differences in the costs that we observe.

155. For similar reasons, we decline to adopt the proposals from NCIC and ViaPath that we adopt a single rate cap, either for all jails (with a separate rate cap for prisons) or for all facilities. As several commenters observe, setting a single rate cap for all facilities, or even all jails, would almost certainly result in either unreasonably low rates in smaller facilities, such that providers may be unable to recover the costs of providing service to these higher-cost facilities, or else a windfall for those serving prisons and larger jails at the cost of those incarcerated in such facilities. We find that these consequences would outweigh any benefits from adopting a single rate cap. We agree with commenters that, given our analysis of the data, adopting a single rate cap ''will run counter to'' the goals of section 276 as well as the Martha Wright-Reed Act, and would less effectively address the implications of our consideration of the ''differences in the costs . . . by small, medium, or large facilities or other characteristics.'' Indeed, in the *2015 ICS Order,* the Commission thoroughly examined the negative consequences of establishing a single rate cap in the context of data indicating that costs of providing IPCS vary by facility size and type. Once again, we find that the commenters proposing a single rate cap ''provide no real evidence or support for why rate tiers would be any more

difficult or challenging than'' the current approach.

156. *Definition and Use of Average Daily Population.* In 2023, the Commission sought comment on the ''use of average daily population as the primary metric'' for the size of correctional institutions, including whether there were ''compelling reasons to adopt a different metric for determining size.'' The Commission also incorporated prior calls for comments on how ADP should factor into our rate caps, including on whether the definition for ADP in the Commission's rules ''sufficiently addresses fluctuations in jail populations and variations in how correctional facilities determine average daily populations.'' The record confirms that ADP continues to be the most practical metric for determining the size of correctional facilities for the purposes of applying our rate caps. However, the record reflects a need for ''a clear date and a clear standard by which the ADP is measured,'' so that all parties can uniformly determine ''whether a particular jail must comply with'' different rate caps than in the prior year. Additionally, we find that the definition for average daily population under our rules, which requires the measurement of all incarcerated persons ''*in* a facility'' (rather than those merely within that facility's jurisdiction), over a ''calendar year,'' effectively addresses related concerns that states and localities may track population figures differently. Accordingly, we revise the definition for average daily population in our rules by establishing April 30 as the date on which the annual recalculation of ADP reflecting data from the prior calendar year (and, as applicable, the new corresponding rate cap) becomes effective.

157. Adopting a specific date on which the annual ADP recalculation must be performed—and by which providers must implement new rates to comply with the appropriate rate cap, where applicable—will yield greater uniformity and accountability in the application of this metric, and address related concerns raised in the record. A uniform effective date for implementing each year's newly recalculated ADP (and corresponding rate caps) will help consumers ''to determine which jails must comply with [each of] the FCC's new rate caps,'' and will help providers by establishing a more predictable and consistent calculation process. We select April 30 as the effective date for the annual ADP recalculation because, as Securus points out, providers need to obtain data from correctional officials in order to determine each jail's average daily population during the preceding calendar year. To the extent they have not already done so, providers should ensure that their contracts with correctional facilities provide for the providers' timely receipt of all information they need to recalculate average daily populations in accordance with our rules. Our rules already require providers to report that information in their annual reports, which are due each year on April 1. An April 30 date for determining each jail's rate cap tier going forward avoids the imposition of any additional burden on providers, while providing a ''realistic timeframe'' for providers to collect and process data on average daily populations as part of the mandated annual review and updating of rate cap tiers.

158. ViaPath cites the ''concerns [raised] about consistency and variations in population'' and suggests that the current requirement for annual calculation of ADP ''could require negotiated per-minute IPCS rates to increase or decrease each year due to changes in facility population year-to-year.'' To address this concern, and aid consistency, ViaPath proposes that we redefine ADP to permit it to be ''calculated and applied for the initial term of an IPCS contract, and thereafter recalculated and applied for each renewal term of a contract.'' We decline to adopt ViaPath's proposal. We are concerned that this approach would incentivize providers to commence or renew contract terms at times of unusually low populations to ''lock in'' the consequently higher rates for the full contract term. ViaPath's proposal may not even meaningfully improve consistency in the calculation of ADP, given the substantial variation in IPCS contract terms. Although we recognize that requiring ADP to be recalculated annually may entail a near-term administrative burden, the record fails to suggest that this burden outweighs the benefit of IPCS rates that correspond to the costs associated with different size jails. No other commenter addresses the issue of the yearly recalculation requirement for ADP, suggesting that this requirement does not impose a disproportionate burden. We also find that the revision we adopt today, which grants providers a full month to calculate and (where necessary) implement the newly-applicable ADP figures each year, will help to ameliorate this burden. For similar reasons, we decline to adopt Talton Communications' proposal that ADP be calculated quarterly ''by taking an average of the population of detainees across all facilities serviced by a single ICS provider.'' First, we find that this proposal risks generating either insufficient returns or excessive returns for a given provider, depending on the nature of the facilities it serves. Second, we find that it would also make the rates imposed on any given consumer relatively arbitrary, based purely on the portfolio of the IPCS provider serving their respective facility rather than the actual costs of providing service. Finally, this proposal would ultimately require updating the applicable rates even more frequently than under our current rules, imposing greater administrative burdens on providers and greater inconsistency on consumers. And over the longer term, contracting will occur against the backdrop of our rule providing certainty regarding the timing of ADP calculations and from the outset such contracts can be tailored accordingly as needed.

2. Preliminary Costing Issues

159. To assess the costs that should be included in or excluded from our rate cap calculations to ensure just and reasonable rates for IPCS, we rely on the ''used and useful'' framework and its associated prudent expenditure standard. Under the used and useful framework the Commission first considers the need to compensate providers ''for the use of their property and expenses incurred in providing the regulated service.'' Second, the Commission looks to the ''equitable principle that ratepayers should not be forced to pay a return except on investments that can be shown to benefit them.'' In this regard, the Commission considers ''whether the expense was necessary to the provision of'' the regulated service. And third, the Commission considers ''whether a carrier's investments and expenses were prudent (rather than excessive),'' and has found that ''imprudent or excess investment . . . is the responsibility and coincident burden of the investor, not the ratepayer.'' Although the Commission has identified these ''general principles regarding what constitutes 'used and useful' investment,'' it ''has recognized 'that these guidelines are general and subject to modification, addition, or deletion' '' and that '' '[t]he particular facts of each case must be ascertained in order to determine what part of a utility's investment is used and useful.' '' The Commission ''may, in its reasonable discretion, fashion an appropriate resolution that is tailored to the specific circumstances before it.''

160. We apply this framework in evaluating the costs and expenses to be included in our IPCS rate cap

calculations. As described below, we rely on a zone of reasonableness approach to adopt separate rate caps for audio and video IPCS by facility size and type. As applied here, our approach begins by looking to the record to identify an upper limit for each rate category that corresponds to a rate level above which rates would clearly be unjustly and unreasonably high. We then make adjustments to that upper limit based on the record to remove costs that are not used and useful for the provision of IPCS in order to identify the lower limit of our zone of reasonableness. Between the upper and lower limits of that zone, we then seek to identify a particular rate level that will best reflect the proper balancing of the equitable interests that ratepayers only bear costs or expenses that reasonably benefit them and that providers earn a reasonable return when their property is used in the provision of regulated services. The particular rate level we identify within that zone of reasonableness is then adopted as the relevant rate cap for that rate category.

161. The upper bounds we adopt include all reported provider costs, including those categories that we generally find are not ''used and useful'' in the provision of IPCS. We are confident based on this record that rate caps set above the upper bound clearly would be unjustly and unreasonably high. In turn, we rely on the used and useful framework to make reasonable adjustments to those upper bound costs to establish the lower bounds of the zones of reasonableness. By deriving our rate caps from the ''used and useful'' framework, our approach reflects the Commission's longstanding methodology for ensuring that providers are able to obtain recovery for the costs and expenses that demonstrably benefit ratepayers. At the same time, including all reported provider costs to establish the upper bound reflects a conservative approach. As a result, we are confident that setting rates within that zone of reasonableness will yield rate caps designed to afford fair compensation to IPCS providers.

162. Next, our interpretation of section 3(b)(2) of the Martha Wright-Reed Act requires us to examine available evidence of ''costs associated with any safety and security measures necessary to provide'' IPCS which, along with the other costs, we review and use to arrive at a reasoned conclusion regarding the recoverability of those costs. To conduct that examination—including with respect to safety and security costs—we employ the ''used and useful'' framework. In doing so, we consider all relevant cost evidence in the record before us that could conceivably fall within the scope of costs of safety and security measures required to be considered as ''necessary'' under section 3(b)(2) of the Martha Wright-Reed Act. As we discuss below, we therefore have no need to more precisely define the ultimate scope and contours of the term ''necessary'' under section 3(b)(2) at this time.

3. Accounting for Correctional Facility Costs

163. To account for the possibility that some correctional facilities may incur—and IPCS providers may reimburse—used and useful costs in allowing access to IPCS, we incorporate into our zones of reasonableness the Commission's best estimate of IPCS costs that correctional facilities may incur. To facilitate recovery of any used and useful costs—but only such costs—that correctional facilities incur, we permit IPCS providers to reimburse correctional facilities for the used and useful costs they may incur as those costs have been identified in the Report and Order. Together, these measures ensure that we account for used and useful correctional facility costs in our ratemaking calculations to the extent the record allows. Finally, our actions also ensure that rates and charges for IPCS will be just and reasonable as required by the Martha Wright-Reed Act, while also ensuring fair compensation for providers to the extent justified by the record here.

164. Our treatment of correctional facility costs reflects a careful balancing of two competing factors. First, certain commenters generally assert—though largely without support or current data—that correctional facilities may incur some used and useful costs in providing access to IPCS. While the nature and extent of such costs is unclear on the current record, Worth Rises explains that ''[w]hile exceedingly rare in the provision of IPCS, correctional facilities may incur used and useful costs which the Commission could include within rates.'' These assertions and the Commission's prior recognition that correctional facilities may incur some costs in allowing access to IPCS persuade us to recognize a measure of these costs in our ratemaking calculus to the extent the record permits.

165. Second, despite some commenters' assertions that correctional facilities incur costs in their administration of IPCS, the available cost data (*i.e.,* the 2015 survey data submitted by the National Sheriffs' Association) do not allow us to quantify what those costs are with any level of exactitude. This issue is not new. In the *2020 ICS Notice,* the Commission asked ''correctional facilities to provide detailed information concerning the specific costs they incur in connection with the provision of interstate inmate calling services.'' In the *2021 ICS Order,* the Commission observed that despite this request, ''nothing more current was submitted'' into the record regarding correctional facility costs. Again the Commission, in 2021, sought broad comment on correctional facility costs, including methodologies to estimate such costs and how to obtain reliable data. And, in an effort to understand potential cost differentials between prisons and jails of differing sizes, the Commission also sought specific comment on facility costs for each type of correctional facility. Finally, in the 2023 Mandatory Data Collection, WCB and OEA directed IPCS providers to report ''any verifiable, reliable, and accurate information'' in their possession showing the costs incurred by correctional facilities.

166. Despite these numerous and repeated public attempts to obtain relevant data, commenters have neither provided updated facility cost data nor proposed a methodology that would allow the Commission to accurately estimate used and useful correctional facility costs. Instead, the National Sheriffs' Association continues to rely on its 2015 cost survey as a ''reasonable proxy'' for facility costs, while a single provider simply lists various tasks for which correctional facilities allegedly incur costs but provides no supporting data as to what those costs are. Given the state of the record, it is reasonable for us to conclude that no allowance for correctional facility costs is warranted in our lower bounds. In particular, the failure of providers and facilities—which would have the relevant data—to provide such data to the Commission despite repeated calls for them to do so warrants an adverse inference that actual information would not support the case for recovery. However, out of an abundance of caution, and in recognition of those commenters that continue to assert that correctional facilities may incur used and useful costs in allowing access to IPCS, we conclude that we should incorporate some allowance for such costs into the upper bounds of the zones of reasonableness. Specifically, based on data from a 2015 cost survey provided by the National Sheriffs' Association we incorporate $0.02 into the upper bounds of our zones of reasonableness for all facilities. We do not include an estimate of correctional facility costs in the lower

bounds of our zones of reasonableness as neither the record nor providers' cost data reported in the 2023 Mandatory Data Collection adequately or consistently support the inclusion of any specific level of cost.

167. To that end, there are two sources of data we can look to in determining whether and how to incorporate a measure of correctional facility costs into our ratemaking calculus. The first is the 2015 cost survey from the National Sheriffs' Association, upon which the National Sheriffs' Association and Pay Tel ask us to rely. The Commission relied, in part, on data from that survey in the *2021 ICS Order* when it adopted a $0.02 interim cap for recovery of IPCS providers' contractually prescribed site commission payments. Although the Commission expressed concerns about the National Sheriffs' Association survey data at that time, it explained that ''they are the best data available from correctional facility representatives regarding their estimated costs.'' That remains true today. As the Prison Policy Initiative observes, the National Sheriffs' Association survey relies ''entirely on self-reported data from correctional facilities'' and involves ''inappropriately expansive descriptions'' of IPCS-related tasks. Such infirmities make it very likely that the National Sheriffs' Association data overstated correctional facility costs at the time of the survey, and severely limit the data's value as a proxy for current facility costs. Indeed, neither correctional facilities nor IPCS providers have an incentive ''to understate their costs in the context of a rate proceeding, lest the Commission adopts rates that are below cost.'' But, as the Commission has explained, ''an agency may reasonably rely on the best data available where perfect information is unavailable.'' The National Sheriffs' Association survey data are the best data available from correctional facility representatives which we may, and do, reasonably consider in determining how to account for used and useful correctional facility costs in our ratemaking calculations.

168. The second source of data we consider in determining whether and to what extent correctional facility costs may incur used and useful costs is the data providers reported regarding their site commission payments in response to the 2023 Mandatory Data Collection. A technical appendix compares the costs per minute that providers reported for contracts requiring the payment of monetary site commissions with the costs per minute that providers reported for contracts not requiring the payment of monetary site commissions. We find this comparison potentially helpful because both facilities and providers have explained that some portions of some site commission payments may compensate facilities for costs they incur in permitting access to IPCS. If we saw *lower* per-minute costs for providers at facilities with site monetary commission payments than for facilities without monetary site commission payments, we might reasonably infer (or at least hypothesize, subject to further analysis) that facilities may be incurring such significant levels of used and useful costs as to require an approach materially different from our approach in this Order. Our comparison, however, shows *higher* per-minute costs for providers at facilities with monetary site commission payments than for facilities without monetary site commission payments. Previously, the Commission relied in part on a similar analysis of earlier provider data—in conjunction with the National Sheriffs' Association data—as grounds for a $0.02 per minute interim allowance for reasonable correctional facility costs. However, even the 2021 data analysis suggested that the $0.02 per minute interim allowance might have been too high. And our analysis of the data from the 2023 Mandatory Data Collection ultimately provides no basis to identify an amount of correctional facility costs that should be recoverable through regulated IPCS rates. In particular, performing the same comparison used in 2021, but updated to reflect the latest data, discloses that providers actually incur *greater* costs per minute to serve facilities for which they pay monetary site commissions, providing no substantiation of certain commenters' suggestion that site commissions operate to compensate for the transfer of some costs of service from providers to facilities. We conclude that because providers report greater costs per minute for contracts requiring the payment of monetary site commissions versus those that do not, our approach of including a $0.02 per-minute additive for facility costs in the upper bounds of our zones of reasonableness, but no additive for facility costs in the lower bounds of those zones, is the best approach given the record before us. This balancing reflects our recognition, on the one hand, that correctional facilities may well incur used and useful costs in allowing access to IPCS, with the absence of any basis in the record that would enable us to estimate those costs with any degree of precision.

169. In accounting for correctional facility costs in this manner, we decline requests that we instead account for those costs by adding a specific amount per-minute to our rate caps based on data from the National Sheriffs' Association cost survey. These data do not enable us to quantify such costs with anything near the level of specificity that would be required to adopt a specific ''just and reasonable'' additive reflecting used and useful correctional facility costs. Commenters supporting a rate additive have failed to explain a connection between their proposed additives and the National Sheriffs' Association 2015 cost survey data. Nor have they explained the methodology used to derive the additives they propose or, indeed, any alternative additives. We therefore cannot accept at face value the proposed rate additives, or adopt any alternative additive, based on these data and simultaneously ensure that the rate caps we adopt are just and reasonable and fairly compensatory. Given the state of the record, we conclude that our approach, as described below, strikes the best balance.

170. *Incorporating A Measure of Correctional Facility Costs Into the Upper Bounds of the Zones of Reasonableness.* In establishing the upper bounds of our zones of reasonableness, we use providers' unadjusted reported IPCS costs. Ordinarily, we would undertake the same exercise to incorporate correctional facility costs into our upper bounds. But as detailed above, we have no reliable reported correctional facility cost data, which requires us to find a reasonable substitute. Because the National Sheriffs' Association 2015 cost survey is the only available correctional facility cost data reported by correctional facility representatives in the record, we rely on those data to incorporate $0.02 into the upper bounds of our zones of reasonableness for all facilities. The $0.02 figure derives from the Commission's prior analysis of the amount of used and useful correctional facility costs the National Sheriffs' Association's cost survey reasonably supported. In the *2021 ICS Order,* the Commission relied, in part, on these data to conclude that $0.02 was a reasonable estimate of the used and useful correctional facility costs recovered through IPCS providers' contractually prescribed site commission payments for prisons and for jails with average daily populations of 1,000 or more. The Commission explained that the majority of prisons and large jails that responded to the National Sheriffs' Association survey reported ''average total costs per minute

of less than $0.02'' but declined to adopt a lower figure, reflecting the Commission's ''conservative approach'' to estimating correctional facility costs in setting interim rate caps based on these data. The Commission, nevertheless, continued to express concerns about the data.

171. The record has not developed in any meaningful way since the Commission determined that the National Sheriffs' Association data supported, at most, a $0.02 allowance for correctional facility cost at prisons and jails with average daily populations of 1,000 or more. We sought to identify in using data from the 2023 Mandatory Data Collection the extent to which correctional facilities bear costs by seeking to determine how much providers' reported expenses decline when they pay monetary site commissions, but found providers' reported expenses increase in a statistically significant manner when they pay such commissions. We thus see no principled or reasonable basis on which to depart from that determination so as to find a higher cost justified now. As one commenter explains, instead of ''refreshing the record or seriously engaging on the merits of the Commission's inquiry,'' the National Sheriffs' Association ''simply continues its years-long practice of rote repetition of the cost categories identified in its 2015 survey findings.'' The National Sheriffs' Association contends that because the Commission found its cost survey ''credible'' in the *2016 ICS Reconsideration Order,* there is ''no basis'' to change that conclusion now. This argument is unpersuasive. The Commission made a credibility determination in the *2016 ICS Reconsideration Order* in the context of a record on facility costs that the Commission acknowledged was lacking. The National Sheriffs' Association's arguments do not acknowledge the very specific circumstances under which the Commission relied on the 2015 survey data, and do not provide sufficient basis for the Commission to deviate from its subsequent findings in the *2021 ICS Order.*

172. The National Sheriffs' Association acknowledges the imprecision of the data it provided but argues that the ''wide unexplained variations'' in costs that the Commission observed in the data are attributable to the fact that ''there are different hourly rates for Sheriffs' and jail employees'' and that different facilities use different IPCS systems and require different administrative and security measures. These arguments do not provide us with a methodology that would let us verify or isolate costs used and useful in the provision of IPCS from the other costs that correctional facilities incur and that are reflected in the survey data. Rather, the National Sheriffs' Association's statements concede that correctional facilities do not incur costs uniformly, making it even more likely these data overstate correctional facility costs. The National Sheriffs' Association also continues to maintain that the costs reported in its cost survey should be fully recoverable. These include costs related to various safety, security, surveillance, and administrative tasks. The National Sheriffs' Association explains that without these functions no IPCS would be provided in certain correctional facilities and, conversely, without IPCS, correctional facilities would not incur costs associated with the administrative and security tasks it lists. We find the argument that IPCS would not be provided in certain facilities as the National Sheriffs' Association and FDC claim to be unsubstantiated. In effect, then, the National Sheriffs' Association's argues that because IPCS is made available to incarcerated people, the costs that it has put into record are necessarily used and useful and therefore recoverable in full. This argument misses the mark. Simply because some tasks ''are sometimes performed does not end the Commission's inquiry.'' But simply because certain tasks are performed by facilities or sheriffs does not automatically mean that such tasks are related to communications services. If anything, the fact that certain tasks may be performed by the correctional facilities suggests that these are costs of incarceration, not of IPCS. For example, the fact that a correctional facility might elect to undertake certain activities given the existence of IPCS in that facility does not automatically mean that the activities are of sufficient benefit to IPCS ratepayers to warrant their bearing the activities' costs through IPCS rates. We instead must undertake a more nuanced analysis to determine the types of costs that are allowable in IPCS rates. And we do so by applying the used and useful framework the Commission has relied on for decades. Employing that approach, we incorporate, to the extent the record provides meaningful data, the used and useful costs incurred in the provision of IPCS into our rate cap calculations, regardless of whether those costs are incurred directly by IPCS providers or instead incurred directly by correctional facilities and subject to IPCS provider reimbursement. As to costs that we do not find used and useful in the provision of IPCS, IPCS ratepayers should not be forced to bear them—nor should IPCS providers be compelled to do so themselves. Thus, while correctional facilities remain free to engage in (or employ) activities or functions that are not used and useful in the provision of IPCS, they must look elsewhere besides regulated IPCS rates to fund them.

174. Fundamentally, the costs reflected in the National Sheriffs' Association survey are, for the most part, ''cost[s] of operating prisons and jails, not providing communication service'' and, as such, do not benefit IPCS consumers sufficiently to render them used and useful in the provision of IPCS. Stated differently, ''[t]he presence or absence'' of these tasks ''does not actually prevent or enable communication.'' Subject to those costs we conclude are used and useful in the provision of IPCS as reflected in our ratemaking calculus, we agree. But outside of the costs we do allow, the National Sheriffs' Association cost survey fails to support the inclusion of any amount greater than $0.02 to account for used and useful correctional facility costs.

175. We decline to give any weight to the survey provided by Pay Tel's outside consultant, which purports to quantify ''an estimate of the [s]afety and [s]ecurity costs incurred by confinement facilities that are specifically caused by making IPCS available at that facility.'' We find this survey to be unreliable. First, the survey is unrepresentative. As the consultant concedes, the ''sample size of [the] data collection effort is limited.'' It encompasses 30 correctional facilities, which is less than 1% of all facilities included in the 2023 Mandatory Data Collection, and covers only ''small county jails and large regional facilities'' thereby excluding prisons and large jails. Second, the survey does not attempt to account for the nuances of how safety and security measures are administered and, in particular, the division of labor between correctional facilities and IPCS providers. The record is clear that these and other functions and activities for which correctional facilities allegedly incur costs are sometimes performed by the IPCS provider and sometimes performed by the correctional facility. What is more, certain IPCS providers have stated that they offer comprehensive services, that include safety and security services, as part of a unified platform they sell to correctional facilities.

Thus, we find it unlikely that the information provided in the Pay Tel consultant's survey is representative of

the costs incurred by correctional facilities in connection with safety and security measures across the IPCS industry. As such, we decline to rely on it to estimate used and useful correctional facility costs. Even if we were to find the data reliable enough to be decisional, it would support the $0.02 that we incorporate into the upper bounds of our zones of reasonableness based on the National Sheriffs' Association survey. The June 7, 2024 Wood Report, which is based on information self-reported by correctional facilities across seven categories of safety and security measures, suggests that the ''average reported cost for these 30 facilities in $0.08 per MOU.'' However, this estimate includes three categories of safety and security measures that we conclude today are not used and useful in the provision of IPCS, including ''Routine Preventative Call Monitoring,'' ''Call Recording Review'' and ''Enrolling Inmates for Voice Biometrics.'' These three categories account for a total of 74% of the average reported costs of safety and security measures in the Wood June 7, 2024 Report (38% for routine preventative call monitoring, 28% for call recording review, and 8% for enrolling inmates for voice biometrics). Removing costs associated with those measures reduces the $0.08 per minute figure that the report argues represents facilities' safety and security costs by 74%, yielding an average cost of approximately $0.0208 per minute. Thus, in excluding categories of safety and security costs that we conclude are generally not used and useful from the amount in the Wood June 7, 2024 Report, we arrive at essentially the same $0.02 that we incorporate into the upper bounds of our zones of reasonableness.

176. Therefore, we adopt the $0.02 allowance for correctional facility costs in the upper bounds of our zones of reasonableness for all facilities. In the *2021 ICS Order,* the Commission limited the applicability of the $0.02 cap for recovery of contractually prescribed site commissions to prisons and jails with average daily populations of 1,000 or more individuals ''in response to criticism that this value would not be sufficient to recover the alleged higher facility-related costs'' of smaller facilities. Because commenters ''did not provide sufficient evidence to enable [the Commission] to quantify'' the allegedly higher costs incurred by smaller correctional facilities, the Commission sought comment on that issue in 2021. The Commission further explained that the National Sheriffs' Association data varied too widely to determine whether correctional facility costs were indeed higher for smaller facilities.

177. Here, too, commenters have not substantiated their claims that correctional facility costs are higher in smaller facilities. The National Sheriffs' Association argues that the Commission's concerns about its data concerning smaller facilities ''contradict the Commission's finding in the *2016 ICS Reconsideration Order*.'' They also argue that ''a wide variation in data is not disqualifying when there is an explanation for the variation,'' which they claim the survey data provide. Prior statements from the National Sheriffs' Association potentially account for the variation in costs for smaller facilities, including differences in employee time spent on certain tasks, compensation rates, and differences in minutes of use. And the Commission noted that ''there are many potential variables that impact facilities' costs'' and sought ''detailed comment on those variables'' in an attempt to obtain a clearer record on costs for smaller facilities. Yet commenters have not provided any such details to explain the wide variation in facility costs for smaller facilities reflected in the National Sheriffs' Association survey. In short, the record does not support the inclusion of an amount greater than $0.02 into the upper bounds of the zones of reasonableness for all facilities.

178. *Correctional Facility Costs in the Lower Bounds of the Zones of Reasonableness.* The lower bounds of our zones of reasonableness reflect only those costs that the record affirmatively establishes as generally being used and useful in the provision of IPCS. Due to the lack of any reliable data concerning correctional facility costs in connection with IPCS, we rely on data reported by IPCS providers in the 2023 Mandatory Data Collection in connection with providers' site commission payments. While we recognize that correctional facilities do incur used and useful costs in allowing access to IPCS, the record provides no data that would allow us to estimate those costs with any degree of precision. Accordingly, we include no estimate for such costs in the lower bounds of our zones of reasonableness. We decline to rely on the National Sheriffs' Association cost survey in connection with our evaluation of whether and how to incorporate correctional facility costs into the lower bounds of our zones of reasonableness. As discussed above, we find that the National Sheriffs' Association survey data that we use to incorporate correctional facility costs into the upper bounds of the zones of reasonableness do not enable us to quantify such costs with any level of specificity. The same applies to the Wood June 7, 2024 Report. As discussed above, that ''limited'' report covers only 30 correctional facilities and only includes ''small county jails and large regional facilities,'' rendering the survey far too unrepresentative as a measure of correctional facility costs across the industry. We therefore conclude that we cannot meaningfully adjust the data providers reported for purposes of establishing the lower bounds.

179. We reach our decision regarding correctional facility costs in the lower bounds based on the absence of a record quantifying such costs, and supported by the analysis described in a technical appendix. This analysis, which is based on the Commission's analysis in the *2021 ICS Order,* takes providers' cost and site commission data reported in response to the 2023 Mandatory Data Collection and compares providers' relative costs per minute for contracts with and without site commissions. That analysis indicates that contracts with site commissions exhibit *greater* costs per minute than those without site commissions, which provides no support for the assertion that site commissions operate to transfer some costs of service from providers to facilities. If the opposite were true, and site commissions did recover facility costs used and useful in the provision of IPCS, we would expect to see higher costs to the provider for contracts without site commissions. Because providers' responses to the 2023 Mandatory Data Collection ''incorporate[ ] no correctional facility-provided cost data,'' we find that our approach of including a $0.02 per-minute additive for facility costs in the upper bounds of our zones of reasonableness, but no additive for facility costs in the lower bounds of those zones, properly balances our recognition that correctional facilities may well incur used and useful costs in allowing access to IPCS with the absence of any basis in the record that would enable us to estimate those costs with any degree of precision. Pay Tel argues that not including a measure of facility costs in the lower bound ''reflects a misunderstanding of the evidence in the record and in no way justifies withholding cost recovery from facilities.'' Yet Pay Tel does not contend with the inadequacies of the record data we have identified in any meaningful way beyond asserting that they show that correctional facilities incur costs associated with making IPCS available. As we explain above, the available

correctional facility cost data are unreliable for purposes of including a measure of correctional facility costs in the lower bounds of our zones of reasonableness. Furthermore, we do not withhold cost recovery from facilities by declining to include a measure of correctional facility costs in the lower bounds. As explained below, we take the fact that our lower bounds may not reflect all used and useful costs into account in setting rate caps, and we allow IPCS providers to reimburse correctional facilities for the used and useful costs they may incur, if any. And because the available provider data do not enable us to quantify the extent to which providers' site commission payments compensate facilities for any costs that they incur that are used and useful in the provision of IPCS, we do not incorporate correctional facility costs into the lower bounds of our zones of reasonableness.

180. We acknowledge that because we do not incorporate a measure of correctional facility costs in the lower bounds of our zones of reasonableness, those bounds may understate the used and useful costs of providing IPCS. As discussed above, none of the data in the record concerning correctional facility costs allow the Commission to quantify these costs with any level of precision and, as such, preclude any adjustment to the lower bounds. We account for that fact in choosing rate caps at levels that exceed the lower bounds, as discussed below.

181. *Reimbursement for Used and Useful Correctional Facility Costs.* Despite the limitations in our data reflecting facilities' costs, we nevertheless take measures to ensure that correctional facilities have a mechanism to recover their used and useful costs, if any, in the provision of IPCS. To that end, we permit IPCS providers to reimburse correctional facilities for such used and useful costs, if it is apparent that such costs are, indeed, incurred by a facility. The IPCS rate caps we adopt today reflect, based on the record before us, all of the used and useful costs incurred in the provision of IPCS regardless of whether such costs are incurred by IPCS providers or correctional facilities. Thus, the rate caps recognize, consistent with the record, that correctional facilities may incur some used and useful costs in allowing access to IPCS. Pay Tel's contention that the Commission ''fail[s] to allow for a mechanism by which facilities may recover their costs associated with making IPCS available'' is contradicted by our explicit allowance for such a mechanism here. Pay Tel's argument appears to be grounded in its preference for an ''express additive to IPCS rate caps'' rather than the reimbursement mechanism permitted by the Report and Order. As we explain above, the available data do not enable us to quantify correctional facility costs in a way that would allow us to disaggregate our rate caps into just and reasonable provider components and facility components, and Pay Tel has not supplied more robust data or otherwise attempted to cure the defects in the available data. As a result, we rely on our rate caps, which reflect all of the used and useful costs incurred in the provision of IPCS, and therefore ''allow IPCS providers to recover facility costs,'' despite Pay Tel's argument to the contrary. Because we eliminate site commissions below, which have historically been the primary means by which correctional facilities may have, to some extent, recovered used and useful costs they may incur in allowing access to IPCS, correctional facilities would have no means to recover those costs absent that further action to allow a level of provider reimbursements.

182. The reimbursement we allow extends only to those costs that are used and useful in the provision of IPCS as reflected in the Report and Order. Given the over-arching problems associated with site commission payments, if a correctional facility seeks reimbursement from an IPCS provider for an allegedly used and useful cost, the IPCS provider should determine whether the cost for which the correctional facility seeks reimbursement is a cost that the Commission has determined to be used and useful and thus properly reimbursable under the standard set forth in the Report and Order. We otherwise leave the details of any reimbursement transaction to the parties to resolve. IPCS providers and their correctional facility customers are well aware of the types of costs that are used and useful in the provision of IPCS and are in the best position to negotiate reimbursement as they see fit. We also clarify that while we *permit* IPCS providers to reimburse correctional facilities for their used and useful costs in allowing access to IPCS, nothing in the Report and Order should be interpreted to *require* IPCS providers to do so. To the extent a correctional facility incurs used and useful costs in allowing access to IPCS, the correctional facility and the IPCS provider are free to negotiate such reimbursement in accordance with the Report and Order. ICSolutions asks whether, within the rate caps, IPCS providers can ''pay correctional facilities up to the $0.02/minute for reasonable corrections facilities' costs'' and, if so, whether the $0.02 per minute is a safe harbor. ICSolutions July 12, 2024 *Ex Parte* at 1. We do not establish a safe harbor. The $0.02 figure to which ICSolutions presumably refers reflects the Commission's best estimate of used and useful correctional facility costs for the purpose of calculating the upper bounds of our zones of reasonableness. That figure is not meant to suggest that $0.02 per minute would be an appropriate reimbursement amount and does not establish a safe harbor for purposes of the reimbursement we permit. For example, ''[i]f a correctional facility were to pay for internet installation and maintenance to enable the provision of IPCS,'' that payment would be considered used and useful in the provision of IPCS. In that case, the IPCS provider could reimburse the correctional facility for its costs from the revenue collected by the IPCS provider since the cost of internet installation is included in our rate caps. In contrast, IPCS providers may not reimburse correctional facilities for costs that we find not to be used and useful in the provision of IPCS, such as costs for certain safety and security measures that we conclude are not used and useful in the provision of IPCS. Finally, under no circumstances may reimbursement result in IPCS consumers being charged more than the rate caps we adopt today.

4. Adopting Audio and Video Incarcerated People's Communications Services Rate Caps

183. We adopt permanent audio IPCS and interim video IPCS rate caps by employing a zone of reasonableness approach, similar to the Commission's previous efforts. We find that adopting zones of reasonableness, updated from the Commission's approach in the *2021 ICS Order,* is the best means of establishing rate caps in which IPCS rates are ''just and reasonable'' and, in conjunction with our ban on site commissions, providers are ''fairly compensated.'' We further find that the data collected in the 2023 Mandatory Data Collection offers a sufficient basis from which to derive the zones and rate caps, despite the limitations of the reported cost data. We reject cursory claims that our rate caps will be unreasonable because our rules ''impose[ ] significant and new operational obligations and changes on all providers'' but ''fails to account for the costs of these new obligations.'' Securus does not quantify or otherwise substantiate this claim, nor does it demonstrate that the waiver process

would be inadequate to address any unusual implementation costs that theoretically might arise for a given provider. We derive the upper bounds and lower bounds of the zones for each facility tier by evaluating and analyzing the data and other information received in response to the 2023 Mandatory Data Collection.

184. *Reliance on Data from the 2023 Mandatory Data Collection.* The 2023 Mandatory Data Collection, which updated and supplemented the Third Mandatory Data Collection, is the most comprehensive data collection in the IPCS proceeding to date, building upon the lessons learned from each previous effort. As instructed by the Commission, WCB and OEA structured this data collection to strike a balance between meeting the statutory timeline directed by the Martha Wright-Reed Act and simultaneously reducing the burdens on providers to respond to an expanded collection, such as by limiting the information requested, lowering reporting requirements, and making other changes associated with reducing burdens through the notice and comment process. To reduce the time required and the burdens associated with responding to the 2023 Mandatory Data Collection, it was decided to only require parties to report data collected in the ordinary course of their business, to require at least GAAP consistency for financial reporting, and to allow providers to develop cost allocations based on their knowledge of their businesses and accounts, rather than imposing a regulatory set of accounts on providers. These decisions traded minimizing burdens off against obtaining useful data. Staff experience acknowledged that different providers would take different approaches, would have different business models, and would differ in other important ways, and accordingly, questions designed to provide necessary context to understanding these differences were updated and included as well. We agree with commenters who assert that the currently available data are of substantially greater quality than that available in 2021 when we established interim rates, and we find the most recent reported data continued to improve in the same fashion. These data are derivative of the cost allocation instructions for this data collection, which have been improved and refined themselves. Even so, the data from the 2023 Mandatory Data Collection are imperfect. While we afforded providers the leeway to report data collected in the ordinary course of business rather than imposing a regulatory set of accounts upon them, the absence of a uniform system of accounting rules engenders variance in the reported data. We likewise acknowledge that providers are incentivized to report their data in ways that produce higher IPCS costs, that providers are differently situated and may interpret our data requests differently, and that cost allocation, as a general matter, can be difficult. While the record raises some questions as to whether these data accurately capture IPCS expenses, we have sought to account for that risk as best we can, including by using a range of other record sources or publicly available information beyond our data collection.

185. Nevertheless, we find the data from the 2023 Mandatory Data Collection sufficient to support our actions today. As stated previously, agencies may reasonably rely on the best available data where perfect information is unavailable. The Supreme Court has recognized that ''[i]t is not infrequent that the available data does not settle a regulatory issue,'' and in such cases, ''the agency must then exercise its judgment in moving from the facts and probabilities on the record to a policy conclusion.'' Having ''explain[ed] the evidence which is available,'' we apply our judgment to the record and reach results that provide a ''rational connection between the facts found and the choice made.'' In doing so, we minimize our reliance on data that we find inaccurate or unreliable by setting lower bounds that adjust for anomalies in the reported data. Under the circumstances, we choose ''to use the best available data, and to make whatever adjustments appear[ ] necessary and feasible'' to ensure that audio and video IPCS rates are just and reasonable. NCIC argues that ''nearly half of the current video visitation service providers'' did not respond to the 2023 Mandatory Data Collection, and so urges the Commission to ''delay the adoption of interim rates until it receives comprehensive data from all video visitation providers, and deliver immediate relief by simply prohibiting flat-rate billing.'' In effect, NCIC asks that we pursue ''the perfect at the expense of the achievable.'' For the reasons set forth herein, we find it appropriate to address the limitations in providers' video IPCS data by making appropriate adjustments to our upper and lower bounds and in setting interim rate caps, rather than abandoning the effort to set rate caps altogether in contravention of Congress's mandate. We have undertaken a comprehensive analysis of the available data, explained our concerns with the imperfections that we have identified, and fully explicated the basis for the rate methodology that we adopt in light of the relative merits of the data. We also provide our reasoning for excluding certain data from our analysis, based on both flaws in the data and the directives of the Martha Wright-Reed Act.

186. *Implementing the Zone of Reasonableness Approach.* In 2023, the Commission sought comment on the approach to ratemaking and the statutory directive that we may use industry-wide average costs. The zone of reasonableness approach is well-suited to reconcile competing concerns, such as those reflected by the Martha Wright-Reed Act's respective obligations to set ''just and reasonable'' rates that ''fairly compensate[ ]'' providers. This approach helps avoid ''giving undue weight to the assumptions that would lead to either unduly high or unduly low per-minute rate caps,'' and helps us balance the respective competing interests of providers and consumers. Precedent establishes that we are ''free, within the limitations imposed by pertinent constitutional and statutory commands, to devise methods of regulation capable of equitably reconciling diverse and competing interests.'' It also gives us the flexibility to effectively address imperfections in the data and ultimately select rate caps that satisfy both statutory standards. Indeed, the D.C. Circuit has emphasized the ''basic principle'' that ''rate orders that fall within a 'zone of reasonableness,' where rates are neither 'less than compensatory' nor 'excessive,' '' are ''just and reasonable.'' We reiterate, ''[i]t is well-established that rates are lawful if they fall within a zone of reasonableness.''

187. The record supports this approach. As certain commenters observe, the zone of reasonableness approach ''allowed the Commission to take into account the different approaches to cost reflected in the Second Mandatory Data Collection,'' and it ''continues to be the appropriate method for establishing permanent rates based on the data submitted in response to the Third Mandatory Data Collection.'' Commenters add that the zone of reasonableness remains appropriate under the Martha Wright-Reed Act, which ''embraces the use of industry-wide average costs to set rate caps for IPCS'' and ''adjust[ing] those costs as necessary.''

188. Not all commenters agree, however. A few argue that the zone of reasonableness approach is unnecessary with higher quality data and advocate for us to employ a statistical method paradigm. While the data collected in

the 2023 Mandatory Data Collection are more comprehensive and reliable than the data from prior data collections, we disagree that the improvement in the collected data requires us to change our approach. As we discuss elsewhere, the market for video IPCS is still developing, which strengthens the case for applying the zone of reasonableness to the data before us. Nor have those commenters persuaded us that their alternative approaches to rate regulation would be an improvement. The alternative statistical methods advanced by providers, including using a mean plus standard deviation or an interquartile range, ignore the limitations of the data and the likelihood that providers have overstated their costs, problems which the zone of reasonableness approach helps us address. We also find that the zone of reasonableness approach remains particularly apt for balancing the directives established by the Martha Wright-Reed Act on the basis of the data before us. NCIC separately criticizes the zone of reasonableness as ''overly complicated,'' and suggests that it ''may well be impossible to monitor at small- and medium-sized facilities that have frequently fluctuating populations with varying lengths of incarceration.'' We are unpersuaded. The resultant caps are straightforward, and NCIC fails to explain how monitoring rates at individual facilities (regardless of size) is problematic. Indeed, providers are required to track and report the rates they charge, and neither providers nor facilities have any role (much less any responsibility) in the ''zone of reasonableness'' calculation process. Nor has NCIC explained how population turnover impacts the zone of reasonableness calculation process. As we explain in a technical appendix, by distinguishing between prisons and jails, our rate-setting methodology helps account for turnover to the extent relevant, and NCIC's comments do not demonstrate what, if anything, more is justified in that regard.

a. Establishing the Zones of Reasonableness

189. Our zone of reasonableness approach involves three distinct steps which echo the approach the Commission took in the *2021 ICS Order.* First, we establish ceilings, or upper bounds, for our zones for each audio and video tier by using the data that providers submitted in response to the 2023 Mandatory Data Collection. To reach these ceilings, we also add all reported safety and security costs to the industry averages reflected by the reported data without regard to whether those costs are used and useful, and include estimates of facility costs and TRS costs. Second, we make reasonable, conservative adjustments to the reported data, including by reducing the types of safety and security costs and amount of facility costs we incorporate into our industry average cost calculation, among other steps. We use those adjusted data to establish reasonable floors, which become the lower bounds of our zones of reasonableness. In determining the upper and lower bounds, we calculate industry average costs across the sum of both billed and unbilled minutes, as we find that this sum (rather than billed minutes alone) more accurately reflects providers' average costs. Finally, we rely on record evidence and on our agency expertise to pick reasonable rate caps for each tier from within those zones for both audio and video IPCS communications.

190. *Determining Upper Bounds for the Zones of Reasonableness.* We begin our determination of the upper bounds for our permanent audio rate caps and our interim video rate caps by identifying the weighted average of providers' reported IPCS costs at each tier. To do this, we exclude those submissions we find incomplete or otherwise unusable, and we otherwise accept providers' costs as reported. Because reported costs include costs which we find are not used and useful in the provision of IPCS, our upper bounds mark the upper limits of what might be considered ''industry-wide average costs'' within the meaning of section 3(b)(1) of the Martha Wright-Reed Act.

191. In keeping with our acceptance of providers' IPCS costs as reported, we also include all reported safety and security costs in our upper bounds of the zones of reasonableness. We do so for several reasons. First, we recognize that while questions were pending surrounding the inclusion of such costs in our IPCS rates, providers continued to develop and offer safety and security measures for the benefit of and use by authorized personnel in the carceral environment. This suggests that historically, IPCS providers were able to provide service without certain safety and security services which have been more recently developed. In developing our upper bounds, however, we decline to weigh the various categories of safety and security measures, and instead give providers the benefit of the doubt by treating all such measures as used and useful IPCS costs, regardless of whether such measures are of the type that were historically used and useful in the provision of IPCS. Second, because of limitations in the reported data, we cannot further disaggregate or distinguish costs for individual safety and security measures with precision. Rather than attempt to remove costs for specific constituent safety and security measures which are not used and useful in the provision of IPCS, we take a conservative approach and include all reported safety and security measures costs within the upper bounds.

192. Next, we incorporate an estimate of the separate IPCS costs which facilities may incur in allowing access to IPCS. First, as we explain above, we adopt an estimate of $0.02 per minute for the proposed caps at each tier for our upper bounds to reflect any used and useful costs facilities may incur. As we have explained, the record does not sufficiently quantify the amount of such costs, particularly at smaller facilities. Although the Commission has repeatedly sought more recent and more accurate data, the record before us is lacking. We derive an estimate of these costs from the facility cost additive the Commission used in its *2021 ICS Order,* which previously applied to prisons and large jails, depending on the existence of contractually prescribed site commissions related to a given facility. This $0.02 estimate continues to reflect the best data available concerning facility costs despite outstanding questions. The use of this additive did not generate any waiver requests in the interim, suggesting that the estimate was not unduly low. Without better data from which to determine how facilities' IPCS costs may differ, if at all, between facilities of different sizes and types, we apply this same estimate uniformly across all tiers.

193. Finally, we also include an estimate of the costs incurred by providers to implement the changes to TRS services required under the *2022 ICS Order.* These changes did not take effect until January 9, 2023, and the costs of implementing them therefore were not reflected in the data filed in response to the 2023 Mandatory Data Collection, which are for calendar year 2022. We understand that the costs to provide TRS in the carceral environment may frequently exceed the support available to TRS providers because of the specialized equipment and networks often required to deploy these services inside of prisons or jails. We include this estimate so that our rate caps will cover these excesses and fully compensate providers for the costs of providing these services. However, the record quantifying these costs is once again scant. The only available data in the 2023 Mandatory Data Collection stems from the response of a single provider, which suggest that these costs

may be $0.002 per minute. Without more data on which to rely, we incorporate that estimate into both our upper and lower bounds.

194. As we explain in a technical appendix, we find that the upper bounds overstate providers' actual costs of providing both audio IPCS and video IPCS, likely by a significant margin. This conclusion echoes the reasoning in the Commission's *2021 ICS Order.* In addition to the overinclusion of safety and security costs and facility costs which we discuss above, all providers have reasons to overstate their general IPCS costs in response to our data collection, as higher costs could lead to higher cost-based rate caps, and thus higher profits.

195. Additionally, our upper bounds also incorporate the weighted average cost of capital (WACC) as reported by providers, another factor which heightens the likelihood that they are overstated. The instructions to the 2023 Mandatory Data Collection included the caveat that the Commission would apply a WACC figure of 9.75% for any provider that failed to justify the application of an alternative figure. Generally, 9.75% is the Commission's currently authorized rate of return for incumbent local exchange carriers regulated on a rate-of-return basis. Of all providers, only Securus and ViaPath reported higher costs of capital than the standard 9.75% rate of return. We find Securus and ViaPath failed to justify the higher costs of capital they reported and therefore use 9.75% in determining our lower bounds. Particularly because the weighted average cost of capital has a cascading effect upon reported costs, accepting these figures as reported tends to overstate the upper bounds.

196. There are also distinct attributes of the video IPCS market which reinforce our conclusion that the upper bounds likely overstate providers' used and useful costs. One overarching attribute is that video IPCS remains a developing marketplace—in fact, providers report offering video IPCS at less than half of all facilities where they offer audio IPCS. Currently, video IPCS is being deployed at 49.24% of facilities in the dataset. There are significant indicia that the reported data reflect high upfront costs to develop and deploy video IPCS across the nation's carceral facilities, which costs should decrease over time. For example, many facilities represented in the dataset have extraordinarily high costs per minute for video IPCS, yet very low relative demand, which is consistent with newly deployed services. Further, the variation in providers' reported data for almost every aspect of video communication is substantially higher than for audio, suggesting that video supply in 2022 was in an early developmental stage, and that providers will likely become more efficient over time, resulting in lower unit costs. Keeping in mind the rate caps that we adopt today reflect data from 2022, we expect providers have become more efficient in supplying video services and will continue to do so. We also expect usage of video IPCS to increase and hence, as providers reap economies of scale, for costs relative to demand to decrease over time.

197. In light of the above, we calculate the upper bounds for audio and video IPCS rate caps for each tier as follows:

- *Prisons:* $0.107 per minute for audio communications and $0.326 per minute for video communications;
- *Large Jails:* $0.098 per minute for audio communications and $0.223 per minute for video communications;
- *Medium Jails:* $0.110 per minute for audio communications and $0.216 per minute for video communications;
- *Small Jails:* $0.121 per minute for audio communications and $0.208 per minute for video communications; and
- *Very Small Jails:* $0.151 per minute for audio communications and $0.288 per minute for video communications.

Taken together, these upper bounds form a reasonable, yet cautiously overstated, edifice from which to continue our calculation of the zones of reasonableness.

198. *Determining Lower Bounds of the Zone of Reasonableness.* Our lower bound calculations begin by incorporating the results of our upper bound analysis, which ''provides an appropriate starting point for determining the lower bounds of the zones.'' We then make reasonable adjustments to the upper bound figures to ''minimize our reliance on data that we find inaccurate or unreliable.'' We also adjust the upper bound figures to remove the costs of those categories of safety and security measures that we find generally are not used and useful in the provision of IPCS.

199. Our lower bound adjustments to providers' reported costs entail several modifications beyond those applied to reach our upper bound figures. Nevertheless, we find that several significant anomalies in providers' reported data justify these modifications. Most critically, providers' total reported costs across the industry for 2022 exceed their total reported revenues by approximately $219 million. This represents a deficit amounting to over 16% of the total size of the IPCS market. This pattern applies individually as well as in the aggregate, with half of the providers making up our database reporting cost-revenue deficits for 2022, including four of the top five providers by market share, a result ''inconsistent with the record evidence establishing that providers are able to achieve significant economies of scale.'' The existence of such a disparity, let alone its magnitude, strongly suggests that reported costs are inflated, given that rational firms are profit seeking. Nor have any providers offered an explanation of why costs might reasonably exceed revenues at such a magnitude, either in their responses to the 2023 Mandatory Data Collection or otherwise in the record. Consequently, we find that even the more impactful modifications that we adopt to establish our lower bounds represent reasonable, conservative adjustments, which help account for this deficit, in addition to addressing the other anomalies in the reported data we detail further below.

200. The construction of the lower bounds is driven by removing the costs of those categories of safety and security measures that we find generally are not used and useful in the provision of IPCS. As discussed above, we find that only two of the seven categories of safety and security measures identified in the 2023 Mandatory Data Collection are generally used and useful in the provision of IPCS: the Communications Assistance for Law Enforcement Act (CALEA) compliance measures and communication security services. By incorporating the costs reported for these service categories into our lower bounds, we retain a significant portion of providers' reported safety and security costs, *i.e.,* $180 million. This sum is equivalent to nearly half of providers' reported costs of providing audio and video IPCS (even before applying the additional adjustments addressed below). Additionally, as discussed above, several commenters contend that *none* of the costs of providing safety and security measures should be incorporated into our rate caps, arguing that these measures are not ''used and useful'' to IPCS consumers but instead merely ''elective features,'' and that incorporating these costs into our caps effectively requires consumers to finance the conditions of their own confinement as a condition of communicating with loved ones. We disagree, and find that allowing a portion of such costs results in just and reasonable rate caps. Conversely, incorporating the costs of the five remaining categories would run counter to the purposes and language of the Martha Wright-Reed Act and would fail

to yield just and reasonable rates. Excluding these costs reduces industry-wide total costs by approximately $326 million. By excluding these costs from our lower bound figures, we ''ensure that IPCS consumers do not bear the costs of those safety and security measures that are not necessary to provide IPCS.''

201. Next, we revisit our per-minute estimate of the IPCS related costs that facilities incur, and set the estimate of such costs at zero for the lower bounds. Again, the lower bounds of our zones of reasonableness include only those costs we find are used and useful; with respect to the costs facilities may incur to provide IPCS, the limited record and the lack of quantifying data persuade us to estimate that there are no facility costs that we should consider used and useful in IPCS. Given the likelihood that the estimate we accepted for the upper bounds is overstated, we find that using a lower estimate of these costs at the lower bounds minimizes reliance on flawed data while we still provide for the opportunity to recover costs for providing IPCS through our process for determining rate caps. In sum, we conclude from both the record and the reported cost data that it is reasonable to estimate facility costs to be zero in our lower bounds. And because we do not permit—let alone require—IPCS providers to reimburse correctional facilities for costs those facilities incur that are not used and useful in the provision of IPCS and not allowed in regulated IPCS rates, or to otherwise provide in-kind site commissions to correctional facilities, providers will not face the prospect of paying unrecoverable site commissions to correctional facilities that might deny the providers fair compensation.

202. We do, however, continue to incorporate the same estimate for TRS costs in our lower bounds as we did in our calculation of the upper bounds. There is nothing in the record that suggests a range for these costs.

203. We also revise the weighted average cost of capital (WACC) for ViaPath and Securus, the only two companies which elected to estimate an alternative WACC figure. ViaPath and Securus adopted a weighted average cost of capital of 14.86% and 11.43%, respectively, well above the 9.75% rate which every other reporting provider adopted. We find that neither provider offered sufficient justification to support their proposed alternatives to the Commission's 9.75% WACC. Both providers rely on several assumptions which we find lacking and which consistently favor material overestimation of the ultimate WACC figure. For example, certain components of the WACC calculation are supposed to rely on data assimilated from a ''demonstrably comparable group of firms.'' Both providers assembled groups of firms that we find, on balance, are not ''demonstrably comparable.'' Furthermore, ViaPath failed to document its underlying calculations and processes with the requisite detail, rendering its approach nonreplicable—a flaw that not only undermines the reliability of such calculations, but also makes them impossible to validate. Given these concerns, we find that Securus and ViaPath failed to meet their burden of justifying the alternative WACCs they propose and that the most reasonable approach for factoring the WACC into our lower bounds is to apply the default WACC figure of 9.75% for both providers. This default 9.75% WACC is equal to the Commission's authorized rate of return for local exchange carrier services subject to rate-of-return on rate base regulation, which reflects comprehensive analyses of capital structures and the costs of debt and equity, and is designed to compensate these carriers for their cost of capital.

204. Finally, we adjust Securus's reported video cost data downward in order to address significant and unresolvable, on the record before us, issues with those data. Unadjusted, Securus's reported video cost data stand apart from those reported by the rest of the industry. For example, Securus reports average video IPCS costs per minute that exceed the average of the rest of the industry by anywhere from 100% to over 250%, depending on the facility tier. Across all facilities, Securus's reported per-minute video IPCS costs are over four times the average of all other providers: an anomalous result, given that we would expect Securus—as one of the two largest providers in the IPCS market—to benefit from economies of scale and scope. Indeed, Securus's reported cost data for audio IPCS reflect such economies of scale—with substantially lower costs per minute at each tier than the industry average—which only raises further concerns with the reliability of its reported video IPCS costs. This situation is analogous to the situation the Commission confronted in 2021; as the Commission then concluded with respect to ViaPath, Securus ''should be better enabled to spread its fixed costs over a relatively large portfolio of contracts relative to other providers,'' but ''[i]nstead, taking [its] reported costs at face value would imply that it does not achieve economies of scale.'' Indeed, Securus's reported video IPCS costs are even more out of proportion than ViaPath's reported costs examined in the *2021 ICS Order.* This conclusion is strengthened by comparing Securus's and ViaPath's reported costs to their respective minutes of use. Instead, we find that Securus's reported video IPCS data likely reflect substantial initial investment in fixed assets that, while presumably proportionate to the number of video IPCS minutes over which this investment may eventually be spread, is disproportionate to the number of video IPCS minutes Securus provided in 2022, the year covered by the 2023 Mandatory Data Collection. Incorporating Securus's video cost data as reported would therefore inaccurately skew the industry's mean above what it is likely to be as demand grows significantly over time. At base, we find that Securus's per-minute video IPCS costs are simply non-representative for the industry at large. We disagree that it is appropriate to set rates for the IPCS industry based on per-minute cost data so heavily skewed by one provider's outsized investment in upfront costs for a nascent service offering; to do so would lead to recovery in excess of long run average costs, failing to meet our obligations for just and reasonable rates.

205. We conclude that the best way to address this anomaly is to follow an approach similar to that adopted in the *2021 ICS Order,* and adjust Securus's video expenses to align more closely with their competitors. Specifically, we set Securus's video IPCS cost per minute equal to the weighted average for all other providers and estimate Securus's new annual total expense for video. We then calculate the percentage reduction in Securus's annual total expenses as a result of this adjustment, and reduce the cost per-minute data reported for each facility at which Securus provides video IPCS by the same percentage, in order to retain Securus's relative allocations of video expenses. We describe this method in greater detail and show its application to Securus's data in a technical appendix. In the *2021 ICS Order,* the Commission applied the *k*-nearest neighbor method to determine appropriate substitutes for ViaPath's reported cost data. This approach reasonably preserves the non-cost information that Securus reported for the facilities it serves (*e.g.,* average daily population, facility type, and total video IPCS minutes of use), while reducing its anomalous reported cost data to fit the industry norm. We also considered removing all of Securus's data from our lower bound calculations; however, we

find this approach too sweeping because it would exclude all of Securus's video cost data from our analysis. Given the developing nature of the video IPCS market, and the role which Securus plays within it, excluding its data would create an incomplete picture of the video IPCS industry. However, we recognize that this adjustment may still overestimate Securus's costs per minute, particularly given certain attributes of the nascent market for video IPCS. These flaws in providers' video IPCS cost data (both industry-wide and for Securus in particular), as well as evidence suggesting that this market has significant room for future growth, confirm that it is appropriate to adopt interim video rate caps to effectively account for these conditions. Conversely, the fact that we do not implement any adjustments specific to any provider's reported audio IPCS costs further reflects our confidence in our approach to audio IPCS and our incrementally greater confidence in the underlying data, such that we do not apply the ''interim'' descriptor to the rate caps that we adopt for audio IPCS. In particular, the more established marketplace for audio IPCS, coupled with our experience with audio IPCS data analysis in the past, gives us sufficient confidence that our overall rate-setting approach will appropriately account for the remaining limitations in those data sufficient to justify rate caps that will apply indefinitely. Although our audio IPCS rate caps are in that sense ''permanent'' rate caps, they naturally remain subject to reevaluation if warranted in the future based on new developments or new information.

206. Following the aforementioned steps, we calculate the lower bounds for audio and video IPCS rate caps for each tier as follows:

- *Prisons:* $0.049 per minute for audio communications and $0.122 per minute for video communications;
- *Large Jails:* $0.047 per minute for audio communications and $0.087 per minute for video communications;
- *Medium Jails:* $0.061 per minute for audio communications and $0.102 per minute for video communications;
- *Small Jails:* $0.080 per minute for audio communications and $0.126 per minute for video communications; and
- *Very Small Jails:* $0.109 per minute for audio communications and $0.214 per minute for video communications.

b. Determining Permanent Rate Caps for Audio IPCS and Interim Rate Caps for Video IPCS

207. Based on our analysis of the available information, we find that the following rate caps within the zones of reasonableness for each tier of facilities will provide just and reasonable rates while ensuring fair compensation:

Tier (ADP)	Audio (per minute)			Video (per minute)		
	Lower bound	Audio rate caps	Upper bound	Lower bound	Interim video rate caps	Upper bound
Prisons (any ADP)	$0.049	$0.06	$0.107	$0.122	$0.16	$0.326
Large Jails (1,000+)	0.047	0.06	0.098	0.087	0.11	0.223
Med. Jails (350 to 999)	0.061	0.07	0.110	0.102	0.12	0.216
Small Jails (100 to 349)	0.080	0.09	0.121	0.126	0.14	0.208
Very Small Jails (0 to 99)	0.109	0.12	0.151	0.214	0.25	0.288

208. We settle on these rate caps through our examination of the record, our analyses of the available data, and on the basis of our extensive regulatory experience in this market. As discussed above, the Commission has been engaged in an ongoing process of examining and regulating various aspects of the IPCS market for over a decade, in the course of which the Commission has conducted several notice and comment cycles and supporting data collections (and analyses of the data produced therefor).

209. *Lower Bounds as an Accurate Metric for Used and Useful Costs.* We begin by considering the midpoint in each of the zones of reasonableness, and whether the record and evidence suggest the appropriate cap lies above or below those midpoints. On balance, we find that just and reasonable rates are likely below the midpoint of each tier for both audio and video IPCS. As discussed above, we find that only those categories of safety and security costs included in the lower bounds generally are truly used and useful in the provision of IPCS. Setting rate caps at the midpoint, which would give equal weight to both upper and lower bounds would risk incorporating costs that we find are ultimately highly unlikely to benefit the ratepayer and, therefore, produce rates that are not ''just and reasonable.'' This risk is nontrivial: the adjustment made for safety and security costs accounts for 84% of the overall reduction in audio costs and 50% of the overall reduction in video costs between the upper and lower bounds, such that even a minor increase above our midpoint is likely to incorporate a significant portion of costs we find are properly excluded from the rate caps. The record suggests that some providers may have had difficulty isolating and properly allocating their safety and security expenses, a difficulty which would increase reported IPCS costs where providers were unable to report these costs separately. Consequently, we find that the lower bounds operate as a more accurate reference point for providers' used and useful costs. As discussed further below, we recognize that, given the limitations inherent in the 2023 Mandatory Data Collection and providers' responses to the data collection, our estimate of providers' safety and security costs may not incorporate all costs that are used and useful in providing IPCS. While we find that this warrants setting rate caps marginally above the lower bounds, it does not fundamentally change our conclusion here. The substantive evidence in support of the other adjustments we make in setting our lower bounds warrants a similar conclusion: that we must set rate caps well below the midpoint if we are to obtain an accurate estimate of those costs that are used and useful in providing IPCS.

210. *Unaccounted Factors Which Support Choosing Lower Rate Caps.* Our calculation of the lower bound left several other factors unaccounted for, which collectively reinforce our decision to set caps below the midpoints. While we were unable to precisely quantify the effect of these factors upon reported industry costs, the factors nevertheless indicate that providers' reported costs are likely inflated. At the outset, we reiterate that total industry reported costs exceeded total industry revenues by $219 million. Without context, this might indicate that the IPCS industry at large is unprofitable, and suggests that rational

firms might exit the market, results inconsistent with the fact that there is no evidence that any provider is not an ongoing viable operation. This is also inconsistent with the lack of competition and competitive pressures that we have documented above. While some of the observed cost-revenue gap for the industry can be explained by the nascent state of the video IPCS marketplace as providers continue to develop and deploy video IPCS, investing heavily in fixed assets needed to provide those services, this does not explain the gulf, which strongly suggests that costs are overstated. As discussed elsewhere, the high per-minute video costs attributable to nascency do not reflect the efficient costs of the industry in a steady-state.

211. There are also several factors that we find are likely to decrease providers' costs per minute going forward, suggesting that their reported costs tend to overestimate future costs. As the Commission has previously observed, ''[w]hen prices fall, quantity demanded increases.'' NSA points out that the increase in minutes of use will also result in an increase in ''associated safety and security costs.'' Our rate cap structure accounts for this demand-driven basis of safety and security costs by basing the recovery of those costs that we find used and useful in the provision of IPCS on relative demand, *i.e.,* via the incorporation of such costs into the per-minute rate caps. We find that the increase in communications generated by the reductions in price which our rate caps will achieve should reduce providers' average costs, other things being equal. And incorporation of ancillary service charges into our rate caps (which, as noted above, should reduce overall prices) will only amplify this effect. This effect should be further augmented to the extent that the growth in market-wide minutes of use from 2021 to 2022 reflects an independent trend of increased demand, unrelated to the impact of the decrease in rates resulting from the *2021 ICS Order.* Similarly, video IPCS, as a service, is still in its nascent stages, and it may be that the reported figures overstate costs (as providers, in addition to Securus, make large capital investments that will be depreciated over time) and understate demand compared to what could be expected in a more mature market. We expect that, as the video IPCS market approaches a more stable equilibrium, cost per minute will decline. The record suggests that the hardware used by providers in deploying video IPCS (including both tablets and network infrastructure) may also be used to provide, or improve the service for, audio IPCS. Thus, as providers continue to invest in capital as part of the expansion of their video IPCS offerings, these investments will cross-subsidize costs for audio IPCS, reducing the net costs of providing IPCS.

212. Several elements of providers' responses to the 2023 Mandatory Data Collection also indicate that providers accounted for costs in a way that likely overestimated the costs attributable to IPCS and ancillary services. For example, several providers recognize substantial amounts of goodwill. The size of these amounts, whether these amounts are amortized or written down upon being tested for impairment, and how these amounts are allocated can significantly impact reported IPCS costs. Goodwill represents the difference between the purchase price of a company and the company's fair market value at the time of purchase. Under the Generally Accepted Accounting Principles (GAAP), until 2021, private companies were required to elect either to amortize goodwill on a straight-line basis over a period of up to ten years, or to conduct annual impairment testing. The threshold step of the impairment testing process is a qualitative assessment of whether the goodwill carried on a company's balance sheet likely exceeds its fair market value, which takes into account several factors including macroeconomic developments and regulatory changes. Since the goodwill reported by these providers was first recorded on their balance sheets, several events have transpired that would seem likely to have triggered the impairment testing process, potentially leading to a significant write down of these amounts: most notably, the Covid–19 pandemic, several orders issued in this proceeding and by certain state Commissions, and the passage of the Martha Wright-Reed Act. We question whether providers' goodwill figures are overstated as none recorded any significant write down of the goodwill on its balance sheet notwithstanding these events, and thus we find their reported goodwill figures unreliable. These providers left their allocations of goodwill largely unexplained, which makes it difficult to assess to what extent it is properly attributable to IPCS. The instructions for the 2023 Mandatory Data Collection require providers to comply with GAAP in calculating their goodwill figures attributable to IPCS. However, GAAP does not necessarily entail distinguishing between goodwill attributable to IPCS and IPCS-related services versus nonregulated services. A similar principle applies to providers' incentives to over-allocate costs that support both video IPCS and nonregulated services to IPCS, particularly where the Commission has no effective means of auditing these allocations. Providers often offer IPCS using the same platform as nonregulated services (and thus the platform costs are shared between these services). The instructions to the 2023 Mandatory Data Collection, despite a high level of specificity left providers with substantial leeway in choosing precisely how to allocate costs that support both video IPCS and nonregulated services (*e.g.,* tablet and app development expenses) between video IPCS (and ancillary services) and nonregulated services. For example, providers' Word template responses illustrate that they may have failed to disaggregate platform development costs, reporting the full costs of development as a video IPCS expense even where the platform provides non-IPCS services. Such expenses can be significant, and misallocating them could readily skew costs toward IPCS. Each of these factors tend to inflate reported costs—and therefore suggests our rate caps should be lowered—for reasons entirely unrelated to the costs of service.

213. *Factors Supporting Rates Above the Lower Bounds.* We also recognize a series of factors which support setting the rate caps above our lower bound. As a general matter, we find it appropriate to set rates somewhat above the lower bounds to minimize reliance on the imperfect data on which we base our rate caps, which will better ensure that providers will have the opportunity to recover the costs of providing IPCS, consistent with both the equitable considerations underlying just and reasonable rates and the fair compensation mandate of section 276(b)(1)(A). Setting rate caps above the lower bounds will help to account for the possibility that the adjustments we applied to providers' reported costs to obtain the lower bound estimates were too aggressive, to account for the possibility that aspects of our evaluation of used and useful costs to provide IPCS may be inaccurate to some degree, to account for any inflation not offset by productivity growth, and to ensure that providers will be better able to recover their costs of providing TRS.

214. We also recognize several specific factors that guide us to select rate caps above our lower bounds. In particular, we find that the data submitted for the costs of providing safety and security measures are imperfect and imprecise; we recognize

these flaws are likely attributable, at least in part, to the inevitable imprecision of the allocations required to comply with the 2023 Mandatory Data Collection. For example, providers generally declined to provide further detail on the costs attributable to each individual function. The questions regarding safety and security costs in the 2023 Mandatory Data Collection necessarily reflected some imprecision for at least two reasons. First, the Commission was operating with limited information on this subject, given the limited detail obtained on this subject in prior data collections. Second, the Commission took efforts to avoid imposing an outsize burden on providers in reporting specific details of their safety and security costs, particularly in light of the comment record suggesting that providers have not historically accounted for the costs of their safety and security measures in particularly discrete detail. Due to the aggregation of the submitted data within each category, we are unable to meaningfully identify the specific costs for the various functions within each safety and security category enumerated in the data collection. Consequently, we recognize the possibility that providers may have misallocated the costs of providing certain component functions, causing those costs to be improperly excluded from the calculation of the lower bounds. For example, NCIC {[REDACTED]}. Material that is set off by double brackets {[ ]} is subject to a request for confidential treatment and is redacted from the public version of this document. Given the limitations in the data provided, we are unable to ascertain costs for any of these individual services. The costs of any such services, to the extent they exist, would have been improperly excluded from the calculation of the lower bounds. Similarly, we recognize that facilities may incur certain costs that are used and useful in the provision of IPCS but the lack of reliable data in the record makes it impossible to quantify those costs with any degree of precision. Finally, although we exclude one-time implementation costs which are inappropriate for inclusion in permanent rate caps, providers' ongoing costs of implementing the Report and Order may, on balance, exceed their ongoing savings from, for example, not having to process site commission payments. We thus take the conservative approach of setting our rates somewhat above the lower bounds to account for facilities' used and useful costs. Additionally, as noted above, the record and the data make clear that video IPCS is still a developing market. Given this context, we find it appropriate to set interim rates above the lower bounds for video IPCS in particular, to afford providers flexibility in responding to the cost and demand uncertainties inherent to such markets. As discussed above, we recognize that the developing nature of the video IPCS market also suggests that providers' reported costs per minute may be higher than similar figures would be in a more mature market. We account for both of these implications of the nascent market in selecting our rate caps.

215. Collectively, these reasons counsel in favor of setting our rate caps higher than the lower bounds. But we find that these factors are generally outweighed by countervailing factors, including the providers' incentive to overstate their costs and the lack of evidence that the upper bounds accurately capture providers' actual costs of providing IPCS. Accordingly, we find it appropriate to set our rate caps at levels nearer to, but still above, the lower bounds, to more accurately account for all of these factors. We reiterate, however, that even these lower bounds largely reflect providers' costs as reported. The rate caps we set reflect our reasonable balancing of these considerations.

216. *Commercial Viability and Cost Recovery.* Applying these rate caps to each provider's reported minutes of use allows us to calculate their potential revenues under these caps. In making this determination, we refer to providers' reported costs, net of those categories of costs that we identify in this Order as unrelated to the provision of IPCS: *i.e.,* site commissions, and the five excluded categories of safety and security costs discussed above. The fact that several states and smaller jurisdictions have adopted rate caps equal to or lower than those we adopt today—with no evidence in the record indicating that these rates have made the provision of IPCS unprofitable—lends further support to our findings as to providers' commercial viability. Potential revenues for eight out of 12 IPCS providers exceed their total reported costs when excluding site commissions and safety and security categories that generally are not used and useful in the provision of IPCS. Because our estimates of providers' average costs are likely overstated, we find it unlikely that any provider will be unable to recover its individual average costs of providing audio and video IPCS. In the event providers are unable to recover their used and useful IPCS costs, providers remain free to seek a waiver of our rules, a process we revise herein. These eight firms represent over 90 percent of revenue, 96 percent of ADP, and 96 percent of billed and unbilled minutes in the dataset. An alternate method to estimate potential revenue under the rate caps sums reported IPCS and ancillary services for audio and video by facility, reducing these values, if applicable to match potential revenues under the rate caps. Under this method, the projected revenues of the same 8 of 12 providers exceed their costs. In the *2021 ICS Order,* the Commission conducted a similar analysis at the facility-specific level. However, in light of the Martha Wright-Reed Act's amendments to section 276, and its authorization to use both ''industry-wide average costs'' and the ''average costs of service of a communications service provider'' in setting rates, we find it more appropriate to conduct this analysis across each provider's full portfolio of facilities served and, more generally, across the full IPCS industry.

217. We reiterate that our rate caps likely overestimate providers' actual costs of providing IPCS, for the reasons set forth above. Additionally, our rate caps, by lowering prices, will likely increase communications volumes (and so decrease average costs per minute), as will providers' continuing expansion of and investment into their video IPCS services. Taken together, we find that these reasons demonstrate that this number is conservative, and that we likely underestimate the extent to which providers will be able to recover their costs under our rate caps. We anticipate that, over time, revenues for additional providers will exceed their total actual costs even beyond those already identified in our analysis above. Our analysis of the underlying facility-level data corroborates this conclusion. {[REDACTED]} of facilities report per-minute revenues net of site commissions under our rate caps, meaning that providers will be able to recover the same per-minute revenues at these facilities under our rate caps. Assuming that these facilities are generally profitable (as profit-maximizing firms are unlikely to bid for unprofitable contracts), our rate caps will therefore not undermine providers' profitability for these facilities. However, this does not mean that the remaining facilities would not recover their costs under our rate caps, as detailed further in a technical appendix (for example, per-minute revenues net of site commissions likely exceed providers' per-minute costs net of site commissions).

218. Finally, we find that our rate caps do not threaten providers' financial

integrity such that they could be considered confiscatory, even in those anomalous circumstances where a provider cannot recover its costs under our rate caps. Further, we find the fact that providers negotiate for per-minute rates lower than our choice of caps to support our conclusion that these rate caps do not threaten providers' financial integrity. The rate caps are based on data supplied by providers and correctional facilities. As the Commission has previously observed, neither of these parties ''have incentives to understate their costs in the context of a rate proceeding, lest the Commission adopts rates that are below cost.'' Rather, providers had ''every incentive to represent their [IPCS] costs fully, and possibly, in some instances, even to overstate these costs.'' Further, our rate caps explicitly account for all costs of providing IPCS identified in the record, including costs incurred by correctional facilities, costs of necessary safety and security measures, and cost variations attributable to facility size and type. Additionally, as the Commission has repeatedly observed, the offering of IPCS ''is voluntary on the part of the [IPCS] providers, who are in the best position to decide whether to bid to offer service subject to the contours of the request for proposal''; IPCS providers have no obligation ''to submit bids or to do so at rates that would be insufficient to meet the costs of serving the facility or that result in unfair compensation.''

c. Consistency With Statutory Requirements

219. Section 276(b)(1)(A) of the Communications Act, as amended by the Martha Wright-Reed Act, requires the Commission to ''establish a compensation plan to ensure that all payphone service providers are fairly compensated and all rates and charges are just and reasonable for completed intrastate and interstate communications.'' We conclude that the rate caps and waiver process we adopt in the Report and Order fully satisfy this mandate. We find that rates will be just and reasonable if they afford providers an opportunity to recover their ''prudently incurred investments and expenses that are 'used and useful' in the provision of the regulated service for which rates are being set,'' and upon reflection of the amendments to section 276, we find that a provider will be fairly compensated if it is afforded an opportunity to recover the industry average of those costs on a company-wide basis. Securus argues that the Martha Wright-Reed Act requires that *each provider* be able to recover its average costs. We conclude the Act does not require such particularized analysis and reiterate that rate caps based on costs evaluated on an aggregated basis generally will satisfy the requirement that all payphone service providers be fairly compensated. And as the Public Interest Parties explain, ''for a service provider to be 'fairly compensated' for its services would signify that it is paid an amount that reasonably reflects the value of the services that it provides. . . . The standard does not require every carrier to be profitable, but rather for rates to be set at a level where carriers receive compensation that would allow a well-run and prudent IPCS carrier to realize a fair rate of return.'' Securus argues that our rate caps fail to ensure that ''all'' providers are fairly compensated, threatening the competitiveness of the IPCS marketplace, because our industry average-based rate caps do not account for costs on a provider-by-provider basis. We disagree. Securus interprets the term ''all payphone service providers'' in section 276(b)(1)(A) to mean ''each payphone service provider,'' and ignores the fact that fair compensation does not require the Commission to adopt rate caps which allow for the recovery of inefficiently incurred costs.

220. Across the industry, these rate caps will allow providers to generate sufficient revenue from the audio and video communications they provide (1) to recover the actual, direct costs of each communication, and (2) to make a reasonable contribution to their indirect costs related to IPCS. Because they reflect what we have determined are the industry average costs incurred to provide IPCS, falling ''squarely within the zones of reasonableness,'' the rate caps we adopt today meet this standard. Indeed, by setting our rate caps above our lower bounds, ''[o]ur approach incorporates assumptions and actions that lean toward over-recovery of costs.'' At the same time, these rate caps reflect our best estimate of providers' actual costs of providing IPCS, therefore limiting the recoverable costs to those costs ''that directly benefit the ratepayer'' and excluding ''any imprudent, fraudulent, or extravagant outlays.'' Direct Action for Rights and Equality, et al., argue that our caps ''remain far from 'just and reasonable' for indigent individuals and communities,'' and so ''encourage the Commission to propose even lower caps—the lowest possible caps for voice and video communications. However, these commenters fail to identify what rate caps would be more appropriate, or how such rate caps would both be ''just and reasonable'' and ensure that providers are ''fairly compensated.''

221. The rate caps we adopt in the Report and Order also meet the separate rate-making evaluation requirements set out by the Martha Wright-Reed Act. The Act requires that we ''shall consider costs associated with any safety and security measures necessary to provide'' IPCS, as well as the ''differences in costs'' of providing IPCS ''by small, medium, or large facilities or other characteristics.'' We disagree that ''small facility cost[s]'' are not adequately captured by our use of industry averages. Because we set our caps on the basis of several tiers, costs for facilities of various sizes are captured at the respective tier. WCB and OEA directed providers to explain the nature of their safety and security costs in their responses to the 2023 Mandatory Data Collection, and we sought comment on these issues in 2023. Having examined the data and the record on these issues, we have incorporated into our rate caps the costs of those safety and security measures we find are, in fact, used and useful in the provision of IPCS, as well as the most critical factors driving the differences in providers' costs, including facility size. Our analysis therefore takes into account all of the factors identified in the record and the data that ''account[ ] for cost discrepancies among providers,'' and addresses certain commenters' concerns that our use of average costs ''must take into account size and type differences.'' We find that any cost variation that is not accounted for by the tiers we adopt (and not reflective of ''imprudent, fraudulent, or extravagant outlays'' by individual providers) is accommodated by our use of a rate cap structure. Accordingly, our rate caps meet these requirements imposed by section 3 of the Act. The Act also requires that we ''promulgate any regulations necessary'' to implement the Act ''[n]ot earlier than 18 months and not later than 24 months after the date of [its] enactment.'' The Act was enacted on January 5, 2023, requiring the adoption of implementing regulations between July 5, 2024 and January 5, 2025.

222. Our regulatory approach also includes measures to ensure that providers are not forced to bear unrecoverable costs, through our actions to prohibit all monetary and in-kind site commissions at all facilities. Thus, outside the context of reimbursements paid to correctional facilities for costs or expenses that we find used and useful in the provision of IPCS—and for which we allow recovery in IPCS rates—providers will not be permitted or

required to make monetary payments or in-kind contributions to correctional facilities that arguably could represent unrecoverable costs at odds with section 276(b)(1)(A)'s fair compensation mandate. To the extent that providers voluntarily elect to incur other costs or expenses that are not used and useful in the provision of IPCS and subject to recovery under the rate caps we adopt (or the associated waiver process), that voluntary assumption of costs or expenses does not give rise to a burden on the Commission to provide for recovery under the fair compensation mandate of section 276(b)(1)(A). In the event that a provider is not afforded the opportunity to recover its costs for providing IPCS under our caps, that provider may seek a waiver of those caps in accordance with our revised waiver procedures adopted in the Report and Order. The combination of our regulatory actions here, including our rate caps and our revised waiver process, consequently will afford all providers the opportunity to be fairly compensated at just and reasonable rates for providing IPCS consistent with section 276(b)(1)(A). Our approach of setting rate caps that we find reasonable based on general conclusions from the industry as a whole, while leaving providers the opportunity to make provider-specific showing that additional recovery should be permitted, thus does not ''preclude[ ] a[ ] 'provider-by-provider' assessment'' as some contend. The regulatory approach we employ also is consistent with regulatory approaches the Commission has employed in setting just and reasonable rates in other contexts in the past.

5. Preemption

223. Consistent with section 2(b) of the Communications Act, as amended by the Martha Wright-Reed Act, and section 276(c) of the Communications Act, we preempt state and local laws and regulations that require IPCS rates that exceed the rate caps we adopt today. We similarly preempt state and local laws and regulations requiring separate ancillary service fees. We decline, however, to preempt state and local laws and regulations requiring IPCS rates below the rate caps we adopt today.

224. It is well established that ''a federal agency may pre-empt state law only when and if it is acting within the scope of its congressionally delegated authority.'' Section 276(b)(1)(A) always has been clear that the Commission has authority to establish compensation plans for ''intrastate and interstate'' payphone calls, and as explained above, the Martha Wright-Reed Act amended that provision to clearly establish the Commission's authority to ensure just and reasonable rates for both intrastate and interstate communications, as newly expanded under section 276(d). Above and beyond that, the Martha Wright-Reed Act added section 276 to the express exceptions to the general preservation of state authority in section 2(b) of the Act. Commenters uniformly agree that this demonstrates Congress's intent to grant the Commission authority to ensure just and reasonable rates for all intrastate IPCS, firmly anchoring the Commission's authority over such services. Furthermore, while the Martha Wright-Reed Act decisively expanded the scope of the Commission's authority over IPCS, it retained the express preemption provision in section 276(c), which provides that ''[t]o the extent that any State requirements are inconsistent with the Commission's regulations, the Commission's regulations on such matters shall preempt such State requirements.''

225. We find that state and local laws and regulations that require IPCS rates that exceed the rate caps we adopt today or that require separate ancillary service charges conflict with the Commission's regulations adopted in the Report and Order to ensure just and reasonable rates and charges for intrastate and interstate IPCS and fair compensation for IPCS providers under section 276(b)(1)(A). Pursuant to section 276(b)(1)(A), as amended by the Martha Wright-Reed Act, the compensation plan the Commission adopts today includes IPCS rate caps carefully calibrated to ensure that all payphone service providers are fairly compensated and all rates and charges are just and reasonable for all IPCS, including intrastate. These rate caps are ceilings limiting what IPCS providers may charge for intrastate and interstate audio and video communications. To the extent state and local laws or regulations require IPCS rates that exceed those ceilings, such state and local laws or regulations would, by definition, lead to unjust and unreasonable IPCS rates and charges. In connection with ancillary service charges, as noted above, our rate caps incorporate the costs of providing these services. Thus, to the extent state or local laws and regulations require separate ancillary service charges, such charges would also be unjust and unreasonable as they would exceed the Commission's IPCS rate caps.

226. Commenters broadly agree that state and local requirements mandating IPCS rates and charges that are higher than the rate caps we adopt today are subject to preemption. No commenter argues that the Commission lacks authority to preempt such state and local requirements or should not do so. As noted above, the Communications Act provides the Commission the necessary authority to adopt regulations ensuring just and reasonable rates and charges for intrastate and interstate IPCS, which requires preemption of state and local laws and regulations requiring IPCS rates that exceed the Commission's adopted rate caps or that require separate ancillary service charges.

227. *Preemption of State Requirements.* When a federal law contains an express preemption clause, the courts ''focus on the plain wording of the clause, which necessarily contains the best evidence of Congress' preemptive intent.'' The Supreme Court has explained that where a ''statute 'contains an express pre-emption clause,' we do not invoke any presumption against pre-emption but instead 'focus on the plain wording of the clause, which necessarily contains the best evidence of Congress' pre-emptive intent.' '' Independently, even assuming *arguendo* that any preemption analysis should begin ''with the assumption that the historic police powers of the States [are] not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress''—particularly where ''Congress has 'legislated . . . in a field which the States have traditionally occupied' ''—it nonetheless remains the case that ''Congress' intent, of course, primarily is discerned from the language of the pre-emption statute and the 'statutory framework' surrounding it.''

228. Here, the express preemption clause in section 276(c) applies to ''State requirements'' to the extent they are ''inconsistent with the Commission's regulations.'' ViaPath argues the Commission should ''preempt any existing state rates that are higher than the Commission's rates as well as all future state regulation of voice IPCS.'' As stated herein, the Report and Order preempts state regulations which mandate prices above the caps we set today. As also discussed, we see no rationale for disturbing state regulations which require pricing below our caps, nor has ViaPath offered any, and we decline to preempt such regulations at this time. ViaPath also suggests that the Commission should preempt state regulation of all video IPCS because it has ''historically been treated under the law as inherently interstate.'' We are unpersuaded. Our exercise of our preemption authority does not require

such a categorical approach. The term ''state requirements'' in express preemption provisions has been interpreted by the Supreme Court more broadly than terms like ''laws or regulations.'' For example, the Court has concluded that ''[a]bsent other indication, reference to a State's 'requirements' in an express preemption provision includes its common-law duties.'' By contrast, the Court has found that references to state ''laws or regulations'' preempt only ''positive enactments.'' Consistent with this precedent, we find that the reference to ''state requirements'' in section 276(c) is broad enough to reach state laws and regulations requiring IPCS rates that exceed the rate caps we adopt today.

229. The surrounding statutory framework also demonstrates that preemption of laws and regulations requiring IPCS rates that exceed the rate caps we adopt today is authorized by section 276(c). As noted above, section 276(b)(1)(A) always has been clear that the Commission has authority to establish compensation plans for ''intrastate and interstate'' payphone calls, and as explained above, the Martha Wright-Reed Act amended that provision to clearly establish the Commission's authority to ensure just and reasonable rates for all communications now encompassed by section 276(d). In amending section 276, Congress left the express preemption provision in section 276(c) unaltered, revealing Congress' understanding that Commission regulations implementing the full scope of amended section 276(b)(1)(A) would be subject to that express preemption provision.

230. This point was further emphasized by the amendment of section 2(b) of the Communications Act to expressly exempt section 276 from the preservation of state authority over intrastate communications under that provision. In the Martha Wright-Reed Act, Congress expressly considered the potential effect of that statute on other laws, and only disclaimed the intent to ''modify or affect any'' state or local law ''to require telephone service or advanced communications services at a State or local prison, jail, or detention facility or prohibit the implementation of any safety and security measures related to such services at such facilities.'' That narrow express preservation of existing law is not implicated by our preemption here. The statutory context provided by section 276 as a whole, coupled with the Martha Wright-Reed Act, thus reinforces our understanding of the scope of preemption encompassed by section 276(c).

231. Relatedly, we conclude that preemption is consistent with section 4 of the Martha Wright-Reed Act, which states that nothing in that Act ''shall be construed to modify or affect any Federal, State, or local law to require telephone service or advanced communications services at a State or local prison, jail, or detention facility or prohibit the implementation of any safety and security measures related to such services at such facilities.'' We preempt only those state laws and regulations that require IPCS rates that exceed the rate caps we adopt today or that require separate ancillary service charges. To the extent federal, state, or local laws or regulations require IPCS to be provided to incarcerated people at state or local correctional facilities, such laws and regulations are not preempted by our actions here. Similarly, we do not prohibit the implementation of any safety and security measures related to IPCS at any state or local correctional facility. As we explain above, section 4 of the Martha Wright-Reed Act is ''not intended to interfere with any correctional official's decision on whether to implement any type of safety and security measure that the official desires in conjunction with audio or video communications services.'' Consistent with that interpretation, here we preempt state laws and regulations requiring IPCS rate caps that exceed the Commission's adopted caps or that require separate ancillary service charges, a pre-emption that we conclude is necessary to achieve the statutory requirements of section 276(b)(1)(A) to ensure just and reasonable rates and charges for IPCS consumers and fair compensation for providers. Correctional officials remain free to implement desired safety and security measures.

232. *Preemption of Local Requirements.* Our analysis of our preemptive authority is somewhat different when it comes to local requirements that may require IPCS rates and charges that exceed the Commission's rate caps because section 276(c) does not expressly reference ''local'' laws or regulations. Nonetheless, we conclude that principles of conflict preemption allow us to also preempt such local laws and regulations. As an initial matter, we note that ''for the purposes of the Supremacy Clause, the constitutionality of local ordinances is analyzed in the same way as that of statewide laws.'' Thus, relevant precedent concerning state law is equally applicable to local law.

233. As a threshold matter, we find that local laws and regulations that require IPCS rates and charges that exceed the Commission's IPCS rate caps or that require separate ancillary service charges stand as an obstacle to our regulation of IPCS. We explained above the conflict that occurs as a result of state requirements, and that conclusion is not altered if the requirements originate instead at the local level. Consequently, under section 276(b)(1)(A) coupled with standard conflict preemption principles we preempt local laws and regulations that require IPCS rates and charges exceeding the Commission's caps or that require separate ancillary service charges.

234. Our conflict preemption determination is bolstered by the enactment of the Martha Wright-Reed Act, which modified the Communications Act in a manner that we see as intended to establish a uniform system of federal regulation for all IPCS under section 276(b)(1)(A). As explained above, the Martha Wright-Reed Act was enacted against the regulatory backdrop of—and in response to—the *GTL* v. *FCC* decision, where the D.C. Circuit found that the Commission had unreasonably relied on the ''just and reasonable'' standard of section 201(b) when implementing the differently-worded language of section 276. Insofar as that left the Commission to rely on section 201(b) to ensure IPCS rates and charges were not too high, it generally precluded the Commission from addressing excessive intrastate IPCS rates. The Martha Wright-Reed Act's amendment of section 276(b)(1)(A) gave the Commission clear authority to ensure just and reasonable rates under that provision, which always has encompassed both intrastate and interstate services. Given the legal and regulatory backdrop, that persuades us that Congress envisioned a uniform system of federal regulation as far as IPCS rates and charges are concerned.

235. *Scope of Preemption.* At this time, our preemption extends only to those state and local laws and regulations that require IPCS rates and charges exceeding the Commission's rate caps or that require separate ancillary service charges. The record is mixed as to whether the Commission should or must also preempt state and local laws or regulations that set IPCS rates and charges that are below the Commission's caps. For example, Pay Tel and Securus assert that the Commission must preempt these lower rates. They argue that the Commission must adopt rates for intrastate and interstate IPCS that ensure fair compensation for IPCS providers, and state rate caps that are below the

Commission's caps are necessarily ''inconsistent'' with the Commission's regulation of IPCS since such caps would be below cost and thus not afford fair compensation. These commenters assert that below-cost intrastate rate caps are problematic insofar as they may require ''increases in federal rates to defray costs which are not being recovered at the state level'' and lead to cross-subsidization between states because ''[i]f consumers in one state pay less than the rate the Commission has determined is necessary to fairly compensate providers . . . consumers in other states may end up making a larger contribution to the company's costs.'' They add that below-cost intrastate rates ''may lessen the willingness of providers to bid for facilities, depress market participation (particularly by smaller, regional providers), and reduce investment in new technologies'' while also raising the ''very real possibility of confiscatory rates,'' particularly if rates are set using a zone of reasonableness approach. We address concerns about confiscatory rates in connection with our zone of reasonableness analysis above.

236. On the other hand, state commenters and public interest advocates argue that the Commission is not required to preempt state rates that are lower than the Commission's caps. The California Public Utilities Commission explains that ''states and local governments are in a better position to assess what a reasonable rate would be for the provision of services in their geographic locations.'' The Public Interest Parties assert that state and local laws that require intrastate rates to be lower than the Commission's rate caps are not inconsistent with the Commission's regulations ''because any intrastate rates lower than the Commission's rate cap would not violate any specific provision of the Communications Act and lower rates are consistent with the underlying purpose of the MWRA.'' Both the California Public Utilities Commission and the Public Interest Parties explain that to the extent the Commission's rate caps act as ceilings and not floors, the Commission should not preempt lower state rates. We agree. State IPCS rate proceedings are designed to look at cost data and market conditions unique to that particular state, a much smaller geographic area and a much more disaggregated basis than the ratemaking analysis the Commission was required to undertake on a national level which covered the entire country. It is entirely possible that cost data reflecting a smaller subset of the national footprint of facilities targeted to only certain state specific facilities could yield fair compensation for providers operating in that state at those facilities at lower rates than reflected by the Commission's rate caps adopted today.

237. We decline to preempt state or local laws and regulations requiring rates lower than the caps we adopt today. As the California Public Utilities Commission explains, the argument from Securus and Pay Tel that lower intrastate rates is necessarily inconsistent with the Commission's regulation of IPCS is ''question-begging'' as it ''assumes that the FCC's regulations do *not* allow rates below the federal cap.'' The rate caps we adopt today establish ceilings, rather than floors that inherently would limit potential state action. These rate caps, which are based on provider-supplied data, appropriately balance the need to ensure just and reasonable rates and charges for IPCS consumers based on industry averages and fair compensation for IPCS providers. More generally, it is well established that rates can be lawful if they fall within a zone of reasonableness. Thus, a state's intrastate rate cap might fall within that zone even if it is lower than the Commission's specified rate caps.

238. We also find that state or local requirements that mandate intrastate IPCS rates or charges below the Commission's caps are consistent with the ''underlying purpose of the [Martha Wright-Reed Act]'' to fundamentally reform the IPCS marketplace and eliminate, to the greatest extent possible, decades of exorbitant rates for communications services used and paid for by incarcerated people and their loved ones. Finally, this approach is also consistent with the policy the Commission established when it considered this issue in the *2021 ICS Order.* In light of considerable state-level reform efforts, the Commission decided that the ''federal requirements will operate as ceilings'' for jurisdictionally mixed calling services.

239. Should an IPCS provider claim that a state or local requirement leads to unfair compensation, that provider may seek appropriate relief in the relevant state or locality or from the Commission by submitting a petition for preemption.

240. Our approach to state or local requirements mandating lower IPCS rates is consistent with the legal and regulatory backdrop here. When the Commission undertook regulation of intrastate inmate calling services rates in the *2015 ICS Order,* the Commission adopted an analogous approach to preemption—it declined requests to treat state or local requirements mandating rates below the FCC's caps as inherently in conflict with the Communications Act or Commission rules, instead leaving providers to seek relief on a case-by-case basis should they be able to demonstrate in a particular scenario that they were not being fairly compensated. Although the D.C. Circuit in *GTL* subsequently rejected the Commission's claim of statutory authority to cap intrastate calling services rates under section 276, the Martha Wright-Reed Act made clear the Commission's authority to ensure just and reasonable rates for intrastate IPCS under section 276(b)(1)(A). Yet Congress left section 276(c)'s express preemption of conflicting state laws unchanged relative to the provision in place when the Commission acted in 2015. Nor does the amended text of section 276(b)(1)(A) expressly mandate the exclusivity of the Commission's implementing rules. Thus, in acting consistent with the general approach to preemption adopted in 2015, we are acting consistent with the Commission's historical regulatory approach, which we see no intent by Congress to displace through the Martha Wright-Reed Act.

241. Finally, we decline to adopt Securus's proposal that the Commission preempt lower state rates unless a state can ''make a showing to the Commission that IPCS costs in the state justify a lower rate and that the lower rate satisfies the statutory standard that providers are fairly compensated and that rates and charges are just and reasonable.'' We also decline to pursue Securus's recommendation that ''states should be required to adopt a waiver process.'' We see no basis on which we could mandate that states or localities adopt such a process and Securus offers none. Under this proposal, ''a lower state rate cap would not take effect until the Commission first finds that the state had met its burden of demonstrating that the lower rate complies with the statutory standard.'' Securus's proposal would have us begin from the premise that lower state rates and charges are necessarily inconsistent with the Commission's regulations and preempt them. In order to reverse this preemption decision, the onus would then be on the state or locality to justify why its lower rates or charges are consistent with the statutory standard in that they provide fair compensation for providers and just and reasonable rates for consumers. We decline to make a determination *ex ante* that state and local rates and charges below our caps are inconsistent with a fair compensation plan. As we explain above, we do not find lower state rates

to be inconsistent with the Commission's IPCS regulations.

6. Site Commissions

a. Introduction

242. We next comprehensively reform the Commission's treatment of site commission payments associated with IPCS to implement the requirements of the Martha Wright-Reed Act. Our actions today continue to allow IPCS provider reimbursement of correctional facilities for costs used and useful in providing IPCS while decoupling other IPCS provider payments to correctional facilities, which constitutes what we henceforth refer to as ''site commissions.'' We then end the practice of paying site commissions associated with IPCS.

243. In 2021, the Commission highlighted the difficulties in accounting for and isolating the portion of site commission payments, if any, that may be used and useful in the provision of audio calling services for incarcerated people. The Commission sought comment on whether it should prohibit providers from entering into contracts requiring the payment of site commissions and whether it should preempt state or local laws and regulations that require such payments. The Commission also questioned the propriety of allowing providers to recover the costs of their site commission payments from consumers.

244. After carefully considering the record in these proceedings and the Martha Wright-Reed Act, we find that site commission payments—payments from IPCS providers to correctional facilities that are not used and useful in the provision of IPCS—are fundamentally incompatible with our mandate under section 276(b)(1)(A), as amended, to ensure both just and reasonable IPCS rates and charges for IPCS consumers and providers as well as fair compensation for IPCS providers. Considering the requirements of the Martha Wright-Reed Act and the demonstrated negative effects of site commission payments, particularly with regard to consumer affordability, we conclude that we must eliminate site commissions associated with IPCS.

245. Accordingly, we prohibit all IPCS providers from paying site commissions of any kind associated with intrastate, interstate, international, jurisdictionally mixed, and jurisdictionally indeterminate audio and video IPCS, including all monetary and in-kind site commissions, at all facilities. To implement this prohibition, and consistent with the record and the Commission's proposals in 2021, we preempt all state and local laws and regulations requiring or allowing IPCS providers to pay site commissions associated with IPCS and prohibit IPCS providers from entering into contracts requiring or allowing them to pay site commissions associated with IPCS. Compliance with our reforms associated with site commission payments will be required by the dates specified in Section III.H below.

246. Although we eliminate site commissions associated with IPCS, we do not deny correctional facilities the opportunity to be reimbursed by IPCS providers for any costs the correctional facilities incur that are used and useful in the provision of IPCS. The IPCS rate caps we adopt today reflect, based on the record before us, all of the used and useful costs incurred in the provision of IPCS regardless of whether such costs are incurred by IPCS providers or correctional facilities. Consistent with that record, the rate caps account for used and useful costs associated with IPCS providers' provision of IPCS incurred by correctional facilities. Therefore, we permit IPCS providers to reimburse correctional facilities for the used and useful costs the facilities incur to enable the provision of IPCS. We therefore find without merit the National Sheriffs' Association's argument that ''[t]he proposals to arbitrarily disallow legitimate costs and preclude their recovery is contrary to the Communications Act requirement to set reasonable rates, the Commission's statutory mandate to promote access to ICS, and court precedent.'' The Commission has identified the used and useful costs, including a measure of facility costs for safety and security measures, in the rate caps it adopts today. The Commission is thus fully in accordance with ''rate-making principles that require the allowance of legitimate costs in rates.'' We also find the National Sheriffs' Association's argument that ''[f]acility compensation through rates also is consistent with the Commission's precedent that costs should be recovered from the cost causer'' to be moot given our allowance for facility-related cost recovery in our rate caps. We are unpersuaded by the National Sheriffs' Association's assertion that the Commission has ''found that the calling and called party are the cost causer and the beneficiary of calls'' such that the costs of calls should be recovered from the ratepayers. The Commission made that cost-causation determination in the context of certain intercarrier compensation reforms, not with respect to IPCS, which occurs in a fundamentally different context where the users of the service have no choice in the provider they use—and the choice of provider can significantly affect the cost of service. In any case, costs that are not used and useful in the provision of IPCS are not caused by IPCS communications, and thus neither party to such communications reasonably can be seen as causing those costs through the use of IPCS. To the extent a correctional facility performs a function that is used and useful in the provision of IPCS under the standards set forth in the Report and Order, the IPCS provider may reimburse the correctional facility for that function's cost. As we explain above, any costs that facilities incur to provide ''safety and security measures necessary'' for the provision of IPCS are also used and useful in the provision of IPCS. This reimbursement therefore encompasses any costs a correctional facility incurs in performing safety and security measure functions that are necessary for the provision of IPCS. We emphasize, however, that the cost recovery we permit extends only to costs that the Commission has classified as used and useful in the Report and Order. Costs that the Commission has not found to be used and useful in the provision of IPCS may not be recovered from IPCS providers through revenues under the rate caps we establish. And under no circumstances may reimbursement result in IPCS consumers being charged more than the rate caps we adopt today.

b. Background

(i) Site Commissions and IPCS

247. IPCS connect incarcerated people to their families, loved ones, clergy, and counsel. But unlike communications services offered to the general public outside of the correctional environment, IPCS providers have monopoly power in the facilities they serve. As the Commission has explained:

> [I]ncarcerated people have no choice in the selection of their calling services provider. The authorities responsible for prisons or jails typically negotiate with the providers of [IPCS]. Once the facility makes its choice—often resulting in contracts with providers lasting several years into the future—incarcerated people in such facilities have no means to switch to another provider, even if the chosen provider raises rates, imposes additional fees, adopts unreasonable terms and conditions for use of the service or offers inferior service.

248. In many cases, correctional authorities award contracts for IPCS ''based in part on what portion of [IPCS] revenues a provider has offered to share with the facility.'' These payments, historically referred to as ''site

commissions,'' are salient components of the exclusive contracts between correctional authorities and IPCS providers. Site commissions broadly include ''any form of monetary payment, in-kind payment requirement, gift, exchange of services or goods, fee, technology allowance, product or the like.'' They can be expressed ''in a variety of ways, including as per-call or per-minute charges, a percentage of revenue or a flat fee.''

249. Site commissions can arise in several different scenarios. First, a state or local statute or regulation ''that operate[s] independently of the [IPCS] contract process'' may mandate ''site commission payments at a specified level.'' Second, ''there can be situations where the correctional institution's request for proposal, or the like, asks bidders to agree to pay site commissions at a specified level.'' And third, there may be circumstances where no state or local law or regulation ''compels site commission payments and the correctional institution soliciting bids does not request any specific payment (even if it indicates that offers to pay site commissions will influence bid selection).'' Some state laws permit—but do not require—correctional institutions to collect site commissions while others may require site commissions but do not specify any particular level. In these circumstances, IPCS providers and correctional institutions may negotiate the amount of the site commission.

250. In general, site commissions provide benefits to correctional authorities and the IPCS providers bidding on IPCS contracts. By providing a mechanism for correctional authorities to share in some portion of IPCS revenues, site commission payments allow correctional authorities to ''benefit financially from the contract that they sign with their [IPCS] provider.'' And ''by proposing higher prices'' during the bidding process, IPCS providers ''can pay more in commissions to the state, thereby increasing the probability with which they win the contract.'' It is due to these market dynamics that site commissions have sometimes been described as ''kickbacks'' or ''legal bribes.''

251. Regardless of how they arise, site commissions, as historically understood, ''fund a wide and disparate range of activities.'' In some cases, site commission revenues may be used to fund programs related to ''education and reintegration into society.'' ''In certain jurisdictions, state law requires that revenue from site commission payments, or a portion thereof, be deposited into welfare funds or the state's general treasury. In other cases, site commission payments may be used to ''defray costs of maintaining carceral facilities.'' Because site commission revenues can include many different types of payments, they may also be offered for the benefit of correctional officials, through, for example, campaign contributions or ''payments to influential sheriff-led associations'' or through in-kind payments. In one instance, correctional officials were offered cruises as part of IPCS contracts. Finally, site commissions—as that term historically was understood—may also serve, in part, to ''compensate correctional facilities for the costs they reasonably incur in the provision of [IPCS].'' Those facility-related costs may encompass various safety, security, surveillance, and administrative tasks. These functions and activities may be performed by correctional authorities or IPCS providers, depending on their mutually agreed arrangements.

252. Regardless of the purposes for which site commissions may be used, they historically have been ''a significant driver of rates'' that incarcerated people and their loved ones pay. Specifically, site commissions have exerted and continue to exert ''upward pressure'' on rates. By imposing higher rates, IPCS providers historically could afford to pay more in commissions to correctional authorities. Thus, providers ultimately recovered the costs of their site commission payments through the rates they charged consumers. This means that incarcerated people and their loved ones, who cannot choose their own IPCS providers, were forced to bear the financial burden imposed by site commissions in the rates they pay, thereby subsidizing the tasks or activities that correctional officials or, in some cases, state law, dictate associated with the use of site commission revenue. As explained above, this subsidization could have extended to tasks and activities that have nothing to with enabling communication between incarcerated people and their loved ones, including funding ''inmate welfare programs . . . salaries and benefits of correctional facilities, states' general revenue funds, and personnel training.''

253. These historical consumer costs could be substantial. Site commissions historically could account for ''33 percent of the out-of-pocket consumer call charges on average'' and rising ''to more than 70 percent in some jurisdictions.'' Collectively, as set forth in a technical appendix, providers reported total industry site commissions of over $446 million. Relatedly, in jurisdictions that have eliminated site commissions, IPCS rates have ''decreased significantly.'' In short, there is ''no question'' that the site commissions result in higher consumer prices.

254. At the same time, site commissions have distorted the IPCS marketplace. Each correctional facility has ''a single provider of [IPCS] that operates as a monopolist within that facility,'' and very often ''correctional authorities award the monopoly franchise for [IPCS] based in part on what portion of inmate calling services revenues a provider has offered to share with the facility.'' Such scenarios can create ''reverse competition'' in which ''the financial interests of the entity making the buying decision (the correctional institution) are aligned with the seller (the ICS provider) and not the consumer (the incarcerated person or a member of his or her family).'' Thus, as a matter of historical practice, ''providers bidding for a facility's monopoly franchise compete to offer the highest site commission payments,'' instead of competing on ''service-based, competitive market factors'' such as price or quality of service that would ultimately benefit incarcerated people and their loved ones. While reverse competition occurs in other contexts, it has been ''at its most pernicious in the inmate phone service context because buyers not only do not have a choice of service providers, they also have strong reasons not to forego using the service entirely.'' What is more, once a contract is signed, ''the terms of the contract are set in stone'' in that they need not be renegotiated by the IPCS provider absent a change in law and, because the provider then has monopoly power, it ''[does] not have to worry about'' lowering its prices ''in order to stay competitive.'' As a result in such scenarios, ''at any given time, the end-users are not necessarily benefitting from the lowest possible'' IPCS prices.

(ii) The Commission's Regulation of Recovery for Site Commission Payments

255. The Commission has historically viewed site commission payments as ''a division of locational monopoly profit'' and not a cost of providing payphone service. This characterization led the Commission to exclude site commission costs from the costs it used to set interim calling services rate caps in the *2013 ICS Order* and permanent rate caps in the *2015 ICS Order.* Over time, however, the Commission recognized that ''some portion of [site commission payments] may be attributable to legitimate facility costs.'' Thus, in the *2016 ICS Reconsideration Order* (81 FR 62818, September 13, 2016), the

Commission explained that ''some facilities likely incur costs that are directly related to the provision of ICS,'' and determined that ''it is reasonable for those facilities to expect ICS providers to compensate them for those costs . . . [as] a legitimate cost of ICS that should be accounted for in [the] rate cap calculations.'' As a result, the Commission reconsidered its decision to entirely exclude site commission payments from its 2015 rate caps and adopted additives to those caps ''to account for claims that certain correctional facility costs reflected in site commission payments are directly and reasonably related to the provision of inmate calling services.''

256. In the 2017 *GTL* v. *FCC* opinion, the D.C. Circuit held that the ''wholesale exclusion of site commission payments from the FCC's cost calculus'' in the *2015 ICS Order* was ''devoid of reasoned decision-making and thus arbitrary and capricious.'' The court was unpersuaded by the Commission's assertion that site commissions have nothing to do with the provision of calling services, reasoning that ''[i]n some instances, commissions are mandated by state statute'' while in others ''commissions [are] required by state correctional institutions as a condition of doing business with ICS providers.'' The court also explained that because the Commission acknowledged that some portion of some providers' site commission payments might represent ''legitimate'' costs of providing inmate calling services, the Commission could not ''categorically exclude[ ] site commissions and then set rate caps at below cost.'' ''Ignoring costs that the Commission acknowledges to be legitimate,'' the court explained, ''is implausible.'' But the court left it to the Commission on remand to determine ''*which portions* of site commissions *might be directly related to the provision of ICS and therefore legitimate,* and which are not.''

257. In 2020, the Commission proposed rate reform of the inmate calling services then within its jurisdiction with the *2020 ICS Notice.* Based on extensive analysis of the data the Commission collected in the Second Mandatory Data Collection, the Commission proposed to lower the interstate rate caps to $0.14 per minute for debit, prepaid, and collect calls from prisons and $0.16 per minute for debit, prepaid, and collect calls from jails. Consistent with the D.C. Circuit's opinion in *GTL* v. *FCC,* the Commission also proposed to include ''an allowance for site commission payments in the interstate rate caps to the extent those payments represent legitimate correctional facility costs that are directly related to the provision of inmate calling services.'' The Commission proposed an allowance of $0.02 per minute, which reflected the Commission's ''analysis of the costs correctional facilities incur that are directly related to providing inmate calling services and that the facilities recover from inmate calling services providers as reflected by comparing provider cost data for facilities with and without site commission requirements.'' Recognizing that facility costs for contracts covering only jails with low average daily populations might exceed the proposed $0.02, the Commission invited comment on adopting higher allowances for correctional facility costs for such contracts if the record supported such allowances.

(iii) 2021 Rate Structure Reforms

258. In the *2021 ICS Order,* the Commission adopted interim inmate calling services rate caps that included an allowance for site commission payments ''consistent with section 276's fair compensation provision'' as interpreted by the D.C. Circuit's decision in *GTL* v. *FCC.* In relevant part, the Commission adopted two facility-related rate components reflecting different types of site commissions for prisons and larger jails: legally mandated site commission payments that providers are obligated to pay under laws or regulations; and contractually prescribed site commission payments that providers agree, by contract, to make. The Commission did not adopt facility-related rate components for jails with average daily populations below 1,000, which remained subject to the existing $0.21 per-minute total rate cap. This outcome reflected, in part, record arguments suggesting that ''legitimate facility costs related to [IPCS] may indeed be higher for smaller facilities.'' Because commenters ''did not provide sufficient evidence to enable [the Commission] to quantify any such costs,'' the Commission sought comment on facility costs for smaller jails as part of 2021. The Commission permitted providers to recover the costs of their legally mandated site commission payments, without any markup, as an additive to the interim interstate per-minute rate caps up to a total rate cap of $0.21 per minute. Where site commission payments resulted from contractual obligations or negotiations between providers and correctional officials, the Commission permitted providers to recover no more than $0.02 per minute for prisons and larger jails.

259. In evaluating cost recovery for site commissions in the *2021 ICS Order,* the Commission emphasized that full recovery of site commission payments is not required by the D.C. Circuit's decision in *GTL* v. *FCC,* given that the court made clear that the Commission may ''assess on remand which portions of site commissions might be directly related to the provision of [inmate calling services] and therefore legitimate, and which are not.'' The Commission reasoned that full recovery of site commissions ''cannot be reconciled with [the Commission's] statutory duty to ensure that incarcerated people and the people with whom they speak are charged 'just and reasonable' rates for inmate calling services.'' At the same time, the Commission concluded that it could not, consistent with the record before it at that time and ''current law and policy'' treat all site commissions solely as a division of locational monopoly profit and therefore deny any recovery of such payments.

260. The Commission relied on its section 201(b) authority over interstate and international rates and charges in the *2021 ICS Order* in analyzing cost recovery separately for legally mandated and contractually prescribed site commissions. As to legally mandated site commissions payments, the Commission recognized them ''as a cost that providers must incur to provide calling services, consistent with section 276's fair compensation provision.'' Thus, the Commission found legally mandated site commission payments ''to be used and useful in the provision of interstate and international inmate calling services at least as long as the Commission continues to permit providers of interstate and international inmate calling services to continue to make these site commission payments.''

261. The Commission next found that contractually prescribed site commission payments ''reflect[ ] not only correctional officials' discretion as to whether to request site commission payments . . . but also providers' voluntary decisions to offer payments to facilities that are mutually beneficial in the course of the bidding and subsequent contracting process.'' The Commission also recognized that contractually prescribed site commissions payments that ''simply compensate a correctional institution for the costs (if any) an institution incurs to enable interstate and international inmate calling services'' were ''prudently incurred expenses used and useful in the provision of interstate and international inmate calling services.'' Contractually prescribed site

commission payments were deemed not recoverable, however, ''insofar as they exceed[ed] the level needed to compensate a correctional institution for the costs (if any) an institution incurs to enable interstate and international inmate calling services.''

262. Ultimately, the Commission arrived at the $0.02 per minute allowance for prisons and larger jails on two independent bases. First, it estimated ''the portion of site commissions that are legitimately related to inmate calling services'' based on a comparison of per-minute costs for facilities that receive site commission payments and those that do not from cost and site commission data that providers reported in response to the Second Mandatory Data Collection. The Commission first used this methodology in Appendix E of the *2020 ICS Notice* but updated it with corrected cost data in Appendix B of the *2021 ICS Order.* Because those data ''incorporated no correctional facility-provided cost data,'' the Commission's methodology ''reflected its reasoned judgment as to the best estimation of legitimate facility costs related to inmate calling services in the absence of cost data from correctional facilities themselves.'' The Commission agreed with commenters that it is ''difficult to disentangle which part of the site commission payment goes towards reasonable facility costs and which portion is due to the transfer of market power.'' The Commission emphasized that its own analysis ''reflect[ed] even lower estimates for legitimate facility costs'' but declined to adopt an allowance lower than $0.02 at that time.

263. Second, data from a survey of facilities' inmate calling services costs that the National Sheriffs' Association had conducted in 2015 independently supported the $0.02 allowance for correctional facility costs at prisons and larger jails. Though the Commission had previously relied on these data in the absence of any other data, the Commission expressed continuing concern about their reliability because ''some of the facilities included in the . . . survey [had] report[ed] an exceedingly high number of hours of correctional facility officials' time compared to most other reporting facilities.'' The Commission flagged one facility with an average daily population of approximately 1,500, which reported approximately 694 total hours per week on inmate calling services-related activities, which was ''roughly 400 hours more than the next highest facility with an equal or lower average daily population.'' The Commission did ''not find these data credible when comparing them to data of similarly sized reporting facilities *that have no incentive* to under-report their hours or costs.'' Notwithstanding these issues, the Commission concluded that they were ''the best data available from correctional facility representatives'' that allowed the Commission to balance the ''objectives to ensure just and reasonable rates under section 201 of the Act with the requirement to ensure fair compensation under section 276 of the Act.'' The Commission therefore relied on the data from the National Sheriffs' Association survey in addressing providers' site commissions payments to prisons and larger jails. The Commission found, however, that the survey data for jails having average daily populations of fewer than 1,000 incarcerated people ''varied far too widely to comfortably estimate any values'' for correctional facility costs ''that would withstand scrutiny today'' (*i.e.,* in May 2021). The Commission circumscribed its interim treatment of site commissions based on the record and regulatory backdrop at that time, and confirmed that nothing in the *2021 ICS Order* would limit its ''ability, on a more complete record and with sufficient notice, to reconsider [its] treatment of site commission payments.''

264. In 2021, adopted at the same time as the *2021 ICS Order,* the Commission sought comment on how and where to draw the line between legitimate and illegitimate portions of site commission payments and asked for specific data concerning legitimate portions of those costs, if any. Additionally, the Commission asked commenters to provide methodologies that the Commission could use to identify legitimate site commission expenses. The Commission also sought comment on ''prohibiting providers from entering into any contract requiring the payment of contractually prescribed site commissions for interstate and international calling services'' and ''preempting state or local laws that impose [legally mandated site commission] payments on interstate or international calling services.''

(iv) The Martha Wright-Reed Act and 2023 Request for Comment

265. On December 22, 2022, Congress passed the Martha Wright-Reed Act, which was signed into law on January 5, 2023. Just slightly over two months later, the Commission adopted 2023, in which it sought comment on several aspects of the effect of the Martha Wright-Reed Act on the Commission's consideration of site commission payments. First, as a general matter, the Commission incorporated its prior questions on site commissions from 2021 into 2023. In particular, the Commission asked whether its ratemaking calculations should ''include providers' site commission payments only to the extent, if any, that they compensate facilities for used and useful costs that the facilities themselves incur.'' Second, the Commission requested comment on how the dual requirements of section 276(b)(1)(A) to ensure just and reasonable rates and charges for IPCS consumers and providers and fair compensation for IPCS providers should affect its treatment of site commission payments including any decision on whether to preempt state and local laws and regulations that impose site commissions. And third, the Commission invited comment ''on the relationship, if any, between safety and security measures and site commission payments.''

(v) Other Trends in the Treatment of Site Commissions

266. Broadly, the ''structure of the market for providing communications services to incarcerated persons has changed and continues to change.'' This is particularly true in the case of site commissions. Indeed, ''[t]here is already a growing trend to eliminate the use of site commissions.'' One IPCS provider explains that it offers ''commission-less options in its proposals to correctional authorities'' to ''improve affordability for consumers.'' In addition to provider-led efforts, ''a number of states have banned site commissions'' or have made IPCS free to end users driven, at least in part, by the goal of protecting incarcerated people and their loved ones ''from detrimental practices by private corporations providing goods and services to people confined in carceral facilities.'' States that have eliminated site commissions include California, Michigan, Missouri, Nebraska, New Mexico, New York, Rhode Island, and South Carolina. And five states—Massachusetts, Connecticut, California, Minnesota, and Colorado have now enacted legislation providing for free communications services for incarcerated people, meaning that IPCS consumers now pay nothing for IPCS site commissions. More recently, other states have introduced legislation requiring IPCS to be provided free of charge to incarcerated people and their loved ones or have eliminated site commission payments. This is also true for some municipalities, for example, San Diego and San Francisco. Together, these trends point to a decreasing

reliance on site commission payments in providing IPCS.

c. Discussion

(i) Overview of Our Approach to Site Commissions

267. In the Report and Order, we only permit IPCS provider payments to correctional facilities for costs used and useful in the provision of IPCS. As Pay Tel explains, facility cost recovery and site commissions are ''two separate (but currently interrelated) issues.'' Pay Tel emphasizes that ''site commission payments often ultimately provide facilities with necessary cost recovery for their role in administering ICS'' but that ''does not mean site commission payments are necessary for—*i.e.,* the only means of ensuring—facility cost recovery.'' We agree. Decoupling the conceptually distinct category of IPCS provider payments to correctional facilities for costs used and useful in the provision of IPCS from other payments IPCS providers have been asked—or required—to make to correctional facilities (*i.e.,* ''site commissions'') illuminates how those markedly different categories of IPCS provider payments can and should be treated under our new regulatory approach.

268. We find that our rate caps will allow for IPCS provider reimbursements to correctional facilities for costs used and useful in the provision of regulated IPCS. In particular, we enable facilities to be reimbursed for these costs by including them in our rate caps and allowing providers to compensate facilities for them. At this time, we do not see the need to amend the Commission's definition of site commission to carve out the reimbursement we permit. By adopting a mechanism that enables correctional facility cost recovery extending only to used and useful costs reimbursed by IPCS providers, we ensure that correctional facilities will not be without recourse to recover their legitimate costs from providers within the bounds of the rate caps we adopt today. We also ensure that providers' obligations to reimburse correctional facilities will be limited to the used and useful costs associated with the provision of IPCS that they actually incur.

269. We take a different approach with respect to site commissions. Today we conclude, based on the record and consistent with precedent, that site commission payments are not used and useful in the provision of IPCS and must therefore be excluded from the calculation of the Commission's rate caps. We further prohibit site commission payments to all facilities to the extent those payments are associated with intrastate, interstate, international, jurisdictionally mixed, and jurisdictionally indeterminate audio and video IPCS, including all monetary and in-kind site commissions. To effectuate this prohibition we take two actions consistent with 2021 and 2023. First, we preempt state and local laws and regulations allowing or requiring site commission payments for IPCS. And second, we prohibit IPCS providers from entering into contracts allowing or requiring the payment of site commissions. We emphasize that the actions we take today in eliminating site commissions apply to all correctional institutions: prisons, larger jails, smaller jails, and other types of correctional institutions.

(ii) Site Commissions Are Not Used and Useful in the Provision of IPCS

270. Based on the record and core ratemaking precedent, we find that site commission payments are not used and useful in the provision of IPCS and must therefore be excluded from our rate and fee cap calculations. As discussed below, site commissions, whether legally mandated or contractually prescribed, do not satisfy any prong of the used and useful framework as that framework is applied by courts and the Commission.

271. Securus argues that the used and useful framework ''is unsuited for the purpose of determining cost recovery for site commission payments'' and is not an ''appropriate basis'' to restrict or eliminate site commissions. Securus explains that the used and useful framework ''potentially leads to unreasonable outcomes where the entity that sets the requirements for service, the correctional institution, is different from the ''rate payer.'' In Securus's view, correctional facilities, not incarcerated people, are the ''direct customer[s]'' of IPCS and, as such, prescribe the ''features and functions'' they deem used and useful to provide the service. It is thus ''untenable,'' Securus argues, to suggest that all features a correctional facility deems used and useful must ''inure directly to the benefit of each caller.''

272. While it is true that correctional authorities contract with IPCS providers for the provision of IPCS in their facilities, we are not persuaded by Securus's arguments. IPCS are used and paid for by incarcerated people and their loved ones. In implementing section 276(b)(1)(A)'s just and reasonable and fair compensation standards, ''[t]he Commission's duty is to protect IPCS ratepayers and ensure reasonable compensation for providers, not to protect the interests and demands of non-ratepaying stakeholders.'' And it is through the used and useful framework that the Commission balances the ''equitable principle that public utilities must be compensated for the use of their property in providing service to the public'' with the ''[e]qually central . . . equitable principle that the ratepayers may not fairly be forced to pay a return except on investment which can be shown directly to benefit them.'' It is therefore entirely appropriate to evaluate site commission payments under the used and useful framework.

273. To the extent Securus is concerned that applying the used and useful framework will somehow interfere with the discretion of correctional officials, we find those concerns overstated. We do not limit the ability of a correctional authority to ''prescribe[ ] the features and functions it deems necessary to provide the service in its facilities.'' Correctional authorities remain free to contract for the ''equipment, network facilities, operations and services'' they deem appropriate. All we do here is evaluate site commission payments under long-standing principles the Commission uses in evaluating whether rates and charges are just and reasonable and conclude, based on the record developed over many years in these proceedings, that those payments are not used and useful in the provision of IPCS and must therefore be excluded from our rate cap calculations. Doing so ensures that incarcerated people and their loved ones ''bear only legitimate costs of providing service to them.''

274. Securus also contends that the ''used and useful'' framework is ''inapplicable to site commissions for the further reason that it is a feature of rate of return regulation'' that is ''unsuited for the purpose of determining cost recovery for site commission payments.'' Securus explains that the role of the ''used and useful'' framework under rate-of-return regulation is ''to determine the rate base, defined as net investment in plant and equipment'' and ''plays no role in determining appropriate operating expenses, such as site commissions,'' which may be recovered ''unless totally unrelated to the provision of service or excessive.'' Securus claims that because the Commission has opted to use ''a form of price cap,'' rather than ''rate of return regulation to set incarcerated communications services rate caps,'' the used and useful framework should be inapplicable. And even in the context of rate-of-return regulation, Securus asserts

that regulators are not required to apply the used and useful framework and may instead use the prudent investment rule.

275. We find Securus's arguments in this regard unpersuasive. First, as the Commission has explained, it has ''not only . . . applied [the used and useful framework] in the context of carriers operating under rate-of-return regulation, but rates set on that basis were also used as the foundation for the price caps.'' Indeed, the Commission's price cap regime for incumbent local exchange carriers started with rates ''generated by the conventional cost-of-service formula,'' an approach that has become, over time, the prevailing methodology to determine the rate base and allowable expenses under rate-of-return regulation. Setting price caps therefore involves some measure of the cost of service that is the hallmark of rate-of-return regulation. Fundamentally, setting IPCS rates is an ''exercise in cost-based ratemaking'' that ''requires a determination of the costs providers incur in providing those services.'' And the used and useful framework is the standard the Commission has historically applied to ''exclude[ ] certain impermissible costs from any rate methodology.'' Accordingly, we conclude that we may apply the used and useful framework to providers' site commission payments.

276. Second, the used and useful standard, and the just and reasonable ratemaking standard more broadly, are fundamentally concerned with balancing the interests of ratepayers with the need to compensate public utilities for the use of their property. The policy of allowing only investments and expenses which are ''used and useful'' to be recovered from ratepayers ''is intended to ensure that current ratepayers bear only legitimate costs of providing service to them.'' The concept thus is not inherently limited to physical plant owned by the provider and irrelevant to expenses. The Commission's previous employment of the ''used and useful'' framework to evaluate recovery of site commissions through just and reasonable rates as part of the regulatory backdrop to the Martha Wright-Reed Act's addition of the ''just and reasonable'' mandate to section 276(b)(1)(A) reinforces our conclusion that it is reasonable for us to rely on that approach again here. And the standard is necessarily flexible, allowing the Commission to analyze ''[t]he particular facts of each case . . . in order to determine what part of a utility's investment is used and useful.'' We rely on this flexibility to ensure that IPCS consumers bear ''only legitimate costs of providing service to them.'' Importantly, however, we do not rely solely on the used and useful framework to eliminate site commissions. Instead, our actions stem principally from the requirements of section 276(b)(1)(A), as amended by the Martha Wright-Reed Act, that we ensure just and reasonable rates and charges for consumers and providers and fair compensation for providers. In doing so, we do as Securus requests, which is to exercise ''the full degree of [our] authority'' to prohibit site commission payments entirely.

(a) Used and Useful Assessment

277. In the *2021 ICS Order*, the Commission conducted a used and useful analysis applying a prudent investment standard and ultimately permitted providers to pass through to consumers, on an interim basis, the full amount of their legally mandated site commission payments up to a total interstate rate cap of $0.21 per minute and no more than $0.02 per minute for their contractually prescribed site commission payments for prisons and larger jails. In conducting its cost recovery analysis under the used and useful framework, the Commission explained that it did not consider site commission payments of any kind to ''involve[e] the use of provider property and investment in a manner analogous to the circumstances addressed in [its] provider-based rate caps.'' The Commission reasoned that the site commission payments, or the portions thereof, that it allowed providers to recover on an interim basis were ''akin to exogenous costs.'' Separately, the Commission independently justified its decision ''as a matter of the flexibility provided by the 'just and reasonable' framework of section 201(b) of the [Communications] Act under the particular circumstances.'' The Commission concluded that allowing only a pass-through of site commission expenses it found to be prudently incurred and used and useful ''adequately accounts for the use of providers' property . . . balanced with the equitable interest of customers of interstate and international inmate calling services.''

278. Our approach here differs from the Commission's 2021 interim reforms in which the Commission concluded that a portion of some site commission payments was used and useful in the provision of calling services, and therefore compensable for purposes of the used and useful analysis. For one, we separate out from our definition of ''site commissions'' the reimbursement IPCS providers make to correctional facilities for costs those facilities incur that we have already found to be used and useful in the provision of IPCS under our analysis above. The question then turns to whether site commissions as defined here separately are used and useful in the provision of IPCS and thus separately compensable under the just and reasonable standard. We conclude that they are not. Thus, in developing the IPCS rate caps we adopt today, we have identified, based on the record, all of the used and useful costs and expenses in the provision of intrastate, interstate, international, and jurisdictionally mixed audio and video IPCS, regardless of whether those costs are incurred by IPCS providers or correctional facilities. Accordingly, we have considered, consistent with this element of the used and useful framework, what is required to compensate IPCS providers for offering IPCS while safeguarding the interests of incarcerated people and their loved ones under the just and reasonable mandate.

279. On the record now before us and considering the requirements of section 276(b)(1)(A), as amended by the Martha Wright-Reed Act, we find that, to the extent they exceed the costs correctional institutions prudently incur in the provision of IPCS, site commissions, whether contractually prescribed or legally mandated, are not used and useful in the provision of IPCS because there is no indication that such payments benefit IPCS consumers. To begin with, the Commission predicated its 2021 interim reforms on the assumption that a portion of providers' site commission payments provided a benefit to IPCS consumers and was thus recoverable ''at least as long as the Commission continues to permit providers . . . to make site commission payments.'' That is, the Commission assumed, on the record before it, that some portion of providers' site commission payments compensated correctional facilities for the costs they incurred in enabling the provision of ICS. But even in the *2021 ICS Order,* the Commission concluded that site commission payments above that level were not used and useful and/or not prudently incurred and should not be subject to recovery in order to ensure just and reasonable rates. Nothing in the record here persuades us to change our mind in that respect, and we thus again conclude that such costs are not used and useful and/or prudently incurred, and thus not recoverable through just and reasonable rates. And, as discussed below, absent any viable data that demonstrate any portion of a site commission in this context provides compensable costs, we find that site

commissions are in their entirety not recoverable.

280. As to those site commission payments the Commission did allow to be recovered under its used and useful and prudent investment analysis in the *2021 ICS Order,* the Commission relied, in part, on the National Sheriffs' Association 2015 survey as the best available proxy for those costs and limited recovery for contractually prescribed site commission payments to no more than $0.02 per minute at prisons and larger jails, even though the Commission's independent estimates of the portion of site commissions that were legitimately related to inmate calling services supported ''even lower potential estimates for legitimate facility costs.'' With respect to legally mandated site commission payments, the Commission assumed, on the record before it at that time, that legally mandated site commission payments at the level required by the relevant statute or regulation were used and useful. We address certain particularities with respect to legally mandated site commissions below. The Commission chose to rely on the National Sheriffs' Association data—despite significant reservations about their accuracy—in large part due to ''the absence of any other facility-provided data'' in the record. Rather than delay much-needed relief, the Commission chose to rely on the ''best data available'' to estimate facility costs used and useful in the provision of communications services ''until more updated facility-related data are submitted into the record.'' As discussed above, however, no commenter or other stakeholder has provided updated facility-related cost data sufficient to enable the Commission to isolate the portions of providers' site commission payments, if any, that actually compensate correctional facilities for the costs they incur in the provision of IPCS. Accordingly, we decline to rely on those data here to allow additional recovery for providers' site commission payments.

281. Putting aside the lack of reliable data, the record persuades us that site commission payments primarily compensate correctional facilities for the transfer of their market power over IPCS at a given facility or are used by providers to ''overcome . . . competitors to become the exclusive provider of multiple services, including nonregulated services at a correctional facility'' while providing no clear benefit to IPCS consumers. In the *2021 ICS Order,* the Commission identified a collective action problem ''that makes providers, as a group, reluctant to limit or omit site commission payments in their bids for fear that competitors fail to do so, and that correctional institutions will select competitors that do offer site commissions (or offer higher site commissions) instead.'' Securus confirms that ''[t]he problem identified by the Commission is real,'' suggesting that providers cannot ''unilaterally end the established practice of many local governments in seeking site commission payments in their negotiations with providers.'' Thus, it appears that ''when providers offer site commission payments as part of their bids, they do so to gain a benefit for themselves, rather than to satisfy a formal precondition of access to a correctional facility.''

282. Consider, for example, monetary site commission payments. In certain cases, contract language requiring the payment of monetary site commissions demonstrates that such payments compensate correctional facilities ''for the transfer of their market power over [IPCS] to the [IPCS] provider'' and cannot be shown to directly benefit consumers of incarcerated people's communications services. For example, the language in a contract between CenturyLink Public Communications, Inc., a former provider of incarcerated people's communications services, and Milwaukee County, Wisconsin, explains that ''[i]n consideration of being granted the right and obligation to operate the Inmate Pay Telephone Concession at the Correctional Facilities, CenturyLink shall pay County a commission rate equal to 70.1% of the Gross Revenue generated from completed or accepted calls made at the CenturyLink pay phones covered by this agreement.'' In another case, the contract calls for the payment of a percentage of gross revenue ''in return for the exclusive right to install and operate the [p]hones in the premises.''

283. Provisions like these illustrate that the site commission payments benefit the facilities insofar as they receive compensation for allowing the provider (instead of the correctional authority) to offer communications services at the facility or facilities covered by the contract. And, the site commission payments benefit the providers, which receive the exclusive right to offer communication services for the duration of the contract. There is nothing in these contracts, or the record generally, suggesting that such site commission payments are conditioned on, for example, improved service quality or lower prices for consumers of calling services or compensating the correctional facility for any costs it incurs in allowing IPCS. Thus, the benefits flow first to the facility and then to the provider, ''all to the detriment of [IPCS] customers.''

284. Record evidence submitted by Pay Tel also demonstrates the way in which site commissions may be used by IPCS providers to ''increase the probability with which they win [a] contract.'' Pay Tel provides documentation relating to recent requests for proposals ''in which Pay Tel competed but ultimately lost due to site commission payment amounts.'' Pay Tel notes that, in two instances, it ranked higher in each scoring category except for the site commission category but still lost the bids. Indeed, the winning bidders had proposed to pay site commissions of 90% and 88.8% on all calls. Thus, Pay Tel at least plausibly lost those bids on the basis of its site commission offerings indicating that ''providers may feel compelled to offer site commissions in order to remain competitive'' rather than to compensate correctional facilities for the costs, if any, they incur in making IPCS available. To the extent these site commissions were, in fact, related to any legitimate IPCS costs, we would have expected to see similar offers from the other bidders. But we do not. Instead, it appears that the winning bidder used its site commission offerings in this context ''to overcome its competitors'' in the bidding process.

285. The National Sheriffs' Association offers a different explanation of Pay Tel's data. It claims that a high site commission percentage does not ''necessarily mean the commission payment exceeds the cost to the facility of allowing ICS or that the rate charged for ICS service at the facility is unreasonable.'' In its view, Pay Tel's experience ''may show that the cost to serve the specific facility is below the Commission's nationwide average rate and the dollar amount of the revenues is significant enough that ICS providers are willing to offer a greater percentage of their profits to capture that specific contract.'' Or, it ''may also reflect the fact that ICS providers are not required to bid on facility contracts or provide ICS at all facilities and . . . can boost profit by declining to provide service in higher cost facilities.'' These alternative explanations are speculative and otherwise unsupported by record evidence. In contrast, Pay Tel provides concrete evidence, including bid evaluation forms used by the correctional authorities, that portrays a compelling, first-hand account of how site commissions factored into the bid evaluation processes. We find it highly persuasive that Pay Tel obtained higher

scores across all bid scoring categories except site commissions but still lost those contracts. We believe these outcomes clearly illustrate ''the current incentive for facilities to award contracts based primarily (or, at times, exclusively) on site commission offerings'' rather than on the basis of price or quality of service, to the detriment of IPCS consumers.

286. In-kind payments also demonstrate that site commissions primarily benefit correctional authorities and IPCS providers but not IPCS consumers, as they are often wholly unrelated to the provision of IPCS. This is because in-kind payments from the IPCS provider can take varied forms, including software packages, {[REDACTED]} campaign contributions, ''payments to influential sheriff-led associations,'' or anything else of value to the correctional authority. One provider describes the fluid nature of in-kind site commissions noting that they ''{[REDACTED]}.'' For example, Smart Communications offered, among other inducements, an ''Annual Technology Training Summit Cruise'' as part of its proposal to a sheriff's office. Those cruises had a value of over $84,000 over the contract term. Because these in-kind contributions are often offered at low or no cost to the correctional authority, they clearly benefit the correctional authority, which receives something of value from the IPCS provider. And such inducements also benefit the IPCS provider to the extent they allow that provider to surpass its competitors in the bidding process. In contrast, there is nothing in the record showing the extent, if any, to which these types of in-kind site commissions, whatever form they may take, are used and useful in the provision of IPCS and thus benefit incarcerated people and other ratepayers. Indeed, no commenter has suggested as such. Rather, such payments are more accurately understood as inducements ''designed to influence a correctional authority's selection of its monopoly service provider.'' This is the kind of ''excess investment'' that should not be recoverable from ratepayers under the used and useful framework.

287. We acknowledge, however, that some portion of providers' site commission payments, whether contractually prescribed or legally mandated, may be used for socially beneficial purposes when viewed from a broader perspective. These may include ''inmate health and welfare programs such as rehabilitation and educational programs; programs to assist inmates once they are released; law libraries; recreation supplies; alcohol and drug treatment programs; transportation vouchers for inmates being released from custody; or other activities.'' These causes, while worthy, are unrelated to the provision of IPCS and as such IPCS consumers do not bear the responsibility to bear their costs under the Communications Act. As commenters have observed, such programs could instead ''be paid for from general revenue sources'' or other state or local funding, enabling state and local governments to continue to advance the objectives of ''reducing recidivism and providing basic care'' consistent with their existing efforts in those areas. We agree. And as the Commission has observed, the Communications Act ''does not provide a mechanism for funding social welfare programs or other costs unrelated to the provision of ICS, no matter how successful or worthy.'' As such, we do not dispute the notion that ''there are many factors that may be indicative of a legitimate penological interest'' such as ''crime interdiction, deterrence, inmate management and . . . revenue generation'' but the costs associated with pursuing these interests are not costs used and useful in the provision of communications services for incarcerated people under the Communications Act. Were we to find such non-IPCS costs used and useful in the provision of IPCS and therefore recoverable from consumers, we would be unable to ensure just and reasonable IPCS rates and charges consistent with section 276(b)(1)(A), as amended by the Martha Wright-Reed Act. We recognize that in *GTL* v. *FCC,* the D.C. Circuit concluded that ''it does not matter that the states may use commissions for purposes unrelated to the activities of correctional facilities.'' But, as we explain below, the *GTL* decision was premised on IPCS providers actually paying site commissions as a condition of doing business. In contrast, our actions today prohibit the payment of site commissions, thus eliminating the concern expressed by the D.C. Circuit about the use of site commissions as a precondition to providing service in correctional facilities. We therefore conclude that we may, under these circumstances, consider how site commissions are used.

288. While we conclude that site commissions, whether legally mandated or contractually prescribed, are not used and useful because they do not benefit consumers, some further discussion of legally mandated site commissions in this context is necessary in light of the Commission's 2021 interim reforms. In the *2021 ICS Order,* the Commission assumed that legally mandated site commission payments that ''exceed the level that simply compensates a correctional institution for any costs the institution incurs to enable interstate and international inmate calling service'' were prudent expenses because there was ''no evidence that either the provider or the correctional institution could agree to a lower amount (or no site commissions at all) based on the current record and current law.'' Thus, the Commission concluded, on an interim basis, that legally mandated site commissions ''at the level required by the relevant statute or rule to be used and useful in the provision of interstate and international inmate calling services at least as long as the Commission continues to permit providers . . . to continue to make these site commission payments.'' The Commission made no determination regarding how legally mandated site commissions may ''impact [the Commission's] ability to ensure just and reasonable . . . rates.'' The Commission also emphasized that ''this [was] a close question'' and that the record developed in response to 2021 ''may persuade [the Commission] to reach a different conclusion'' in addressing site commissions on a permanent basis. The Commission's interim approach to legally mandated site commission payments in the *2021 ICS Order* thus turned in significant part on the legal backdrop that the Commission took as given at that time, namely: (1) legally mandated site commissions could not be avoided; and (2) IPCS providers were allowed to make those payments.

289. We no longer believe our used and useful analysis should proceed based on those assumptions. For one, the Martha Wright-Reed Act added to section 276(b)(1)(A) the requirement that the Commission's compensation plan ''ensure that . . . all rates and charges'' for intrastate and interstate IPCS are ''just and reasonable,'' putting that legal mandate on equal footing with the preexisting ''fair compensation'' requirement and bringing it within the purview of the express preemption provision in section 276(c). In addition, the Commission sought comment and developed a record on whether to prohibit site commission payments and preempt contrary state and local laws and regulations in light of that updated legal authority. Because we conclude that we are substantively and procedurally in a position to prohibit site commission payments and preempt contrary state and local laws and regulations, the better course is to approach the used and useful analysis

without the presumption of inevitability that so significantly influenced the Commission's prior assessment of legally mandated site commission payments.

290. Nothing in the record persuades us that legally mandated site commissions ''reflect[ ] the actual costs associated with the provision of [IPCS], separate and apart from the legal compulsion for facilities to collect it.'' Particularly given that we no longer find it warranted to assume the existence or continuation of such a legal requirement, we agree that ''[t]here is nothing with respect to [a] statutory obligation that makes such a charge 'used and useful' under the Commission's obligation to ensure rates are just and reasonable.'' We also see no evidence or support for the notion that legally mandated site commissions flow through to benefits in IPCS such that users of those services should be expected to bear those costs under a used and useful analysis. This is particularly true where state or local law or regulation requires site commission payments as a percentage of gross (*i.e.,* total) revenue for a group of services that is not restricted to IPCS. It is difficult to see how a site commission based on such a formula reflects any relation to the underlying costs of providing IPCS. But, on the record before us, it is similarly difficult to tie other types of site commissions, such as those framed as per-call charges, to any legitimate IPCS costs. In sum, the record is devoid of any indication that legally mandated site commissions are set at levels that are designed simply to reimburse correctional facilities for the costs they incur in making IPCS available such that their payment would affect the provision of IPCS and that IPCS customers reasonably should bear those costs.

291. If anything, the record suggests that legally mandated site commission payments support activities that quite clearly do not enable the provision of the underlying communication services that IPCS consumers pay for. In Tennessee, for example, per-call fees are required to be remitted by the provider to the state treasurer on a quarterly basis ''and credited to a special account in the state general fund designated as the local correctional officer training fund to be used exclusively to fund certification training provided through the institute for local correctional personnel within the state.'' It is difficult to see how funding officer certification training enables or improves the communications services incarcerated people and their loved ones use. Indeed, the training of correctional officials is plainly necessary to the general operation of a correctional institution separate and apart from the presence or absence of IPCS. And yet, at least under Tennessee law, IPCS consumers are subsidizing these efforts. To allow such costs to be recovered from those consumers would be ''at odds with well-established principles of ratemaking'' and directly ''impact our ability to ensure just and reasonable . . . rates.'' Thus, given the state of the record and the requirements of the Martha Wright-Reed Act, we conclude that because there is no indication that legally mandated site commission payments provide any benefit to incarcerated people and their loved ones who are the customers of IPCS, they are not used and useful in the provision of IPCS.

292. In concluding that legally mandated site commissions are not used and useful in the provision of IPCS, we are mindful of the Commission's observations in the *2021 ICS Order,* that in jurisdictions that require legally mandated site commission payments, ''facilities have no immediate ability to entertain offers from providers that wish to supply a facility without paying the site commission demanded'' and that ''absent further legislative process to amend the government statute, facilities would appear to have to forgo making [communication] services available.'' Rather than taking that as a given, today we exercise our authority to preempt state and local laws and regulations that require IPCS providers to pay site commissions associated with IPCS. Such preemption will alleviate the concerns the Commission expressed in the *2021 ICS Order* as to both IPCS providers and the correctional facilities themselves. Thus, both providers and correctional facilities may pursue commission-free contracts without running afoul of contrary legal mandates.

(b) Prudent Expenditure Analysis

293. Finally, because the forgoing analysis demonstrates that site commissions are not used and useful in the provision of IPCS, that is sufficient to exclude them from just and reasonable rates. At times, the Commission might elect to consider the prudence of investments and expenses as an independent alternative to its decision that particular costs are not used and useful. But the prudent investment inquiry does not provide an alternative ground for including costs in provider rates when they are not used and useful. In other words, once we have determined that site commissions are not used and useful, any provider payment of site commissions is necessarily imprudent.

(iii) Prohibiting Site Commission Payments Associated With IPCS

294. Having found that site commissions do not recover costs or expenses used and useful in the provision of IPCS, we now evaluate the interplay between that determination and the broader regulatory framework specified by the Communications Act. We conclude that the payment of site commissions, whether legally mandated or contractually prescribed, would create a conflict between the dual statutory requirements of ensuring fair compensation for providers and just and reasonable IPCS rates and charges for consumers and providers. Accordingly, pursuant to sections 276(b)(1)(A), 276(c), and 201(b) of the Communications Act, we reconcile these statutory objectives by prohibiting site commissions associated with intrastate, interstate, international, jurisdictionally mixed, and jurisdictionally indeterminate audio and video IPCS.

295. *Our Approach Best Reconciles Our Statutory Duties In Light of the Harms of Site Commissions.* The Martha Wright-Reed Act added to section 276(b)(1)(A) the requirement that the Commission's compensation plan ''ensure that . . . all rates and charges'' for intrastate and interstate IPCS are ''just and reasonable.'' Thus, section 276(b)(1)(A), as amended by the Martha Wright-Reed Act, requires the Commission to establish a compensation plan to ensure that all IPCS providers are ''fairly compensated'' and that ''all [IPCS] rates and charges are just and reasonable.'' As stated above, we view the ''just and reasonable'' and ''fairly compensated'' requirements as interdependent and complementary statutory mandates, which we must fully implement. Section 201(b) of the Communications Act also requires just and reasonable rates and charges for interstate and international IPCS.

296. Site commissions interfere with the Commission's ability to implement these dual requirements of determining ''just and reasonable'' rates and charges and ''fair[ ] compensat[ion]'' for IPCS providers. To the extent that IPCS providers face a legal necessity to pay site commissions, the D.C. Circuit's decision in *GTL* v. *FCC* suggests that the fair compensation requirement in section 276(b)(1)(A) requires that IPCS providers be able to recover those payments through IPCS rates and charges. We thus reject the argument that a prohibition on site commissions

is beyond the scope of the Commission's authority. As we explain, the prohibition on site commissions best reconciles our statutory duties to ensure both just and reasonable rates and charges for IPCS consumers and providers and fair compensation for IPCS providers. Yet, allowing that recovery would lead to unjust and unreasonable IPCS rates and charges given our finding that providers' site commission payments are expenditures that are not used and useful in the provision of IPCS. Even beyond that, payment of site commissions introduces competitive distortions in the bidding market for IPCS. Thus, site commissions create conflict between the fair compensation and the just and reasonable requirements in section 276(b)(1)(A). The policy harms arising from site commissions likewise frustrate the Commission's ability to alleviate competitive distortions and foster greater competition in the IPCS marketplace.

297. Site commissions historically have been a major driver of excessive IPCS rates. As discussed above, site commissions have exerted ''upward pressure'' on IPCS rates because by proposing higher rates, IPCS providers can afford to pay more in site commissions to correctional authorities. Site commission payments, however, are used to fund a ''wide and disparate'' range of activities, including educational and welfare programs, the state or local government's general revenue fund, the costs of maintaining correctional institutions, and, in extreme cases, campaign contributions or entertainment for correctional officials. And ''most or all'' of these functions ''have no reasonable and direct relation to the provision of ICS—a historical assessment confirmed by our used and useful analysis above. Because IPCS consumers ''are forced to absorb . . . site commissions in the rates they pay,'' they ''subsidize everything from inmate welfare programs, to salaries and benefits of correctional facilities, states' general revenue funds, and personnel training.'' As the Commission has observed, ''[p]assing the non-ICS-related costs that comprise site commission payments . . . onto inmates and their families . . . result[s] in rates . . . that are not just and reasonable.''

298. Site commissions also historically have distorted the IPCS marketplace. Commenters and the Commission have long recognized that site commissions undermine the integrity of the bidding process for IPCS. In a properly functioning marketplace, correctional institutions would select an IPCS provider based on the quality of service the provider offered and on the rates the provider would charge. But the interests of correctional institutions diverge from the interests of consumers using IPCS. While IPCS consumers are interested in lower prices for IPCS, correctional institutions have an incentive to maximize the revenues they receive from providing access to the correctional facility to an IPCS provider. IPCS providers historically responded to this state of affairs in the marketplace by increasing IPCS rates, thereby enabling them to offer higher site commissions and increasing the likelihood they would be chosen as the monopoly provider for a facility for the term of a multi-year contract. This market distortion results in higher IPCS rates for consumers, providing an additional, independent basis for concluding that site commissions are unjust and unreasonable.

299. Securus acknowledges that ''[t]here is no question that site commissions continue to play a role in the bidding process'' but argues that the Commission ''overstates the case . . . to the extent it claims that awards always go to the provider offering the highest site commissions.'' Securus provides a study based on data analyzing ''the contribution of price and site commissions to the scoring criteria utilized'' by facilities. The study finds that ''[c]ontrary to what we may expect based on suggestions that the entity bidding the highest site commission payment always or generally wins, the bid evaluation criteria used by most RFP issuers reflect a strong preference for bids with high levels of performance on the qualitative aspects of a bid, not necessarily based on price or site commission proposals.'' Securus also argues that site commissions ''may actually play some role in fostering competition by enabling smaller providers to successfully compete against larger providers, particularly for smaller facilities that may rely more on site commission revenue.''

300. At the same time, however, Securus argues that ''[t]o the extent site commissions continue to distort competition in the bidding market, the solution is to further regulate site commissions.'' We agree. Even if site commissions do not always or exclusively result in problematic distortions in the IPCS marketplace, the record confirms that site commissions create incentives ''for facilities to award contracts based primarily (or at times, exclusively) on site commission offerings.'' Even if some correctional facilities do not fully act on those incentives at given points in time, as long as those incentives remain the risk of marketplace distortions will persist based on factors—*i.e.,* correctional facility decision-making preferences—that are outside the control of the Commission and IPCS consumers. And where facilities do act on those financial incentives, even assuming there was perfect competition in the IPCS bidding market, ''[t]he benefit would be to . . . providers and to facilities offering the contracts, not to the people paying.'' The solution, then, is to remove the incentive to award contracts ''based in whole or in part on site commissions.'' That is what we do today. Doing so ''leave[s] facilities with only service-based, competitive market factors [to consider] when awarding contracts.'' This, in turn, pushes providers to ''compete to provide the best service for the lowest consumer cost as the only way to distinguish themselves and win bids.'' Our action to alleviate competitive distortions in the IPCS market through the elimination of site commission payments thus advances the purpose of section 276 to ''promote competition among payphone service providers and promote widespread deployment of payphone services to the benefit of the general public.'' Securus argues that the Commission has not accounted for the market effects of eliminating site commissions. Securus explains that ''the Commission has pointed to the existence of site commissions and their alleged impact on the IPCS market as creating the conditions that require additional regulation.'' In eliminating site commissions, Securus contends that the Commission ''removes the condition purportedly justifying regulation over the IPCS market and then proceeds to continue and expand upon the regulation that is allegedly justified by the existence of site commissions that are now removed.'' Securus argues that the Commission ''should at least proffer some justification why permanent, highly prescriptive rate regulation must continue even though it believes it has created the conditions for a properly functioning, competitive marketplace.'' While the Commission has identified site commissions as ''the primary reason'' IPCS rates can be unjust and unreasonable, the Commission has never stated that they are the *only* reason that IPCS rates can be unjust and unreasonable. Indeed, the Commission has specifically recognized that rate regulation is needed because ''no competitive forces within the [correctional] facility constrain providers from charging rates that far exceed the costs . . . providers incur in

offering service.'' Rate regulation is thus clearly necessary to, for example, prevent IPCS providers from overcharging consumers even in the absence of site commission payments. To suggest that the elimination of site commissions should be the basis for reduced rate regulation also ignores abusive ancillary service charging practices that have historically plagued the industry.

301. There is significant support in the record for our approach. In 2021, recognizing ''the difficulties and complexities . . . in accounting for and isolating what portion of site commission payments may be related to legitimate facility costs,'' the Commission sought comment on prohibiting providers from entering contracts requiring the payment of site commissions and preempting state and local laws and regulations requiring providers to pay site commissions. A variety of commenters support a prohibition, primarily based on their view that a rule against site commissions is needed to ensure just and reasonable IPCS rates and charges. As Securus observes, ''the use of site commissions is inimical to the shared goals of all stakeholders of improving access to, and affordability of, communications services for incarcerated persons and their families.'' Many of these same commenters support the Commission's identification of options in 2021 to prohibit IPCS providers from entering into contracts requiring the payment of site commissions and preempting state and local laws and regulations requiring site commissions.

302. Consistent with the record and the Martha Wright-Reed Act, we prohibit all site commission payments associated with IPCS. To effectuate this prohibition we take two actions consistent with 2023 and 2021. First, we preempt state and local laws and regulations allowing or requiring site commission payments for IPCS. And second, we prohibit IPCS providers from entering into contracts allowing or requiring the payment of site commissions. The scope of site commissions subject to the prohibition and preemption include all monetary payments, including lump-sum or upfront payments, payments based on percentage of revenue, and per-call payments associated with IPCS or associated ancillary services. It also includes all in-kind payments and contributions providers may offer associated with IPCS or associated ancillary services, including technology grants, equipment, training programs, or any other payment, gift, or donation offered by an IPCS provider to a correctional institution or a representative of a correctional institution.

303. In contrast, a minority of commenters oppose further site commission reforms. Praeses and NCIC argue that rate caps sufficiently protect consumers against unjust and unreasonable rates while also allowing facilities to recover the costs they incur in providing IPCS. Praeses contends that the Commission should continue to adhere to its historically ''permissive position'' towards site commissions in which it concluded that it did not need to prohibit or otherwise regulate site commissions. NCIC and Praeses further assert that the continued use of rate caps ''will necessarily lead to fair and reasonable site commissions'' and will protect consumers from unjust and unreasonable rates and charges. And the National Sheriffs' Association asserts that preempting laws requiring site commissions and prohibiting providers from entering into contracts requiring the payment of site commissions is not ''appropriate'' because ''facilities incur costs to allow ICS in jails and . . . jails require commission payments in connection with allowing ICS in jails.''

304. Restricting the recovery of IPCS provider payments to correctional facilities through regulated rates is at best a highly imperfect tool so long as site commissions are allowed to be paid. For one, as discussed above, if IPCS providers face a legal obligation to pay site commissions, the D.C. Circuit's decision in *GTL* v. *FCC* suggests that the fair compensation requirement in section 276(b)(1)(A) requires that IPCS providers be able to recover those payments through IPCS rates and charges. That scenario leaves the door open to the full panoply of excessive rates and charges along with the marketplace distortions that historically have plagued IPCS.

305. Marketplace distortions also are likely to remain so long as site commissions are permissible. Rate caps set based on industry-wide average costs are likely to leave headroom for additional profit by providers with below-average costs. As long as site commissions remain permissible, such providers can use that headroom to, in effect, pay higher site commissions by using excess revenues earned from regulated rates. This is likely to result in marketplace distortions similar to those historically experienced in the IPCS marketplace, as discussed above—*i.e.,* correctional facilities choosing providers for paying higher site commissions, and the benefits of efficiency improvements and cost savings thus flowing to correctional facilities and winning bidders but not IPCS consumers. These harmful effects would be even more extreme if, rather than relying on industry-wide average costs, the Commission relied on costs just from higher-cost or highest-cost providers. These effects could be mitigated to some degree by the use of more granular categories of providers when averaging costs and setting rates if that resulted in less disparity in the range between the highest- and lowest-cost providers included in the category. But to go further in mitigating those concerns would require a shift to provider-by-provider, ongoing rate-of-return rate regulation. However, the Commission has previously disavowed any willingness to conduct full-blown rate regulation for individual IPCS providers, nor is it clear how viable provider-by-provider rate-of-return regulation even would be in a context where rates typically are specified in multi-year RFPs rather than biennial (or more frequent) tariff filings. Thus, we think it is all too likely that, despite our best efforts, distortions in the IPCS marketplace would remain as long as the traditional array of site commission payments are allowed.

306. We also disagree with Praeses that the Commission should continue to decline to prohibit site commissions as it has in the past. Praeses contends that the Commission has ''repeatedly and expressly declined to interfere with the often complex and multi-faceted private contractual negotiations between Providers and Facilities.'' It relies on statements in the *2013 ICS Order, 2015 ICS Order,* and the *2016 ICS Reconsideration Order,* in which the Commission concluded that it did not need to prohibit or otherwise directly regulate site commissions. But those decisions were a function of the circumstances and limited record before the Commission during that period. The Commission's previous decisions not to prohibit site commissions do not foreclose it from doing so on the basis of the circumstances and the record before it now, particularly in light of the requirements of the Martha Wright-Reed Act to ensure that IPCS providers are fairly compensated and that all rates and charges are just and reasonable. As our analysis above indicates, we now are persuaded that simply regulating recovery of site commission payments through regulated rates to the extent permitted by the ''fair compensation'' standard—while leaving IPCS providers free to pay site commission as a general matter—would not be ''just and reasonable.'' Nor are we persuaded that

it would be workable to address such concerns through case-by-case evaluations. Our analysis indicates that legally-mandated site commissions lead to the full array of harms historically experienced in this context. And even in the case of contractually-prescribed site commissions, case-by-case evaluations would be burdensome for everyone involved—including the Commission and private parties. Further, it is not clear how such case-by-case evaluations could be sufficiently timely to avoid delaying the typical RFP process yet still guard against the risk of marketplace distortions before they occur. Thus, we conclude that our bright-line prohibition on site commissions reflects the best way of dealing with these problems.

307. *Our Approach Is Consistent with GTL* v. *FCC.* Some commenters argue that the Commission's actions today conflict with *GTL* v. *FCC.* These commenters contend that the D.C. Circuit ''expressly recognized that site commissions are legitimate costs of ICS providers'' and thus the Commission could not categorically exclude them from its rate methodology. This has led some to argue that ''[t]he Commission must . . . ensure its rate caps allow ICS providers to recover all of their costs associated with the payment of site commissions.'' But, as the Wright Petitioners explain, the decision in *GTL* v. *FCC* ''was made against background conditions in which ICS providers were *actually* paying those site commissions pursuant to negotiated agreements to provide ICS at facilities or in compliance with legal mandates'' and not in a regulatory environment in which site commissions were prohibited. The court had ''no occasion to consider the Commission's authority to prohibit negotiated agreements . . . or its authority to preempt state and local requirements.'' And the court ''never suggested that the Commission lacked authority to take such actions to fulfill its statutory mandate.'' By precluding providers from paying site commissions altogether, we eliminate the factual predicate—the payment of site commissions as a condition precedent to providing IPCS—which led the court in *GTL* to hold that site commissions could not be wholly excluded from the Commission's ratemaking calculus. Thus, we conclude that *GTL* v. *FCC* is no bar to our actions today, particularly since our rate cap calculations incorporate, to the extent the record permits, the costs facilities incur that are used and useful and/or necessary in providing IPCS. And, in any event, the Martha Wright-Reed Act is an intervening development that reinforces the Commission's mandate to ensure just and reasonable rates and charges for IPCS that also afford fair compensation.

308. *Our Approach Accounts For Legitimate Interests of Correctional Facilities Associated with IPCS.* Separate from the issue of site commission payments, the rate caps we adopt today recognize, consistent with the record, that correctional facilities may incur some used and useful costs in their provision of IPCS. Because we allow providers to reimburse correctional facilities for the used and useful costs, if any, they incur, we have thus afforded correctional facilities an avenue to facilitate recovery of their used and useful costs associated with allowing access to IPCS in their facilities.

309. We emphasize that the actions we take today in eliminating site commissions apply to all correctional institutions: prisons, larger and smaller jails, and other correctional institutions. The facility-related rate components that the Commission adopted in the *2021 ICS Order* apply only to prisons and jails with average daily populations of 1,000 or more incarcerated people. Because of the ''concern raised in the record about facility size variations in facility-related costs for [smaller] jails'' the Commission left the existing $0.21 per-minute rate cap in effect for facilities whose average daily populations were below 1,000 incarcerated people. Thus, providers serving these relatively small jails could continue to recover site commissions as long as they did not exceed the $0.21 cap applicable to those jails. The Commission, however, sought comment in 2021 on facility costs for jails with average daily populations below 1,000, and asked commenters to ''provide detailed descriptions and analyses of the cost drivers'' for these facilities. The National Sheriffs' Association and Pay Tel assert that facility costs per incarcerated person are higher for smaller jails than for larger jails. They urge continued reliance on the National Sheriffs' Association 2015 survey to justify higher facility-related cost recovery for smaller jails, but otherwise provide no responsive data. For the reasons discussed above, we reject continued reliance on the National Sheriffs' Association 2015 survey. Because we now can accommodate smaller jails in the same overall regulatory approach as prisons and larger jails, it best advances our statutory mandates of ensuring just and reasonable rates and charges consistent with fair compensation for IPCS providers for us to do so.

310. To the extent commenters' arguments against the elimination of site commissions are premised on the loss or depletion of state programs currently funded by site commission payments, the ''just and reasonable'' standard of the Communications Act does not contemplate funding such programs that are unrelated to the provision of IPCS through regulated rates, regardless of how worthy those programs may be. In support of site commissions, ViaPath contends that ''IPCS 'providers who are required to pay site commissions as a condition of doing business have no control over the funds once they are paid,' which does not change the record evidence that site commissions are a cost of providing IPCS.'' ViaPath has not articulated why provider-control over such funds after payment has been made has any bearing on why the practice is beneficial, nor why the practice should continue. We find this argument unpersuasive. And, in any event, we expect that the implementation period applicable to the reforms we adopt today will be sufficient to allow state and local governments time to adjust to an environment without site commissions.

311. Given the availability of reimbursement from IPCS providers for costs that are used and useful in the provision of IPCS, consistent with our statutory duties, we see no reason to believe that correctional institutions will decrease or limit access to IPCS as some commenters assert. Some commenters allege that ''if compensation for . . . providers and Sheriffs is not adequate, access to ICS is likely to decrease'' or be disallowed. In NCIC's view, ''there is almost no scenario in which a correctional agency could lose site commission revenue and continue to provide the critical services and programs funded by that revenue.''

312. We find it highly unlikely that correctional facilities would limit or deny access to IPCS as a result of the elimination of site commission payments. As the Commission has observed, there are ''well-documented benefits, for communities and correctional institutions alike, in allowing incarcerated people access to'' IPCS. Further, the record contains no indication that IPCS deployment has decreased or been eliminated in states that have eliminated site commissions. And, as the Commission has previously noted, arguments premised on a denial or reduction of access to IPCS are likely to elicit an ''intensely negative backlash.'' Thus, we see no reason to believe that correctional institutions

will curtail or eliminate access to IPCS simply because they no longer receive site commission payments. In fact, given the generally lower rates we adopt in the Report and Order, it is reasonable for us to anticipate increased usage of IPCS once the Report and Order takes effect.

(a) Preempting State and Local Laws and Regulations Requiring or Allowing Site Commissions Associated With IPCS

313. As part of the overall prohibition on site commissions we adopt today, we preempt state and local laws and regulations allowing or requiring the payment of monetary site commissions or the provision of in-kind site commissions associated with the provision of IPCS regulated pursuant to sections 201(b) and 276(c) of the Communications Act and consistent with 2023 and 2021. As explained above, our actions preempting state and local laws and regulations allowing or requiring the payment of monetary site commissions or the provision of in-kind site commissions associated with the provision of IPCS and prohibiting IPCS providers from entering into contracts requiring or allowing them to pay site commissions are necessary because they best ensure the harmonization of both the ''just and reasonable'' and ''fair compensation'' mandates of section 276(b)(1)(A). Our actions not only benefit individual ratepayers, but also the public and the IPCS marketplace more generally. As an additional matter, we note that our actions also give timely effect to our findings under section 276(b)(1)(A), consistent with Congress' objective as revealed by its establishment of a statutory deadline for the Commission to ''promulgate any regulations necessary to implement this Act and any amendments made by this Act.'' It is well established that ''a federal agency may pre-empt state law only when and if it is acting within the scope of its congressionally delegated authority.'' Section 201(b) of the Communications Act gives the Commission authority over interstate and international IPCS. And as explained above, the Martha Wright-Reed Act amended section 276(b)(1)(A) to clearly establish the Commission's authority to ensure just and reasonable rates for intrastate as well as other jurisdictional inmate communications. The Martha Wright-Reed Act also expanded the Commission's section 276 authority over ''payphone service'' in correctional institutions to include ''advanced communications services,'' as defined in sections 3(1)(A), 3(1)(B), 3(1)(D), and new (3)(1)(E) of the Communications Act. Furthermore, while the Martha Wright-Reed Act decisively expands the scope of the Commission's authority over IPCS, it retained section 276(c), which provides that ''[t]o the extent that any State requirements are inconsistent with the Commission's regulations, the Commission's regulations on such matters shall preempt such State requirements.'' Further, the record also reflects that a variety of stakeholders believe the Commission should preempt state and local laws that require or allow site commissions.

314. We find that state and local laws and regulations authorizing or requiring site commissions conflict with the Commission's regulations adopted in the Report and Order to ensure just and reasonable rates and charges for IPCS and fair compensation for IPCS providers under section 276(b)(1)(A) and to ensure just and reasonable rates and charges for interstate and international IPCS under section 201(b) of the Communications Act. In particular, state and local laws and regulations requiring or allowing providers to pay site commissions associated with IPCS lead to unjust and unreasonable rates and charges insofar as consumers are being charged for non-IPCS costs where providers pay site commissions. Those laws and regulations also lead to unjust and unreasonable rates and charges through the resulting marketplace distortions. Such laws and regulations are therefore in conflict with the ''just and reasonable'' requirement in section 276(b)(1)(A) of the Communications Act and our implementation of those mandates through regulations adopted in the Report and Order. Precluding providers from paying site commissions pursuant to state and local law will enable us to address one of the ''primary reason[s] [IPCS] rates are unjust and unreasonable.'' We therefore agree with those commenters arguing that the Commission should exercise its authority to preempt laws and regulations that require providers to pay site commissions associated with IPCS.

315. At the same time, commenters point out that preemption is relevant to ensuring that IPCS providers are fairly compensated as required by section 276(b)(1)(A), as interpreted by the D.C. Circuit in *GTL* v. *FCC.* Commenters explain that ''[a]s long as local governments are allowed to require site commissions as a condition of providing service . . . *GTL* teaches that section 276 and section 201 require that they be recoverable.'' Separately, experience has shown that when recovery of site commissions associated with IPCS is constrained by regulation, correctional facilities can attempt to maintain those revenue streams by shifting the nature of site commission arrangements. Absent a prohibition on site commissions, we anticipate correctional facilities seeking increasingly creative ways to maintain monetary or in-kind payments, with the Commission (and IPCS providers) playing an endless game of 'whack-a-mole' in an effort to enforce section 276(b)(1)(A)'s fair compensation mandate. Thus, preemption is ''preferable to the Commission's efforts to regulate . . . site commissions through regulation of provider rates'' alone. Indeed, according to Securus ''[d]irectly addressing site commissions through preemption is . . . consistent with *GTL.*'' We agree.

316. Commenters have extensively reviewed the Commission's authority to preempt site commissions in these proceedings. Prior to the enactment of the Martha Wright-Reed Act, arguments regarding the Commission's preemption authority focused on the Commission's jurisdiction over interstate and international communications under section 2(a) of the Communications Act. Other commenters have argued that section 276(c) gives the Commission ''express authority'' to preempt inconsistent state requirements. The Wright Petitioners explain that ''[s]ection 276 of the Communications Act gives the Commission the authority to preempt state requirements that are 'inconsistent with the Commission's regulations.' '' As explained below, we are persuaded that the Communications Act provides the Commission the necessary authority to adopt regulations addressing the problems caused by site commissions in the IPCS marketplace, which requires preemption of state and local laws and regulations requiring or authorizing the site commission payments.

317. *Preemption of State Requirements.* Section 276(c) contains an express preemption provision upon which we rely to preempt state laws and regulations that allow or require the payment of site commissions associated with IPCS. Because we conclude that section 276(c) provides the Commission the necessary preemption authority, we decline to invoke the Commission's authority under section 253, including the preemption provision of section 253(d). Section 276(c) states that ''[t]o the extent that any State requirements are inconsistent with the Commission's regulations, the Commission's regulations on such matters shall preempt such State requirements.'' As part of the reforms we adopt today, we adopt a rule prohibiting the payment of site commissions as set forth in the

Report and Order. When a federal law contains an express preemption clause, the courts ''focus on the plain wording of the clause, which necessarily contains the best evidence of Congress' preemptive intent.'' The Supreme Court has explained that where a ''statute 'contains an express pre-emption clause,' we do not invoke any presumption against pre-emption but instead 'focus on the plain wording of the clause, which necessarily contains the best evidence of Congress' pre-emptive intent.' '' Independently, even assuming *arguendo* that any preemption analysis should begin ''with the assumption that the historic police powers of the States [are] not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress''—particularly where ''Congress has 'legislated . . . in a field which the States have traditionally occupied' ''—it nonetheless remains the case that ''Congress' intent, of course, primarily is discerned from the language of the pre-emption statute and the 'statutory framework' surrounding it.''

318. Here, the express preemption clause in section 276(c) applies to ''State requirements'' to the extent they are ''inconsistent with the Commission's regulations.'' This is consistent with how the Commission has applied section 276(c) in the past. The term ''state requirements'' in express preemption provisions has been interpreted by the Supreme Court more broadly than terms like ''laws or regulations.'' For example, the Court has concluded that ''[a]bsent other indication, reference to a State's 'requirements' in an express preemption provision includes its common-law duties.'' By contrast, the Court has found that references to state ''laws or regulations'' preempt only ''positive enactments.'' Consistent with this precedent, we find that the reference to ''state requirements'' in section 276(c) is broad enough to reach state laws and regulations requiring or allowing the payment of site commissions associated with IPCS.

319. The surrounding statutory framework also demonstrates that preemption of laws and regulations requiring or allowing site commissions is authorized by section 276(c). Section 276(b)(1)(A) always has been clear that the Commission has authority to establish compensation plans for ''intrastate and interstate'' payphone calls, and as explained above, the Martha Wright-Reed Act amended that provision to clearly establish the Commission's authority to ensure just and reasonable rates for all communications now encompassed by section 276(d). And as we have found, the regulations authorized under section 276(b)(1)(A) to ''establish a compensation plan'' to achieve the goals of fair compensation for providers and just and reasonable rates and charges for consumers and providers requires more of the Commission than the simple act of capping rates and charges. In amending section 276, Congress left the express preemption provision in section 276(c) unaltered, revealing Congress' understanding that Commission regulations implementing the full scope of amended section 276(b)(1)(A) would be subject to that express preemption provision.

320. This point was further emphasized by the amendment of section 2(b) of the Communications Act to expressly exempt section 276 from the preservation of state authority over intrastate communications under that provision. In the Martha Wright-Reed Act, Congress expressly considered the potential effect of that statute on other laws, and only disclaimed the intent to ''modify or affect any'' state or local law ''to require telephone service or advanced communications services at a State or local prison, jail, or detention facility or prohibit the implementation of any safety and security measures related to such services at such facilities.'' That narrow express preservation of existing law—which is not implicated by our preemption here—came against the backdrop of Commission and judicial grappling with the interplay between site commission payments and IPCS rates and charges, as well as longstanding Commission consideration of whether and when to prohibit and preempt site commissions. The statutory context provided by section 276 as a whole, coupled with the Martha Wright-Reed Act, thus reinforces our understanding of the scope of preemption encompassed by section 276(c).

321. Relatedly, we conclude that preemption is consistent with section 4 of the Martha Wright-Reed Act, which states that nothing in that Act ''shall be construed to modify or affect any Federal, State, or local law to require telephone service or advanced communications services at a State or local prison, jail, or detention facility or prohibit the implementation of any safety and security measures related to such services at such facilities.'' We preempt only those state laws and regulations that require or permit the payment of monetary site commissions or the provision of in-kind site commissions associated with IPCS. To the extent federal, state, or local laws or regulations require IPCS to be provided to incarcerated people at state or local correctional facilities, such laws and regulations are not preempted by our actions here. Similarly, we do not prohibit the implementation of any safety and security measures related to IPCS at any state or local correctional facility. As we explain above, section 4 of the Martha Wright-Reed Act is ''not intended to interfere with any correctional official's decision on whether to implement any type of safety and security measure that the official desires in conjunction with audio or video communications services.'' Consistent with that interpretation, here we preempt state laws and regulations requiring or allowing the payment of site commissions associated with IPCS, a pre-emption that we conclude is necessary to achieve the statutory requirements of section 276(b)(1)(A) to ensure just and reasonable rates and charges for IPCS consumers and fair compensation for providers. Correctional officials remain free to implement desired safety and security measures.

322. The conflict between IPCS providers' payment of site commissions and the ''just and reasonable'' mandate implicates the Commission's oversight of interstate and international IPCS under section 201(b), as well. The Supreme Court has explained that ''[e]ven where Congress has not completely displaced state regulation in a specific area, state law is nullified to the extent that it actually conflicts with federal law.'' Such a conflict can arise when a law ''stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.'' While there are no ''precise guidelines'' governing when state law creates such an obstacle, the Supreme Court has acknowledged that federal agencies ''have a unique understanding of the statutes they administer and an attendant ability to make informed determinations about how state requirements may pose'' such an obstacle. Additionally, the Supreme Court has found that the inquiry into whether state law poses an obstacle sufficient to allow preemption requires consideration of ''the relationship between state and federal laws as they are interpreted and applied, not merely as they are written.'' One situation in which the Supreme Court has determined that state law can interfere with federal goals is when such a law is at odds with Congress's intent to create a uniform system of federal regulation.

323. Furthermore, a federal agency acting within the scope of its authority may preempt state law. ''[I]n a situation

where state law is claimed to be pre-empted by federal regulation, a 'narrow focus on Congress' intent to supersede state law [is] misdirected,' for '[a] pre-emptive regulation's force does not depend on express congressional authorization to displace state law.' '' Instead, the question is whether Congress has delegated the authority to act in a sphere, and whether the agency has exercised that authority in a manner that preempts state law. The Supreme Court also has explained that ''an 'assumption' of nonpre-emption [sic] is not triggered when the State regulates in an area where there has been a history of significant federal presence.''

324. The Commission undoubtedly has authority under section 201(b) to ensure that rates and practices for and in connection with certain interstate and international incarcerated people's communications services are just and reasonable. The Commission's actions in this regard also involve an area that has long been subject to extensive federal regulation. Since the original enactment of the Communications Act, section 2(a) has made clear that the Communications Act applies to ''all interstate and foreign communication by wire or radio,'' and section 201(b) has directed the Commission to ensure that rates and practices for and in connection with interstate and foreign communication services are just and reasonable. We thus find that section 201(b) provides us with independent authority, alternative to section 276, to preempt laws and regulations allowing or requiring site commissions associated with interstate and international telecommunications for incarcerated people.

325. *Preemption of Local Requirements.* Our analysis of our preemptive authority is somewhat different when it comes to local requirements that may permit or require the payment of site commissions because section 276(c) does not expressly reference ''local'' laws or regulations. Nonetheless, we conclude that principles of conflict preemption allow us to also preempt local laws and regulations requiring or authorizing IPCS providers to pay site commissions associated with IPCS. As an initial matter, we note that ''for purposes of the Supremacy Clause, the constitutionality of local ordinances is analyzed in the same way as that of statewide laws.'' Thus, relevant precedent concerning state law is equally applicable to local law.

326. As a threshold matter, we find that local laws and regulations requiring or authorizing site commissions stand as an obstacle to our regulation of IPCS. We explained above the conflict that occurs as a result of state requirements, and that conclusion is not altered if the requirements originate instead at the local level. Consequently, under sections 276(b)(1)(A) and 201(b)—coupled with standard conflict preemption principles—we preempt local laws and regulations that permit or require site commissions.

327. Our conflict preemption determination is bolstered by the enactment of the Martha Wright-Reed Act, which modified the Communications Act in a manner that we see as intended to establish a uniform system of federal regulation for all IPCS under section 276(b)(1)(A). As explained above, the Martha Wright-Reed Act was enacted against the regulatory backdrop of—and in response to—the *GTL* v. *FCC* decision, where the D.C. Circuit found that the Commission had unreasonably relied on the ''just and reasonable'' standard of section 201(b) when implementing the differently-worded language of section 276. Insofar as that left the Commission to rely on section 201(b) to ensure IPCS rates and charges were not too high, it generally precluded the Commission from addressing excessive intrastate IPCS rates. The Martha Wright-Reed Act's amendment of section 276(b)(1)(A) gave the Commission clear authority to ensure just and reasonable rates under that provision, which always has encompassed both intrastate and interstate services. Given the legal and regulatory backdrop, that persuades us that Congress envisioned a uniform system of federal regulation as far as IPCS rates and charges are concerned.

328. *Scope of Preemption.* At this time, our preemption extends only to those state and local laws and regulations that permit or require IPCS providers to pay site commissions associated with IPCS, and does not extend to site commissions associated with other services or activities insofar as the effect of those site commissions can be segregated from the IPCS subject to Commission regulation. To the extent there are laws and regulations that permit or require the payment of site commissions associated with non-IPCS services, including nonregulated services, we do not preempt those laws or regulations, provided that neither the costs of such services nor any site commissions associated with them are passed on to IPCS consumers through IPCS rates or charges, and that the offering of non-IPCS services is not a precondition to offering IPCS at a correctional institution. Consistent with this policy, if there are state requirements that encompass both IPCS and non-IPCS services, our preemption actions extend only to the part of such requirements implicating IPCS. At this time, we are not persuaded that site commissions in those scenarios are likely to directly affect the reasonableness of rates and charges and fairness of compensation for the IPCS we regulate, either directly (through inflated IPCS rates and charges) or indirectly (through competitive distortions in the IPCS marketplace). Our approach flows from the conditions we adopt to ensure that such site commissions do not implicate IPCS. And it also flows in part from the broad scope of IPCS subject to our regulation, which, at this time, leaves a much smaller universe of services or activity potentially subject to site commissions, which we currently expect to have minimal potential to distort the IPCS marketplace, particularly given the segregation from IPCS that we adopt. Should circumstances warrant, we can revisit this issue in the future.

329. Additionally, as explained above, today we adopt IPCS rate caps that account for all used and useful IPCS costs, whether they are incurred by providers or correctional facilities. To facilitate the ability of correctional facilities to recover used and useful IPCS costs they may incur, we permit IPCS providers to reimburse correctional facilities for the used and useful costs they prudently incur in the provision of IPCS, as calculated in accordance with the standards set forth in the Report and Order. Such reimbursements fall outside the scope of what we describe as ''site commissions'' under the regulatory framework of the Report and Order. To the extent state laws or regulations allow or require correctional facilities to obtain reimbursement from providers for those costs that fall outside the scope of our understanding of ''site commissions'' (whatever terminology the state law or regulation might use), we do not preempt such laws or regulations.

(b) Prohibiting IPCS Providers From Entering Into Contracts Allowing or Requiring Them To Pay Site Commissions Associated With IPCS

330. As part of the prohibition against paying site commissions we adopt today, we also prohibit providers from entering into contracts allowing or requiring them to pay site commissions associated with IPCS, consistent with 2021. We agree with the Wright Petitioners that doing so is ''the simplest and most-wide ranging method to ensure IPCS rates are just and reasonable and fairly compensate providers.'' As discussed above, we

have concluded that the Martha Wright-Reed Act provides us with limited authority to regulate IPCS providers' practices, classifications, and regulations (collectively, ''practices'') associated with IPCS as a necessary part of our obligation to establish a compensation plan to ensure fair compensation to providers and just and reasonable rates and charges for consumers. This authority derives from section 276(b)(1)(A)'s mandate that we establish a compensation plan addressing IPCS and, in certain circumstances, we also exercise section 201(b)'s grant of authority over practices associated with interstate and international IPCS. We address these two sources of authority below.

331. In defining the contours of the prohibition on paying site commissions, we mirror the carve-outs specified in the case of our preemption of laws and regulations permitting or requiring site commissions. In particular, IPCS providers remain free to contract for the provision of non-IPCS services with correctional institutions following our actions today. However, under no circumstances may providers enter into a contract with a correctional facility for the provision of IPCS where, as a condition precedent to providing IPCS, the provider must agree to pay a site commission of any kind. To the extent IPCS providers contract with correctional institutions for the provision of non-IPCS services, neither the costs of those services nor any site commissions associated with them may be passed on to consumers through IPCS rates or charges. Such limitations are necessary to protect IPCS consumers from unjust and unreasonable IPCS rates and to ensure that providers receive fair compensation, consistent with section 276(b)(1)(A) as amended by the Martha Wright-Reed Act, as well as our obligation to ensure just and reasonable rates under section 201(b). Finally, consistent with our policy of allowing IPCS providers to reimburse correctional facilities for their used and useful costs consistent with the standards in the Report and Order, we do not bar contractual provisions that require such reimbursement.

(i) Section 276(b)(1)(A)

332. We conclude that the practice of paying site commissions undermines the Commission's ability to establish just and reasonable rates for IPCS consumers and providers and ensure fair compensation for providers. To best ensure fair compensation and just and reasonable rates and charges for IPCS, we thus adopt a compensation plan under section 276(b)(1)(A) that precludes IPCS providers from paying site commissions associated with IPCS subject to that provision. As we explain above, the section 276 requirement that the Commission establish a compensation plan to ensure fair compensation for IPCS providers and just and reasonable rates and charges for consumers necessarily carries with it the authority to prescribe regulations governing providers' practices to the extent those practices relate to the rates and charges applied to consumers. This authority not only allows us to preclude practices that work to undermine the rate and fee caps we set but also allows us to adopt affirmative requirements that help ensure that rates and charges as implemented are just and reasonable as applied to consumers. Accordingly, in specifying a compensation plan to implement section 276(b)(1)(A), as amended by the Martha Wright-Reed Act, we find it necessary to preclude providers from entering into contracts that require or allow them to pay site commissions associated with IPCS.

333. Commenters highlight that the Commission ''has exercised similar authority over telecommunications service providers by barring their entry into contracts, or enforcing existing contracts, with entities over whom the Commission has no direct jurisdiction in order to promote the Commission's regulatory objectives.'' In the context of multiple tenant environments, the Commission has long prohibited providers of certain communications services from entering or enforcing agreements with property owners that grant the provider exclusive access and rights to provide service to the multiple tenant environment. Multiple tenant environments are ''commercial or residential premises such as apartment buildings, condominium buildings, shopping malls, or cooperatives that are occupied by multiple entities.'' The Commission has also adopted rules prohibiting telecommunications carriers and multichannel video programming distributors from entering into or enforcing certain types of revenue sharing agreements with the owners or multiple tenant environments. And, in the international settlements context, the Commission has limited the settlement rates that U.S. carriers may pay foreign carriers to terminate international traffic originating in the United States. In each of these cases, the Commission's regulation of the entities subject to its jurisdiction has affected entities over which the Commission has no direct jurisdiction. More importantly, where challenged by parties claiming that the Commission was impermissibly regulating parties over which it has no jurisdiction, the D.C. Circuit has upheld the Commission's actions.

334. While we prohibit IPCS providers from entering into contracts requiring or allowing them to pay site commissions associated with IPCS, we recognize that there are likely enforceable contracts that currently require the payment of site commissions. In such circumstances, we rely on contractual change of law provisions. Commenters and the Commission have noted that IPCS contracts ''typically include change of law provisions.'' We expect that our site commission reforms adopted in the Report and Order ''constitute regulatory changes sufficient to trigger contractual change-in-law provisions that will allow [IPCS] providers to void, modify or renegotiate aspects of their existing contract to the extent necessary to comply'' with our reforms today. As we explain, providers and correctional authorities have long been on notice that the Commission might act to prohibit site commissions. To the extent, however, that providers ''have entered into contracts without change-of-law provisions,'' those providers ''did so with full knowledge'' that the Commission might act to prohibit site commissions, and have been on notice that the Commission could act in this regard, particularly in light of 2021. Thus, we believe that relevant change-of-law provisions will enable parties to amend their contracts to the extent necessary and we strongly encourage parties to work cooperatively to resolve any issues. To the extent contractual disputes arise, including in circumstances where contracts do not have change-of-law provisions, parties may seek resolution of those disputes in court. We reject NCIC's suggestion that our actions ''abrogate'' contracts. To the contrary, even for contracts that lack change-of-law provisions, the failure to pay a site commission required by a still-valid contract term is an issue to be resolved through a breach of contract action in court if the parties cannot negotiate a resolution on their own. In addition, since 2013, the Commission has proceeded with IPCS reforms notwithstanding the potential interplay with existing IPCS agreements. Continuing to do so here is consistent with Commission precedent, including our decision to defer to change-of-law provisions or otherwise-applicable legal frameworks governing the enforcement of existing contracts.

335. Praeses contends that section 276(b)(1)(A) does not give the Commission authority over ''private contractual payments'' by IPCS

providers and correctional institutions. Praeses focuses on statements from *GTL* v. *FCC* in which the D.C. Circuit explained that section 276 ''merely'' directs the Commission ensure that providers are fairly compensated. Praeses' comments, however, do not account for the amendments to section 276(b)(1)(A) made by the Martha Wright-Reed Act. Rather than focusing solely on fair compensation, the Martha Wright-Reed Act added the requirement that the Commission ensure that all rates and charges are just and reasonable. We find that the best way to reconcile both requirements is to prohibit site commission payments as part of our compensation plan implementing section 276(b)(1)(A). This persuades us that we have authority to prohibit providers from entering into contracts requiring or permitting the payment of site commissions. Separately, however, we are unpersuaded by Praeses' argument given the Commission's history, detailed above, of exercising similar authority over providers in the past.

(ii) Section 201(b)

336. Separately, we conclude that paying site commissions is an unjust and unreasonable practice pursuant to our authority under section 201(b) and the impossibility exception. Section 201(b) of the Communications Act provides an independent statutory basis for regulating providers' practices for or in connection with the interstate and international telecommunications services that are within our section 201(b) authority. Acting pursuant to section 201(b) of the Communications Act, the Commission has generally found carrier practices unjust and unreasonable where necessary to protect competition and consumers against carrier practices for which there was either no cognizable justification or where the public interest in banning the practice outweighed any countervailing policy concerns. As explained above, allowing recovery of site commissions would lead to unjust and unreasonable IPCS rates and charges given our finding that the providers' site commission payments are expenditures that are not used and useful in the provision of IPCS. Even beyond that, payment of site commissions introduces competitive distortions in the bidding market for IPCS. Although some commenters argue that site commissions may enable correctional facilities to recover the costs they incur in making IPCS available, as we have discussed above, these commenters have not been able to precisely articulate these costs to the Commission. Over the course of the many years that the Commission has been examining this issue, commenters have failed to come forward with meaningful data regarding the portions of providers' site commission payments that may be used and useful. Under these circumstances, we find no countervailing policy concerns or cognizable justification for the practice of paying site commissions given their detrimental effects on consumers and on the IPCS market in general. For these reasons, we conclude that the practice of paying site commissions associated with interstate and international telecommunications services is an unjust and unreasonable practice and prohibit it.

337. Our section 201(b) authority also enables us to regulate practices associated with other IPCS services within our section 276 authority to the extent those practices cannot be practicably separated from practices applicable to services within our section 201(b) authority, pursuant to the impossibility exception. For example, when the Commission exercised its section 201(b) authority to prohibit carriers from entering or enforcing exclusivity provisions in contracts with residential building owners, the Commission applied that ban even where agreements affected the viability of competitors offering bundles of services—of which telecommunications services were only one part—in order to fully address practices for or in connection with the telecommunications services directly subject to section 201(b). Thus, the Commission's section 201(b) authority extends to the full range of ''payphone service[s],'' as defined in section 276(d), to the extent the practices for or in connection with the payphone services outside of our separate section 201(b) authority cannot be separated from practices for or in connection with the payphone services within this authority.

338. The record contains no evidence that IPCS providers can practicably separate the practice of paying site commissions in connection with the interstate and international payphone services within our section 201(b) authority from the practice of paying site commissions for or in connection with the other payphone services within the Commission's section 276(d) authority, including advanced communications services, in order to isolate the harms of such practices. As explained above, payment of site commissions undermines just and reasonable rates not only when providers directly increase IPCS rates to pass through site commission payments, but also through the marketplace distortions that result. There is no evidence that the marketplace distortions arising from the practice of paying site commissions can practicably be separated into interstate, intrastate, international or non-section 201(b) regulated services components. Indeed, as the Wright Petitioners explain, ''IPCS providers cannot practicably separate the general practices that may apply broadly to IPCS providers, which all offer both interstate and intrastate services, themselves into interstate and intrastate components.'' Further, we anticipate that enough aggregate revenues are potentially at stake for those services outside of our direct authority under section 201(b) that even allowing carriers' continued payments of site commissions only associated with those services is likely to lead to marketplace distortions that undermine our ability to ensure just and reasonable interstate and international IPCS rates. Thus, consistent with the precedent discussed above, we conclude that this inseverability allows us to prohibit the practice of paying site commissions in connection with intrastate, interstate, international, jurisdictionally mixed, or jurisdictionally indeterminate audio or video IPCS under section 201(b).

7. Safety and Security Costs

339. Historically, the Commission has recognized that communications services for incarcerated people are different than communications services offered to the general public due, in part, to certain safety and security measures needed to adapt communications services to the carceral context. The Martha Wright-Reed Act not only requires that the Commission adopt a compensation plan ensuring that IPCS rates and charges are just and reasonable, but also mandates that in determining those rates the Commission ''shall consider costs associated with any safety and security measures necessary to provide'' IPCS. We find that, in order to give effect to the requirements of the Martha Wright-Reed Act, we must apply the Commission's traditional ratemaking standard, the used and useful standard, to determine whether any costs of safety and security measures are properly recoverable through regulated rates. Based on the record and data submitted in response to the 2023 Mandatory Data Collection, we determine that safety and security costs related to compliance with CALEA, as well as those incurred for communications security services, are generally appropriate for recovery through regulated IPCS rates, consistent with the Martha Wright-Reed Act. In the instructions to the 2023 Mandatory Data

Collection, WCB and OEA divided potential safety and security measures into seven categories and requested that providers submit data allocating their safety and security costs among the categories. We also find that other types of safety and security measures, including law enforcement support services, communications recording services, communications monitoring services, and voice biometrics services, are generally not appropriate for recovery through regulated IPCS rates. Finally, learning from the 2023 Mandatory Data Collection, we make modest adjustments in our rate-setting process to ensure that the costs of all safety and security measures that are properly included in regulated IPCS rates are, in fact, recoverable.

a. Background

340. Prior to the 1984 breakup of AT&T, pricing for communications for incarcerated people largely mirrored that of the broader market. After the breakup, however, former safety and security service providers began providing communications services, using ''their security and surveillance services to carve out this niche micro-market for themselves.'' As Worth Rises explains, since that time, ''the corrections landscape [has seen] the widespread adoption of an increasing array of security and surveillance services, with IPCS consumers bearing the costs.'' As the 2023 Mandatory Data Collection amply demonstrates, costs broadly understood as reflecting safety and security measures now represent the largest single component of reported costs in the IPCS industry.

(i) The Commission's Historical Consideration of Safety and Security Measures

341. The Commission first began to assess the role safety and security measures play in the provision of inmate calling services in the 1990s. In a 1996 declaratory ruling, it determined the proper regulatory treatment of certain safety and security measures such as call blocking, restricting called parties, and call tracking under the then-relevant regulatory framework. The then-relevant regulatory framework, commonly known as the *Computer II* framework, distinguished between two types of computer processing applications offered over common carrier transmission facilities: ''basic services,'' which were defined ''as the provision of 'pure transmission capability over a communications path that is virtually transparent in terms of its interaction with customer supplied information''; and ''enhanced services,'' which were defined as services that ''employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information.'' In analyzing these functionalities, the Commission framed such measures as services that ''essentially help[ ] corrections officials to determine whether a transmission path may be established.'' The Commission compared ''screening and blocking features employed by correctional officials to monitor inmate telephone usage'' to ''services offered in the network that help customers screen or pre-select callers for acceptance or rejection do not go beyond providing a basic transmission channel and facilitating the customer's use of that transmission channel.'' The Commission viewed these services as contributing to the provision of the underlying communications service. In that same timeframe, however, the Commission began to raise concerns about the costs of safety and security measures when it sought comment on whether it should implement ''rate caps, to remedy high charges to the billed party for collect calls initiated by prison inmates.'' The Commission described possible security measures as including call blocking, approved number lists, call length limitations, and total calls permitted to specific individuals. It contemplated that ''[p]risons may also need to be able to monitor calls and even tape them.''

342. A few years later, in the *2002 Pay Telephone Order* (67 FR 17009, April 9, 2002), the Commission began to address the increasing number and type of safety and security measures available to correctional facilities and their associated costs. While the Commission considered traditional security measures, such as call blocking, restrictions on three-way calling, and approved number lists, the Commission addressed, for the first time, security services that primarily served basic law enforcement functions such as providing ''detailed, customized reports for correctional facility officials.'' The record then before the Commission showed a shift from selective, targeted surveillance services to requirements for ''listening and recording capabilities for all calls.'' The Commission also addressed the issue of the costs of these measures. While recognizing that ''the provision of inmate calling services implicates important security concerns and, therefore, involves costs unique to the prison environment,'' the Commission nonetheless declined to raise rates relating to inmate calling services based on safety and security costs, expressing the hope that lower rates might lead to ''more cost-effective security protections.'' Raising concerns about the imposition of ''expensive security costs,'' the Commission sought comment on ''inmate calling service practices that may serve legitimate security needs but have the unintended, and perhaps *unnecessary,* effect of increasing the costs incurred by inmates and their families.'' The Commission likewise sought comment on ''alternatives to collect calling in the inmate environment that might result in lower rates for inmate calls while continuing to satisfy security concerns.''

343. In the *2013 ICS Order,* the Commission again acknowledged the importance of security features in the provision of inmate calling services, while emphasizing that ''ICS rate reform has not compromised the security requirements of correctional facilities.'' In establishing ''conservative'' interim ICS rates, the Commission, on the record before it, took into account ''security needs as part of the ICS rates as well as the statutory commitment to fair compensation.'' These interim rates were based on the requirement of fair compensation in the language of section 276 at the time. Based on data in the record, the interim rates ''demonstrate[d] the feasibility of providing ICS on an on-going basis to hundreds of thousands of inmates without compromising the levels of security.'' The record led the Commission to include in the rates the costs of ''sophisticated security features—including biometric caller verification based on voice analysis, and sophisticated tracking tools for law enforcement.'' While traditional security measures were still deployed virtually universally, the record indicated that additional security features had become available and were primarily designed to assist law enforcement in discharging its core functions, including investigative work, gathering evidence, storing call recordings for use in court proceedings, and preparing reports for facilities. The Commission was cognizant of the ''critical security needs of correctional facilities,'' particularly used to aid law enforcement in the successful prosecution of ''hundreds'' of crimes. The Commission nevertheless added the limiting principle that security costs must have an appropriate nexus to the provision of ICS to be recoverable through ICS rates. Such

costs likely included the costs of security features inherent in the network, including ''the costs of recording and screening calls, as well as the blocking mechanisms the ICS provider must employ to ensure that inmates cannot call prohibited parties.'' The Commission also referenced ''more sophisticated security features'' such as ''biometric caller verification based on voice analysis and sophisticated tracking tools for law enforcement.'' While the Commission ultimately included the costs of advanced security features such as continuous voice biometric identification in the interim rates it adopted, it did so on the basis of limited data on industry costs since the Commission had not yet conducted a data collection to obtain comprehensive industry data. Contrary to what Securus claims, we do not improperly reverse findings in the *2013 ICS Order* regarding safety and security costs with our actions today. Given the nature of the highly circumscribed record at the time of the *2013 ICS Order,* it does not follow—and the Martha Wright-Reed Act does not say—that the Commission must include safety and security costs it has previously included in the rates in the rate caps it adopts today pursuant to the Martha Wright-Reed Act. In any event, as set forth in the analysis that follows, the record now before us, which is far more robust than the record that existed at the time of the *2013 ICS Order,* persuades us to reach a different conclusion regarding certain safety and security measures than the Commission may have reached previously.

344. By 2020, the Commission had begun to give increased scrutiny to the role safety and security measures played in the provision of IPCS and the extent to which cost recovery for the increasing array of security and surveillance measures was appropriate through inmate calling services rates. In the *2020 ICS Notice,* the Commission sought comment on whether ''safety and surveillance costs in connection with inmate calling services should be recovered through inmate calling service rates.'' It noted that ''[a]s public interest groups [had] pointed out, correctional facilities did not pass on the costs of other security measures, such as scrutinizing physical mail, to incarcerated people and their families.''

345. In the *2021 ICS Order,* the Commission observed that the record provided in response to the *2020 ICS Notice* did not allow it to determine ''whether security and surveillance costs that correctional facilities claim to incur in providing inmate calling services are 'legitimate' inmate calling services costs that should be recoverable.'' Some commenters encouraged the Commission to exclude all such costs, arguing that security services were ''not related to the provision of communication service and provide[d] no benefit to consumers'' and ''not related to [the] 'communications functions' '' of ICS. Certain providers and the National Sheriffs' Association called for the opposite, arguing that ''correctional facilities incur administrative and security costs to provide incarcerated people with access to [inmate calling services]'' and that these costs should be recovered through calling rates. The Commission found, however, that the data provided in support of this position did not allow it to ''isolate legitimate telephone calling-related'' costs from ''general security and surveillance costs in correctional facilities that would exist regardless of inmate calling services.'' Based on the unreliability of the data provided, the Commission found that it had no ''plausible method'' for determining recoverable security and surveillance costs.

346. At the same time, in 2021, the Commission sought comment on security and surveillance costs and specifically whether some security-related costs should ''more appropriately be deemed to be general security services that are added on to inmate calling services but not actually necessary to the provision of the calling service itself.'' The Commission asked whether providers are in fact providing ''two different services,'' including ''a communication service that enables incarcerated people to make telephone calls'' and ''a separate security service that aids the facility's general security efforts but would more appropriately be paid for directly by the facility rather than by the users of the communications service who receive no benefit from these security features that are unnecessary to enable them to use the calling service.'' The Commission also referenced a representation made by one provider listing the basic security measures required to provide service and acknowledging that ''anything more than this is not required for secure calling and that additional products are 'gold-plated offerings.'' The provider suggested that ''a basic phone system requires security related to identifying the incarcerated individual placing a call, restricting who that individual can and cannot call, providing the called party with the ability to accept, reject, or block the caller, and providing the facility with the ability to monitor and record calls.'' As a result, the Commission sought comment on ''legitimate'' security features, how to distinguish such features from security relating to the facility as a whole, and how to isolate and quantify such costs. In 2022, the Commission reiterated these requests for comment and asked about the extent to which ''the security and surveillance costs that providers [had] included'' in their responses to the Third Mandatory Data Collection ''relate[d] to functions that meet the used and useful standard.''

(ii) The Martha Wright-Reed Act and Safety and Security

347. Section 3(b)(2) of the Martha Wright-Reed Act requires that the Commission, in implementing the Act including promulgating regulations and determining just and reasonable rates, ''consider costs associated with any safety and security measures necessary to provide'' IPCS. As a result, in 2023, the Commission sought comment on this directive. It requested comment on how the term ''necessary'' should be interpreted, particularly asking whether it should follow D.C. Circuit precedent finding that ''necessary'' ''must be construed in a fashion that is consistent with the ordinary and fair meaning of the word, *i.e.,* so as to limit 'necessary' to that which is required to achieve a desired goal.'' The Commission also asked for detailed, specific comment on which safety and security measures are ''necessary,'' as contemplated by the Act, to the provision of IPCS and why those measures are ''necessary.'' Finally, it sought comment on whether it ''should interpret the Martha Wright-Reed Act's use of the term 'safety and security' as having the same or different meaning as the term 'security and surveillance' previously used in this proceeding.''

(iii) 2023 Mandatory Data Collection

348. Pursuant to a delegation of authority from the Commission, WCB and OEA gathered data to attempt to understand what safety and security measures were offered by IPCS providers, as well as their functions and costs, among other purposes. The data collection required that the providers isolate the costs they incur in providing safety and security measures from their other costs, and then allocate their safety and security measure costs into seven categories on a company-wide level, with an accompanying narrative description of the services included in each category. Providers were required ''to allocate the annual total expenses they incurred in providing safety and security measures among seven categories using the provider's best

estimate of the percentage of those expenses attributable to each category.'' The providers were then required to allocate all reported safety and security costs at the facility level. Additionally, they were required to allocate the expenses in each category to four types of services—audio IPCS, video IPCS, ancillary services, and other products and services.

349. These seven categories were designed to ''provide a comprehensive and workable framework for dividing safety and security measure costs into reasonably homogenous groupings that 'should capture all [safety and] security costs,' particularly with the addition of multiple examples of costs for each category.'' A catch-all category for any costs that did not fit within the other categories was also added to ensure completeness. The categories are: (1) CALEA compliance measures, (2) law enforcement support services, (3) communications security services, (4) communication recording services, (5) communication monitoring services, (6) voice biometrics services, and (7) other safety and security measures.

350. Providers were required to submit information regarding safety and security measures in both cost data format and narrative responses to an excel and word template. For purposes of the collection, ''safety and security measures'' were defined as:

[A]ny safety or security surveillance system, product, or service, including any such system, product, or service that helps the Facility ensure that Incarcerated People do not communicate with persons they are not allowed to communicate with; helps monitor and record on-going communications; or inspects and analyzes recorded communications. Safety and Security Measures also include other related systems, products, and services, such as a voice biometrics system, a personal identification number system, or a system concerning the administration of subpoenas concerning communications. The classification of a system, product, or service as a Safety and Security Measure does not mean that it is part of a Provider's IPCS-Related Operations.

351. Providers were then instructed to provide a variety of information, including whether safety and security measures differed among facilities, contracts, audio/video services, or other factors. Total annual expenses, billed revenues, company-wide financial information, and service-specific financial information were requested, as well as allocations of such data among the seven safety and security categories. Providers were instructed ''to report in the Excel template, for each category, the Company's best estimate of the percentage of its total Annual Total Expenses for Safety and Security Measures that is attributable to the measures within that category.'' Safety and security measures were to be identified and described based on these categories.

352. Providers' responses give for the first time a comprehensive picture of the dominant role that the costs of safety and security measures now play in the IPCS industry's cost structure. Reported safety and security measure costs now represent the single largest category of reported costs. The industry reported total safety and security costs of approximately {[REDACTED]}. The providers' data show that those costs now represent approximately {[REDACTED]} of all reported IPCS costs and that reported safety and security measure costs significantly exceed the total costs of providing both audio and video IPCS combined. Audio and video IPCS combined represent approximately {[REDACTED]} of all reported IPCS costs, inclusive of site commissions. On a total industry cost per-minute basis, reported safety and security costs are {[REDACTED]}, while reported costs of providing IPCS are {[REDACTED]}.

353. The reported data also indicate that different-sized providers incur markedly different safety and security measure costs on a per-minute basis. For example, the two largest providers reported incurring {[REDACTED]} per minute in costs for safety and security measures, whereas the range for the rest of the industry is between $0.001 and $0.006 per minute for audio IPCS and between $0.0001 and $0.024 per minute for video IPCS.

(b) Our Approach To Considering Safety and Security Costs Under Section 3(b)(2) of the Martha Wright-Reed Act

354. Before reaching our assessment of providers' separately reported costs of safety and security measures, we address the statutory interpretation underlying our consideration of these matters under the Martha Wright-Reed Act and the Communications Act.

(i) The Directive To ''Consider'' Safety and Security Costs Under Section 3(b)(2) of the Martha Wright-Reed Act

355. Pursuant to section 3(b)(2) of the Martha Wright-Reed Act, we will evaluate as part of our ratemaking exercise under section 276(b)(1)(A) of the Communications Act ''costs associated with any safety and security measures necessary to provide'' IPCS. This is a familiar task of the sort the Commission has long undertaken when seeking to ensure just and reasonable rates, where it has evaluated costs and expenses of various kinds for which providers sought recovery through regulated rates. The Commission likewise has historical experience with similar assessments of safety and security measures raised in the IPCS context specifically. Our conclusion that section 3(b)(2) of the Martha Wright-Reed Act simply informs how we approach our traditional rate-setting function—rather than establishing some kind of unique or anomalous approach specific to safety and security—flows from the statutory text and context, along with the relevant regulatory history that served as the backdrop to the Martha Wright-Reed Act.

356. In 2023, the Commission sought comment on the meaning of ''shall consider'' as used in section 3(b)(2) of the Martha Wright-Reed Act, and on what discretion, if any, that phrase gives the Commission in its ratemaking determinations. We agree with Pay Tel that the word ''shall,'' is mandatory, not permissive, such that we ''*must* consider costs associated with necessary safety and security measures in setting just and reasonable rates.'' We conclude that the requirement that we ''consider'' the costs of safety and security measures means that we must ''reach . . . express and reasoned conclusion[s]'' regarding such costs—as relevant here, as part of the process of determining just and reasonable rates for IPCS. Consistent with prior interpretations of similar statutory language, we do not read section 3(b)(2) of the Martha Wright-Reed Act as a directive mandating the recovery of the costs of all safety and security measures identified by providers or facilities; or as inherently requiring the Commission ''to give any specific weight'' to such costs as a statutory matter. Instead, the text of that provision merely requires us to examine available evidence regarding ''costs associated with any safety and security measures necessary to provide'' IPCS along with the various other cost claims we review as part of our overall approach to ensuring just and reasonable rates and charges for IPCS that also yield fair compensation for providers. Contrary to the National Sheriffs' Association's characterization of 2023, nowhere in that *Notice* did we interpret ''consider'' to mean that we are ''required to treat all safety and security costs identified by providers . . . as costs recoverable through rates for communications services for incarcerated people.'' Rather, the Commission sought comment on

whether such an interpretation would be appropriate, or whether another, contrary interpretation would be correct.

357. Commenters generally support this interpretation. As the Public Interest Parties explain, Congress did not say that the Commission 'must include' or 'shall allow for the recovery of' the safety and security costs claimed by IPCS providers. Instead, it deferred to the Commission's expertise and discretion, requiring only that it consider costs associated with safety and security measures when developing rate caps. While the Commission must therefore consider these costs, it is plainly not obligated to pass them through in the rate caps ultimately adopted.

We agree with these views.

358. Our interpretation of section 3(b)(2) is reinforced by the broader statutory context. In particular, section 4 of the Martha Wright-Reed Act provides that nothing in that Act ''shall be construed to . . . prohibit the implementation of any safety and security measures related to [IPCS] services at [correctional] facilities.'' As we explain above, when read together, section 3(b)(2) of the Martha Wright-Reed Act is best understood as merely requiring the Commission to evaluate such costs as part of its just and reasonable rate analysis, while section 4 simply makes clear that, in directing the Commission to develop a compensation plan to ensure just and reasonable IPCS rates and charges, Congress did not intend to prohibit correctional institutions from adopting policies that, in their judgment, are needed to preserve safety and security.

359. Our understanding of section 3(b)(2) harmonizes it with the broader regulatory history here, as well. Considering costs associated with any safety and security measures necessary to provide IPCS as part of our used and useful analysis reflects a continuation of the sort of analyses the Commission has long undertaken in the IPCS context. And even apart from that particular sort of evaluation, the Commission otherwise also has long been involved in assessing the technological relationship between communications service and safety and security measures associated with IPCS. For example, in the *2013 ICS Order,* the Commission explained that it would ''likely'' find it appropriate to include costs—including some safety and security costs—''that are closely related to the provision of interstate ICS'' in setting rates. And, in 2021, to help it determine the extent to which certain security and surveillance costs may be recovered through calling services rates, the Commission sought comment on the ''types of security and surveillance functions, if any, [that] are appropriately and directly related to inmate calling.'' Thus, the focus of the Commission's inquiry has been to identify costs associated with safety and security measures that have a sufficient nexus to IPCS to justify recovery of the relevant costs or expenses through IPCS rates.

360. The Commission's evaluation of the nexus between safety and security measures and the provision of IPCS evolved over time as the industry's use of such measures increased. The Commission also has grappled with limited data and record comment in attempting these analyses. For instance, in setting interim rate caps in the *2021 ICS Order,* the Commission recognized that the record then before it made it impossible to determine the extent to which security and surveillance costs should be recovered through inmate calling services rates. The Commission therefore sought comment in 2021 on the extent to which the services that providers and facilities had identified as security-related services should ''be deemed to be general security services that are added onto inmate calling services but not actually necessary to the provision of the calling service itself.'' The Commission also sought comment in that *Notice* on methodologies that would help it isolate and quantify ''calling-related security and surveillance costs from general security and surveillance costs'' that providers and facilities incur. In 2022 the Commission reiterated its requests for comment that would help it identify, and quantify, the distinction between safety and security measures directly related to the provision of communications services in correctional institutions and the general provision of safety and security in those institutions.

361. In sum, we read section 3(b)(2) simply to direct the Commission to evaluate the evidence before it regarding the costs associated with any safety and security measures necessary to provide IPCS and make a reasoned judgment about whether and to what extent such costs should be included in just and reasonable IPCS rates, consistent with fair compensation for providers. This flows from the statutory text and context, and represents a continuation of the ratemaking role the Commission long has played in this context (and others).

362. In light of what we see as the best reading of section 3(b)(2) of the Martha Wright-Reed Act, we are unpersuaded by arguments that, as a statutory matter, we must allow recovery of all costs associated with safety and security measures in IPCS rates. Some commenters misunderstand section 3(b)(2) and argue that all safety and security measures a facility identifies are automatically necessary and recoverable through regulated rates by virtue of being selected by ''experts.'' The National Sheriffs' Association argues that ''[t]he fact that a security or safety measure is implemented in connection with IPCS service makes it a recoverable cost.'' We disagree with these contentions. Although section 3(b)(2) requires the Commission to ''consider'' costs associated with safety and security measures necessary in providing IPCS when determining just and reasonable rates, commenters do not persuasively demonstrate that, as a textual matter, this requires more than evaluating the available information in the record and reaching a reasoned decision. Consequently, we reject commenters' contrary interpretations insofar as they would, as a statutory matter, necessarily require recovery through regulated IPCS rates of all costs of safety and security measures ''necessary'' within the meaning of section 3(b)(2), irrespective of the specific basis for that ''necessary'' determination—whether giving preclusive weight to correctional facilities' judgements, or some other level of weight, or making the determination on other grounds. And as discussed above, our reading of section 3(b)(2) best accords with the statutory context and the relevant regulatory history. Indeed, contrary arguments would require us to interpret section 3(b)(2) as establishing an anomalous approach to ratemaking under the Communications Act that would, at least with respect to the costs of safety and security measures, effectively eliminate the role Congress intended the Commission to play in determining just and reasonable rates and, instead, place that role in the hands of the providers and facilities. While correctional authorities certainly have expertise on safety and security as a general matter, Congress has not vested the authority in them to decide which safety and security costs should be recoverable in IPCS rates—and a contrary reading of section 3(b)(2) that took the issue of safety and security cost recovery through regulated IPCS rates out of the Commission's hands and placed it in the control of providers and facilities would raise private nondelegation concerns. The Constitution limits the government's ability to empower a private entity ''to regulate the affairs'' of other private parties. The Constitution

permits such an assignment of authority only if the entity ''function[s] subordinately'' to a federal agency and is subject to the agency's ''authority and surveillance.'' Of course, correctional authorities remain free to determine and implement whatever safety and security measures they deem appropriate at the correctional facility. Contrary to assertions made by FDC, nothing in the Report and Order prevents facilities from implementing the safety and security measures of their choice. But under the statutory scheme, it is for the Commission to determine any extent to which the costs of such measures are recoverable through regulated IPCS rates. We consequently reject arguments that section 3(b)(2) of the Martha Wright-Reed Act requires recovery of all costs associated with safety and security measures in regulated IPCS rates.

(ii) The Scope of ''Safety and Security Measures'' Under Section 3(b)(2) of the Martha Wright-Reed Act

363. Section 3(b)(2) of the Martha Wright-Reed Act requires us to consider costs ''associated with any safety and security measures necessary to provide'' IPCS. In 2023, the Commission sought comment on whether it ''should interpret the Martha Wright-Reed Act's use of the term 'safety and security' as having the same or different meaning as the term 'security and surveillance' previously used in this proceeding.'' The Commission has at different times variously referred to the universe of measures at issue as ''security measures,'' ''security features,'' ''monitoring,'' ''security monitoring,'' and ''security and surveillance.'' The record before us is mixed. One commenter suggests that ''safety and security'' differs from ''security and surveillance'' such that ''it relieves the Commission of considering surveillance measures at all.'' Others argue that ''[t]he Commission should not interpret 'safety and security' to mean something different than the term 'security and surveillance' previously used in the Commission's IPCS proceedings.''

364. We find that the best interpretation of the two phrases is that the ''security and surveillance'' measures of the sort that historically have been the focus of this proceeding fall within the scope of ''safety and security'' measures under section 3(b)(2), and that we need not go further at this time to more precisely define whether the two phrases are coextensive. The services previously at issue in the *Inmate Calling Services* proceeding, such as call blocking, recording, and monitoring, are now before us for consideration, and fit within the scope of ''safety and security.'' Although there is no express reference to ''surveillance'' measures in section 3(b)(2), the Commission not only has considered such costs in the proceedings that formed the backdrop for the Martha Wright-Reed Act, but at times suggested that ''security and surveillance'' measures collectively could be seen as involving ''security.'' Against that backdrop—and absent more detailed textual arguments that the language ''safety and security'' should not be read to encompass surveillance of the sort we historically have considered—we find such surveillance measures fall within the scope of ''safety and security measures'' under section 3(b)(2) of the Martha Wright-Reed Act. Because we do, in fact, consider the relevant cost evidence in the record here that even arguably could fall within the scope of costs of ''safety and security measures'' under section 3(b)(2), we find it unnecessary to more precisely define the ultimate scope and contours of that statutory language at this time.

(iii) Which ''Safety and Security Measures'' Are ''Necessary To Provide'' IPCS Under Section 3(b)(2) of the Martha Wright-Reed Act

365. Section 3(b)(2) of the Martha Wright-Reed Act mandates that, in ''promulgating regulations necessary to implement this Act and the amendments made by this Act'' and ''determining just and reasonable rates,'' the Commission ''shall consider costs associated with any safety and security measures necessary to provide'' IPCS. In 2023, the Commission requested comment on how it should interpret the term ''necessary.'' Consistent with judicial precedent interpreting other statutory uses of the term ''necessary,'' we interpret the term ''necessary'' in section 3(b)(2) to mean ''that which is required to achieve a desired goal.'' Commenters generally support this interpretation. Commenters rely on both judicial precedent and dictionary definitions of the term ''necessary.''

366. Securus points out that this interpretation of ''necessary'' ''requires identification of a desired goal.'' We agree and find that the Martha Wright-Reed Act identifies the ''desired goal.'' In pertinent part, section 3(b) of the Martha Wright-Reed Act states that in ''determining just and reasonable rates,'' the Commission ''shall consider costs associated with any safety and security measures necessary to provide'' IPCS. Those IPCS services, in turn, are ''telephone service and advanced communications services.'' Based on this language, we conclude that, for a safety and security measure to be necessary, it must be required ''for the provision of telephone service and advanced communications services to incarcerated people.'' In other words, for a safety and security measure to be necessary, it must be required for the provision of communications services in correctional institutions.

367. Some commenters claim that the goal of safety and security measures ''is to prevent communications services from being used to commit or facilitate potential crimes, fraud, or other abuses.'' Commenters focusing on the relationship between safety and security measures and the commission of crimes using IPCS fail to acknowledge the benefits that increased communications have on the incarcerated population and the resulting impact on facility safety. We do not dispute, and indeed the Commission has long recognized, that communications services for incarcerated people occur in a unique context that ''implicate[] important security concerns.'' To that end, the Commission has recognized that there are certain features that ensure these communications services are available to incarcerated people and can be used safely. The Martha Wright-Reed Act envisions such an outcome by directing the Commission to consider safety and security measures ''necessary to provide'' communications services ''in correctional institutions.''

368. We part ways with ViaPath and other commenters who assert that *all* safety and security measures are necessary to provide IPCS. The Act's use of the limiting term ''necessary'' implies that Congress did not intend all safety and security measures would be treated as necessary but rather implicitly suggests some limitation on the scope of measures the Commission is to consider. Thus, while we do not dispute the notion that the general goal of safety and security measures is to ensure that IPCS are used safely, it does not follow that any and all safety and security measures are necessary to achieve that goal as Securus and others would suggest. We find certain commenters' invocation of ''contraband devices'' in connection with its discussion of safety and security for IPCS to be inapt. The issue of contraband devices in correctional institutions is the subject of a separate proceeding at the Commission and is unrelated to our implementation of the Martha Wright-Reed Act or the consideration of the costs of necessary safety and security measures for inclusion in just and reasonable rates for IPCS. Nevertheless, the record suggests that one of reasons for the proliferation of contraband devices are the high IPCS

rates that the families of incarcerated people cannot afford to pay. We similarly find inapposite the National Sheriffs' Association's contention that because ''security and safety measures protect inmates by reducing crime within the facility,'' such services are necessarily related to the provision of IPCS. Finally, we find inapposite some providers' contentions that the Commission has rejected the protection of the public as a permissible safety and security function. While section 1 of the Communications Act makes clear that the Commission was created to promote the public safety, among other purposes, those other purposes include ''mak[ing] available, so far as possible . . . communication service . . . at reasonable charges'' and promoting ''the national defense.'' It does not follow that in mandating that we ensure just and reasonable rates and charges for all incarcerated people's communication services and that we promote the ''widespread deployment of payphone services to the benefit of the general public,'' Congress intended that IPCS consumers should finance any measure that generally promotes public safety or the national defense. Instead, we think that Congress intended a narrower focus, one in which we determine which costs IPCS consumers can justly and reasonably be required to finance. That type of determination is one well known to the Commission and under which we must evaluate different types of capital costs and expenses to determine which are recoverable through regulated rates.

369. Although commenters that address the interplay between the ''necessary'' standard and ''used and useful'' framework contend that ''necessary'' is more limited than ''used and useful,'' we need not resolve that ultimate interplay here. Although we agree with commenters that *GTE Serv. Corp.* is relevant precedent regarding the interpretation of the term ''necessary'' in a statute, we are not persuaded that it resolves the question of the interplay between ''necessary'' in section 3(b)(2) of the Martha Wright-Reed Act and the ''used and useful'' standard we employ when setting just and reasonable rates. We see no indication on the face of that opinion that the Commission's use of the terminology ''used or useful'' in assessing whether collocation obligations should apply under section 251(c)(6) of the Communications Act was intended to draw upon, or overlap with, the ''used and useful'' analysis historically employed in the ratemaking context. Independently, the D.C. Circuit subsequently has read *GTE Serv. Corp.* (as well as *Iowa Util. Board*) as fully consistent with the notion that the statutory context is relevant when interpreting the term ''necessary.'' And without definitively resolving the interplay of terms, we note that in a statutory context where Congress has directed the Commission to merely ''consider'' certain costs when setting just and reasonable rates, it would not be an absurd result for the universe of costs subject to consideration to be broader than the universe of costs ultimately allowed for recovery in regulated rates. Thus, although we find *GTE Serv. Corp.* to be relevant to the interpretation of ''necessary'' in a general way, we are not currently persuaded to rely on it in the more specific manner that some commenters have advocated. We disagree with Securus's claim that by not reaching a determination on which safety and security costs are ''necessary'' to the provision of IPCS, we have somehow ''render[ed] the entire 'necessary' provision found at section 3(b)(2) of the MWR Act superfluous.'' As we have just explained, by considering *all* safety and security costs, it necessarily follows that we have complied with the Martha Wright-Reed Act's mandate that we ''consider costs associated with any safety and security measures necessary to provide'' IPCS in setting just and reasonable rates. Our mode of ''considering'' such costs via the ''used and useful'' framework thus is distinct from the identification of the universe costs to be considered in the first instance—and our approach therefore does not conflate the terms ''necessary'' and ''used and useful'' as Securus contends. Consistent with our conclusion in the prior section regarding the interpretation of ''safety and security,'' we have no need to more precisely define the ultimate scope and contours of the statutory language ''necessary'' at this time because we do, in fact, consider the relevant cost evidence in the record here that even arguably could fall within the scope of costs of safety and security measures required to be considered as ''necessary'' under section 3(b)(2). Stated differently, the cost of any safety and security measure that even arguably could be viewed as necessary to the provision of IPCS—under any understanding of ''necessary''—is a cost that we evaluate, and reach a reasoned decision about, under the used and useful framework that we employ to determine just and reasonable IPCS rates in the Report and Order. Because we evaluate the costs of all safety and security measures that could arguably fall within the scope of the term ''necessary,'' we do not opine on the necessity of safety and security measures that correctional facilities may implement.

(iv) Consideration of Safety and Security Costs Under the Used and Useful Framework

370. While section 3(b)(2) of the Martha Wright-Reed Act requires us to ''consider'' certain safety and security costs when determining just and reasonable rates, as we explain above, we employ the ''used and useful'' framework to determine what costs and expenses can be recovered through just and reasonable IPCS rates. Consequently, our consideration of safety and security costs as required by section 3(b)(2)—and with respect to other safety and security costs raised in the record—occurs within the context of that ''used and useful'' analysis. In particular, we rely on the ''used and useful'' framework and its associated prudent expenditure standard to assess which costs should be included in the rate caps we adopt to determine just and reasonable IPCS rates. In applying the used and useful standard, we consider whether a cost ''promotes customer benefits, or is primarily for the benefit of the carrier,'' as well as whether that cost was prudently incurred. There are several elements of the Commission's used and useful analysis. First, the Commission considers the need to compensate providers ''for the use of their property and expenses incurred in providing the regulated service.'' Second, the Commission looks to the ''equitable principle that ratepayers should not be forced to pay a return except on investments that can be shown to benefit them.'' In this regard, the Commission considers ''whether the expense was necessary to the provision of'' the services subject to the ''just and reasonable'' standard. And third, the Commission considers ''whether a carrier's investments and expenses were prudent (rather than excessive).'' We note that in considering whether expenses are ''necessary to the provision of'' the services subject to the ''just and reasonable standard,'' the used and useful framework accords with the Commission's prior analysis of safety and security measures which sought to determine the extent to which those measures were ''directly related to the provision of IPCS.''

371. Since 2002, the Commission has recognized the need to ''balance the laudable goal of making calling services available to inmates at reasonable rates, so that they may contact their families

and attorneys, with necessary security measures and costs related to those measures.'' Security measures that might have ''the unintended, and perhaps unnecessary, effect of increasing the costs incurred by inmates and their families'' have long concerned the Commission, as has the lack of data to properly analyze these costs. For years, stakeholders have debated whether various safety and security measures are part of inmate calling services, as certain providers and the National Sheriffs' Association contend, or are ''not related to the provision of communication service'' and of ''no benefit to consumers.'' Prior deficiencies in the record, including the absence of any meaningful data on the costs incurred in providing safety and security measures, have prevented the Commission from determining the extent to which safety and security costs may be recovered through inmate calling services rates.

372. We now have a sufficiently robust record to apply the used and useful framework for the first time to the safety and security measures that providers and the National Sheriffs' Association claim are part of IPCS and to quantify, to the extent the data permit, the costs providers and facilities incur in implementing those safety and security measures. Though far from perfect, that record allows us to establish zones of reasonableness that capture, for each rate cap tier, the approximate range within which the providers' and facilities' used and useful safety and security fall. The record provides discrete data on the costs providers claim to incur in providing seven categories of safety and security measures and allows us to make reasoned decisions about whether the measures in each category are generally used and useful in the provision of IPCS. And the record allows us to compensate for the imprecisions in the data before us—regarding both providers' and facilities' costs of providing used and useful safety and security measures—in selecting ''just and reasonable'' rate caps from within the zones of reasonableness. The record before us now thus provides far greater detail on the nature and purposes of the safety and security measures that providers deploy, the extent of that deployment, and the measures' underlying costs than was previously available to the Commission. Consistent with this expanded record, our analysis builds upon and, in certain instances where appropriate, departs from the Commission's prior analyses of safety and security measures in the inmate calling services context.

373. As discussed below, application of the used and useful framework to the safety and security costs that providers and the National Sheriffs' Association claim are IPCS costs helps us balance the need to ensure reasonable recovery of providers' investments and expenses used in providing IPCS with the requirement that we provide for recovery through regulated rates when the costs incurred are used and useful to the provision of IPCS and therefore promote customer benefits. Securus criticizes the Commission's application of the used and useful framework to safety and security costs as being solely focused on whether a given cost or expense benefits IPCS consumers. We disagree. As previously explained, application of the used and useful framework balances the need to ensure that IPCS providers receive reasonable recovery of their investments and expenses in providing IPCS with the need to ensure that ratepayers bear only the costs of providing the regulated service to them. This is what we do here in evaluating all of the safety and security costs IPCS providers have reported and determining the extent to which tasks associated with those costs provide a benefit to IPCS consumers such that they may be recovered through regulated rates. In allowing, within the limits of the record before us, only those investments and expenses which are used and useful to be recovered from ratepayers, we ''ensure that current ratepayers bear only legitimate costs of providing service to them.'' As one commenter explains, ''[t]he Commission has applied the used and useful standard for decades when considering whether a provider can recover costs for an asset or service, or in this case, necessary safety and security measures.'' This is particularly relevant with regard to the safety and security measures that providers furnish pursuant to their contracts with correctional institutions, the purposes and scope of which have evolved from simply facilitating the provision of voice communications in correctional institutions to broader measures designed to detect potential criminal activity and enforce the criminal laws, among other non-communications purposes. For example, in responses to the 2023 Mandatory Data Collection, when asked to describe various safety and security measures, providers explain how these measures assist law enforcement in investigating potential criminal activity and building cases, create reports for facilities and law enforcement, analyze data, and store records for use in court. Securus makes clear that its subpoena and warrant services respond to requests by ''prosecutors, investigators, district attorneys, police officers, [and] detectives.''

374. The record is replete with examples of costly services that are unrelated (or only marginally related) to providing IPCS and thus provide no (or only marginal) benefits to ratepayers in their capacity as consumers of IPCS. Safety and security measures that do not facilitate the provision of underlying communications services in correctional institutions are not used and useful. While law enforcement, correctional facilities, and the public at large may benefit from these measures, the Martha Wright-Reed Act mandates that we ensure just and reasonable IPCS rates for incarcerated people and their loved ones. Allowing the costs of measures that are not used and useful in the provision of IPCS to be recovered through IPCS rates would be inconsistent with that mandate. Similarly, the costs of safety and security measures that provide a dual purpose—that are both used and useful in providing IPCS and in furthering another purpose—should be borne by both ratepayers and facilities.

375. Although the Commission has historically recognized that safety and security measures were, at least in some sense, inherent in providing communications services for incarcerated people, it has been clear from the outset that only certain safety and security costs should be recovered through regulated rates. In the *2013 ICS Order,* for example, the Commission determined that recovery of the costs of safety and security measures should be limited to ''costs that are reasonably and directly related to the provision of ICS'' and indicated that such recovery ''would likely include . . . costs associated with security features relating to the provision of ICS,'' but that ''costs relating to general security features of the correctional facility unrelated to ICS'' would be excluded. This dichotomy has remained a staple of Commission decisions attempting to ''balance[e] the unique security needs related to providing telecommunications service in correctional institutions,'' with the statutory requirements of fair compensation for providers, and, to the extent interstate and international audio services were involved, just and reasonable rates for consumers and providers. The Commission did not then and has not since made a determination of which safety and security measure

costs should be recoverable in IPCS rates. We therefore reject Securus's suggestion that ''Commission precedent is crystal clear that the costs of safety and security measures such as recording, monitoring, biometrics, and related services are inherent in the provision of communications services to the incarcerated.'' The mandate in section 276(b)(1)(A) that we ensure just and reasonable rates for consumers, in conjunction with the Martha Wright-Reed Act's requirements that we consider safety and security costs ''necessary'' to the provision of IPCS, requires that we reevaluate this precedent at any rate.

376. In arguing that all safety and security costs must be recoverable through IPCS rates, some commenters ignore the context of the Commission's prior discussion of safety and security measures. Instead, they rely on the fact that the Commission has previously recognized the relationship between safety and security measures and IPCS, but ignore that this relationship was always predicated on a direct link to the provision of the underlying communications service. Thus, while the Commission has previously recognized that communications services for incarcerated people ''implicate[ ] important security concerns,'' and that ''costs associated with security features relating to the provision of ICS'' *may* constitute recoverable costs, the Commission has never concluded that the costs of all—or even a substantial portion—of the safety and security measures that providers often voluntarily choose to offer or correctional facilities may choose to require should be recovered from consumers. On the contrary, while the precise formulation for inclusion has varied, Commission precedent establishes that only the costs of those safety and security measures with a sufficient nexus to the provision of IPCS should be recovered through inmate calling services rates. Allowing recovery of the costs associated with all safety and security measures that providers decide to offer or that facilities choose to deploy would be inconsistent with that precedent and, more broadly, with the requirement that our compensation plan for IPCS ensure ''just and reasonable'' rates and charges.

377. We similarly find overbroad Securus's suggestion that we must ''include safety and security costs in IPCS rates absent a finding that those costs bear no relation to the provision of telephone or video services.'' As an initial matter, nothing in the statute suggests such a presumption. In fact, the statute implies the opposite—while it requires the Commission to consider these costs, in doing so, it gives the Commission latitude to exercise its judgment regarding the ultimate just and reasonable rate determination. Thus, we agree with Securus that the Commission does not have ''unfettered discretion to reject necessary costs.'' And we do not reject any necessary costs that also satisfy the used and useful standard. As we explain above, we consider all cost evidence in the record regarding any safety and security measures that could be viewed as necessary to the provision of IPCS, under any understanding of the term ''necessary.'' We evaluate those costs under our traditional used and useful ratemaking standard to determine the extent to which those costs are recoverable from IPCS consumers through regulated rates. Securus's approach also incorrectly presumes that any cost that a provider or a correctional institution reports as having been incurred for safety and security measures must automatically be included in our rate cap calculations. We find instead that those calculations should reflect, to the extent the record permits us to make such a determination, only those costs that we affirmatively find are used and useful in the provision of IPCS. More fundamentally, Securus's test would require IPCS consumers to bear the full costs of safety and security measures that are not directly related to the provision of IPCS, but rather are more related to the costs of incarceration generally, or are used principally for broader law enforcement or investigative purposes.

378. To the extent correctional facilities contract with IPCS providers for safety and security measures that do not facilitate the provision of communications services, the costs of those measures should not be passed on to IPCS consumers. We find overbroad the National Sheriffs' Association's argument that because jails generally have statutory obligations that require safety and security measures, that it necessarily follows that IPCS consumers must bear the cost of such measures. For example, the National Sheriff's Association concludes that because the Death in Custody Reporting Act requires facilities to ''report on the circumstances surrounding the death of an incarcerated person (such as whether the cause of death was mental health related),'' and because monitoring IPCS may identify persons having mental health crises that could lead to suicide, IPCS consumers must therefore pay for all safety and security costs related to monitoring. As discussed above, facilities' obligation to care for the safety and wellbeing of incarcerated people, as well as comply with statutes that are unrelated to the provision of communications, are the responsibility of facilities—as are the costs associated with such obligations. IPCS consumers are not required to shoulder the burden of paying for each and every facility cost whether related to the provision of communications or not. For similar reasons, we find inapposite some commenters' argument that not allowing the recovery of certain safety and security costs through IPCS rates would necessarily lead to ''increased taxes or an unnecessary reallocation of general funds.'' Aside from the speculative nature of this claim, we have explained why IPCS consumers should not bear the cost of services that are unrelated to the provision of IPCS, nor should they be responsible for services whose purpose is to serve law enforcement. For example, customized reports for correctional facilities, long term storage of recordings of communications, creating searchable databases of these recordings, and voice biometrics that are used for law enforcement purposes are measures that facilitate law enforcement but are not required to restrict communications to permitted individuals. If they were unavailable, incarcerated people would still be able to place telephone calls or use advanced communications because these safety and security measures serve almost exclusively law enforcement functions. As the United Church of Christ and Public Knowledge explain, ''[t]he customer of carceral functions is the carceral institution. The customers of the communication are the two people using a service to communicate with each other.'' Services that serve predominately law enforcement purposes provide only marginal benefits to incarcerated people and their families in their use of IPCS, and only a small portion of the costs of those services are used and useful in the provision of IPCS. The bulk of those costs related to incarceration, generally—like feeding and housing—and, like those costs, cannot justly and reasonably be imposed on incarcerated persons and their loved ones. Correctional facilities are free to adopt any safety and security measures they deem appropriate, but may not rely on IPCS ratepayers to defray all the costs providers and facilities incur in providing those measures. Instead, only the used and useful portion of those costs should be recovered through IPCS rates.

379. Some commenters raise concerns that the used and useful standard is inappropriate specifically when applied to safety and security measures. We disagree. We are not persuaded that the application of the used and useful standard to safety and security costs would prohibit facilities' implementation of safety and security measures in violation of section 4 of the Martha Wright-Reed Act. Rather, we find that this argument conflates our authority over what the facility and its service providers *may charge* ratepayers with the facilities' authority over what safety and security measures ''the facility and its service providers may choose to employ *at their own expense.*'' Although section 4 of the Martha Wright-Reed Act bars the Commission from prohibiting safety and security measures related to IPCS in correctional facilities, nothing in the Martha Wright-Reed Act requires that IPCS consumers pay for such measures through IPCS rates. To the contrary, section 3(b)(2) of that Act indicates otherwise by obliging the Commission merely to ''consider'' such costs without requiring a particular outcome. While our rate-making process may result in changing how some of those measures are funded, our application of the used and useful framework in discharging this mandate simply does not prohibit correctional officials, law enforcement officials, or IPCS providers from implementing any safety and security measures at any correctional facility. Correctional facilities remain free to implement any safety and security measures of their choosing; they just cannot expect the IPCS consumer to bear the cost of all of those choices. The National Sheriffs' Association, in its arguments against relying on the used and useful standard, suggests that instead, ''the principle of cost causation, which states that those who cause costs should pay for them'' should be used. The National Sheriffs' Association argues that, for example, if a crime is committed using IPCS, the incarcerated person should pay for all related safety and security costs because without IPCS, the crime could not have been committed. The Commission has previously rejected such unpersuasive ''but for'' arguments, most recently in the *Open Internet* proceeding. The National Sheriffs' Association's logic is flawed. Simply because a crime occurred using a phone call does not mean that the phone call was the cause of the crime, nor that IPCS consumers are responsible for the associated safety and security costs. Law enforcement activities are the responsibility of law enforcement. As such, the costs associated with those activities are appropriately borne by correctional facilities, not IPCS consumers. The used and useful framework and cost causation principles both aim at ensuring that ratepayers do not bear costs that were not incurred for the ratepayers' benefit. Since the sole purpose of many of these safety and security measures is to benefit law enforcement, we would allocate the costs of these measures to the providers' non-IPCS operations even if we were to employ a cost causation approach.

380. *The ''Customer'' Under the Used and Useful Framework.* In applying the used and useful framework, ''the Commission considers whether the investment or expense 'promotes customer benefits, or is primarily for the benefit of the carrier.' '' In applying that framework to IPCS, we make clear that the ''customers'' referred to under this analysis are the IPCS ratepayers in their status as consumers of communications services in correctional institutions. Securus encourages a broader interpretation of ''customer'' that would include correctional facilities, as well as ratepayers, because correctional facilities are ''necessary part[ies]'' to IPCS. Under this logic, the providers themselves would also be included as beneficiaries in the used and useful test. It suggests that the Commission has a ''general responsibility'' to protect the general public and ''ensure a safe environment'' for accessing communications services. Pay Tel mischaracterizes our rejection of Securus's overbroad interpretation of ''customer'' as a more general rejection of the need to provide appropriate safety and security measures as part of the provision of IPCS. As discussed above, and consistent with section 1 of the Communications Act, the Commission has long embraced the inclusion of safety and security measures as an integral part of the provision of IPCS and incorporated the relevant costs in its approach to rates for these services. These arguments do not overcome our responsibility here where incarcerated people or their loved ones are the ones paying for and using IPCS subject to Commission-specified rate regulations. Although correctional institutions contract with providers for the provision of IPCS, such services are used, and paid for, by incarcerated people and their loved ones. As Worth Rises explains, the ''Commission's duty is to protect IPCS ratepayers and ensure reasonable compensation for providers, not to protect the interests and demands of non-ratepaying stakeholders.'' We rely on the used and useful framework because it balances the ''equitable principle that the ratepayers may not fairly be forced to pay a return except on investment which can be shown directly to benefit them,'' with ensuring fair compensation for providers. It therefore would be inappropriate—and, ultimately inconsistent with our mandate to ensure just and reasonable IPCS rates—to evaluate safety and security costs under a framework that characterized correctional institutions as the customers. There are indeed scenarios where the facility or governmental body may be the customer in jurisdictions where free calling for incarcerated persons has been implemented. That is not the scenario we are addressing in this Order. Although Securus is correct that the used and useful framework is flexible, it is not all encompassing, and we decline to expand that framework to include non-ratepayers. Rather, we rely on this flexibility to ensure that IPCS consumers ''bear only legitimate costs of providing service to them.''

381. Our focus on incarcerated people and their loved ones as the customers of IPCS has several cross-cutting implications for our application of the used and useful standard to safety and security measures broadly. For one, safety and security measures that serve predominantly law enforcement functions do not yield sufficient (if any) benefit to IPCS customers to warrant more than a marginal (or any) recovery through just and reasonable IPCS rates. In this vein, in the case of safety and security measures that are not universally or nearly universally employed by IPCS providers, we are not persuaded that they meet the used and useful standard for cost recovery through IPCS rates. As explained by the Public Interest Parties, ''safety and security features that are not universally used across facilities suggests that they cannot be 'necessary,' as some providers do offer IPCS without needing to use such features.'' Safety and security measures cannot be both required to provide IPCS and elective. The National Sheriffs' Association unwittingly makes this point by explaining that ''different facilities have different security requirements.'' While we agree with the National Sheriffs' Association that correctional institutions that have relatively large proportions of ''violent offenders'' generally impose more extensive safety and security measures that other correctional institutions, the record contains no information tying those measures specifically to the provision of IPCS. Absent such information, we conclude that those

measures are part of the correctional institutions' overall safety and security operations, rather than an essential element of the provision of communications services in a correctional environment. Such a focus on safety and security measures shown to be deployed on a widespread basis makes most sense when setting IPCS rate caps, rather than prejudging whether and to what extent less commonly-employed measures ultimately might someday be proven of sufficient necessity—and benefit to IPCS customers—to warrant recovery in regulated IPCS rates and charges. Independently, we conclude that those atypical costs or expenses are excessive, and thus imprudent under the ''used and useful'' framework, and thus not appropriate for inclusion in regulated IPCS rates.

382. We also find that safety and security features offered solely or chiefly to win contracts do not warrant recovery through regulated IPCS rates. It is not uncommon for providers responding to requests for proposals to offer enhanced safety and security measures that are not specifically demanded by the correctional authority. Measures that correctional institutions accept for free or in lieu of monetary site commissions payments do not become a benefit to IPCS ratepayers by virtue of that correctional facility's acceptance. Features not included in requests for bids were clearly not considered critical to IPCS by the correctional institutions themselves. We find persuasive Worth Rises' reasoning that ''[t]he broad spectrum of elective safety and security measures that IPCS providers offer'' have ''no demonstrated, or at times even articulated, public benefit. These other elective measures are nice-to-haves for corrections agencies, law enforcement, and prosecutors and vary from agency to agency.'' Indeed, we find that the costs of ''safety and security [that] are for the benefit of 'investigators, correctional administrators, prosecutors, and other law enforcement officers''' are not appropriately borne by IPCS ratepayers. We note that such features are also not used and useful. Our evaluation of the 2023 Mandatory Data Collection responses also supports assertions in the record that offering advanced safety and security measures has become a chief means by which the largest providers dominate the process correctional institutions use to select IPCS providers. Indeed, while certain safety and security measures are undoubtedly both used and useful in, and necessary for, the provision of IPCS, the data raise questions whether and to what extent many of the advanced safety and security measures may be more reflective of the broken nature of competition in the dysfunctional IPCS marketplace and tools certain providers use to gain advantages in winning contracts.

c. Assessing the Costs of Safety and Security Measures

383. Applying the standards described above, we reach reasoned conclusions regarding the safety and security measures that primarily benefit consumers and appropriately are included in regulated rates under our used and useful analysis. Measures that serve only a law enforcement function or provide no benefit to IPCS consumers are not used and useful in the provision of IPCS. Costs that are used and useful are used to calculate just and reasonable IPCS rate caps. Thus, we do not exclude all safety and security costs from our ratemaking calculus.

(i) Application of the Used and Useful Framework

384. We evaluate whether the costs of the seven categories of safety and security measures set forth in the 2023 Mandatory Data Collection should be included in IPCS rates by applying the used and useful framework. As an initial matter, we reiterate that the used and useful framework is flexible. Although the Commission has identified ''general principles regarding what constitutes 'used and useful' investment,'' it ''has recognized 'that these guidelines are general and subject to modification, addition, or deletion.'' The Commission emphasized that ''[t]he particular facts of each case must be ascertained in order to determine what part of a utility's investment is used and useful.' '' The Commission ''may, in its reasonable discretion, fashion an appropriate resolution that is tailored to the specific circumstances before it.'' Moreover, courts typically defer to the Commission's discretion on rate-related determinations. Pay Tel overlooks this flexibility in arguing we have applied a ''newly-minted 'user benefit' standard'' in our application of the used and useful framework to safety and security measures. As we have explained, the used and useful framework, as applied for decades by the Commission in its familiar ratemaking functions, is an equitable principle that prevents ratepayers from having to pay for costs that are primarily incurred for the benefit of the provider, while allowing regulated entities to be compensated for providing service. We do not, as Pay Tel suggests, depart from these core ratemaking principles in evaluating safety and security measures under the used and useful framework here.

385. Additionally, to account for the facts that the categories of safety and security costs in the 2023 Mandatory Data Collection are imprecise, and that providers' allocations of their safety and security costs are at times inexact among these categories, we evaluate categories based on the nature of the preponderance of tasks or functions within each category. If the predominant use of tasks and functions within a category are not used and useful, the entire category will be treated as not used and useful and excluded from the lower bound of our zone of reasonableness. In addition to relying on this procedure only for setting the lower bound for our range of reasonable rates, we also note that we are adopting a waiver process to accommodate providers in atypical circumstances that can demonstrate grounds for recovery beyond that provided by our rate caps. We acknowledge that the nature of safety and security measures is evolving such that some measures that we determine are not generally used and useful may be ''second or third generation implementations of the same measures'' the Commission has found to be used and useful. As we explain below, however, our conclusions in this regard are part of the larger task of setting IPCS rate caps that are just and reasonable for consumers and providers and that afford fair compensation to providers. This task necessarily requires us to arrive at a reasonable end result based on the record before us. And due to the imprecise nature of the categories of safety and security measures and providers' reporting of those costs, we find that, based on the record and core ratemaking precedent, some costs of safety and security measures are not generally used and useful. This is particularly true in situations where providers allege that additional safety and security measures are necessary to ensure that the safety and security measures we conclude are used and useful function properly. We are skeptical of such claims. For example, while certain providers claim that voice biometrics services can be used to prevent fraud or the circumvention of calling restrictions, the record does not indicate that voice biometrics services primarily ensure the proper functioning of providers' communications security services.

386. We find two categories of safety and security costs to be generally used and useful—Category 1: CALEA compliance measures; and Category 3: communications security services. We

conclude that the remaining five categories of safety and security measures should not be treated as used and useful in setting a lower bound on the range of reasonable rates. Specifically, categories 2 (law enforcement support services); 4 (communication recording services); 5 (communication monitoring services); 6 (voice biometrics services); and 7 (other safety and security measures). In particular, in setting IPCS rate caps, we include the costs of all safety and security categories in the upper bounds of our zones of reasonableness, but include only the costs of the two categories found to be generally used and useful in the lower bounds of our zones of reasonableness.

387. We also adjust our rate setting within the zones of reasonableness to develop overall rate caps that recognize the imprecision of both the seven defined safety and security categories in the 2023 Mandatory Data Collection, and the inconsistencies in the narrative descriptions and varied allocations made in provider responses. Securus overlooks this fact in complaining that the Commission relies on the seven defined safety and security categories in the 2023 Mandatory Data Collection. To the extent Securus's issue is with the seven categories of safety and security measures from the 2023 Mandatory Data Collection, Securus and other interested parties were free at any time, but particularly in response to the Commission's Public Notice seeking comment on the 2023 Mandatory Data Collection, to propose another method of collecting cost data regarding safety and security measures. But Securus did not do so and actually conceded that the cost categories the Commission proposed were ''similar to categories employed in the Third Mandatory Data Collection.'' To the extent IPCS providers did not allocate costs to those seven categories (despite being instructed to perform allocations using their best estimate), they did so with full knowledge that the Commission would use the results of the data collection as a critical part of its efforts to fulfill its obligations under the Martha Wright-Reed Act. For example, IPCS providers' narrative responses to our request for CALEA compliance information revealed confusion regarding which safety and security measures were related to CALEA compliance, and few providers identified any associated costs. CALEA requires that telecommunications carriers and manufacturers of telecommunications equipment design their equipment, facilities, and services to ensure that they have the necessary surveillance capabilities to comply with legal requests for information. Telecommunications carriers must ''ensure that [they] are capable of accommodating simultaneously the number of interceptions, pen registers, and trap and trace devices'' as requested by the Attorney General. The Commission has found that interconnected VoIP providers also must comply with CALEA requirements. However, it appears that some providers have allocated certain functions, such as portions of call monitoring and recording, to other categories, *i.e.,* Category 4 (communications recording services) and Category 5 (communications monitoring services), that likely should have been allocated to the CALEA category insofar as they facilitate the type of electronic surveillance required by CALEA. As referenced above, CALEA was designed to ensure that law enforcement could conduct electronic surveillance by requiring telecommunications carriers and manufacturers of telecommunications equipment to ensure they have the necessary surveillance capabilities. Because we are unable to disaggregate the costs reported to these other categories to identify precisely which portions of call monitoring and recording costs should have been appropriately included in the CALEA category, we account for these under-reported CALEA costs in setting our overall rate caps, which have been adjusted accordingly. The same is true for safety and security measures that providers have described as ''inherent'' or built into their systems such that they do not have separate costs to allocate. Because our upper and lower bounds include the costs of safety and security measures that are inherent in IPCS providers' platforms and which serve both IPCS-related and other purposes, we make adjustments in setting our rate caps to reasonably attempt to ensure that those caps do not over-recover or under-recover the costs of safety and security measures.

388. In sum, we find that this three-step process—including all reported safety and security measure costs in our upper bounds, including only a portion of those costs in our lower bounds, and taking the imprecision of those bounds into account in setting rate caps—reasonably applies the used and useful framework to the record before us. The resulting rate caps—the ''end result'' of our ratemaking—reflect a balance that recognizes both the merits and shortcomings of the commenters' positions on whether the costs of safety and security measures should be recovered through IPCS rates. At one end of the spectrum, some commenters urge us to set rate caps at levels that would allow providers and facilities to recover all (or virtually all) the costs they incur in providing safety and security measures. These commenters correctly recognize that, for the most part, the safety and security measures on which we need to make a judgment contribute toward the provision of ''inmate telephone services and advanced communications services'' in correctional institutions. But these commenters fail to recognize that many of these measures also contribute toward other purposes, including law enforcement and investigative purposes that are only circumstantially related to the provision of IPCS. At the other end of the spectrum, other commenters would exclude virtually all safety and security measure costs from our ratemaking calculus. These commenters focus on the law enforcement and investigative purposes served by the safety and security measures before us, while deemphasizing or ignoring the contributions the measures make toward the safe provision of IPCS.

389. We do not adopt either extreme position. Instead, we apply the used and useful standard, as articulated in core ratemaking precedent, to evaluate all of the arguably recoverable costs in the record, including costs associated with safety and security measures, to distinguish those costs that should be included in our ratemaking calculus from those that should not. In doing so, we arrive at a middle ground that properly balances the ''equitable principle that public utilities must be compensated for the use of their property in providing service to the public'' with the ''[e]qually central . . . equitable principle that the ratepayers may not fairly be forced to pay a return except on investment which can be shown directly to benefit them.''

390. Contrary to the characterizations of some commenters, our actions today, and in particular our actions regarding safety and security measures, are about fulfilling our obligation under the Martha Wright-Reed Act to adopt a compensation plan for IPCS that ensures just and reasonable rates and charges for IPCS consumers and providers and fair compensation for IPCS providers. Our actions are not about questioning or overriding the judgment of correctional officials or ''evaluat[ing] the credibility of [correctional officials'] decisions regarding safety and security of [their] institutions.'' Nor do our actions bar correctional authorities from

implementing any safety and security measures they deem necessary. Our task is a narrow one: to determine the extent to which claimed IPCS costs can be recovered through regulated rates charged to consumers. And that is exactly what we do in applying bedrock ratemaking precedent to evaluate all of the claimed IPCS costs and expenses in the record before us to determine the extent to which consumers should bear those costs. We reject as unsupported and speculative suggestions that our approach to safety and security measures will result in less security of IPCS communications generally and will facilitate criminal activity using IPCS. We next discuss the application of the used and useful standard to each category of safety and security costs.

391. *Category 1: CALEA Compliance Measures.* The instructions for the 2023 Mandatory Data Collection directed providers to identify and describe each of the safety and security measures that they took to comply with CALEA. CALEA mandates that certain communications services providers ''ensure that [their] equipment, facilities, or services that provide a customer or subscriber with the ability to originate, terminate, or direct communications are capable of'' intercepting communications, providing the Federal government with access call-identifying information, and delivering intercepted communications and call-identifying information to the Federal government. Although we are not persuaded that the functionalities associated with CALEA compliance generally would directly benefit IPCS users, under the current regulatory *status quo* we nonetheless find that the costs related to CALEA compliance measures are used and useful in the provision of IPCS. Pay Tel takes issue with the Commission's determination that costs associated with CALEA compliance measures are used and useful while indicating that these measures generally may not directly benefit IPCS consumers. As we note above, however, the used and useful standard is a flexible standard, allowing the Commission to ''fashion an appropriate resolution that is tailored to the specific circumstances before it.'' Here, given the legal obligations associated with CALEA, we determine that such costs are used and useful in the provision of IPCS. Pay Tel further argues that in the same way CALEA is a legal requirement, IPCS providers ''are also required by the facilities which they seek to serve to employ a range of safety and security measures.'' This argument is unavailing. A requirement imposed by a law passed by Congress is quite different from a contractual ''requirement'' that results from the commercial negotiations between parties to a contract. First, without CALEA compliance, IPCS providers could not offer their audio or certain advanced communications services. CALEA requires that telecommunications carriers and manufacturers of telecommunications equipment design their equipment, facilities, and services to ensure that they have the necessary surveillance capabilities to comply with legal requests for information. The Commission has found that interconnected VoIP providers also must comply with CALEA requirements. We thus disagree that IPCS providers, to the extent they provide telecommunications services and VoIP services, are exempt from CALEA compliance. When the Commission considered payphone providers, generally, as exempt from CALEA, the Commission was not intending to sweep in those same payphone providers to the extent they were also telecommunications services providers or VoIP providers. Contrary to Securus's claim that we have departed from Commission precedent without proper notice, we are not modifying such precedent. To the extent that IPCS providers offer both payphone services and audio communications services, including telecommunications services and VoIP, they have been, and remain, subject to CALEA requirements. This includes the ability to enable the government to monitor and record communications ''pursuant to a court order or other lawful authorization.'' We note that the monitoring and recording requirements associated with CALEA are significantly more limited than those services included in Categories 4 and 5. We find the costs of those limited monitoring or recording services to be used and useful in the provision of IPCS. This is in stark contrast to the constant and pervasive communications recording and monitoring within correctional facilities for *all* communications—services that far exceed the requirements of CALEA. As Worth Rises explains, ''CALEA compliance is required of all telecommunications carriers and providers of interconnected voice over internet protocol services, not just providers of IPCS.''

392. Second, under the regulatory *status quo* the Commission previously has held that CALEA compliance costs appropriately can be recovered through user charges. In particular, the Commission has previously held that telecommunications carriers and interconnected VoIP providers ''may absorb the costs of CALEA compliance as a necessary cost of doing business, or, where appropriate, recover some portion of their CALEA . . . implementation costs from their subscribers'' for compliance measures taken after January 1, 1995. To the extent IPCS providers obtain transmission services from third parties, the rates they pay likely include charges for those third parties' CALEA compliance costs.

393. IPCS providers also may be required to perform discrete tasks to comply with CALEA. Any such tasks also facilitate the provision of IPCS because IPCS providers must comply with CALEA as a precondition to offering audio services and certain advanced communications. We, therefore, conclude, based on the record, that costs providers incur as a result of CALEA compliance are used and useful in the provision of IPCS. Securus argues that the Commission's conclusion that CALEA costs are used and useful ''adds nothing to the rate caps'' because providers allocated relatively small amounts of such costs to CALEA in the 2023 Mandatory Data Collection. Simply because providers did not allocate significant amounts to CALEA compliance is not a basis on which to conclude that such costs are irrelevant to our ratemaking. As noted above, we evaluate all safety and security cost data in the record before us. For the same reasons, we also conclude that costs IPCS providers incur in complying with CALEA are prudently incurred.

394. *Category 2: Law Enforcement Support Services.* The instructions for the 2023 Mandatory Data Collection directed providers to identify and describe each of their safety and security measures that they classified as a law enforcement support service. These ''services include, but are not limited to, the administration of subpoenas, the administration of crime tip lines, the administration of informant lines, and the maintenance of data repositories for use by law enforcement personnel.'' In their responses to the 2023 Mandatory Data Collection, providers identified certain law enforcement support services. We find that law enforcement support services are generally not used and useful in the provision of IPCS because they do not facilitate the provision of IPCS. Rather, as the record makes clear, these services are primarily intended to serve law enforcement purposes. Providers' own descriptions of their law

enforcement support services support this conclusion. For example, the record shows that such services include tasks such as ''search warrant processing'' and ''Freedom of Information Act (FOIA) request processing.'' Also included in this category are call transcription services, which are primarily used to create databases for law enforcement to conduct investigations and assist with case building. Some commenters claim these services assist in minimizing crime and identifying potential violators, functions that primarily serve law enforcement purposes and do not facilitate or enable the provision of IPCS. We recognize that some functions within this category may provide a benefit to incarcerated people, such as the administration of tiplines to anonymously report crimes and connect incarcerated people with Prison Rape Elimination Act (PREA) report centers; however, they do not facilitate the provision of IPCS and are therefore not used and useful in the provision of IPCS. In other words, communications services for incarcerated people are able to take place without these services and we generally do not find that these functions benefit IPCS users in their use of IPCS in a way that makes it equitable for them to bear the costs of these functions in regulated IPCS rates.

395. *Category 3: Communications Security Services.* The instructions for the 2023 Mandatory Data Collection directed providers to identify and describe each of their safety and security measures that they classified as a communications security service. These ''services include, but are not limited to, implementing measures that allow an Incarcerated Person to call only certain individuals or numbers; implementing measures that limit the individuals or numbers an incarcerated person may call; providing personal identification numbers (PINs) to incarcerated people; providing disclaimers to called parties regarding communication origination; implementing communication-acceptance procedures; preventing three-way communications; preventing chain communications; dual-tone multifrequency detection; manual call control for the Facility; tracking frequently called numbers; implementing incoming communication restrictions; and fraud management.'' In their 2023 Mandatory Data Collection responses, providers identified certain communications security services. Based on the record, we find that the functions included in the communications security services category are generally used and useful in the provision of IPCS. Most of the functions that providers classify as communications security services are safety and security measures that the Commission has traditionally found to be ''inherent'' in communications services for incarcerated people. Such functions include the development of pre-approved ''allow'' lists, preventing three-way communications, and fraud management. These basic functions are directly related to the underlying communications service and do not go beyond that required to enable or appropriately limit the customer's use of the underlying communications service in a correctional institution. These basic safety and security functions prevent witness tampering and violations of no-contact orders, and protect consumer accounts from being used unlawfully. They also benefit consumers of IPCS by ensuring that communications services can be safely and securely offered in an incarceration setting. Contrary to Securus's claim that we ignore the benefits of such safety and security measures to ''incarcerated people and their friends and family,'' we recognize that the ''establishment of PIN numbers, limiting calls to certain preapproved numbers, and preventing call forwarding or three-way calling'' are used and useful to the provision of IPCS and are recoverable in our rate caps. We find that costs associated with this category of basic safety and security measures are generally used and useful. At the same time, the record does not provide a reason to question the communications security services costs reported in the 2023 Mandatory Data Collection or otherwise determine them imprudent.

396. The Commission has long held that there are legitimate reasons for certain safety and security measures that facilitate or enable the provision of communications services in the correctional environment. Services in this category appear to be universally offered by IPCS providers and are a standard part of all IPCS offerings. Based on the record before us, and consistent with the Commission's previous discussions, we find that these communications security services are inherent in the provision of IPCS and are the key factors distinguishing IPCS communications from those communications of the general public, which do not require such services. For example, measures such as pre-approved numbers lists, blocking three-way communications, and the use of PIN numbers to help ensure that the incarcerated individual associated with the account is initiating the communication facilitate the provision of communications services in correctional institutions by preventing calls to inappropriate parties such as judges or witnesses and protecting against fraud. These functions are distinguished however from other duplicative and expensive functions that go way beyond what is necessary to accomplish these objectives and that we consider not used and useful.

397. One commenter argues that communications security services are not used and useful ''as they are designed and intended to restrict the access that incarcerated people and their loved ones have to communications.'' While we agree that call blocking functionalities impose restrictions on who incarcerated people can communicate with, such measures are required to facilitate the provision of communications services in the carceral setting. As the Commission explained in the *2013 ICS Order,* ''a disproportionately large percentage of ICS-enabled crimes target and victimize vulnerable populations consisting of victims, witnesses, jurors, inmates, and family members of these individuals.'' We find that the safety and security measures included in the communications security services category, such as blocking mechanisms and call allow lists, ensure the safety and security of IPCS by appropriately balancing the need to protect public safety against ensuring that incarcerated people can stay connected with their loved ones.

398. *Category 4: Communications Recording Services.* The instructions for the 2023 Mandatory Data Collection directed providers to identify and describe each of their safety and security measures that they classified as a communications recording service. These category 4 services ''include, but are not limited to, providing a disclaimer regarding recording of communications, recording of communications, and storage of recorded communications.'' In their 2023 Mandatory Data Collection responses, providers identified a number of specific communications recording services. We find that communications recording services included in this category generally are not used and useful in the provision of IPCS. These services are primarily used to police the contents of all communications or to gather information for law enforcement purposes. Providers describe these services as including functions such as storing recorded communications, transcribing such recordings, and converting recordings into digital

formats to support investigation and litigation activities. None of these services actually facilitate the provision of IPCS. Further, certain providers' communications recordings services {[REDACTED]} and create downloadable recordings of all IPCS in a variety of digital formats. These latter functions are wholly avoidable to the provision of communications services in correctional institutions and are therefore not used and useful.

399. Some commenters explain that the cost of storing these recordings is ever increasing, particularly for video communications. Although the Commission suggested in the *2013 ICS Order* that it would ''likely find the costs of the storage of inmate call recordings'' recoverable in the context of those recordings being used in court proceedings, the Commission subsequently questioned that position based on several factors reflecting the significant evolution of the industry since that time. First, the Commission could not have predicted that audio recordings would be stored for years or in perpetuity and the cost of that storage would be rolled into IPCS consumer rates. Also, video communications were not even within the scope of the Commission's inmate calling services regulations; nor was the use of video communications as prevalent as it is today. Finally, the Commission has a considerably more developed perspective on the industry given the current, more extensive record, including its recent mandatory data collections. With this more complete record and exercising our full authority over video communications services consistent with the Martha Wright-Reed Act, we are not persuaded that the costs of storing communications recordings for which we are not generally including the costs of the recordings in the first place, are generally used and useful in the provision of IPCS. Similarly, we share Worth Rises's concerns that the high cost of storage could incentivize providers to ''artificially cause calls to drop, which allows them to collect the full cost of a video call and save on the storage that full video call recording would cost them.'' Nor do we conclude that the rising costs of these features justify including them in the rates paid by the IPCS consumers.

400. Next, some providers argue that communications recording services facilitate the provision of IPCS. For example, one provider explains that it uses ''call recording analysis'' to ensure that incarcerated people are not using its communications services to intimidate judges and witnesses. Other providers use call recordings to verify that the incarcerated person participating in a communication was the person whose PIN was used to originate the communication and to resolve complaints regarding the charges for specific communications. While such uses of communication recording services may be generally beneficial, the record contains no evidence to suggest that these services actually facilitate the provision of IPCS and are not just redundant features to the blocking and PIN number administration purposes that we do recognize as recoverable costs. On balance, then, we conclude that for the most part these functions suit general law enforcement needs rather than providing capabilities necessary or beneficial to IPCS ratepayers in their capacity as IPCS users. Consequently, we conclude this category generally fails to meet the used and useful test. As an independent, alternative basis for our decision, to the extent that these features are supplemental ways of addressing concerns already addressed by safety and security measures the costs of which we have found used and useful above, we conclude that incurring these additional costs to serve the same ends are excessive as far as IPCS is concerned, and thus imprudent.

401. *Category 5: Communications Monitoring Services.* The instructions for the 2023 Mandatory Data Collection directed providers to identify and describe each of their safety and security measures that they classified as a communications monitoring service. These services ''include, but are not limited to, live or real-time monitoring of communications; automatic word detection; communication transcription; and analysis of recordings, which may also include keyword searches.'' In their 2023 Mandatory Data Collection responses, providers identified a number of specific communications monitoring services. We find that communications monitoring services generally are not used and useful in the provision of IPCS because they primarily serve a law enforcement purpose, not a communications purpose, and they generally do not benefit ratepayers in their capacity as consumers of IPCS. As the record makes clear, communications monitoring costs are ''part of carceral functions, not communications functions.'' Indeed, IPCS providers ''advertise their surveillance add-ons as 'investigative' tools 'designed to identify potential criminal activity.' '' And, despite claiming that ''surveillance fits comfortably within the rubric of safety and security measures,'' the National Sheriffs' Association acknowledges that ''surveillance is not necessarily conducted expressly or solely for safety or security purposes.''

402. One commenter notes that the Commission has previously recognized that '' 'security features such as call recording and monitoring' . . . 'advance[ ] the safety and security of the general public.' '' The National Sheriffs' Association argues that ''surveillance fits comfortably within the rubric of safety and security measures.'' We find the National Sheriffs' Association's reliance on the Second Circuit's decision in *Amen* to be misplaced. That court's finding, after considering the Fourth Amendment, that there is a legitimate security concern linked to call monitoring is distinct from whether the IPCS consumers must pay for call monitoring costs through IPCS rates. For the same reason, we find unpersuasive FDC's reliance on other judicial precedent and Florida law for the same reason. While we accept as true that the Florida legislature has granted FDC jurisdiction over all matters related to correctional institutions in Florida, nothing in these cases or Florida law requires that IPCS consumers bear the costs of any particular safety and security measure that facilities choose to implement. The Commission has also described the monitoring of frequently called numbers to prevent incarcerated people from ''evad[ing] calling restrictions via call-forwarding or three-way calling'' as being part of inmate calling services. We are not persuaded by these arguments because these statements were based on the record at the time they were made and do not reflect the evolution of the industry and the proliferation of such services during the course of this proceeding.

403. The current record, including data and information submitted by IPCS providers, reveals that call monitoring has evolved and expanded significantly and is now predominantly ''used to aid investigations related to detention facilities,'' ''aid corrections agencies and law enforcement in 'investigation and litigation activities,' '' and ''provide[ ] for skilled investigators.'' One provider describes its audio monitoring services as including an alert system ''mostly configured before the incarcerated person has been prosecuted and evidence is still being gathered.'' Not surprisingly, the data submitted by IPCS providers demonstrate that communications monitoring services have become a significant profit center for at least some providers. While communications monitoring services are argued to be a tool for keeping

incarcerated people from calling blocked numbers and from engaging in three-way calling, enabling the full recovery of costs for these monitoring services would amount to significant over-recovery for providers, given that we already include the recovery for the costs of providing the call blocking and limitation on three-way calling capabilities in our rate caps. We find, on balance, that call monitoring services, for the most part, are primarily used for law enforcement or investigative purposes, and therefore are generally not used and useful in the provision of IPCS. As an independent, alternative basis for our decision, to the extent that call monitoring services are, in part, used to supplement measures like call blocking and limitation on three-way calling capabilities for which we already allow recovery, we conclude that incurring these additional costs to serve the same ends are excessive as far as IPCS is concerned, and thus imprudent.

404. *Category 6: Voice Biometrics Services.* The instructions for the 2023 Mandatory Data Collection directed providers to identify and describe each of their safety and security measures that they classified as a voice biometrics service. These category 6 services ''include, but are not limited to, voice printing, voice identification, continuous voice verification, and voice databasing. In their 2023 Mandatory Data Collection responses, providers identified a number of specific voice biometrics services. We next conclude that voice biometrics services are elective safety and security measures used predominantly for general law enforcement purposes that do not facilitate the provision of IPCS. Inmate calling services pre-date the availability of Voice Biometrics. Voice biometrics services are likewise not used, or even offered, universally, in many cases being an elective feature only. As such, they generally are not used and useful in the provision of IPCS. This treatment of voice biometrics services is also supported by several commenters that expressly oppose recovery of the costs of voice biometrics services through our rate caps.

405. Certain providers claim that their voice biometrics services are used and useful in the provision of IPCS in that they help prevent fraud and the circumvention of calling restrictions by preventing incarcerated people from passing a call to another person, and they help validate that the ''rightful owner of [a] PIN'' is placing the call. Some of those same providers, however, also describe using these services as furthering more general law enforcement purposes, including ''generati[ng] targeted investigative leads,'' ''help[ing] investigators find correlations among calls,'' and {[REDACTED]}. Voice biometrics recordings also are subject to being rolled up into voice print databases and marketed as a broader investigative tool for general law enforcement and surveillance purposes.

406. As Securus explains, ''[e]arly IPCS was typically provided by on-site operators that would handle the approval and connection of collect calls placed by incarcerated persons.'' Over time, the market for safety and security measures has evolved with one of those ''advances'' being the development of voice biometrics. The fact that IPCS has historically been offered without capabilities like voice biometrics undercuts the notion that these capabilities are required for the provision of IPCS. And, as Securus notes, demand for features like voice biometrics ''has largely been driven by facilities,'' suggesting that these measures are elective and do not actually prevent consumers from using IPCS if they are not available or used. For these reasons, we find that voice biometrics services as a category generally are not used and useful in the provision of IPCS. As an independent, alternative basis for our decision, to the extent that voice biometrics services are, in part, used to supplement fraud prevention and calling restriction measures for which we already allow recovery, we conclude that incurring these additional costs to serve the same ends are excessive as far as IPCS is concerned, and thus imprudent.

407. *Category 7: Other Safety and Security Measures.* The instructions for the 2023 Mandatory Data Collection directed providers to identify and describe each of their safety and security measures that were not included in any of the prior six categories. These services ''include, but are not limited to, reporting obligations, acquisition of patents to support safety and security technologies, and research and development of new safety and security technologies.'' In their 2023 Mandatory Data Collection responses, providers identified a number of specific safety and security measures. We find that other safety and security measures as a category are generally not used and useful in the provision of IPCS. The instructions to the 2023 Mandatory Data Collection established this category as a catch-all category for providers to allocate the costs of safety and security measures that did not fit into the other categories and to ensure that providers reported the costs of all their safety and security measures. As a result, the tasks or functions reported in this category are varied and diverse. However, few, if any, of the safety and security measures reported in this category serve even a nominal communications function. For example, one provider includes access to a free law library, while another reports that it provides ''a postal mail scanning service in some facilities.'' These services also ''help[ ] correctional agencies generate targeted investigative leads . . . create 'actionable intelligence' for federal law enforcement . . . [and] flag calls in which incarcerated people discussed contacting media about cover-ups of COVID–19 outbreaks.'' Based on the record, we are persuaded that the safety and security measures included in this category either largely serve a law enforcement function or, to the extent they do not serve a law enforcement function, also do not facilitate the provision of IPCS. As a result, we conclude that the safety and security measures included in this category generally are not used and useful.

8. Ancillary Service Charges

408. We eliminate all separately assessed ancillary service charges for IPCS and, instead, allow for the recovery of the costs of ancillary services as reported by providers through the rate caps we adopt today. In 2022, the Commission sought comment on whether some or all ancillary services are inherently part of inmate calling services and, if so, whether it should include the costs of those services in its rate cap calculations and preclude providers from imposing separate charges in connection with those services. Based on the record, we conclude that the best means of discharging our mandate to establish a compensation plan that ensures both just and reasonable IPCS rates and charges, as well as fair compensation for providers is to allow recovery of the costs of ancillary services within our overall IPCS rate caps. In doing so, we eliminate a source of consumer confusion and detrimental provider practices while ensuring that providers have the opportunity to recover their used and useful costs of providing ancillary services.

a. The Commission's Prior Treatment of Ancillary Service Charges

409. The Commission has long recognized the economic burden that unreasonably high ancillary service charges impose on incarcerated people and their loved ones. Those charges have been a continuous source of confusion and gamesmanship, significantly increasing the costs of IPCS

''because incarcerated people and their families must either incur them when making a call or forego contact with their loved ones.'' As one commenter explains, ancillary service charges ''can increase the cost of staying in touch with loved ones by 40%.'' Deposits consumers make in their accounts can be ''consumed'' by ancillary service charges, which can dramatically reduce the amount of call time available to consumers for a given amount of account funds.

410. The Commission's prior reform efforts limited the ancillary services for which providers could assess separate charges and capped those ''permissible'' charges, in an effort to foreclose providers' ''incentive and ability to continue to extract unjust and unreasonable ancillary service charges.'' The Commission permitted five types of ancillary service charges—automated payment fees, third-party financial transaction fees, live agent fees, paper bill/statement fees, and single-call and related services fees. As examples, under the *2015 ICS Order,* the cap for single-call and related services was ''the exact transaction fee charged by the third-party provider, with no markup, plus the adopted per-minute rate,'' and the capped third-party financial transaction fee was ''the exact fees, with no markup that result from the transaction.'' The Commission cautioned that it was ''mindful of and concerned about the potential for continued abuse of ancillary service charges, and [would] monitor the implementation of these caps and determine if additional reforms are necessary in the future.''

411. In the *2021 ICS Order,* in response to allegations of inmate calling service provider abuses, the Commission responded to the need for further ancillary service charge reform specifically for the third-party fees for single-call and related services and third-party financial transactions. The Commission reasoned that fixed, interim caps of ''$6.95 per transaction'' were necessary to discourage providers from seeking out, as part of revenue-sharing schemes, artificially high rates for these services from third parties. In 2021, the Commission highlighted record evidence concerning the assessment of duplicate ancillary service charges for individual transactions and sought comment on whether providers were assessing both automated payment fees and third-party transaction fees for individual credit card or debit card transactions. The Commission expressed concern that providers were exploiting ambiguities in the rules to engage in such ''double dipping,'' and sought comment on whether the Commission's rules were sufficiently clear in prohibiting providers from assessing multiple ancillary service charges per transaction or should be amended to implement such a prohibition.

412. In the *2022 ICS Order,* in response to further allegations of harmful provider practices associated with third-party fees, the Commission set $3.00 as the maximum amount that providers could pass through to consumers for single-call and related services and any third-party financial transactions where the transaction involves the use of an automated payment system, and set $5.95 as the maximum pass-through amount where the transaction involves the use of a live agent. In setting these caps, the Commission sought to address concerns raised by commenters that the caps on third-party fees adopted in 2021 ''simply encourage[d] some carriers to steer customers toward unnecessarily expensive calling options.''

413. In 2022, the Commission sought comment on whether it should eliminate ancillary service charges as separate fees and instead include the costs of those services in its overall rate cap calculations. The Commission also sought comment on how it might use data from the Third Mandatory Data Collection to set reasonable ancillary service caps in the event it decided to continue to allow separate ancillary service charges. The Commission asked, in particular, whether the data providers had submitted in response to the Third Mandatory Data Collection ''provide[d] a reasonable allocation of costs between inmate calling services and various ancillary services'' that would allow it to set reasonable cost-based ancillary service caps. Finally, the Commission asked how it should revise its rules to prevent detrimental practices, such as ''double dipping,'' associated with any ancillary service charges that it continued to permit. In 2023, the Commission reiterated these requests for comment in light of enactment of the Martha Wright-Reed Act, and sought comment on whether ancillary service charge caps should apply uniformly to all audio and video incarcerated people's communications services.

b. Eliminating All Separate Ancillary Service Charges

414. We conclude that our compensation plan for IPCS should allow providers to recover their costs of providing ancillary services through per-minute rate caps, rather than through separate ancillary service charges. We therefore eliminate all separately assessed ancillary service charges for IPCS, including any ancillary service charges associated with intrastate IPCS. To the extent that providers assess ancillary services charges for their own services or on behalf of facilities, such fees are now prohibited. For example, in Arizona, ''[a]ll adult visitors applying for in-person/phone, and video visits must pay a one time, non-refundable, $25.00 background check fee.'' To process this Visitation Application, some providers charge additional ancillary service fees. To ensure that providers have an opportunity to recover their costs of providing ancillary services, we include providers' reported ancillary service costs from the 2023 Mandatory Data Collection in the used and useful IPCS costs that we use to set the rate caps we adopt in the Report and Order.

415. *Recognizing that Ancillary Services Are Inherently Part of IPCS.* These actions reflect four independently sufficient findings. These findings apply equally to audio and video IPCS because, as certain commenters explain, the utility and costs of providing ancillary services do not vary between types of services. First, we find that all ancillary services associated with IPCS, including the five types of ancillary services for which our inmate calling services rules presently permit separate charges, are inherent in the provision of IPCS. In 2022, the Commission sought comment on whether ''some or all'' of the permissible ancillary services are ''an inherent part of providing inmate calling services,'' such that the Commission should continue to ''include those costs in [the] per-minute rate cap calculations and eliminate some or all charges for ancillary services.'' To a large extent, the permissible ancillary services reflect routine internal business functions, such as internal computer processing and other back office, in-house functions inherent in providing a consumer-facing service. For example, automated payment fees are, by definition, fees for IPCS providers' internal ''credit card payment, debit card payment, and bill processing'' that are basic back office functions that are a routine part of providing a communications service. Given the historical backdrop of problems that have arisen from separately-imposed ancillary service charges in this context, we find that providers should not be allowed to treat payment for IPCS as a service—separate and apart from IPCS service itself—for which a separate charge is assessed.

416. The other permissible ancillary services—third-party financial

transaction fees, live agent fees, paper bill/statement fees, and single-call and related services fees—relate primarily to how consumers are billed for and pay for IPCS, and thus also are inherently part of IPCS. Although these ancillary services may have qualified as a ''convenience'' in 2015 when the Commission first identified them in its rules, the record indicates that they are now the predominant means by which consumers gain access to IPCS. While alternative methods of funding an account remain available (*e.g.,* by check or money order), automated payment or money transmitter services are ''an intrinsic part'' of accessing and using IPCS, as is the case with most other services in the 21st-century economy. Indeed, one provider has pointed to the decreased usage of collect calls, and its alternative payment mechanisms, in support of its proposal that the Commission eliminate the fee for paper statements. In short, ''incarcerated people and their families must either incur [these charges] when making a call or forego contact with their loved ones.''

417. We recognize, of course, that an IPCS user may contact a live agent, request a paper bill, or otherwise interact with an IPCS provider regarding matters other than routine billing and collection. For instance, an IPCS account holder may wish to speak with a live agent to complain about the service quality on video communications, to learn about the provider's alternate pricing plans, or to obtain a refund of money from an inactive account. We find that these other non-billing and collection interactions also are inherent in the provision of IPCS, in much the same way that similar interactions are inherent in products and services provided outside the IPCS context. As such, we conclude that the costs of these interactions should be recovered through IPCS rates, rather than ancillary service charges that have been an ongoing source of harm in the IPCS context.

418. *Eliminating Incentives for Abuses.* Second, we find that continuing to allow providers to impose separate ancillary service charges would create an incentive for providers to continue to engage in practices that unreasonably burden consumers and effectively raise the cost of IPCS. Although the Commission has previously restricted the type and amount of ancillary service charges, providers are still ''motivated to exploit every available opportunity to continue deriving unreasonable profits from such fees.'' A rate structure that eliminates all separate ancillary service charges while still allowing providers to recover the costs of these functions will eliminate the incentive and ability for providers to charge multiple fees for the same transaction, as a way of exacting revenue from consumers that far exceeds their actual costs of completing the transaction, a problem that is well-documented in the record. The record reflects substantial debate or confusion as to whether—and if so, under what circumstances—multiple fees can be charged for a single transaction, and more generally, what activity the payment-related fees were intended to encompass. Because we eliminate all ancillary service charges associated with IPCS, we find it unnecessary to resolve this dispute in this rulemaking. By including providers' reported costs of all ancillary services into our rate caps and eliminating providers' ability to charge for them separately, we also remove the incentive for providers to ''double dip'' in this manner, mooting related concerns in regard to our existing rules and eliminating consumer confusion arising from these practices.

419. We similarly eliminate the ability of providers to engage in other rent-seeking activity described in the record, including concerns that providers may ''steer'' consumers to a more expensive single-call option for an incarcerated person's initial call after incarceration in an effort to artificially inflate revenues through single-call fees. Commenters describe circumstances where providers charged multiple single-call fees when calls were disconnected and reconnected, or where a provider ''charge[d] a billing statement fee as a matter of course without offering an option of providing a free electronic copy,'' and several other rent-seeking practices. These practices undermine the intent of our rules and merely inflate providers' revenues well beyond costs at the expense of consumers while providing no additional consumer value.

420. *Recognizing the Limitations of Providers' Ancillary Services Cost Data.* Third, we find that the limitations inherent in providers' reported ancillary service charge data preclude our setting reasonable, cost-based caps on individual ancillary service charges. In the *2021 ICS Order,* the Commission found that the data before it provided ''no reliable way to exclude ancillary service costs'' from the calculations for the provider-related rate cap component, resulting in interim rate caps that included the costs that consumers were also paying through ancillary service fees. The Commission was unable to ''isolate with any degree of accuracy'' the costs of providing ancillary services because the instructions for the Second Mandatory Data Collection required providers to report certain ancillary service revenues separately, but did not require providers to report their ancillary service costs separately from other inmate calling services costs. Further, those instructions did not require providers to separately report costs relating to any specific ancillary service, and no commenter suggested a way of identifying the providers' ancillary service costs. To correct for this problem, in the 2023 Mandatory Data Collection, providers were required to follow detailed instructions in allocating their costs to, and among, their permissible ancillary services. In contrast to the Second Mandatory Data Collection, the instructions for the 2023 Mandatory Data Collection required providers to report their costs of each ancillary service separately. But, as made clear in a technical appendix, providers failed to reliably or consistently allocate their costs among the various ancillary services. This makes it impossible for us to assess reliable costs for each individual ancillary service. Incorporating all of these reported costs into our rate cap calculations avoids the risk of setting individual caps for each ancillary service charge that fail to reflect providers' actual costs, while still ensuring the providers are able to recover their costs through our rates. By incorporating providers' reported ancillary service charge costs into our rate cap calculations, we ensure they have an opportunity to recover, but not double recover, their actual costs of providing ancillary services. Additionally, by including providers' costs of providing ancillary services in our rate caps, we effectively exclude from our rate cap calculations the amount by which providers' revenues from ancillary service charges unreasonably exceeded their costs.

421. *Additional Benefits.* Fourth, we find that incorporating providers' ancillary service costs into our rate cap calculations will benefit both consumers and providers. As an initial matter, that approach will result in a rate structure that will be easier for consumers to understand and for providers to administer, while still allowing providers to recover any used and useful costs they incur in providing ancillary services. It will simplify providers' record keeping and billing processes, easing the administrative burdens on providers and reducing the burdens on consumers as they seek to

understand any charges to their IPCS accounts.

422. We likewise find that incorporating ancillary service costs into our rate cap calculations will align rates and charges more fairly with actual user activity. Commenters point out the seeming unreasonableness and disproportionality of imposing a $3.00 fee for automated single call and related services for a call that may be of short duration, or passing through similar fees for smaller deposits, causing consumers to ''lose a significant amount'' of their account deposits through such fees. Incorporating ancillary service costs into our rate caps spreads those costs across all calls and communications, ensuring that the cost of any particular communication for any IPCS consumer is more proportionate to its duration.

423. Even beyond those direct effects on IPCS rates and charges, we also eliminate certain incentives for consumer behavior that our current fee structure would perpetuate, such as avoiding a live agent or transferring funds to relatives less frequently in an effort to avoid such charges. Our actions today reduce these barriers to communication, resulting in a compensation plan ensuring just and reasonable rates and charges—and fair compensation for providers—in a way that best benefits the general public. Our actions also better align with similar services in the non-carceral communications context. As one commenter explains, ''[m]ost telephone corporations and other utilities provide customer services for free, including services such as speaking with a live agent to set up an account, adding money to an account, or assisting with making a call.'' Similarly, by incorporating the reported costs of paper bills into our rate cap calculations, we align IPCS billing practices more closely with telecommunications billing practices outside of the carceral context, where separate charges typically are not assessed for paper bills.

424. Finally, we find that incorporating ancillary service costs into our rate cap calculations aligns our rate and fee structure more effectively with broader patterns in the IPCS industry while recognizing the diminishing usage of certain ancillary services. As the Commission has previously observed, several states have already banned ancillary service charges, either piecemeal or outright. For example, several providers assert they rarely charge a paper bill fee as few consumers require paper bills, even proposing that this fee be eliminated. At least one provider no longer charges a live agent fee, having switched to an automated system during the pandemic. Meanwhile, some providers have shifted from offering single-call services through third parties (as defined in our rules) to instead provide these services themselves. Other commenters propose eliminating the single-call fee entirely. The record further suggests that the single-call service, which ostensibly offers the convenience of completing initial contact without setting up an account, may in practice offer little benefit to consumers, as the called parties still have to enter their payment card information to accept the call. Our actions are consistent with our recent initiative requiring cable and direct broadcasting satellite operators to offer ''all-in'' prices to consumers so that consumers have a transparent and accurate reflection of the total cost of services, inclusive of all additional fees.

425. Some commenters object to the approach of incorporating ancillary service costs into our rate cap calculations. Those commenters argue that this methodology ''does not reflect the manner in which costs are caused by users of the service,'' and ''would impose costs for payment processing on all consumers, rather than just those consumers directly responsible for the cost.'' We are unpersuaded. We find that most of these functions have become ''an intrinsic part of providing'' IPCS because they provide IPCS consumers the means to obtain IPCS, such that consumers typically ''must either incur [these charges] when making a call or forego contact with their loved ones.'' For the same reason, we are not persuaded by Securus's implicit argument that the current ancillary fees are offered ''as a convenience to incarcerated persons or their friends and family and are not intrinsic to the provision of ICS.'' Certain ancillary service charges, for example those for automated payment services, are costs that are either universally or near universally incurred by consumers. But it is not necessary that these services be used by ''*all* consumers''; the fact that these services can operate as a threshold, coupled with the factors identified above that support ancillary service cost recovery through per-minute IPCS rate caps, will ensure that our approach provides for just and reasonable rates for consumers and providers, while also providing appropriate cost recovery for providers. In the *2015 ICS Order,* the Commission found that single-call services were not ''reasonably and directly related to the provision of ICS'' because they ''inflate the effective price end users pay for ICS and result in excessive compensation to providers.'' We find that this pattern has been ameliorated, in part, by the changes to single-call fees adopted in the *2021 ICS Order* and *2022 ICS Order;* we also recognize that providers incur some amount of legitimate costs for providing this service, which for at least some consumers may offer a crucial means of completing an IPCS communication. At the same time, we find that the continuing abuse of this fee described in the comment record, supports elimination of the single-call fee as an independent charge.

426. Further, commenters opposing the elimination of separate ancillary service charges ignore the other factors that make it the best means of ensuring just and reasonable IPCS rates and charges. As discussed above, each of the other factors supporting our approach—the need to eliminate incentives for providers to assess unreasonable ancillary service charges, the impossibility of setting reasonable ancillary service charge caps given the limitations on the data on ancillary service costs providers reported in response to the 2023 Mandatory Data Collection, and the additional public interest benefits our approach will produce—fully and independently support our approach both individually, and in any combination.

9. Alternate Pricing Plans

a. Introduction

427. The Commission has traditionally required IPCS providers to charge for interstate and international audio IPCS on a per-minute basis principally to safeguard consumers from potentially unreasonable rates and practices. The Commission's rules have long prohibited providers from using ''flat-rate calling'' that would require consumers to pay a flat rate per call regardless of the length of the call. By comparison, in recent years many telecommunications service plans in non-carceral settings have transitioned to flat-rate pricing for a specific quantity of, or an unlimited number of, minutes. At the same time, IPCS marketplace developments have also led to ''emerging pay models'' that more closely track the ''modern marketplace.'' In recognition of these developments and the pro-consumer benefits of allowing more flexible pricing programs, today we permit IPCS providers to offer incarcerated people and their friends and family IPCS via optional ''alternate pricing plans,'' subject to clearly defined safeguards to ensure that IPCS consumers are protected. The Commission previously

referred to these programs as ''pilot programs.'' These optional programs could, for example, consist of blocks of audio calls or video communications, or an unlimited quantity of either service, at a set monthly or weekly price.

428. The record reflects that alternate pricing plans can provide meaningful benefits to IPCS consumers, including, but not limited to, increased utilization of IPCS, with all of its attendant benefits for reducing recidivism, and greater budgetary certainty for IPCS consumers. Nevertheless, we are mindful that alternate pricing plans may not be a good fit for every consumer and therefore include guardrails to protect against potential ''abuse and higher prices.'' We find that, on balance, the potential advantages of these plans are significant. We therefore permit IPCS providers to offer alternate pricing plans subject to rules and conditions to ensure that consumers that elect these plans have the information needed to make informed choices and are protected from unjust and unreasonable rates and charges. As explained above, the Martha Wright-Reed Act requires just and reasonable rates and charges, and provides us with limited authority to regulate IPCS providers' practices, classifications, and regulations that relate to IPCS rates and charges. Alternate pricing plans may include the full range of IPCS now subject to the Commission's authority, including intrastate IPCS and advanced communications services now included in the statutory definition of ''payphone service'' in carceral facilities.

b. Background

429. The Commission has previously invited comment on how its regulation of IPCS ''should evolve in light of marketplace developments to better accommodate the needs of incarcerated people,'' including through the use of ''alternative rate structures.'' In the *2020 ICS Notice,* the Commission sought comment about ''alternative rate structures'' and whether it should change its rules ''to recognize industry innovations'' including new pay models. At that time, some commenters voiced support for such changes. Later, in 2021, the Commission asked whether it should consider ''alternative rate structures, such as one under which an incarcerated person would have a specified—or unlimited—number of monthly minutes of use for a predetermined monthly charge.'' Some commenters expressed support for ''alternative rate structures'' while acknowledging the need to ensure incarcerated people and their loved ones are protected from unjust and unreasonable rates and charges. At that time, the Prison Policy Initiative asserted that alternate pricing plans were premature as a matter of law and fact, and requested that the Commission ensure that the alternate pricing plans be ''fair to consumers.''

430. Shortly after seeking comment in 2021, Securus filed a Petition for Waiver of the Commission's rules so it and ''other providers'' could offer flat-rate calling packages for interstate audio IPCS. Securus had been offering subscription plans for intrastate audio service since December 2020. Under its subscription plans, Securus charged a flat rate for a fixed number of calls for a period of, for example, one month. In addition to the flat rate, Securus charged a ''site commission[ ] (if applicable), plus $3.00 automated payment fee.'' Also, the plans were ''[d]esigned to be used only to call specific numbers from a specific facility.'' Calls made to other numbers that were not using Securus's subscription plan were charged at Securus's per-minute rates. The Bureau sought comment on the Securus Waiver Petition. While commenters did not object to alternate pricing plans in general, the responses were mixed, with some urging the Commission to grant the Securus Waiver Petition, and others expressing concern and suggesting that the Commission proceed slowly and adopt consumer protection measures applicable to such plans. Securus terminated its subscription plans later in 2021 due to its inability to determine the jurisdictional nature of the calls included in the plans.

431. In 2022, and again in 2023, the Commission sought further comment on alternate pricing plans, conditions that may be placed on the plans, and consumer disclosures to ensure that providers accurately disclose the details of any alternate pricing plans. The record in response generally supports the agency permitting these alternate pricing plans but many commenters focused on requirements and protective measures related to these plans. ViaPath asks the Commission to refrain from adopting ''excessive and unnecessary conditions'' applicable to the plans. Securus requests flexibility in selecting the form of the plans, and recognizes that ''reasonable conditions'' will be necessary. The Public Interest Parties suggest that the Commission permit the plans subject to a number of conditions concerning, for example, rates and consumer information, to ensure that consumers are protected. Based on the foregoing suggestions, Pay Tel observes that the plans may have benefits ''in *some* settings for *some* customers.'' Stephen Raher requests a robust system of consumer disclosures. Subsequent *ex parte* filings provide additional detail on Securus's experience offering alternate pricing plans and discuss possible conditions on these plans.

c. Discussion

432. We find that the record supports allowing IPCS providers to offer alternatives to per-minute pricing for IPCS subject to the rules and conditions adopted in the Report and Order. We therefore allow IPCS providers flexibility to offer pricing structures other than per-minute pricing as options for consumers in addition to offering standard per-minute pricing plans. In reply comments to 2022, the Public Interest Parties request the Commission to defer consideration of alternate pricing plans due to the enactment of the Martha Wright-Reed Act in January 2023, and the circulation of the draft *2023 IPCS NPRM* (which was released Mar. 17, 2023). Parties have had more than three years and several opportunities to comment on alternate pricing plans, including in response to further questions about such plans raised in connection with the Commission's implementation of the Martha Wright-Reed Act in 2023. Given the potential benefits discussed herein, we see no reason to wait any longer to allow such plans. The record indicates both provider and consumer interest in such plans, and we find that these plans offer benefits that consumers want. For example, Securus's plans were ''developed as a direct result of consultations between Securus leadership and justice-involved families.'' After Securus terminated its subscription plans, consumers asked it to reinstate the plans, and emphasized their benefits. Former subscribers explained that Securus's subscription plans helped them be able to talk to loved ones, helped stabilize their mental health, and enabled an incarcerated person to help their children with their homework. The Director of Facility Operations at one carceral facility describes Securus's plan as ''the most economical option for communication [between incarcerated people and] their wives and children.'' Securus remarks that a ''key benefit'' to the individuals enrolled in its subscription plans ''was being able to better budget for calls by knowing in advance how much would be spent on calls during a given period.'' Demand for flat-rate monthly plans also was expressed in the California PUC's hearings on Regulating Telecommunications Services Used by Incarcerated People. Consumers mentioned the flat-rate monthly plans for cell phone usage, and streaming

services like Disney and Netflix, and asked whether flat-rate monthly plans could be provided for telephone calls with incarcerated people. To support its argument that fixed-rate pricing helps consumers budget for calls, Securus points to Connecticut, where the Department of Corrections (DOC) now pays for calls, thereby making the calls free to the consumers. Securus asserts that it charges the DOC for Securus's services on a per-incarcerated-person basis (rather than using per-minute rates) to enable DOC to better budget for Securus's services.

433. Additionally, data provided by Securus indicate that consumers experienced longer and less costly calls under its subscription plans. According to Securus, the average cost per call was $0.65 under its subscription plans (with an average call length of 14.51 minutes) compared to an average cost per call of $1.62 using Securus's per-minute rates (with an average call length of 9.19 minutes). Securus explains that ''[c]osts decreased [an] average of 61% per call and 74% on a per-minute basis.'' ViaPath also predicts that alternate pricing plans ''will promote increased calling while reducing costs.''

434. Nevertheless, other commenters urge caution regarding alternate pricing plans. For example, Pay Tel expresses concern that if a consumer does not use all of the minutes in a plan, the cost they pay for a plan would be greater than they would have paid at the per-minute rates offered by that provider. The Accessibility Advocacy and Research Organizations ask the Commission to take a ''cautious approach designed to ensure [alternate pricing plans] serve incarcerated people with disabilities' interests first, and not those of ICS providers looking for ways to circumvent their pricing obligations.'' Worth Rises points out that ''IPCS providers have a record of exploiting incarcerated people and their loved ones.'' Although Securus points out that ''[s]ubscribers saved money at low levels of utilization: [15 to 30%,]'' the data do not tell the complete story. The Public Interest Parties point out that a ''substantial number of participants'' (*i.e.,* from 10% to 34% of the consumers) in Securus's nine subscription plans had low usage and as a result, paid more using the subscription plans than they would have paid under per-minute rates. The Public Interest Parties, and Securus's spreadsheet, reference the breakeven point for Securus's subscription plans. The breakeven point refers to the amount of usage required for a consumer to realize a rate that equals the provider's per-minute rate. Specifically, the ''breakeven point'' is the usage amount: (a) below which a consumer would pay more for the subscription plan than they would have paid under the provider's per-minute rates, and (b) at or above which the cost of the subscription plan would be less than or equal to what the consumer would pay under the provider's per-minute rates. For example, Securus shows that 76% of its subscribers were above the breakeven point at one facility. In other words, 76% of the subscribers had usage high enough to justify the cost of the subscription plan whereas the remaining 24% of subscribers effectively paid more for the subscription plan than they would have paid if they had paid for the service at Securus's per-minute rates.

435. Given the apparent demand from consumers and the potential savings and increased communications that can result from alternate pricing plans, we will permit IPCS providers to offer such plans. However, to help make sure that consumers who enroll in the plans benefit from them and that IPCS providers do not use such plans to otherwise evade the Commission's IPCS rules, we require that these plans comply with the general rules applicable to all IPCS, and adopt specific consumer protection and disclosure rules for these plans. We expect the rules we adopt today will provide sufficient consumer protections, and in any event, the alternate pricing plans are optional for both providers and consumers.

436. We acknowledge that our decision today represents an evolution in the Commission's thinking concerning permitted rate structures. We emphasize that IPCS alternate pricing plans are optional to consumers, and IPCS providers that offer such plans are still required to offer a per-minute pricing option to the consumers they serve. This ensures that consumers will always have the option of selecting per-minute pricing if traditional per-minute pricing offers greater value. In facilities where alternate pricing plans are offered, consumers will now have the ability to select the pricing models that best meet their needs and their budgets, similar to the flexibility afforded to consumers outside the carceral setting.

(i) General Parameters of Alternate Pricing Plans

437. We allow IPCS providers the option to offer alternate pricing plans. We first define an ''alternate pricing plan'' as the offering of IPCS to consumers using a pricing structure other than per-minute pricing. An IPCS provider may determine whether to offer such a plan, which services to include, which format (*i.e.,* the rates (subject to the applicable rate caps) and the number of minutes, calls or communications for example, included (or an unlimited number of minutes, calls or communications)), and where to offer the plan, as discussed below. We require IPCS providers that offer alternate pricing plans to comply with the rules specific to alternate pricing plans, as well as other rules applicable to all IPCS, to help ensure just and reasonable rates and charges. For example, the prohibitions and limitations on per-call, per-connection, and per-communication charges, site commissions, ancillary service charges, and taxes and fees as provided for in our rule revisions, also apply to alternate pricing plans.

438. *Optional to Consumers and to IPCS Providers.* As a threshold matter, a consumer may enroll in an alternate pricing plan at their discretion. IPCS providers must not require a consumer to enroll in an alternate pricing plan. In 2021 and 2022, the Commission asked whether providers should be permitted to offer optional pricing structures as long as consumers would still have the ability to purchase service on a per-minute basis. In response, the Public Interest Parties and ViaPath agree that participation in an alternate pricing plan should be voluntary for the consumer. No commenter suggests that enrollment in a plan should be mandatory for a consumer.

439. Similarly, we do not require IPCS providers to offer alternate pricing plans. An IPCS provider's decision to offer an alternate pricing plan is voluntary. Consistent with the record and to ensure the optional nature of alternate pricing plans particularly for consumers, we require providers offering alternate pricing plans to also continue offering per-minute pricing. We adopt revisions to section 64.6010(a) of our rules to incorporate this requirement. Consumers therefore will still have the option of paying for IPCS on a per-minute basis. As Worth Rises points out, ''[p]er minute pricing structures . . . protect ratepayers who may only make a few calls and do not want to be locked into paying for extended time periods.'' No commenter requested that the Commission mandate the offering of alternate pricing plans, or eliminate the per-minute option. Worth Rises asks the Commission to obtain more data before permitting providers to offer alternate pricing plans, but our requirements that alternate pricing plans to be optional for consumers, and that the plans comply with the other rules and conditions we adopt here

generally for IPCS, should resolve Worth Rises's concerns.

440. *Format.* An IPCS provider may employ any format for its alternate pricing plans that complies with the Commission's generally applicable IPCS rules and the safeguards we adopt in the Report and Order, which, together, are designed to protect consumers from unjust and unreasonable rates and charges, consistent with the Martha Wright-Reed Act. IPCS providers will have the flexibility to determine the format of their alternate pricing plans and may offer plans based on pricing by minutes of use, calls or communications made, or any other format. In 2022 and 2021, the Commission asked about plans that would offer a specific, or unlimited, number of minutes of use for audio services at a monthly charge, and the merits of different pricing structures and their impact on consumers and providers. Our decision to permit IPCS providers to offer alternate pricing plans based on a fixed or unlimited number of minutes, calls or communications seems to be inconsistent with the Commission's prior implication, in the *2022 ICS Order,* that per-minute rates are preferable to per-call rates. But in the *2022 ICS Order,* the Commission cited to a discussion in the *2021 ICS Order* concerning cost allocators, not rate setting. Thus, because our decision here is about rate setting, not cost allocation, that passage in the *2022 ICS Order* does not apply. Some commenters oppose plans based on a specified number of calls due to concerns about dropped calls, which we address below. One commenter argues that the Commission's prohibition on flat-rate calling and per-call charges prohibits alternate pricing plans. As discussed below, we remove the rule prohibiting flat-rate calling, making this concern moot. In addition, the prohibition on per-call charges does not prohibit the provision of alternate pricing plans based on a specific number, or unlimited number of, calls or communications; the prohibition on per-call charges just prohibits charges that are assessed in addition to the base rates for calls. As discussed above, we retain and amend the prohibition on per-call charges. Thus, the commenter's concern about per-call charges is misplaced. Because we now have authority to regulate rates for certain advanced communications services, including video services, alternate pricing plans may include advanced communications services, which likewise may be offered for a fixed number of or an unlimited number of minutes or communications, for a service period of a week or a month, among other formats.

441. When determining the format of an alternate pricing plan, IPCS providers must consider the type and characteristics of the facilities they serve, including: (a) any limits on the number of and length of calls or communications imposed by the facility; (b) the availability of correctional staff to manage the use of the service; and (c) equipment availability for the calls or communications. The amount of communications equipment per facility varies but, as an example, the Public Interest Parties suggest that in 2023, the California Department of Corrections and Rehabilitation Facilities had an average of 1 telephone for every 22 incarcerated people. Additionally, in the Genessee County Jail, ''[e]ach jail pod has only two video kiosks for roughly 60 to 70 people, and it is common for only one of the kiosks to be working at any given time.'' A provider's consideration of these factors will help ensure that consumers are reasonably able to make enough calls to reach the breakeven point for the specific plan as discussed below. We want to avoid IPCS providers, offering alternate pricing plans of, for example, 200 calls per month when because of equipment limitations or call length and frequency limitations the incarcerated individual could not possibly make 200 calls a month at their facility.

442. *Service Period.* In 2022, the Commission asked parties to comment on the appropriate service period for alternate pricing plans. The Public Interest Parties and Securus suggest that ''consumers should not be required to sign up for long term commitments.'' PPI notes that in prisons, ''residents have a longer and more predictable length of stay (as compared to jails), allowing them to more effectively budget for recurring expenses like phone calls,'' whereas in jails, ''populations are more transient and financial planning is more difficult.'' NCIC suggests that bulk packages for video could be offered as an option at longer-term facilities, but that ''per-minute billing would be the most cost-effective solution for short-term and county jails that may house incarcerated persons for an evening or weekend.'' Although these statements appear to assume that the consumer is the incarcerated person, the concern about the length of stay likely would similarly apply to the friends and family of the incarcerated person, if they are the consumers. We agree and therefore limit the service period IPCS providers may offer an alternate pricing plan to no longer than one month. When Securus offered its subscription plans, the services were offered for no more than one month at a time before renewal was required. One month is the length of a standard billing cycle used by IPCS providers in carceral facilities and telecommunications companies in non-carceral settings. Limiting alternate pricing plans to service periods of at most one month limits consumers' potential financial liability and permits flexibility for any changed circumstances. At the end of a service period, a consumer who is participating in the alternate pricing plan will need to renew their enrollment if they want to continue participating in the plan (unless the consumer previously has opted in to automatic renewals, if offered by the provider).

443. *Services Included.* An alternate pricing plan may consist of: (a) a single service that is defined as IPCS (*e.g.,* an audio or video communications service) or (b) any bundle of services for which each service is defined as IPCS. Our use of the word ''bundle'' in the context of alternate pricing plans refers only to a combination of services; it does not imply a discount. We also note that ''bundling'' is mentioned in the record in the context of services offered by a provider to a contracting authority. By comparison, ''bundling'' in alternate pricing plans concerns services offered by a provider to consumers.

Most comments in the record focus on the provision of interstate audio IPCS, because most of the comments were filed before the enactment of the Martha Wright-Reed Act, which expanded the Commission's regulatory authority to include all audio and video communications services in carceral facilities. In the absence of regulation, we recognize that some providers have priced video services at flat rates, and others have priced video services by the minute. In 2023, the Commission asked whether it should ''allow voice and video services to be offered as bundles.'' While not advocating for alternate pricing plans that would consist of combinations of services with prices based on broadband usage, Worth Rises previously suggested that the Commission consider such approaches and determine if they would protect consumers. In response, Securus urges the Commission to ''make clear'' that providers ''may bundle voice, video and other services'' in alternate pricing plans, and that the Commission could ''exercise oversight'' through reporting requirements. Additionally, the California Public Utilities Commission states that bundles should not be allowed ''unless the provider provides

transparency on the cost or what the rate entails.'' Our rate, reporting and other alternate pricing plan requirements should resolve these concerns.

444. We recognize that services offered in combination under an alternate pricing plan may not be subject to the same rate caps. Nevertheless, services offered under an alternate pricing plan remain subject to the general IPCS rules, including the applicable rate caps for both audio and video services and the prohibition for levying separate ancillary service charges. To the extent a consumer purchasing services under an alternate pricing plan believes that the charge assessed for the bundled services resulted in the effective rate exceeding the applicable rate caps established in the Report and Order, the consumer would first need to show that their usage of each service in the bundle meets or exceeds the usages required to meet the specified breakeven point(s), and then the IPCS provider would bear the burden of demonstrating that the rate charged to that consumer under its alternate pricing plan is less than or equal to the applicable IPCS per-minute rate cap. The breakeven point refers to the amount of usage required for a consumer to realize a rate that equals the provider's applicable per-minute rate at the facility. Specifically, the ''breakeven point'' is the usage amount: (a) below which a consumer would pay more for the subscription plan than they would have paid under the provider's per-minute rates, and (b) at or above which the cost of the subscription plan would be less than or equal to what the consumer would pay under the provider's per-minute rates.

445. We do not permit alternate pricing plans that combine IPCS with non-regulated services, as requested by some IPCS providers. Several providers suggest that the Commission should permit bundling of non-IPCS with IPCS. NCIC explains that its accounting system is set up to support just subscription plans or just per-minute plans. Thus, if subscription plans include audio but not messaging, then a consumer would need to have two accounts with NCIC if they want both services—and NCIC would need to modify its accounting platform to support the two accounts. NCIC is the only commenter that expresses concern about the cost of establishing subscription plans, and NCIC does not quantify that cost. However, NCIC does point out that other IPCS providers have separate accounts for separate services, and charge their customers varying fees for each of those accounts. NCIC is concerned that the FCC would ''mandate a subscription plan.'' Because we are making subscription plans optional to the provider, NCIC can choose to not offer such plans. As the Public Interest Parties observe, alternate pricing plans should not include non-IPCS ''which lack visibility and transparency in their pricing.'' A key premise in our decision to allow alternate pricing plans is the ability of IPCS users to make informed decisions about whether to choose such optional plans. Where the plans are limited to IPCS, users can make comparisons to the rate-regulated per-minute plans capped by Commission rules. By contrast, if non-regulated services are included in alternate pricing plans, we are not confident that IPCS users consistently will have the same type of visibility and transparency in the pricing for those non-regulated services sufficient to make an informed decision whether to elect an alternate pricing plan.

446. *Facilities.* Alternate pricing plans may be offered at any carceral facilities served by the IPCS provider, such as jails and prisons, where the relevant correctional authorities permit. Securus offered its subscription plans in eight jails and one prison. One of those facilities was a short-term detention facility where Securus offered a plan of just 25 calls per week, but that facility had low utilization. Securus consequently posits that ''[i]t may be that subscription plans are not optimal for short term facilities.'' By not specifying the types of facilities in which IPCS providers may offer alternate pricing plans, we allow providers the flexibility to determine where these plans would be most beneficial.

(ii) Rules and Conditions Specific to Alternate Pricing Plans

447. Alternate pricing plans must comply with the rules generally applicable to IPCS, as well as specific rules and conditions designed to ensure that consumers that choose these pricing plans are protected. Requiring compliance with these comprehensive rules will serve to protect consumers and ensure just and reasonable rates and charges as required by the Communications Act and the Martha Wright-Reed Act.

a. Using a Consumer's Comparable Per-Minute Rate

448. In 2021, the Commission asked about the appropriate rate of IPCS offered via an alternate pricing plan. In 2022, the Commission asked how to protect consumers from ''unreasonably high interstate and international rates in connection with pilot programs.'' Today, we require that any IPCS alternate pricing plan be offered at a rate that has a breakeven point equal to or less than the applicable rate cap. In 2022, the Commission also asked whether it should require providers to offer consumers a discount compared to what they would pay for the same usage under the rate caps. Securus objects to being required to offer a discount because ''there [would be] little or no incentive to price these plans at a substantial price discount.'' We do not require that alternate pricing plans be offered at a discount from the Commission's per-minute rate caps. Providers can determine the details of their alternate pricing plans, subject to our rules and what the market will bear. The rates of alternate pricing plans that satisfy this requirement will be presumed lawful. We therefore ensure that providers cannot use alternate pricing plans to circumvent our rate caps, as commenters have cautioned.

449. For purposes of demonstrating compliance with our rules in the event of a consumer complaint or investigation, an alternate pricing plan, whether offering bundled IPCS or a stand-alone service, must have a breakeven point that, when calculated on a per-minute basis, is less than or equal to the applicable rate caps. The IPCS provider bears the burden of demonstrating compliance with this condition if its alternate pricing plan is the subject of a complaint or an investigation by the Commission. Commenters agree that the providers should bear the burden of demonstrating their compliance with the Commission's rate caps and ancillary services caps, because ''IPCS providers . . . are in the best position to provide this information about usage to the Commission.'' A consumer complaint about the provider's alternate pricing plan rates will not be entertained under the alternate pricing plan rule in § 64.6140 unless the consumer's usage meets or exceeds the breakeven point(s) for the alternate pricing plan. This limitation does not restrict non-rate-related complaints about providers' alternate pricing plans, for example about dropped calls or billing issues, while it does strike a balance by limiting the number of rate complaints that can be brought to the Commission to those brought by consumers whose usage met the breakeven point.

450. In 2022, the Commission also sought comment on whether a consumer's actual usage should be taken into account when determining whether

an alternate pricing plan is consistent with the rate caps. One commenter suggests that a plan's effective rate be calculated based on the usage data for a specific consumer. Other commenters propose using alternative methods such as a ''reasonable utilization'' of the allotted minutes, ''a reasonable assumption of usage,'' and an ''average level of usage.'' Securus also suggests that no plan ''should be offered if its effective per-minute rate at full utilization is not below the applicable per-minute cap.'' Calculating a comparable per-minute rate at full utilization assumes that a ''consumer will use every call and minute available,'' an assumption that defies the purpose of our requirement to calculate the consumer's effective rate. None of these commenters explain how these alternative methods would be implemented in practice. We find that comparing the amount of usage to meet the breakeven point to the consumer's actual usage of the alternate pricing plan will result in a more meaningful and accurate assessment than using the alternate methods proposed by commenters.

451. Our rule requiring comparison of a consumer's actual usage to the alternate pricing plan's breakeven point makes the determination of whether a plan results in just and reasonable rates for a specific consumer straightforward. In the event of a challenge, the IPCS provider would need to use only the number of minutes used by the consumer challenging the lawfulness of the alternate pricing plan, without needing to analyze other consumers' usage to determine an ''average'' or ''reasonable'' amount of usage. Securus cautions that the Commission ''be mindful . . . of not imposing excessive burdens on providers'' as it considers the calculation of a consumer's effective rate, but Securus does not explain what it thinks the ''burden'' may be. We find that requiring that a consumer's actual usage be used to determine the comparable per-minute rate for that consumer is less of a burden than Securus's suggestions that providers use a ''reasonable'' or ''average'' amount of usage.

(b) Complaints of Dropped Calls or Communications

452. When using an alternate pricing plan based on a specific number of calls or communications, an IPCS consumer may be charged for more than one call or communication if an original call is dropped and the consumer is forced to reinitiate the call or communication to finish a conversation. We, therefore, address the issue of refunds or credits for such calls or communications when consumers are effectively charged for more than one call when a call is dropped. In the case of plans that charge on a per-call or per-communication basis, we expect refunds or credits to be provided in particular circumstances for dropped calls, and also require specific consumer disclosures to ensure that consumers are aware of the ability to request those refunds or credits.

453. Complaints of dropped calls, and the attendant lost funds associated with those calls, have been a constant refrain since the beginning of the Commission's regulatory efforts to reform communications services for incarcerated persons. Then, in the *2015 ICS Order,* the Commission prohibited per-call (and per-connection) charges, in part, due to the '' 'assessment of multiple per-call charges for what was, in effect, a single conversation' '' that was interrupted when the call was dropped. Unfortunately, dropped calls continue to be a problem and are not limited to audio IPCS. In 2021, the Commission asked about preventing providers from assessing duplicative ancillary service charges when a call is dropped. In 2022, the Commission sought comment on adopting a requirement to provide credits or other remedies for dropped calls in the context of alternate pricing plans. At the October 27, 2023, and February 1, 2024, IPCS Listening Sessions, IPCS consumers also discussed the issue and the difficulty of having calls dropped.

454. There are several possible reasons for an audio call or a video communication to drop. On the one hand, there could be a technical reason such as faulty equipment in the carceral facility, a problem in the IPCS provider's network, in the transmission network between the IPCS provider and the called party, or in the called party's network, in which instances we expect providers to take steps to provide appropriate refunds or credits. On the other hand, calls or communications can be intentionally disconnected for non-technical reasons related to security, such as stopping attempts to initiate a three-way call, for which refunds or credits would not be appropriate. For example, when it offered its subscription plan, Securus made refunds available upon request and acknowledged that refunds may be available ''for verified performance problems such as poor quality or outages caused by Securus systems.'' Upon receipt of a dropped call complaint, we similarly expect IPCS providers to investigate these claims in good faith and resolve them swiftly so as not to delay giving a refund or credit to the IPCS consumer when warranted. The record indicates that Securus monitored the incidences of dropped calls in its subscription plans, thereby suggesting that this task will not be overly burdensome for IPCS providers. Regardless, we will vigilantly monitor complaints about inappropriately dropped communications, and, if necessary, will adopt specific rules requiring refunds or credits in the instance of dropped calls or communications. We seek comment on call or communication service quality and the issue of dropped calls due to service quality in the accompanying document.

455. We next require IPCS providers to clearly describe their policies regarding dropped calls or communications in plain language in their consumer disclosures, including explaining the types of dropped calls and communications for which a consumer can seek a refund or credit. The provider also must explain how the refund or credit for a dropped call or communication will be calculated. For example, if an alternate pricing plan is based on the number of calls or communications, then the IPCS provider could give a credit of at least one call or communication, if there is enough time left in the service period for the consumer to use that credit; otherwise, a pro-rated refund may be appropriate. If the alternate pricing plan consists of a fixed number of minutes, we suggest that the IPCS provider give the consumer a refund for the minutes used by the call or communication that was dropped. Finally, if the alternate pricing plan consists of unlimited calls or communications, or unlimited minutes, then no credit or refund would be needed. In its consumer disclosures, the IPCS provider must also clearly explain the method the consumer must use to make a complaint and request a refund or credit for a dropped call or communication, and that method must be easy for the consumer to complete. ViaPath suggests that complaints could be filed at the Commission. However, clearly informing consumers of a provider's policies regarding dropped calls or communications and providing an easy-to-use method for requesting a refund or credit will be a good first step toward resolving issues with dropped calls and communications.

(c) Automatic Renewals

456. To protect consumers from being billed for additional service periods without their consent, we permit IPCS providers to offer automatic renewals of any alternate pricing plan but only on an opt-in basis, and subject to other

requirements discussed below. In 2022, the Commission sought comment on whether consumers should be able to opt out of automatic renewals for alternate pricing plans, citing concerns that without such protections, alternate pricing plans may default to renewals consumers do not intend to purchase or no longer need. In response, some commenters expressed similar concerns and even suggested prohibiting automatic renewals. Alternatively, Securus asserts that ''the consumer should have a readily accessible means to decline or cancel any renewal option.'' During Securus's subscription plans, when a consumer signed up using its website, Securus gave the choice between manual renewal and automatic renewal. PPI notes that Securus apparently did not give advance notice when a renewal occurred for its subscription plan; Securus notified customers only ''*after* their renewal payments have been processed.'' PPI also points out that although Securus stated that customers could receive a refund within 14 days of an unwanted and unused automatic renewal, Securus's contracts did not include these terms.

457. We adopt rules to ensure that consumers are informed about their renewal options. These rules are intended to give consumers the option to select automatic renewal, and also an easy method and sufficient opportunity for consumers to cancel the service before a plan renews. We are guided by the record, and many other situations where the Commission has required service providers to educate their consumers and allow them to opt into or out of a service. These rules apply to all IPCS offered through an alternate pricing plan.

458. We also require that IPCS providers offering automatic renewals for alternate pricing plans explain, in plain language, the terms and conditions of the automatic renewal both at the time that it initially offers the automatic renewal option to a consumer, and before any automatic renewal is about to occur by whatever method the IPCS provider has established for other consumer notifications. The notices must explain that if a consumer who requested automatic renewals does not later want the alternate pricing plan to be renewed, the consumer may cancel their participation within a reasonable grace period identified by the provider at the time service is initiated.

459. The IPCS provider must give notice to the consumer of an upcoming renewal with sufficient time before the renewal date to ensure the consumer can cancel their enrollment in the alternate pricing plan prior to its renewal. The Prison Policy Initiative suggests that a notification two to three ''business days prior to renewal would help customers avoid potential overdraft fees and remind them to cancel their subscription if they have been meaning to do so but forgot.'' No other commenter mentions the notices to be provided before automatic renewals. We agree that this requirement will ensure that consumers have sufficient notice. Therefore, we require that providers give notice directly to consumers no later than three business days prior to the renewal date, and, to ensure receipt of the notice, we require providers use, at a minimum, the method of communication that consumers agreed to at the time they enrolled in the alternate pricing plan. For example, Securus used email to remind consumers when they were reaching the call limit of its subscription plans. PPI commends Securus for providing an online option for cancelling enrollment (although they suggest that the related terms and conditions were confusing).

(d) Cancellation by the Consumer

460. A consumer must be able to cancel their enrollment in an alternate pricing plan at any time and revert to per-minute pricing. Refunds or credits must be made available to consumers in the circumstances detailed below. Providers should process the cancellation by the next business day after the cancellation request. In its consumer disclosures, the provider must clearly explain the process for requesting plan cancellation, which must include the ability to use the method the consumer used to enroll in the plan. Securus provided an online cancellation option but, according to PPI, did not tell consumers that procedure was available. The disclosures also must include an explanation of the option to request a specific termination date if different from the date that the provider processes the cancellation. For example, the consumer may want to request a cancellation because an incarcerated person is going to be transferred, and the consumer would want the plan to terminate after the date of transfer. The consumer disclosures also must include an explanation of the amount of the refund that will be provided in situations where the IPCS provider does give refunds under the circumstances surrounding cancellation. The provider must clearly explain that once the alternate pricing plan terminates, and where applicable, the provider will bill for its service(s) at the provider's per-minute rates for the service(s) by the first day after the termination date. For example, if the plan is cancelled due to the incarcerated person being released, then the ability for the incarcerated person to call their friends and family would no longer be needed. By comparison, if the cancellation is not due to one of the special circumstances, then the incarcerated person may still need to use the service of the provider and would pay for that service using the provider's per-minute rates. We do not require providers to roll over unused minutes, calls or communications.

461. *When Cancellation Is Allowed.* IPCS providers must allow consumers to cancel their participation in an alternate pricing plan at any time during the service period and revert to per-minute pricing. This requirement applies regardless of whether the consumer has elected to permit the provider to automatically renew their participation in the plan. In 2022, the Commission sought comment on whether consumers should be permitted to cancel their enrollment in an alternate pricing plan before the end of their enrollment period. NCIC noted that people who are incarcerated for only a short period of time or are moved to another facility may not be able to ''receive the full benefit of the subscription plan.'' The Public Interest Parties assert that ''[c]onsumers should . . . not be bound by any long-term commitments and should be free to switch to a per-minute structure upon request.'' The record also indicates that a consumer may want to cancel their enrollment if they have not used the service since the beginning of the service period or if their incarceration status has changed. There may also be ''special circumstances'' such as release or transfer under which a consumer may need to cancel their participation in an alternate pricing plan. Securus repeatedly states that consumers should be permitted to cancel at any time, and refers to easy cancellations as the ''ultimate consumer protection.'' We agree. Regardless of when a consumer wants to cancel their enrollment, the IPCS provider's procedures for cancelling the service must be easy to follow and use the same method to effectuate cancellation that the consumer used to enroll in the plan. As Securus points out, the method for cancelling service should be ''readily accessible.''

462. *Refunds Upon Cancellation.* In the *2022 ICS Further Notice,* the Commission asked whether IPCS providers should be required to offer refunds when consumers cancel an alternate pricing plan before the end of the ''subscription period.'' Securus

explains that under its subscription plan, ''refunds [were] available upon request,'' and suggests that refund options should be limited to special circumstances such as the transfer or release of the incarcerated person. Securus argues that requiring providers to otherwise give refunds to consumers who cancel during a service period ''would deprive providers of the benefit of the bargain—low rates in exchange for a predictable revenue stream.'' We agree. Therefore, although consumers may cancel their enrollment in an alternate pricing plan at any time, IPCS providers are not required to refund the balance of the subscription amount except in the case of special circumstances. The special circumstances recognized by the IPCS provider shall include situations where the incarcerated person: (a) is released; (b) is transferred to another facility; or (c) is not permitted to make calls or communications for a substantial portion (for example 50% or more) of the subscription period of the alternate pricing plan. Under such circumstances, the consumer would not be able to make use of the alternate pricing plan, and thus not be able to receive the benefit of the services they paid for. The IPCS provider may also establish other special circumstances for which it will provide a refund when a consumer requests cancellation.

463. Any refund provided due to special circumstances shall be no less than the pro-rated amount that corresponds to the unused portion of the service period remaining under the alternate pricing plan. For example, if a consumer is enrolled in an alternate pricing plan and has used 200 minutes of an allotted 600 minutes when the consumer cancels due to special circumstances, the consumer would have 400 minutes (= 600 minutes − 200 minutes) unused at the time of cancellation. The provider would give a refund of at least ⅔ (= 400 minutes/600 minutes) of the amount the consumer paid for the plan. These limited refund requirements strike the appropriate balance between protecting consumers in the case of changed circumstances while still making the plans attractive for IPCS providers. Although we do not require an IPCS provider to give a refund for the unused portion of the alternate pricing plan when a cancellation occurs in situations other than the special circumstances detailed here, an IPCS provider may offer a refund at the provider's option in other situations.

464. *No Required Rollovers.* We do not require providers to roll over unused minutes, calls, or communications from one service period under an alternate pricing plan to another service period. One commenter observes that Securus's subscription plan did not allow for the rollover of unused minutes, thereby increasing the consumer's effective rate. Securus opposes a requirement for consumers to be able to roll over unused minutes because rollovers would convert alternate pricing plans into ''repackaged per-minute rate plans and prevent consumers from enjoying lower prices.'' Indeed, in Securus's subscription plan, Securus did not roll over unused calls. We agree that a rollover requirement may undermine IPCS providers' incentives to offer alternate pricing plans, and therefore refrain from requiring providers to roll over unused minutes, calls, or communications.

d. Other Issues

(i) Flat-Rate Calling

465. Because we permit IPCS providers to offer alternate pricing plans at flat rates (*e.g.,* $Y per month or $Y per week), we remove § 64.6090 of the Commission's rules which prohibits the offering of IPCS via flat rates. That prohibition on ''flat-rate calling'' was adopted by the Commission in the *2015 ICS Order* when some providers *required* consumers to pay for a 15-minute call even if the call ended prior to the expiration of the 15 minutes. The Commission concluded that flat-rate prices for such short calls were ''disproportionately high'' and therefore prohibited flat-rate calling. Today, IPCS providers offer their IPCS at per-minute pricing, and we *permit* them to offer flat-rated alternate pricing plans as an *option* to the per-minute pricing. Consequently, we no longer need to prohibit flat-rate calling to protect consumers. One commenter opposes flat-rate charges for IPCS video calling, providing examples where the flat-rate charges are the only way to pay for video calling. Because today we adopt per-minute rate caps for IPCS video calling and permit flat-rate charges for video calling only within the context of an optional alternate pricing plan, these concerns are mitigated. If a provider offers a flat rate option for IPCS, they would be offering an alternate pricing plan, and would be subject to our general IPCS rules as well as the alternate pricing plan rules which will serve to protect consumers.

(ii) Disability Access via Alternate Pricing Plans

466. IPCS providers that offer alternate pricing plans must ensure that they comply with our rules concerning TRS and related communication services. In 2022 and 2023, the Commission sought comment regarding the features or attributes that should be included in alternate pricing plans, and what conditions it would need to impose to ensure just and reasonable rates for audio and video communications services relevant here. In 2023, the Commission also sought comment on the extent to which the Martha Wright-Reed Act expands its ability to ensure that any audio and video communications services used by incarcerated people are accessible to and usable by people with disabilities. The Accessibility Advocacy and Research Organizations urge the Commission to ''be proactive and aggressive in preventing'' providers from using alternate pricing plans to circumvent ''the prohibition on charges for certain TRS calls'' as well as providers' ''pricing obligations.''

467. In the *2022 ICS Order,* the Commission amended § 64.6040 of its rules to improve access to TRS and related communications services, and clarified and expanded the restrictions on charges for TRS calls. In the Report and Order, we amend § 14.10 to reflect the Martha Wright-Reed Act's expansion of the Communications Act's definition of advanced communications service, making clear the obligations of IPCS providers to ensure their video and voice communications services are accessible to and usable by incarcerated people with disabilities, and we amend § 64.611 to facilitate the provision of IP CTS to incarcerated people with disabilities. Here, we amend § 64.6040 to clarify how calls or communications using TRS and related communications services shall be treated under an alternate pricing plan.

468. An IPCS provider that offers an alternate pricing plan must treat the calls or communications made to use TRS and related communications services in accordance with new § 64.6040(e). The requirements in new § 64.6040(e) mirror the restrictions on charges for IPCS in § 64.6040(d). If an alternate pricing plan offers an unlimited number of minutes or calls, then eligible TRS users must be allowed unlimited TRS, text-telephone-to-text-telephone (TTY-to-TTY), and point-to-point American Sign Language (ASL) video calls under the same plan. If an alternate pricing plan limits the number of calls or minutes that are allowed during a billing period, then: (1) Video Relay Service (VRS), internet Protocol Relay Service (IP Relay), and Speech-to-Speech Relay Service (STS) calls or minutes shall not be counted for

purposes of such limits; (2) each internet Protocol Captioned Telephone Service (IP CTS) and Captioned Telephone Service (CTS) call or minute shall be counted as equal to a non-TRS audio call or minute; and (3) TTY-to-TTY calls (which under a per-minute rate plan must not be charged at more than 25% of the per-minute rate) shall be counted as single calls (under a plan that limits the number of calls) or counted at one fourth the number of minutes used (if the plan limits the number of minutes). Also, each point-to-point video call shall be counted as equal to an audio call. Regardless of the format of an alternate pricing plan, there shall be no charge or fee for any equipment used to access TRS and related communication services, and no charge or fee for the internet or data portion of an IP CTS or CTS call, or for any additional internet or other connections needed for services covered by § 64.6040. For example, with CTS and IP CTS, a second telephone line or an internet connection—separate from the voice connection—is often used to connect the user's device with the IP CTS provider to enable the provision of captions. If an alternate pricing plan offers a fixed number of minutes for voice service, for example, then in applying such a limit to a CTS or IP CTS user, only the minutes handled by the voice service line may be counted. These rules will prevent IPCS providers that offer alternate pricing plans, from circumventing the requirements adopted in the *2022 ICS Order.* The rules also will satisfy requests in the record, and our statutory duties to ensure that communications services are accessible to and usable by persons with disabilities.

(iii) Consistency With the Martha Wright-Reed Act

469. We find that allowing alternate pricing plans subject to the requirements and rules we adopt today is consistent with the Martha Wright-Reed Act. In 2023, the Commission asked whether the Martha Wright-Reed Act precludes the Commission from permitting alternate pricing plans for audio or video communications. Only one commenter addressed this issue, asserting that nothing in the Martha Wright-Reed Act ''bars use of different pricing structures.'' Previously, in response to 2021, the Prison Policy Initiative argued that the effective rates of alternate pricing plans and the consumer disclosures provided at that time could violate the Commission's statutory duties under sections 201(b) and 276(b)(1)(A).Act. We find, however, the conditions we impose today on the offering of alternate pricing plans sufficiently address the fundamental concerns raised in the record. Because we limit the rates that may be charged for IPCS when offered through alternate pricing plans to the just and reasonable rate caps we adopt today on a per-minute basis—rate caps that ensure fair compensation to providers—alternate pricing plan rates and charges will also be just and reasonable and provide fair compensation consistent with the Martha Wright-Reed Act. While we find that the per-minute rate caps we adopt today will ensure that IPCS providers are ''fairly compensated,'' in accordance with section 276(b)(1)(A) of the Communications Act, an IPCS provider that chooses to offer an alternate pricing plan will bear the responsibility for ensuring that the plan will adequately compensate it for its services on a companywide basis.

(iv) Start Date and End Date

470. Consistent with the voluntary nature of any IPCS alternate pricing plan, an IPCS provider that elects to offer an alternate pricing plan may choose when to offer the plan once the rules permitting such plans are effective. The Commission previously asked about possibly allowing alternate pricing plans on a temporary or pilot program basis only. We decline to limit providers' ability to offer these plans given that no IPCS user must choose such a plan, and given the other protections we adopt. Worth Rises suggests that the Commission permit a pilot program pursuant to a waiver for no longer than three months so that the Commission may collect data to ensure compliance with the rate caps before permitting the plan to continue. Conversely, Securus asserts that the Commission should not limit the length of time the plan can be offered and argues that ''[a]rtificially ending programs that may be providing substantial benefits would harm the very consumers the Commission wishes to protect.'' We also do not limit the time frame during which an alternate pricing plan may be offered due, in part, to the potential consumer benefits of these plans and to our adoption of rules and conditions that will ensure such benefits. However, we caution providers that if we see evidence of gamesmanship or that providers are otherwise taking advantage of consumers through these alternate pricing plans, we will not hesitate to revisit allowing IPCS providers to offer such plans.

471. Just as we permit providers to determine when to offer an alternate pricing plan without prior approval from or notification to the Commission, we similarly permit providers to terminate a plan at their discretion, provided that sufficient notice is given to their consumers. We permit providers to determine what is reasonable notice of termination, and require notification to consumers in accordance with applicable consumer disclosure rules. For example, given that alternate pricing plans are limited to one month service periods, IPCS provider notification to affected consumers two weeks prior to it no longer offering a monthly plan exemplifies reasonable notice.

10. International Rate Caps

472. In the *2021 ICS Order,* the Commission first adopted interim rate caps on international audio IPCS communications comprised of the applicable interstate rate cap component for that facility plus an international termination component. The record and the data before us demonstrate that providers continue to incur termination charges for completing international audio communications. We therefore decline to disturb the rules for international calls on the record before us, and maintain our existing international rate cap structure for audio IPCS.

473. In 2021, the Commission sought comment on whether and how it should further reform international rates, a request echoed in subsequent requests for comment. In response, certain commenters raised concerns with the formula for calculating international rates set forth in our rules, arguing that tracking multiple ''floating rates'' raises surveillance costs for providers and reduces predictability for consumers. We are unpersuaded. As an initial matter, we decline to establish a uniform safe harbor under which the termination component that would apply to all of a provider's international audio calls (or alternatively to all of the provider's international audio calls under a particular contract) would equal the average of the provider's international termination charges for the previous calendar year (or alternatively the average of such charges under the particular contract), as one commenter suggests. Because international termination charges vary significantly depending on the calls' destinations, any such approach would result in IPCS consumers being charged unreasonably high rates for calls to international destinations having relatively low termination charges. It is also hard to understand how predictability could decline when the international termination fees themselves change frequently, and the commenters have

not substantiated their claims of compliance difficulties with cost data. No commenter raises other concerns with the current international rate cap formula. At the same time, providers' submitted data are remarkably devoid of any data on the cost of providing international IPCS, with only one provider reporting such costs. We therefore find that both the data and the record are, at present, insufficient to support revisions to our rules, or to develop alternative approaches to international rate caps.

474. We recognize that differences between audio IPCS and video IPCS may limit the applicability of these rules to video IPCS. Unlike audio IPCS, we have no record evidence that video communications services incur international termination charges. In fact, the data from the 2023 Mandatory Data Collection do not indicate that providers routinely or ordinarily incur termination charges for completing international video communications. In the absence of any record supporting the need for international video communications rate caps, we decline to adopt an international termination component for video IPCS at this time. In the absence of such a separate component for video IPCS, international video communications will be subject to the interstate video cap in effect for the relevant facility.

E. Waivers

475. We adopt with modifications the waiver process previously adopted by the Commission in the *2021 ICS Order.* The modifications reflect our full jurisdiction under the Martha Wright-Reed Act to include intrastate services and various advanced communications services, including video services and providers that offer them, in addition to the interstate and international services that previously were the focus of our IPCS rules. The modifications also reflect the Act's direction that the Commission may use a provider's average costs in determining just and reasonable IPCS rates. The waiver process we adopt will ensure that providers that may face unusually high costs to serve a particular facility or set of facilities covered by a contract will have the opportunity to demonstrate that those costs are, indeed, used and useful costs in their provision of IPCS and are therefore recoverable. As discussed above, we interpret and apply section 276(b)(1)(A) in a manner that harmonizes the ''just and reasonable'' and ''fairly compensated'' criteria. Consequently, the used and useful analysis we employ will involve that harmonization of the ''just and reasonable'' and ''fairly compensated'' standards.

476. The Commission's previous waiver process permitted an inmate calling service provider to file a petition for a waiver of our interim inmate calling services rate caps if the provider makes certain showings that it cannot recover its allowable costs under the Commission's interim inmate calling services rate caps. The portions of the *2015 ICS Order* regarding the waiver process were unaltered by the *GTL* v. *FCC* court's 2017 vacatur. We modify that process to take into account the Commission's full authority under the Martha Wright-Reed Act to include intrastate services and advanced communications services. In addition, the Commission will evaluate waiver petitions in light of the Act's elimination of the section 276 requirements that providers be compensated on a ''per-call'' basis, and compensated for ''each and every call,'' and in light of the addition of the requirement that the Commission ensure IPCS rates are just and reasonable while ensuring that providers are fairly compensated.

477. To be granted a waiver under the rules adopted in 2021, providers are required to show that they faced ''unusually high costs in providing interstate or international inmate calling services at a particular facility or under a particular contract that are otherwise not recoverable through the per-minute charges for those services and through ancillary service fees associated with those services.'' When adopted, the Commission noted that various providers argued that reductions in inmate calling services rates would threaten their financial viability, imperiling their ability to provide service, and risk degrading or lowering their quality of service. It determined that those claims were best addressed on a case-by-case basis through a waiver process that focused on the costs the provider incurred in providing interstate and international inmate calling services, and any associated ancillary services, at an individual facility or under a specific contract.

478. In 2023, the Commission sought comment on ''any other matters that may be relevant to our implementation of the Martha Wright-Reed Act to adopt just and reasonable rates and charges for incarcerated people's audio and video communications services.'' In the context of analyzing providers' site commission payments, it also asked for comment on the showing it should require to evaluate waivers seeking to recover the portion of those payments that compensate facilities for their used and useful costs of providing IPCS. Based on the record, we retain our current waiver process framework with modifications to reflect the provisions of the Martha Wright-Reed Act, including our new authority thereunder. We decline at this time to extend our waiver process to include pilot programs or to impose requirements on state rate-setting processes. State rate-setting processes (in contrast to site commission payment requirements) are not governed by our current IPCS rules, to the extent they do not result in state rates or charges exceeding our rate caps, and thus cannot be addressed by waiver in any case. And we decline to depart from our rules governing alternate pricing plans via waiver because we believe those rules already provide for appropriate flexibility, and adhering to that regulatory framework provides certainty regarding the parameters for any such experimentation that will occur, thereby facilitating appropriate Commission oversight and managing what IPCS users will be expected to understand about such plans, and the protections they will have under them.

479. The IPCS rate cap methodology we adopt herein comprehensively accounts for providers' reported costs of providing IPCS as contemplated by the Act, and we therefore anticipate that instances where providers cannot recover their cost of service should be exceptional. To the extent such instances occur, however, we adopt a process that allows providers to seek waivers of our rate caps to ensure recovery of the used and useful costs of providing IPCS. We also expand the scope of our previous waiver process to allow providers to seek waivers related to the provision of advanced communications services, including video, as well as with respect to our overall IPCS rate caps which will now apply to international, interstate and intrastate services. Additionally, we remove any reference to ancillary services in our waiver rules because, as explained above, separately-identified ancillary service fees have been prohibited, and the costs of providing ancillary services have instead been included in the overall rate caps. As was the case with our previous IPCS waiver process, providers may seek a waiver either on a facility basis or contract basis. We disagree with Securus that we should allow company-wide waivers given that company-wide waivers would likely be too complex and time-consuming to provide adequate and timely relief for providers.

480. Consistent with the Commission's previous waiver process and with its waiver processes generally,

petitioners will continue to bear the burden of proof to show that good cause exists to support waiver requests, but all waiver requests must now include a showing that the request will not result in unjust and unreasonable IPCS rates and charges. An IPCS provider filing a petition for waiver must clearly demonstrate that good cause exists for waiving our rate caps or other rules at a given facility or group of facilities, or under a particular contract, and that strict compliance with these caps would be inconsistent with the public interest. For any waiver request based on a particular facility or group of facilities, the provider must show that the costs of the entirety of its contract are not recoverable under the applicable rate caps, not merely the costs at an individual facility or group of facilities that are part of an otherwise profitable contract. As the Commission explained in the *2021 ICS Order,* conclusory assertions that the reductions in rates will harm the provider or make it difficult for the provider to expand its service offerings will not be sufficient to obtain a waiver. Providers requesting a waiver of our IPCS rules will continue to be required to provide a detailed explanation of their claims, including all relevant financial and operational data as referenced in our rules. In order to evaluate waivers, we also require a provider to submit its total company IPCS costs and revenues and other financial data and information, including justification for deviating from ''the average costs of service of a communications service provider'' to assess the merits of a petition. Failure to provide such information will prevent us from making a determination regarding the waiver request and will be grounds for dismissal without prejudice. Furthermore, the petitioner must provide any additional information requested by Commission staff to evaluate the waiver request during the course of its review.

481. We caution petitioners that we will continue to evaluate waiver petitions thoroughly and waivers will not be routinely granted. The Commission previously delegated authority to the Bureau to review and rule on petitions for waivers, and we reaffirm that delegation of authority today. Waiver petitions will be placed on public requests for comment, and interested parties will be provided an opportunity for comment.

F. Communications Services for Incarcerated People With Disabilities

482. We amend our rules to improve communications services for incarcerated people with disabilities. First, in response to comments on 2023, we amend our Part 14 rules as appropriate to reflect the Martha Wright-Reed Act's expansion of the Communications Act's definition of ''advanced communication service.'' Next, in response to comments on 2022, we amend our Part 64 TRS rules to allow a form of enterprise registration for the use of internet Protocol Captioned Telephone Service (IP CTS) in carceral facilities. We also amend the Part 64 IPCS rules to require that IPCS providers provide billing and other information regarding their services in accessible formats. We clarify that internet-based IPCS providers may provide access to traditional (TTY-based) TRS via real-time text. We defer action on setting a timeline to expand the scope of our IPCS rules on access to TRS and related services, pending the collection of further information on implementation of the current rules.

1. Part 14 Changes

483. *Advanced Communications Services Definition.* We adopt the Commission's proposal, in 2023, to amend the definition of ''advanced communications services'' in our Part 14 rules to incorporate the amended statutory definition. Prior to the Martha Wright-Reed Act, the Communications Act (and Part 14 of our rules) defined ''advanced communications services'' to be: (1) interconnected VoIP service; (2) non-interconnected VoIP service; (3) electronic messaging service; and (4) interoperable video conferencing service. In light of the lengthy pendency of unsettled questions regarding the application of Part 14 to video conferencing, the Commission extended until September 3, 2024, the deadline for providers of such services to comply with the Part 14 accessibility rules for advanced communications services. The Martha Wright-Reed Act amended this definition to add a fifth category: ''any audio or video communications services used by inmates for the purposes of communicating with individuals outside the correctional institution where the inmate is held, regardless of technology used.'' We now amend the definition of ''advanced communications services'' in our Part 14 rules to include that category as well, aligning the definition in our rules with the amended statutory definition. One commenter agrees that the Commission should simply incorporate section 3's definition of ACS, as amended by the Martha Wright-Reed Act, into Part 14. No other commenters directly address the issue.

484. *Statutory Accessibility Requirements.* Pursuant to section 716 of the Communications Act, providers of advanced communications services and manufacturers of equipment used for such services (including end user equipment, network equipment, and software) must ensure that such services, equipment, and software are accessible to and usable by individuals with disabilities, unless doing so is ''not achievable.'' The term ''achievable'' means with reasonable effort or expense, as determined by the Commission. Section 716 of the Communications Act specifies that, in determining whether the requirements of a provision are achievable, the Commission shall consider the following factors: (1) the nature and cost of the steps needed to meet the requirements of this section with respect to the specific equipment or service in question; (2) the technical and economic impact on the operation of the manufacturer or provider and on the operation of the specific equipment or service in question, including on the development and deployment of new communications technologies; (3) the type of operations of the manufacturer or provider; and (4) the extent to which the service provider or manufacturer in question offers accessible services or equipment containing varying degrees of functionality and features, and offered at differing price points. Whenever those requirements are not achievable a manufacturer or provider must ensure that its equipment or service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, unless such compatibility is not achievable. Providers of advanced communications services are also prohibited from installing network features, functions, or capabilities that impede accessibility or usability. The Commission has implemented section 716 by adopting performance objectives to ensure the accessibility, usability, and compatibility of advanced communications services and the associated equipment, recordkeeping requirements, and the consumer dispute assistance and informal and formal complaint processes. ''Manufacturers and service providers must consider [these performance objectives] at the design stage as early as possible and must implement such performance objectives, to the extent that they are achievable.'' In addition, ''[m]anufacturers and service providers must identify barriers to accessibility and usability as part of such evaluation.'' Covered service providers

and equipment manufacturers also must file certificates of compliance with applicable recordkeeping requirements, including contact information for persons authorized to resolve complaints regarding alleged violations of accessibility requirements.

485. *Effect of the Martha Wright-Reed Act on the Scope of Rules.* In 2023, the Commission sought comment on the extent to which the Martha Wright-Reed Act expands its ability to ensure that any audio and video communications services used by incarcerated people are accessible to and usable by people with disabilities. As a number of commenters recognize, prior to enactment of that legislation, voice services offered by IPCS providers were already subject to the requirements of section 716 or the related requirements of section 255 of the Communications Act. Section 255 imposes similar accessibility obligations on providers of telecommunications services and manufacturers of telecommunications equipment, and the Commission's regulations implementing section 255, 47 CFR part 6, also apply to providers of interconnected VoIP service. Accessibility of voicemail equipment and services are addressed in 47 CFR part 7. Overlap between sections 255 and 716 is avoided because section 716 provides that it does not apply to ''any equipment or services, including interconnected VoIP service, that [were] subject to the requirements of section 255'' of the Communications Act prior to the enactment of section 716. Accessibility of voicemail equipment and services are addressed in 47 CFR part 7. Overlap between sections 255 and 716 is avoided because section 716 provides that it does not apply to ''any equipment or services, including interconnected VoIP service, that [were] subject to the requirements of section 255'' of the Communications Act prior to the enactment of section 716. Such services and equipment ''shall remain subject to the requirements of section 255'' of the Communications Act. However, the recordkeeping, certificate of compliance, consumer dispute assistance, and enforcement requirements of Part 14 apply to manufacturers and service providers covered by section 255 as well as those covered by section 716. Similarly, electronic messaging services and interoperable video conferencing services offered by IPCS providers were also subject to section 716 and the Part 14 rules. The record does not indicate to what extent, if at all, there are other audio and video communication services offered by IPCS providers that were *not* previously included in the definitions of ''telecommunications service'' or ''advanced communications services,'' and that, accordingly, are newly subject to accessibility requirements under section 716 of the Communications Act and Part 14 of our rules. However, to the extent that any IPCS provider may have been uncertain whether accessibility requirements apply to a particular voice or video communication service that it provides for the use of incarcerated persons in communicating with non-incarcerated persons, the Martha Wright-Reed Act makes clear that the accessibility requirements of the Commission's rules apply to such services.

486. *Part 14 Performance Objectives.* The *2023 IPCS NPRM* also sought comment on whether the Commission should add or modify any performance objectives or recordkeeping requirements for application in the correctional facility context. At this time, we do not see a need to create new or different performance objectives for IPCS providers. As noted above, communications services offered by IPCS providers were already covered by section 255 or 716 of the Communications Act, and the record does not indicate that any audio and video communications services used by incarcerated people were not previously included in the statutory definitions of telecommunications services and advanced communications services. Further, while the communication challenges experienced by incarcerated people with disabilities may be more acute, the record does not indicate that they are different in kind from those of non-incarcerated people with disabilities. For example, to be accessible to a blind person, whether incarcerated or not, an advanced communications service should ''[p]rovide at least one mode that does not require user vision.''

487. We decline, at this time, to impose a limitation on the use of automatic speech recognition (ASR) technology alone in the provision of IP CTS in carceral facilities. The Commission previously found the use of ASR-only captioning in the provision of IP CTS to be comparable in accuracy to CA-assisted IP CTS. While we continue to encourage providers to make CA-assisted IP CTS available, there is not a sufficient record in this proceeding to suggest that provision of ASR-only IP CTS would discriminate against for example, people who speak dialects, have accented speech, or speech impediments, nor a record to suggest that CA-assisted IP CTS would cure or otherwise prevent such discrimination. The Commission will continue to collect data and information annually from IPCS providers and it has open dockets concerning advanced communications services and IP CTS where a record on the raised concerns may be developed to be addressed. In the interim, we proceed with ensuring the Commission's current accessibility rules are appropriately applied in the correctional facilities context.

488. We are also not persuaded that it is necessary to modify Part 14 performance objectives to address ''the unique challenges of offering internet-based IPCS and consistent with the Commission's existing IPCS accessibility rules,'' as recommended by Ameelio, a provider of internet-based IPCS. To the extent that security issues or other factors may affect the achievability of specific performance objectives, such concerns can be addressed consistently with the current Part 14 rules, as Part 14 obligations are expressly subject to the proviso ''unless the requirements of this [subsection/paragraph] are not achievable.'' We also note that some of the concerns raised by Ameelio appear to be based on a misunderstanding of the Commission's video conferencing proposals. For example, the Commission has proposed to modify the TRS ''privacy screen'' rule (redesignated 47 CFR 64.604(d)(5)) to *allow VRS providers* to be compensated for providing VRS in a video conference in which some participants turn off their video cameras. However, nothing in the Commission's proposal suggests that the proposed rule would affect the ability of a video conferencing service provider or host to require participants to leave their cameras on, for security or other reasons.

2. Enterprise Registration for IP CTS and IP Relay

489. *Background.* To prevent waste, fraud, and abuse and allow the collection of data on TRS usage, our rules generally condition TRS Fund support for VRS, IP CTS, and IP Relay on eligible users of these services being registered with a service provider. Certain personal data, as well as a self-certification of eligibility to use TRS, must be collected from each TRS user and—for VRS and IP CTS users—entered in the TRS User Registration Database (User Database), a central registry maintained by a Commission-designated administrator. The User Database has not yet been activated for IP CTS. Pending its activation, however, registration data and a self-certification of eligibility must be collected and maintained by the IP CTS provider. For VRS, however, the rules provide an alternative to individual registration for

videophones maintained by businesses, organizations, government agencies, or other entities and made available to their employees or clients as ''enterprise videophones.'' This ''enterprise registration'' alternative is not currently authorized for IP CTS or IP Relay. The Commission has previously granted a waiver of the TRS registration rule to allow TRS providers to provide IP CTS and IP Relay to federal government employees and on-premises contractors through a registration process similar to the VRS enterprise registration process.

490. In the *2022 ICS Order,* the Commission modified its registration rules for incarcerated people eligible to use TRS, simplifying the registration data that must be collected in that context to account for differences in the availability and source of registration information. IPCS providers are required to assist TRS providers in collecting registration information and documentation from incarcerated users and correctional authorities. The Commission also authorized a modified form of enterprise registration for VRS use in correctional facilities. In lieu of registering each videophone, the amended enterprise rule allows a VRS provider to assign a pool of telephone numbers to a correctional authority. The numbers may be used interchangeably with any videophone or other user device made available for the use of VRS within the correctional facility. In 2022, the Commission sought comment on whether to adopt a comparable form of enterprise registration for IP CTS in the incarceration context. All commenters addressing the issue support such a rule change. In addition, Securus urges that enterprise registration also be allowed for IP Relay in the carceral context, noting that ''the same logistical issues at the correction facility for individual registration of IP CTS'' extend to IP Relay.

491. To further expedite access to TRS by incarcerated people, we amend our rules to allow enterprise registration for IP CTS and IP Relay in the incarceration context. The record indicates that the individual registration process can pose significant challenges for incarcerated people attempting to use IP CTS or IP Relay. When a person is initially confined and seeks to notify a family member or attorney of their situation, the need for individual registration may delay access to IP CTS or IP Relay for hours or days, with potentially serious consequences for the newly incarcerated person. For example, some of the required registration information and documentation may not be readily available at the time of initial incarceration, and assistance in collecting or preparing such information and documentation may not always be available from correctional authorities. Further, incarcerated persons, particularly those newly incarcerated, are often transferred between facilities. If a transferee must re-register (*e.g.,* because the new facility is operated by a different correctional authority or a different TRS provider is providing a particular relay service), or if there is a delay in confirming an existing registration (*e.g.,* because the TRS provider is not promptly informed of the transfer) access to TRS could be interrupted or even terminated. Additional registration issues may arise in juvenile detention facilities, where a parent or guardian would need to register on behalf of a minor who has been incarcerated.

492. The record confirms that allowing enterprise registration for IP CTS and IP Relay in the carceral setting would not significantly increase the risk of TRS waste, fraud, or abuse. In the *2022 ICS Order,* the Commission found that the security measures routinely applied to telephone service in correctional facilities limit any risk of waste, fraud, and abuse associated with enterprise registration for VRS, and those same security measures would tend to limit such risks in the case of IP CTS and IP Relay. Further, by allowing the assessment of charges for IP CTS that do not exceed those for an equivalent voice telephone call, we have limited the potential incentive of incarcerated people who do not need the service to seek to use it in lieu of ordinary voice service. Conversely, the limitation of IP CTS charges to those for an equivalent voice call limits any incentive for correctional authorities to allow or promote the use of IP CTS by incarcerated people with no need for the service. In IP Relay, no charges are permitted. However, with IP Relay, unlike IP CTS, the communications assistant mediates communication in both directions. As a result, IP Relay conversations tend to be substantially slower than the equivalent voice conversations, and there is accordingly less incentive for incarcerated people to request use of the service if they do not need it for functionally equivalent communication.

493. The enterprise registration rule we adopt for IP CTS and IP Relay in the carceral context parallels the VRS enterprise registration rule, as modified for the carceral context. To make it easier to find the applicable requirements, we combine the existing requirements for carceral enterprise registration for VRS with the new requirements for such registration for IP CTS and IP Relay in a single new paragraph (l) of § 64.611. For enterprise registration of a correctional facility or correctional authority, a TRS provider must transmit to the TRS User Registration Database administrator the following information: the TRS provider's name, the telephone numbers or other unique identifiers assigned to the correctional authority, the name and address of the correctional facility or correctional authority, the date of initiation of service to the correctional authority, and the name of the individual responsible for the device(s) used to access VRS, IP Relay, or IP CTS at the correctional facility or facilities involved. The existing rule for VRS allows enterprise registration of a single pool of telephone numbers for use by a correctional authority in all of its facilities. We allow the same flexibility for IP CTS. Such numbers may be assigned either by the IPCS provider or the TRS provider. As with the existing rule for VRS, the address may be the main or administrative address of the correctional authority. This individual may be an employee of either the correctional authority or the IPCS provider. When a TRS provider ceases providing relay service to a correctional authority via enterprise registration, the provider shall transmit the date of termination of such service.

494. The TRS provider also must obtain a signed certification from the responsible individual attesting that he or she understands the functions of the devices used to access TRS and that the cost of TRS is financed by the federally regulated Interstate TRS Fund. The certification also must state that the correctional authority or IPCS provider will make reasonable efforts to ensure that for VRS and IP Relay only persons with a hearing or speech disability are permitted to access the service, and that for IP CTS only persons with hearing loss that necessitates the use of IP CTS to communicate by telephone are permitted to access IP CTS. A VRS or IP CTS provider must also obtain the responsible individual's consent to transmit this information to the TRS User Registration Database. At this time, the TRS rules do not require that IP Relay registration data be entered in the User Registration Database. Before obtaining such consent, the TRS provider must describe, using clear, easily understood language, the specific information being transmitted, that the information is being transmitted to the TRS User Registration Database to ensure proper administration of the TRS program, and that failure to provide consent will require individual

registration and self-certification by incarcerated persons. A TRS provider shall maintain the confidentiality of any registration and certification information obtained by the TRS provider, and shall not disclose such registration and certification information, or the content of such registration and certification information, except as required by law or regulation.

3. Other Issues

495. *Accessible Billing Formats.* As also proposed in 2022, we amend our rules to require that any charges for IPCS be disclosed in accessible formats to incarcerated people with disabilities. The record in this proceeding generally supports this proposal. We do not agree with ViaPath that amendment of the Part 64 rules in this respect is unnecessary. Although our Part 6, 7, and 14 rules include requirements that information and documentation provided to customers regarding covered services be accessible to individuals with disabilities, those rules are subject to an achievability condition—which is not applicable to our Part 64 IPCS rules. Given the special importance of communication to incarcerated people with disabilities and the history of egregious telephone charges imposed on incarcerated people and their families, we decline to impose an achievability condition on access to billing information in the carceral setting.

496. *Charges for TRS-Related Services.* As discussed above, we amend § 64.6040 of our rules to clarify the treatment of TRS and related services under alternate pricing plans. We do not otherwise alter the provisions of § 64.6040 regarding charges for TRS and related services. In particular, we decline Securus's request for modification of § 64.6040(d)(3), which caps the permitted charges for point-to-point video service used by incarcerated persons with disabilities who can use ASL, limiting such charges to the equivalent rate for an equivalent voice call. Securus recommends that, ''[n]ow that the Commission has set rate caps for video IPCS charges for video IPCS,'' the benchmark for point-to-point ASL video charges should be the charges for equivalent non-ASL video calls. We deny this request. Although ASL point-to-point video service is not relay service *per se,* it serves the same statutory purpose—''to provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to engage in communication by wire or radio in a manner that is functionally equivalent to the ability of a hearing individual . . . to communicate using *voice* communication services.'' Therefore, access to this service is mandated for any facility covered by § 64.6040(b)(2)(ii), even if video communication is not otherwise made available at such facility. Accordingly, in 2022, the Commission appropriately benchmarked the charges for the use of point-to-point video to communicate in ASL at the charges for an equivalent *voice* call. Permitting the assessment of a higher *video* rate for such calls, instead of the equivalent voice rate at any correctional institution, would be inconsistent with the underlying statutory purpose—to make available communication that is functionally equivalent to voice communication.

497. *Analog TRS.* In response to reply comments by Ameelio, an internet-based video IPCS provider, we clarify the application to such providers of the IPCS rules mandating the availability of traditional (TTY-based) TRS and STS. Noting that the internet does not support analog services, Ameelio ''proposes that the Commission update its IPCS accessibility rules to accommodate advanced communications services that . . . do not rely on the Public Switched Telephone Network (PSTN), by clarifying that app-based IPCS providers may comply with the IPCS accessibility rules by providing functional equivalents to the traditional accessibility services that rely on the legacy telephone network.'' As the Commission explained in the *2022 ICS Order,* while TTY technology is incompatible with the IP protocol, TTY-based TRS and STS continue to be essential for ensuring that all segments of the TRS-eligible population have access to functionally equivalent communications. In addition, U.S. Department of Justice regulations implementing Title II of the American with Disabilities Act currently require correctional authorities to furnish auxiliary aids and services, which are defined to include voice, text, and video-based telecommunications products and systems, including TTYs, videophones, and captioned telephones or equally effective telecommunications devices. However, rules the Commission adopted in 2016 allow mobile service providers to comply with TTY-related requirements by supporting real-time text, an IP-based protocol, as an alternative to TTY connection. We amend our codified IPCS rules to make clear that, similarly, IPCS providers may provide access to traditional TRS via real-time text, as an alternative to TTY transmissions, if real-time text transmission is supported by the available devices and reliable service can be provided by this method. Additionally, for IPCS providers to meet their requirement to provide access to traditional TTY-based TRS and STS, they need only ensure that incarcerated individuals eligible to use TRS can access at least one certified provider of each form of TRS. If an IPCS provider does not interconnect with the PSTN, it could rely on contracting or other arrangements with a correctional facility to ensure that TTY-based TRS and STS are made available.

498. We also do not address at this time the Commission's proposal to expand the scope of coverage of the TRS Access Rule to include correctional facilities in jurisdictions with an ADP of fewer than 50 incarcerated people. We recognize that the Communications Act directs us to ensure that TRS are available to *all* eligible persons in the United States, to the extent possible, and we reaffirm the Commission's belief that, to ensure the availability of TRS and point-to-point ASL video communication to the fullest extent possible, the TRS-related access obligations of incarcerated people's communications service providers should be at least coextensive with those of correctional authorities under federal disability rights law—which are not subject to any population size limitation. However, given that the current rule has been effective for less than a year, we believe that our determination of an appropriate timeline for the expansion of TRS access to those facilities not covered by the current rule may benefit from experience gained regarding the first year of implementation. Therefore, we will keep the record open for additional input on this matter.

G. Reform of Consumer Protection Rules

499. In light of the expansion of our authority under the Martha Wright-Reed Act, we next revise our existing consumer protection rules to improve consumer disclosure requirements and to protect the funds of IPCS account-holders to ensure IPCS consumers fully benefit from the various reforms we adopt in the Report and Order. The Commission's consumer disclosure rules currently require providers to disclose their rates, ancillary service charges, and charges for terminating international calls to account holders and specify how certain charges should be displayed on billing statements. The existing inactive account rules bar providers, on an interim basis, from converting unused funds in inactive ICS

accounts to their own use and require them to make reasonable efforts to refund those funds. Based on the record, we expand these consumer protection rules to apply to the full scope of IPCS now subject to our ratemaking authority.

500. We also address certain limitations in our existing rules which the record shows lack sufficient scope, clarity, and specificity to enable IPCS consumers—and the public—to make fully informed decisions regarding the rates, charges, and practices associated with providers' offerings. Some commenters also contend that the current rules are inadequate to ensure that IPCS consumers receive the information they need to verify charges to their accounts. Similarly, the record makes clear a need to revise and strengthen the interim inactive account rules to ensure that IPCS consumers are able to receive timely refunds of unused funds in IPCS accounts deemed to be inactive. In light of this, we decline to simply apply our existing consumer protection rules to the expanded list of services—video IPCS and other audio and video advanced communications services, including intrastate services—over which we now have jurisdiction under section 276. Instead, we revise and strengthen those rules and apply them to all IPCS as set forth below.

501. Section 276(b)(1)(A) of the Communications Act, as amended by the Martha Wright-Reed Act, requires that we develop a compensation plan ensuring just and reasonable rates and charges for consumers and providers, while providing fair compensation to providers. As set forth above, we interpret this requirement as giving us authority over providers' practices associated with IPCS to the extent they may affect our ability to ensure just and reasonable audio and video IPCS rates and charges and fair compensation for all IPCS. We exercise that authority to adopt rules requiring IPCS providers to timely and effectively disclose the information that IPCS consumers will need to make informed decisions in setting up and using their IPCS accounts as well as rules to facilitate refunds of funds remaining in accounts that have been deemed inactive.

1. Consumer Disclosure Rules

c. Disclosure of Rates, Charges, and Practices

502. We revise and expand our consumer disclosure rules so all IPCS users and, where appropriate, the general public will have sufficient information to evaluate providers' IPCS rates, charges, terms and conditions. Expanding these rules will offer increased transparency and protection for consumers beyond those afforded by the Commission's existing rules, facilitating the monitoring and enforcement of our rules to ensure just and reasonable IPCS rates and charges. We expand the scope of our rules to include all IPCS providers subject to our expanded jurisdiction under the Martha Wright-Reed Act, including video IPCS and other advanced communications services. We also expand the scope of our rules to apply to the different stages of consumers' interaction with IPCS providers, from prior to the opening of an IPCS account to the closing of an inactive account. We conclude pursuant to our authority under section 276(b)(1)(A) of the Communications Act, as amended by the Martha Wright-Reed Act and, to the extent interstate or international telecommunications services are involved, pursuant to section 201(b) of the Communications Act, that the increased transparency we require is necessary to ensure just and reasonable IPCS rates and charges, and fair compensation as the Martha Wright-Reed Act mandates.

503. *Background.* In the *2015 ICS Order,* the Commission first required ICS providers to ''clearly, accurately, and conspicuously'' disclose their interstate, intrastate, and international rates and ancillary service charges to consumers ''on their websites or in another reasonable manner readily available to consumers.'' This rule is now codified at 47 CFR 64.6110(a). The Commission also stated that ICS providers that are non-dominant interexchange carriers must make their current rates, terms, and conditions available to the public via their company websites. In the *2021 ICS Order,* the Commission required providers to separately disclose any charges for terminating international calls, and to ''clearly label'' as ''separate line item[s] on [c]onsumer bills'' any amounts charged consumers for site commissions and international calling.

504. In 2022, the Commission sought comment on expanding the ''breadth and scope'' of the existing consumer disclosure requirements to reach more ICS consumers and increase transparency regarding the rates and charges they pay for IPCS. In 2023, the Commission sought ''renewed comment'' on these matters and asked what additional specific rule changes would be needed to implement the Martha Wright-Reed Act.

505. *Scope of Disclosure Requirements.* We first expand the scope of our disclosure requirements to apply to all IPCS providers that provide any audio IPCS or video IPCS subject to our jurisdiction under the Martha Wright-Reed Act. This essential step in our implementation of the Act will ensure that all IPCS consumers will have the same transparency into their providers' rates, charges and practices regardless of the type of IPCS they use.

506. *Public website Disclosure.* Section 64.6110 of our rules requires ICS providers to disclose certain information on their websites or in another reasonable manner readily available to IPCS consumers. The record suggests that this rule, as currently written, does not allow for adequate information for the public. Some providers suggest that they have already taken steps to make such information generally available. Therefore, to promote transparency regarding IPCS offerings, we revise our rules to require IPCS providers to disclose their IPCS rates, charges, and associated practices in an easily accessible manner on their publicly available websites. We note that the disclosure requirements we impose on publicly-available websites apply equally to IPCS providers that offer their IPCS services through web-based applications. This information must be available to all members of the public, including our state regulatory partners, and not just to consumers with a preexisting IPCS account with the provider at any particular facility. Providers must not require that website visitors open an account with the provider as a precondition to obtaining website access to the provider's rates and charges. This disclosure requirement will enable any consumer with internet access to make informed decisions regarding the provider's IPCS offerings both prior to opening an account and on an ongoing basis once an account has been created. It will also allow the Commission, our state counterparts, and the public to evaluate whether providers' rates, charges, and associated practices comply with the rules we adopt in the Report and Order. The Martha Wright-Reed Act makes clear our authority over intrastate IPCS, but such required public disclosure will allow us to benefit from the experience of our state regulatory partners. We anticipate that the additional public awareness will help consumers make informed choices and generally promote compliance with our IPCS rules.

507. Building upon the Commission's previous efforts to ensure transparency of ICS rates and charges, providers are required to post on their public websites complete information about their IPCS offerings, including information on rates, charges, and associated practices. One commenter expressed concern that provider websites contain ''misleading

information'' that can cause consumers to select ''high priced service[s].'' Therefore, we amend our current rules to include information that will assist consumers in making informed decisions regarding IPCS. Specifically, we find that providers must include, on their publicly available websites, information on how to manage an account, fund accounts, close accounts, and how to obtain refunds of unused balances. The public website disclosures must also contain sufficient information to enable IPCS users ''to understand the cost of a call before picking up the phone.''

508. *Methods of Disclosure.* To ensure consumers receive the information necessary to make informed decisions, IPCS providers must make consumer disclosures available: (a) via the provider's website in a form generally accessible to the public without needing to have an account with the provider; (b) via the provider's online and mobile application, if consumers use that application to enroll; and (c) on paper, upon request of the consumer. In doing so, we respond to the record which suggests that information about providers' service plans may already be provided this way. Likewise, by requiring different methods of disclosure, we recognize that consumers access these disclosures in different ways. For example, many incarcerated people may lack access to the internet, and therefore may have no way of learning of a provider's rates and charges where availability of these disclosures is limited to a website or online application. To ensure these consumers are able to access providers' disclosures, we require IPCS providers to make their disclosures available on paper if requested by a consumer, thereby ''devising a framework to ensure that all IPCS carriers provide such information in a concise, portable, and easy-to understand format.'' As one commenter explains, a 2022 study found that ''consumers comprehended and retained financial disclosures better when they read them on paper than on a computer screen; and study participants showed even worse retention and comprehension rates when they read the disclosures on smartphones.'' We anticipate that requiring these methods of making the necessary disclosures will be minimally burdensome to providers and relatively straightforward to implement, while also being familiar to IPCS users based on their experiences to date.

509. *Billing Statements and Statements of Accounts.* Based on the record, we require providers to make available billing statements and statements of account to all IPCS account holders on a monthly basis, via the provider's website, or via the provider's mobile or online application, and in any event, via paper statements upon request. As demonstrated by the record, however, this is not occurring. Our new requirement will ensure that consumers receive the necessary disclosures. Our rules do not presently require providers to make billing statements and statements of account available to ICS users. In 2022, the Commission proposed to modify the consumer disclosure rules to ensure consumers receive bills or statements of account from their providers. The record reveals a lack of consistency as to how IPCS providers disseminate information regarding their rates and charges to consumers. Securus contends that consumers and the general public have access to information on funding fees and taxes and the ''rates applicable to any facility that Securus serves.'' NCIC contends that online account access allows ICS providers to reduce customer service costs; consumers and family members no longer need to call customer service representatives or ask facility staff for ICS account information. Most providers offer rate and charge information online without providing periodic bills or statements of account, although a few, such as Pay Tel, issue monthly electronic statements to account holders via online accounts and mobile applications. We conclude that a consistently applied and transparent requirement is appropriate, and that all providers must make account-related disclosures to account holders monthly, which will foster consumer education and consumer protection.

510. Receiving monthly billing statements or statements of account will place IPCS account holders on the same footing as consumers generally, who typically receive monthly bills or statements of account (either online or via paper statements). Indeed, this is even more crucial for incarcerated individuals because many do not have the freedom to check their accounts at regular intervals. We rely in particular on one commenter's assertion that information on websites or web applications ''of varying detail and salience'' is not a substitute for statements in concise, easy-to-read formats. Stephen Raher also proposes a model statement of account that would provide customized information based on a consumer's activity. We do not require this type of statement at this time. In addition, Mr. Raher proposes a working group for consumer disclosures and billing statements. We do not believe this is necessary, given our updates to the consumer disclosure requirements. Given that IPCS providers routinely track and maintain information on consumers' accounts, they should be able to generate monthly updates to consumers without undue burden as other communications service providers routinely do. Given concerns that certain consumers may not have access to the internet or may have accessibility issues, we also require providers to issue paper bills or statements of account upon request by a consumer. In fact, many providers already make paper statements available upon request. We find inapposite Pay Tel's opposition to providing paper billing statements or disclosures based on facility imposed ''restrictions or limits on paper usage, due to the cost of processing the resulting waste.'' Our billing statement and disclosure rules govern *provider* methods of dissemination; facility practices over paper use are irrelevant.

511. Each IPCS provider is required to make available to account holders the information they will need to understand any transactions affecting their accounts. We do not dictate the format of the bills or statements of account, but require them to include the amount of any deposits to the account, the duration of any calls and communications charged to the account on a per-minute basis, the rates and charges applied to each call and communication for which a charge is assessed, and the balance remaining in the account after the deduction of those charges. We recognize that, in light of action we take in the Report and Order, site commission information does not have to be included. Whether a provider issues paper statements or online statements, the disclosures must include this same vital information.

512. *Billing Statements and Statements of Account for Alternate Pricing Plans.* We find that additional information must be provided in billing statements and statements of account for alternate pricing plans. The billing statement or statement of account must provide for each service period: (a) call details, including the duration of each call, and the total minutes used for that service period, and the total charge including taxes and fees, with explanations of each tax or fee; (b) the total charges that would have been assessed using the provider's per-minute rate; (c) the calculated per-minute rate for the service period, calculated as the charge for the service period divided by the total minutes used by that consumer, with an

explanation of that rate; and (d) the breakeven point, with an explanation of the breakeven point. Also, as discussed above for billing statements and statements of account for services rendered on a per-minute basis, the billing statements and statements of account for an alternate pricing plan must provide information about deposits made to the consumer's account and the account balance.

513. *Repeal of Site Commission Disclosure Requirement.* In light of our action today prohibiting the payment of site commissions related to IPCS, we repeal § 64.6110(b) of the rules, which requires that providers ''clearly label'' as ''a separate line item on [c]onsumer bills'' any amounts charged consumers for facility costs included in the providers' site commission payments. Given our prohibition against IPCS providers paying site commissions of any kind associated with intrastate, interstate, international, jurisdictionally mixed, or jurisdictionally indeterminate audio and video IPCS, including all monetary and in-kind site commissions, we find that this rule is no longer needed. Similarly, given our elimination of ancillary service charges elsewhere in the Report and Order, we also repeal the portion of § 64.6110(a) that requires providers to disclose those charges to consumers.

b. Effective Consumer Disclosures

514. Just as we have required all prior consumer disclosures to be clear, accurate and conspicuous, we now conclude that all required IPCS provider disclosures, including those implementing our inactive account and alternate pricing plan rules, must be clear, accurate, and conspicuous—the same standard our current rules set for disclosure of audio rates and ancillary service charges. Adherence to these standards will allow a reasonable person to readily understand IPCS audio and video rates and charges. For example, a provider should price its products in dollars per minute, rather than in dollars per megabyte as one provider does and which would be confusing to consumers. In this manner, incarcerated people and their loved ones will be able to understand the rates and charges they are, or will be, assessed and the terms and conditions that will apply to a provider's IPCS offerings. This, in turn, will help them make informed decisions about which services to purchase and whether an alternate pricing plan would be beneficial.

515. We expect that the requirement that disclosures be ''clear, accurate, and conspicuous'' and the other disclosure requirements we adopt in the Report and Order will ensure IPCS users and the public will timely receive clear and transparent information about providers' rates, charges, and practices. We therefore find that our revised disclosure rules give providers ''clear guidance'' regarding the information providers must disclose and how it must be disclosed, as certain commenters urge. These requirements will reduce consumer confusion when accessing provider websites which, while technically providing the information required by our rules, continue to be difficult for consumers to navigate. For example, as one commenter explains, one provider's ''terms and conditions and privacy policy collectively total almost 18,000 words,'' with ''the sheer volume and complexity of this information . . . not reasonably accommodate[ing] the actual needs of the average consumer.'' This same providers lists its rates and charges under a page called ''Tariffs.'' Securus's web page for ''Rates'' does not, in fact, include any rate information, instead merely stating that its ''rates are in compliance with applicable state and federal regulations.'' In order to find pricing information, consumers must navigate to a page labeled ''Tariffs'' which links to each individual state or federal tariff. Thus, the requested information is on its website, but we find it doubtful that consumers as a whole would understand what a tariff is and that that is the place in which they should look for pricing information. Another provider's rates and charges are included in a page labelled ''Legal and Privacy,'' giving no indication to consumers that this is the location of such information. Given these practices, we find that it is necessary to amend our current rules to ensure that consumers can easily understand and access such information by requiring that providers make their rates, charges, and associated practices available on their websites in a manner in which consumers can easily find the information. We also find that the disclosures we require with regard to alternate pricing plans ''should provide sufficient information to enable consumers to assess the value to them of the [alternate pricing] plan versus using standard per-minute rate plans.'' In view of these findings, we decline to adopt a specific ''IPCS label'' for billing statements and statements of account, as was proposed in the record. The Public Interest Parties assert that the Commission should adopt a version of the consumer broadband label adopted in the *2022 Broadband Label Order* so that consumers can make informed decisions before making a call. They contend that the Commission should tailor a similar label for IPCS, ''and require . . . providers to make information about their rates, terms, and conditions of service, including information about site commissions and international rate components, available generally to the public in an easily accessed manner.'' We find such an approach overly prescriptive and unnecessary. To minimize unnecessary burdens on providers and to allow flexibility, we decline to prescribe a particular format for disclosures.

c. Accessible Formats for Consumer Disclosures

516. All disclosures concerning IPCS, including disclosures pertaining to inactive accounts and alternate pricing plans, must be accessible to people with disabilities. In 2022, the Commission sought comment on the effectiveness of its rules in providing information regarding rates, charges, and fees to people who are deaf, hard of hearing, deaf-blind, or have a speech disability. The Commission proposed that all disclosures, including those regarding reporting requirements and charges, be made in an accessible format for incarcerated persons with disabilities, and invited comment on what steps it should take to implement that proposal.

517. Based on the record, we revise our consumer disclosure rules to specify that consumer disclosures must be in accessible formats for people with disabilities. We agree with commenters that any website disclosures, billing statements, and statements of account must be in accessible formats. We do not prescribe specific mechanisms, but afford providers flexibility to respond to specific requests and make reasonable accommodations.

d. Alternate Pricing Plan Consumer Disclosure Requirements

518. We adopt consumer disclosure requirements specific to alternate pricing plans, including disclosures prior to enrollment and on billing statements and statements of account. In 2022, the Commission asked ''[w]hat type of consumer outreach or education would be needed to ensure that consumers are able to choose the [alternate pricing plan] that best meets their needs.'' The Commission also asked ''what information consumers would need about providers' pilot programs to help them make informed choices between a pilot program and traditional per-minute pricing,'' and whether it should require providers to inform consumers ''how a pilot

program's prices translate on a per-minute basis, to enable consumers to make an informed decision between the program and the traditional per-minute pricing model.'' These rules are in addition to the disclosure requirements generally applicable to IPCS.

519. Several commenters discuss the benefits of enhanced consumer disclosure for alternate pricing plans. The Public Interest Parties assert that ''[e]nsuring that all fees are disclosed should help protect consumers against junk fees, hidden-fees pricing, and negative-option subscriptions.'' PPI suggests that such information would allow consumers to ''consider their likely phone usage and compare subscription costs to what they would pay under per-minute pricing.'' The Leadership Conference requests the Commission to ''ensure that consumers are fully informed about alternative pricing structures so that they can make informed decisions about their choices.'' Securus suggests that the Commission ''[r]equire baseline disclosures so [the] consumer can make an informed choice,'' and that the disclosures include the ''offered terms, (*e.g.,* X number of calls per month for $X).'' We agree that consumers need some essential information to assess whether a particular alternate pricing plan best meets their needs. For example, IPCS consumers should know the format of and charges for the alternate pricing plan prior to enrollment. Providers also should ensure that consumers know the terms, conditions and procedures for renewals, cancellations, and reporting dropped calls, so they will be in control of the length of time they are enrolled in the plan and know how to report dropped calls; the option to obtain service on a per-minute basis, so they are aware that enrollment in the plan is not the only option available to them; the breakeven point for the plan, so they will know what their usage level needs to be to benefit from the plan; and the availability of their usage and billing data upon request, so they can analyze their past usage and make decisions about their future enrollment in the plan. The disclosure of the breakeven point will especially be needed if a provider offers an alternate pricing plan that is designed for heavy users. A light user of IPCS, being told what the breakeven point is for such an alternate pricing plan, and being given an explanation of the breakeven point, would have information that could be used in deciding whether the plan makes sense for their circumstances. Accordingly, we find that providers offering alternate pricing plans must disclose the following information: (We are listing these items together here to give one list encompassing the details of alternate pricing plan disclosures.)

—The rates and any added taxes or fees, a detailed explanation of the taxes and fees, total charge, quantity of minutes, calls or communications included in the plan, the service period, and the beginning and end dates of the service period;

—Terms and conditions, including those concerning dropped calls and communications, automatic renewals and cancellations;

—An explanation that per-minute rates are always available as an option to an alternate pricing plan and that per-minute rates apply if the consumer exceeds the calls/communications allotted in the plan;

—The breakeven point, and an explanation in plain language that the breakeven point is the amount of plan usage the consumer must make to start to save money compared to the provider's applicable per-minute rate for the same type and amount of service; and

—The ability to obtain usage and billing data, upon request, for each of the most recent three service periods (where feasible), including total usage and total charges including taxes and fees. If the consumer had not been a customer of the provider during one or more of the three previous service periods, the provider must give the usage and billing data for whatever service periods the consumer did use the provider's services and for which the provider has retained the information. If the consumer has never been a customer of the provider, then this requirement does not apply. These disclosure requirements resolve Leadership Conference's concerns that consumers be informed about costs and refunds.

520. ViaPath opposes the adoption of consumer disclosure rules specific to alternate pricing plans, arguing that the Commission's rules ''already facilitate significant transparency,'' and that ''[c]onsumers are in the best position to determine whether alternative pricing arrangements meet their needs.'' ViaPath also asserts that expanded disclosures are not needed because ''[t]here is no record evidence that prior alternative pricing trials have resulted in anything other than satisfied customers.'' The evidence ViaPath refers to is testimony provided by Securus from a small subset of its customers—meaning we do not have information about how satisfied the remaining customers were, including the customers whose usage did not meet the breakeven points in Securus's plans. In particular, ViaPath cites to § 64.710 of the Commission's rules which requires audible information about the cost of a call prior to call connection. However, § 64.710 applies to interstate calls made from correctional facilities and therefore does not apply to intrastate IPCS calls over which the Commission now has jurisdiction. Because § 64.710 was adopted over two decades ago, it does not require providers to give all the terms and conditions of alternate pricing plans. The other rule sections referenced by ViaPath—§§ 42.10, 42.11, 64.2401 and 64.6110—fare no better. Sections 42.10 and 42.11 of the Commission's rules do not apply to intrastate services. Also, § 42.10 requires rate information to be publicly available at one physical location, which at a minimum, would not be useful to incarcerated people; and § 42.11 requires the information to be available for submission to the Commission and state regulatory commissions, not the public or consumers. Section 64.2401 applies to telephone bills, not to disclosures at other times, such as when someone is trying to determine whether to enroll in an alternate pricing plan. Finally, ViaPath suggests that § 64.6110, the section we are amending here, is sufficient. Section 64.6110 of the Commission's rules requires, among other things, that IPCS providers disclose their rates and fees on their websites or ''in another reasonable manner readily available to consumers.'' Compliance with this requirement appears less than ideal. For example, Securus has a website with an obscure URL, and which provides only rates, not taxes and fees. Another Securus website, accessed from a link at the bottom of *securustech.net,* apparently requires a user to have an account in order to view the rates. Additionally, despite ViaPath's contention that it is focused on transparency, simplification and clarity for consumers, an internet user would not find rates at *https://www.viapath.com/* or *http://gtl.com/*. Links to rates are given at *https://www.gtl.net/*. From there, interstate rates are found via a link to a page entitled ''Federal Tariffs and Price Lists,'' which directs the user to a tariff-like document for ViaPath—which the average consumer could readily decide is too difficult to understand. Section 64.6110 currently does not apply to intrastate or video service for example, or the terms and conditions associated with alternate pricing plans which we are permitting for the first time. Taken together, the rule sections listed by

ViaPath do not require the disclosure of all of the terms and conditions for alternate pricing plans for intrastate, interstate, and international audio and video IPCS, with the consumer being either an incarcerated person or a friend or family member, with the disclosure being made before, during or after enrollment in a plan, and with the disclosure being made to the public, including the Commission. ViaPath also cites to sections 208 and 403 of the Communications Act, and § 1.711 of the Commission's rules. However, those sections concern the Commission's authority to address a provider's actions after the fact. They do not require disclosures to consumers. Thus, even if IPCS providers perfectly comply with the rule sections listed by ViaPath, the rules are insufficient to ensure consumers receive the kind of information needed to make well-informed decisions about participation in alternate pricing plans generally, and to inform the public so they may analyze the provider's compliance with our regulations. We find that the consumer disclosure requirements specific to alternate pricing plans that we adopt here are necessary to educate and protect consumers. PPI suggests that providers reveal information such as a requirement that the consumer has to pay money regardless of whether the incarcerated caller is allowed to make calls, or pointing out that subscriptions are not comparable to wireless plans which allow callers to communicate with anyone of their choosing. We find our consumer disclosure requirements sufficiently robust to enable consumers to determine whether a provider's alternate pricing plan is the right choice for them. Of course, IPCS providers readily may add additional information that is truthful and useful to consumers to the information that they are required to provide, at any time they interact with the consumers, and on website postings that are available to the public.

521. *Timing and Manner of Disclosures.* In 2022, the Commission asked whether it should adopt rules ''governing how providers should disclose to consumers the rates, terms, and conditions associated with any'' alternate pricing plan. After reviewing the record, we adopt such requirements here, and conclude that an IPCS provider must make the alternate pricing plan disclosures identified above available: (a) before a consumer enrolls in the program (pre-enrollment); (b) upon request, at any time after enrollment; (c) with a billing statement or statement of account, and any related consumer communications; and (d) at the beginning of each call or communication.

522. *Pre-Enrollment Disclosures.* Before a consumer first enrolls in an alternate pricing plan, the provider must ensure that the consumer is fully informed about the plan and the disclosure must provide all plan details. For example, if the plan consists of 60 calls per month for $30.00 plus permissible taxes and fees totaling $2.50, the disclosure must provide the total dollar amount of $32.50, and the amount of taxes and fees in detail. The terms and conditions also must give the total dollar amount that will be charged, in this example $32.50. The provider also must specify and explain the plan's ''breakeven point,'' discussed above. Prior to the consumer's enrollment, the IPCS provider also must inform the consumer that usage and billing data will be available upon request before they enroll and after they enroll in the alternate pricing plan. These disclosures will enable a consumer to consider their own IPCS needs and the likelihood that their usage would reach the breakeven point before making a decision to enroll in the alternate pricing plan and give them comfort that they will continue to have access to the information they need over time to decide whether to remain enrolled in that alternate pricing plan.

523. *Disclosures Upon Request at Any Time.* In addition to the disclosures being crucial to a consumer's decision about whether to enroll in a plan, having access to the disclosures also is important while a consumer is enrolled in the plan, and after enrollment has ended. During enrollment in a plan, a consumer may want to check the provider's procedures for handling dropped calls, for example, or compare a billing statement to the terms of the plan. After enrollment, a consumer may want to check their billing statements against the terms of the plan to ensure the charges were correct or use the information to determine if they want to enroll in an alternate pricing plan again.

524. Providers must also make available the number of remaining minutes, calls or communications under the consumer's alternate pricing plan without the consumer having to initiate a call or communication that counts toward the minutes, calls or communications allotted in the plan. This can be achieved via the consumer's account on the provider's website or via the provider's mobile or online application, for example. For those without internet access a provider can give this information via its customer service line, or by whatever mechanism is permitted by the facility. This disclosure requirement will allow consumers to monitor their alternate pricing plan usage without deducting a minute, call, or communication from their plan. The record indicates that Securus offered this information to consumers of its subscription plan, suggesting this requirement will not be burdensome to providers. Therefore, we include this requirement in our alternate pricing plan consumer disclosure rules.

525. *Disclosures with a Billing Statement or Statement of Account.* Each billing statement or statement of account should explain how the consumer may access the disclosures. The methods for obtaining the disclosures must include the ability to request a paper copy. The other methods could include a link to a website or a toll-free telephone number, or perhaps a complete copy of the disclosures that would be included with the billing statement or statement of account. With such access to the disclosures, consumers will be able to confirm the charges on the billing statement or statement of account, and make decisions about their continued use of the alternate pricing plan.

526. *Disclosures at the Beginning of a Call or Communication.* In addition to disclosing all of the terms and conditions at other times and upon request, providers must make available, upon request of the consumer, specific disclosures at the beginning of a call made via an alternate pricing plan. For example, a provider could offer the option of this detailed information if a consumer were to ''press two'' at the beginning of a call. For example, the availability of the alternate pricing plan disclosures could be announced as part of the information at the beginning of a call, and the consumer could be told they can ''press 2'' to hear how to obtain the disclosure information online, or ''press 3'' to hear the disclosures read to them. This is similar to Pay Tel's use of voice prompts, such as by saying: ''For rate information, press 1 now.'' The IPCS provider must disclose the number of minutes, calls or communications remaining for the service period (for plans that have a finite number of minutes, calls, or communications). This will ensure that IPCS users have the information they need to determine whether to tailor their usage of IPCS in a given instance based on the details of the alternate pricing plan they are enrolled in. The requirement to provide disclosures at the beginning of a call is currently in § 64.710 of the Commission's rules. Section 64.710 as currently written, however, is insufficient to provide IPCS consumers

with adequate information to make an educated decision prior to making a call. For example, § 64.710 applies to interstate calls made from correctional facilities, not intrastate calls, and that section necessarily does not require the provider to offer the disclosure of all the terms and conditions of alternate pricing plans which are permitted for the first time in the Report and Order. Therefore, we add to our rules disclosure requirements at the beginning of the call or communication which are specific to alternate pricing plans. Securus states that, for its subscription plans, consumers were informed of the number of calls remaining at the beginning of each call. Our rule amendments require providers to give specific information about the status of the alternate pricing plan, and are broader than Securus's practice, to ensure that consumers are fully informed about the status of their use of the plan.

527. *Billing and Usage Data.* The alternate pricing plan disclosures—which primarily focus on the alternate pricing plan itself—also must inform consumers that their own prior usage and billing data (whether under per-minute pricing or an alternate pricing plan) are available upon request. This information will further assist a consumer in deciding whether to enroll in an alternate pricing plan. The availability of that information upon request while the consumer is enrolled in a plan will, in turn, enable IPCS consumers to evaluate whether to remain enrolled in that alternate pricing plan. It also will ensure that information is available in a manner that is timely for IPCS users—*i.e.,* when they otherwise are in a position to make such evaluations, in the event that they have not retained such information when it otherwise is made available to them. Because we require disclosures of key information regarding alternate pricing plans in other circumstances, we anticipate that in many instances IPCS consumers already will have the information they need, and will not find it necessary to avail themselves of this option. That said, because the limited experience of IPCS consumers with such plans, IPCS consumers may not know what information they will want to have in order to make an assessment of whether to remain on an alternate pricing plan, they might not automatically have retained that particular information. As a result, we expect a consumer's ability to obtain this information upon request will provide an important backstop that will not unduly burden IPCS providers above and beyond the alternate pricing plan disclosures we otherwise require.

528. The usage and billing data must show what the provider charged for each of the past three service periods (where feasible), including: (a) the minutes of use for each of the calls or communications made and the applicable per-minute rate that was charged (where applicable); (b) the total number of minutes; and (c) the totals charged including the details of any taxes and fees. The requirement applies only for those service periods for which the consumer was a customer of the provider. A service period could be, for example, a month or a week. If a consumer had been enrolled in an alternate pricing plan, the data must include the breakeven point for the alternate pricing plan(s), an explanation of the breakeven point in plain language, and the total that would have been due for each service period if the provider's per-minute rate had been used. The consumer's prior usage and billing data could be made available when the consumer logs into their account on the provider's website and the provider's online and mobile applications, but must also be made available on paper upon request of the consumer, and be made available at any time, whether before, during, or after a consumer's enrollment in an alternate pricing plan. As discussed above, we require disclosures to be available on paper so that they are accessible to people who do not have internet access.

529. These requirements respond to a record suggestion that ''a monthly accounting comparing the costs under a pilot program and the applicable per-minute rate would help IPCS consumers understand whether they will benefit or are benefitting from an alternative pricing structure.'' While one commenter advocates for disclosures of a consumer's historical IPCS usage and expenditures ''over a long period'' to ''account[ ] for periodic variations in usage,'' we limit the data IPCS providers must provide to the calling records for the most recent three service periods (where feasible) so as not to overwhelm consumers with large quantities of data, or create an overly burdensome requirement on providers. Although Securus stated that it made monthly statements of account available for 90 days for services outside of its subscription plan, we require data for at least the most recent three ''service periods'' so that the consumer can see their usage during three similar periods of time, and see the complete charges and taxes and fees for those service periods. The use of ''three service periods'' also would be a more reasonable request for alternate pricing plans offered on a weekly basis, rather than requiring a provider deliver up to 90 days of data (equivalent to approximately 12 weeks of data) which may be overwhelming to the consumer and may be onerous for the provider. For an alternate pricing plan with a service period of one month, the data provided would be for three months—*i.e.,* approximately 90 days. For an alternate pricing plan with a service period of one week, the data provided would be for three weeks—*i.e.,* 21 days.

2. Treatment of Unused Balances in IPCS Accounts

a. Adoption of Permanent Rules

530. We next adopt permanent rules addressing the treatment of unused funds in IPCS accounts that build upon the interim rules that the Commission adopted in the *2022 ICS Order.* We now update our interim rules to reflect our expanded authority over IPCS, and adopt permanent rules to provide IPCS account holders with informational, procedural, and financial protections that help ensure that IPCS account holders are able to maintain control over the funds in their accounts and receive refunds of any unused funds in a timely manner. Collectively, these measures, consistent with several providers' affirmative statements that refunds are always available, remove obstacles that, as a practical matter, have largely prevented account holders from receiving refunds of unused funds.

531. We take these actions pursuant to our authority under section 276(b)(1)(A) of the Communications Act, as amended by the Martha Wright-Reed Act, and, to the extent the underlying accounts can be used for interstate or international telecommunications services, pursuant to section 201(b) of the Communications Act. We conclude that any action (whether by a provider, a provider's affiliate, or an entity acting on the provider's or the affiliate's behalf) inconsistent with our revised rules for unused IPCS account funds would unreasonably impede our ability to ensure just and reasonable IPCS rates and charges, as required by section 276(b)(1)(A), and to the extent interstate or international telecommunications services are involved, would constitute an unreasonable practice within the meaning of section 201(b) of the Communications Act. We recognize that the *2022 ICS Order* characterized the Commission's interim rules governing unused balances as guarding against ''unjust and unreasonable practice[s] within the meaning of section 201(b) of the [Communications] Act.'' Because

section 201(b) broadly addresses just and reasonable charges and practices for or in connection with interstate and international common carrier services, the Commission had no cause at that time to parse more closely the precise relationship between those rules and ensuring just and reasonable rates and charges for IPCS. Examining that issue more closely now, we conclude that rules addressing the treatment of unused funds in IPCS accounts bear on the effective rates or charges that IPCS users pay to establish and maintain an account and use IPCS services. In particular, we find that the risk that an IPCS user will lose funds they contributed to an IPCS account effectively increases the overall cost of IPCS by reducing the IPCS usage they can count on receiving for a given amount of funds in an IPCS account. We therefore conclude that these regulations—designed to mitigate that risk—appropriately are part of a compensation plan designed to ensure just and reasonable rates and charges for IPCS within the meaning of section 276(b)(1)(A). Notably, no commenter disputes the Commission's legal authority in this regard.

b. Background

532. In the *2022 ICS Order,* in response to allegations of abusive provider practices, the Commission adopted interim rules that prohibit providers from seizing or otherwise disposing of funds in inactive inmate calling services accounts until the accounts have been continuously inactive for at least 180 calendar days. The record at the time showed how providers would confiscate, for their own use, funds in accounts they deemed ''inactive'' after a certain period of time, resulting in significant windfalls. The Commission was concerned that by taking possession of unused funds in customers' accounts, providers were ''depriv[ing] consumers of money that is rightfully theirs.'' Under the interim rules, once the 180-day period has run, providers must make reasonable efforts to refund all funds in the accounts to the account holders and, if those efforts are unsuccessful, treat those funds in accordance with any controlling judicial or administrative mandate or applicable state law requirements. The Commission found, on an interim basis, that all funds deposited into any account that can be used to pay for interstate or international inmate calling services remain the property of the account holder unless or until they are either: (a) used to pay for products or services purchased by the account holder or the incarcerated person for whose benefit the account was established; or (b) disposed of in accordance with a controlling judicial or administrative mandate or applicable state law requirements, including, but not limited to, requirements governing unclaimed property. The Commission used its authority under section 201(b) of the Communications Act to prohibit unjust and unreasonable practices, explaining that its ''actions extend to commingled accounts that can be used to pay for both interstate and international calling services and nonregulated services such as tablets and commissary services.''

533. In the *2022 ICS Further Notice,* the Commission sought comment on whether the Commission should adopt additional requirements regarding inactive accounts to protect consumers as it adopts final rules. Specifically, the Commission sought comment on the length of the time before an account could be deemed inactive, and the actions that would be sufficient to demonstrate activity. It also sought comment on other issues, including whether to require providers to issue refunds within a specified period of time once an account has been deemed inactive, whether providers should be required to collect contact information from and provide notice to account holders, and what types of mechanisms providers should use to refund amounts to consumers.

c. Discussion

(i) Consumers' Right to Funds

534. The Commission's interim inactive account rules provide that ''funds deposited into a debit calling or prepaid calling account . . . shall remain the property of the account holder unless or until the funds are'' used or disposed of in accordance with our rules, including as required by controlling adjudicatory decisions or state law. Building on that general foundation, the permanent rules for inactive accounts we adopt today are designed to safeguard the funds consumers deposit in IPCS accounts, thereby ensuring that the effective costs of IPCS are not unduly increased in a manner that is at odds with our mandate to ensure just and reasonable rates and charges for IPCS. Our permanent rules also reaffirm the Commission's interim rules that bar IPCS providers from improperly ''seiz[ing] or otherwise dispos[ing] of unused funds'' in inactive accounts,'' and require providers to undertake ''reasonable efforts'' to refund unused funds.

(ii) Scope of the Inactive Account Rules

535. We now extend our rules to all accounts that can be used to pay an IPCS-related rate or charge, to the extent the provider or its affiliate controls the disposition of the funds in the accounts. The interim rules for inactive accounts apply to ''all funds deposited into a debit calling or prepaid calling account,'' as those terms are defined in the Commission's rules. While for all practical purposes our rules do not distinguish between debit and prepaid calling accounts, given the prevalence of the use of these terms in the industry, our rules continue to reference these terms in our definition of ''IPCS Account.'' We now conclude that our permanent rules for the treatment of balances in inactive IPCS accounts apply to any type of account, that can be used to pay for IPCS, to the extent the provider or its affiliate controls the disposition of the funds in the account. In other words, we find that our rules are applicable to all IPCS accounts generally to the extent they are controlled by providers or their affiliates. Our rules do not generally extend to payment mechanisms other than accounts. To the extent a provider offers only one payment mechanism to pay for IPCS rates and charges at a facility, that payment mechanism is subject to the inactive account requirements even if that mechanism is not an ''account.'' For example, NCIC asserts that ''[s]ome companies sell virtual calling cards with 'no refund' policies.' '' While we do not generally include prepaid calling cards for the payment of IPCS in our definition of an IPCS account, we nonetheless conclude that providers that do not offer consumers an alternative means of paying ongoing charges other than a prepaid calling card are nonetheless subject to the inactive account requirements we impose here.

536. Our definition of ''IPCS account,'' and hence the applicability of our inactive accounts rules, extends to all accounts administered by, or directly or indirectly controlled by a provider or an affiliate, that can be used to pay IPCS rates or charges, including accounts where the incarcerated person is the account holder, regardless of whether those accounts can also be used to pay for nonregulated products or services such as tablets and commissary services. These accounts are used for ''debit calling'' under our current rules. This treatment is consistent with the Commission's decision, in the *2022 ICS Order,* to extend its interim inactive account rules to commingled accounts that could be used to pay for regulated

and nonregulated charges if providers administered or controlled those accounts. Consistent with the Commission's analysis in the *2022 ICS Order,* we conclude that where we have authority under section 201(b) and/or section 276 of the Communications Act to regulate the rates, charges, or practices associated with communications services, our authority extends to the nonregulated portion of a mixed service where it is impossible or impractical to separate the service's regulated and nonregulated components. Because the *2022 ICS Order* was adopted before the enactment of the Martha Wright-Reed Act, the Commission's decision was based on section 201(b) of the Communications Act. The now-revised section 276 of the Communications Act provides additional authority for our decision here.

537. In the *2020 ICS Order on Remand,* the Commission found that ancillary service charges ''generally cannot be practically segregated between the interstate and intrastate jurisdiction'' except in a limited number of cases where the ancillary service charge clearly applies to an intrastate-only call. Applying the impossibility exception, the Commission concluded that providers generally may not impose any ancillary service charges other than those specified in the Commission's rules and are generally prohibited from imposing charges in excess of the ancillary service fee caps. Similarly, commingled accounts offered by providers contain funds that can be used to pay IPCS rates and charges, over which the Commission has jurisdiction, as well as charges for nonregulated products and services. Because we cannot practically segregate the portion of the funds in providers' commingled accounts that may be used to pay IPCS-related rates and charges from the portion that may be used to pay nonregulated charges, we conclude that commingled accounts should be subject to our permanent rules regarding the treatment of unused funds in inactive accounts. In the *2020 ICS Order on Remand,* the Commission distinguished between automated payments made to fund an account *before* calls are completed and fees are incurred, from automated payments made *after* a call is made and therefore the jurisdiction has been determined. The funds at issue here are akin to the former situation where the funds cannot be separated by jurisdiction, so the Commission applied the inactive accounts rules to the corresponding automated payment fees.

(iii) Inactive Period

538. We retain the requirement that 180 consecutive calendar days must pass before a provider may initiate the process of determining that an IPCS account has become inactive, except where state law affirmatively sets a shorter alternative period, or the incarcerated person for whom the account was established is released from confinement or transferred to another correctional institution. In 2022, the Commission invited comment on whether the 180-day timeframe specified in our interim rules is the appropriate time frame before an IPCS provider may deem an account to be inactive and therefore begin the process of making reasonable efforts to refund the funds to the account holder. Consistent with the position of several commenters, we find that a 180-day time frame offers account holders an adequate window during which they may exert custody or control before their account is deemed inactive, without imposing unwarranted burdens on providers. In contrast, the 364-day inactive period proposed by one commenter, or any longer alternative period set by state law, would unnecessarily delay the refund to consumers of unused funds from accounts deemed inactive while imposing increased burdens on providers.

539. In 2022, the Commission asked for comment on the release and transfer process ''to better understand the need for rules addressing those areas.'' Based on the record, we find that if a provider becomes aware that an incarcerated person has been released or transferred, the 180 days of inactivity will presumptively be deemed to have run, requiring a provider to begin processing a refund in accordance with the requirements we adopt in the Report and Order subject to countervailing direction from the account holder. We agree with Securus that in situations where accounts ''are not specific to any facility or incarcerated person and may be used for calls from multiple facilities,'' the account holder ''may very reasonably wish to keep funds deposited in their . . . account to continue communicating with other individuals.'' To ensure that the account holder's preference is implemented in situations where the provider becomes aware that an incarcerated person has been released or transferred, we require that the provider contact the account holder prior to closing the account and refunding the remaining balance, to determine whether the account holder wishes to continue using the account, or to close it and obtain a refund from the provider in accordance with our requirements. If the account holder so requests, the account will be deemed inactive under our rules, and the provider must issue a refund in accordance with our requirements.

540. Consistent with the *2022 ICS Order,* our rules do not disturb the ability of account holders to obtain a refund upon request during the 180-day period of inactivity. Under no circumstances other than those described above, however, can a provider dispose of the funds in an IPCS account prior to 180 days of continuous inactivity without the account holder's affirmative consent. And, once the account holder provides that consent, the provider must refund any remaining funds in accordance with the requirements set forth below. Together, these steps will help ensure that account holders are not deprived of funds that are rightfully theirs, thereby effectively saddling account holders with unjust and unreasonable rates.

541. The interim rules for inactive accounts required that the inactivity period be continuous and specified the actions by the account holder or the incarcerated person for whom the account had been established that would be sufficient to restart the inactivity period—for example, adding or withdrawing funds from the account, expressing an interest in retaining the account, or otherwise exerting or attempting to exert control over the account. In 2022, the Commission invited comment on whether it should refine these rules and, in particular, on whether other actions by the account holder or the incarcerated person should restart the inactivity period. We retain the requirement that the inactivity period be continuous, as well as the requirement that the inactivity period restart when the account holder or the incarcerated person for whom the account is maintained: (a) deposits, credits, or otherwise adds funds to the account; (b) withdraws, spends, debits, transfers, or otherwise removes funds from an account; (c) expresses an interest to the IPCS Provider in retaining, receiving, or transferring the funds in an account; or (d) otherwise attempts to exert or exerts ownership or control over the account or the funds held in the account.

542. We also clarify that an account holder may use any reasonable means to convey to a provider its interest in retaining, receiving, or transferring funds in an account, including by calling, emailing, or writing to the provider, or by affirmatively responding to a provider inquiry asking whether the

account should remain open. A means of communication is ''reasonable'' for this purpose if it is a means of communication between the provider and account holder otherwise used in other situations, or if the service agreement provides for it as an additional means of communication in the specific scenario of such communications. This will guard against the risk that mere difficulty in communicating with the provider would result in an account qualifying as inactive under our rules, triggering the need for the account holder to go back through the steps of (re)establishing an account and risking the inability to engage in IPCS communications in the meantime. At the same time, it only holds the provider accountable for using the means of communications with the account holder that they otherwise are using already, along with any additional means specified for these purposes in their service agreement.

543. In addition, the record makes clear that providers often lack the information they will need to complete the refund process. To eliminate this potential roadblock, we urge providers to allow the account holder to specify an individual to which a refund should go to the extent the provider's existing systems can accommodate such a change. In the Further Notice, we invite comment on whether we should require that all providers follow this ''best practice.''

(iv) Required Refunds

544. We now adopt permanent rules that reaffirm the requirement that, once an IPCS account is deemed inactive, providers must take proactive steps to issue a refund to the account holder in accordance with the requirements set forth below. The record makes clear that both a refund mandate and rules implementing that mandate are needed to keep providers from continuing to retain the funds in inactive accounts and appropriating them to their own uses, which increases the effective cost of IPCS to consumers contrary to our statutory mandate to adopt a compensation plan for IPCS that ensures just and reasonable rates and charges. The requirement to initiate a refund for inactive accounts is consistent with and in addition to the underlying obligation of providers to refund accounts generally upon request by an account holder.

545. Both the refund mandate and our implementing rules will apply to all accounts within our definition of ''IPCS account.'' We find unavailing Securus's argument that we should not require refunds from accounts held by incarcerated people because the funds in them are not considered abandoned while the account holder remains incarcerated and ''are routinely refunded upon transfer or release.'' We commend correctional institutions and certain providers for having procedures in place to ensure that all funds in an IPCS account are refunded once an incarcerated person is released or transferred. And, as Securus recognizes, providers typically rely on correctional institutions to advise them when an incarcerated person is released or transferred. Since correctional institutions do not always share that information with providers, Securus's argument underscores the need for providers to take proactive steps to ensure that account holders are aware that refunds are available once their accounts are deemed inactive. As we do in circumstances where a provider becomes aware that an incarcerated person has been transferred or released, we similarly require that when a refund otherwise becomes due under our rules at the expiration of the 180-day inactivity period, the provider must contact the account holder prior to closing the account and refunding the remaining balance, to determine whether the account holder wishes to continue using the account, or to close it and obtain a refund from the provider in accordance with our requirements.

546. We disagree with certain commenters' assertions that we should not require refunds from accounts that ''are never deemed inactive'' or ''never expire.'' While such accounts in theory preserve the value of consumers' deposits, the longevity of these accounts is of no practical use to account holders if they are not aware that refunds are available. And even in situations where account holders are aware of the availability of refunds, the rules we adopt today ensure that they have a mechanism enabling them to have the amounts in those accounts returned to them. Thus, regardless of how providers may characterize IPCS accounts, under the rules we make permanent today, an account that can be used to pay for IPCS rates and charges becomes inactive after 180 consecutive calendar days unless certain conditions are met.

547. We conclude that, for purposes of the Commission's inactive account rules, regardless of whether an account remains open in perpetuity, the provider must take proactive steps to refund the entire balance of the account once it is deemed inactive within the meaning of our rules. The amount refunded must include the entire balance of the account, and, consistent with our elimination of ancillary service charges generally, the provider shall not impose fees or charges in order to process the refund. Additionally, in calculating the refund balance, the record supports requiring that the provider include in the refund any deductions it may have made in anticipation of taxes or other charges that it assessed when funds were deposited and that were not actually incurred. This will prevent providers from profiting from practices such as assessing taxes or fees upfront on deposited funds, rather than at the time of the account holder's actual payment for service.

(a) Timing of Refunds

548. In 2022, the Commission invited comment on whether it should adopt a time frame for refunds to be issued and the length of time needed to process refunds. The Commission also asked for comment on reasonable time frames to issue refunds in response to requests for refunds received before an account became inactive, and how much time was needed to process such requests. Based on the record, we find that, as part of providers' duty to make reasonable efforts to refund balances in accounts deemed inactive, refunds must be issued within 30 calendar days of an account being deemed inactive or within 30 calendar days of a request from an account holder. We find suggestions in the record that requests for refunds should be issued within five to seven business days to likely be too short a time period for providers to process refunds. We therefore find it reasonable instead to allow 30 days for the completion of the refund process. While one commenter urges us to leave this time period open ended, because we now require that refunds be issued automatically once an account becomes inactive and the provider has contacted the account holder to determine whether the account holder prefers to keep the account active or receive a refund in accordance with our rules, it is reasonable to expect that refund issuances will be completed within 30 calendar days. Likewise, we find that our new requirements that providers gather contact information and the means of issuing refunds when an account is opened will streamline the refund process such that a longer, or indeterminate, time period is not reasonable. We note that a provider's duty to conduct a timely refund process is not contingent on an affirmative request by the account holder for a refund. The provider must make reasonable efforts in the prescribed timeframe, as described below, to give account holders a reasonable

opportunity to receive the refund or affirmatively request that the account be deemed active.

549. Our rules require that ''[a]fter 180 days of continuous account inactivity have passed, or at the end of any alternative period set by state law, the provider must make reasonable efforts to refund the balance in the account to the account holder. In response to several commenters' suggestions, we take the opportunity to clarify that ''reasonable efforts'' include, but are not limited to: (a) notification to the account holder that the account has been deemed inactive; (b) the collection of contact information needed to process the refund; and (c) timely responses to account holders' inquiries regarding the refund process. It is self-evident that taking no steps to effectuate refunds is not reasonable.

550. We agree with commenters that account balances should be automatically refunded once accounts have been deemed inactive. We find that requiring the account holder to affirmatively request a refund is inconsistent with the fact that the funds in the account are the account holder's property. As the Commission has recognized, providers ''have strong incentives to retain these funds for themselves.'' Given these incentives, we find it appropriate to require providers to initiate and follow through on the refund process, including refunding all remaining money, once an account becomes inactive.

551. We reject certain providers' suggestions that it is ''impossible'' or overly burdensome for providers to make automatic refunds. These arguments are based on assertions that some providers presently lack the information needed to generate automatic refunds or have not yet established procedures to process automatic refunds. Those arguments are unavailing. We strongly disagree that ''mandating routine inactivity refunds rather than refunds upon release or transfer will impose costs and burdens that far outweigh any demonstrated benefit.'' The record of the abuses by providers retaining account holders' funds for their own use is extensive. Retention of those funds has functioned as an additional charge on consumers that, if continued, would undermine our efforts to establish a compensation plan that ensures just and reasonable IPCS rates and charges for consumers. While the benefits of automatic refunds may seem slight to some providers, the record makes clear the importance consumers place on receiving this money. In contrast to that substantial evidence of the benefits of such a requirement, providers have failed to adequately quantify the claimed burdens of compliance, let alone demonstrate outright impossibility of complying. To the extent that providers already issue refunds upon release or transfer, nothing in our rules prevents this practice from continuing and we support any efforts taken by providers to ensure refunds are promptly issued. Indeed, the fact that providers have demonstrated the ability to promptly issue refunds based on certain triggering events—such as release or transfer—gives us confidence that it will be reasonably feasible for them to establish the processes (if not already in place) in order to promptly issue refunds based on the triggering event of an account's inactivity under our rules. We thus require providers to collect whatever information and establish any procedures they will need to process refunds expeditiously as required by our new rules.

552. We do, however, acknowledge commenters' concerns regarding the administrative burden of providing automatic refunds for inactive account balances that are below the cost of issuing the refund. As Securus explains, ''[i]ssuing refunds on small account balances will result in the ICS provider incurring costs to administer those funds exceeding the value of the amount refunded.'' The record contains relatively little quantitative data regarding the point at which issuing a refund would cost more than the balance in the account. Pay Tel suggests that an account balance of $1.00 might be a sufficient cutoff point, while Securus suggests that the Commission adopt a $1.50 *de minimis* threshold. Additionally, the record suggests that there may be circumstances in which providers might effectuate refunds through third parties such as Western Union and that ''those third parties will charge for their role in issuing refunds.'' Given these choices, we adopt the more conservative of the two options provided to us in the record and therefore do not require automatic refunds where the balance in an inactive account is $1.50 or less. This *de minimis* threshold applies in the absence of ''a consumer's specific request'' for a refund. Thus, if an account holder requests a refund, providers must comply with such a request regardless of the amount of money remaining in the account. And, consistent with our rules, to the extent providers are unable to issue a refund, the provider shall treat such balances consistent with appliable state law, including applicable state unclaimed property law.

(b) Refund Mechanisms

553. The record suggests that there are a variety of methods available to providers to refund the balances in inactive accounts. Rather than prescribe a specific mechanism, we suggest several options which providers may offer to account holders that are supported by the record. As a general matter, Securus asserts that it ''will tailor its refund method to the method used by the account holder to fund the account,'' which suggests that providers are able to offer different refund mechanisms. Indeed, Securus indicates that if an account is funded via a payment card, it will ''initiate a refund using the payment card information on file.'' For accounts funded using a check or money order, Securus indicates that it ''will issue a paper check that will be sent via postal mail using the address information on file.'' Other commenters similarly suggest that ''[r]efunds should be issued either to the account holder's original form of payment or to a credit or debit card provided by the account holder at the time of the request'' or through an electronic fund transfer to a bank account. Given record evidence of the availability of a variety of refund mechanisms, we find that providers must issue refunds in the original form of payment, an electronic transfer to a bank account, a check, or a debit card. We find that offering multiple refund mechanisms will ensure that barriers created by certain methods are avoided. While providers appear to use refund mechanisms that offer similar optionality to consumers, we emphasize that any refund mechanism that requires that an account holder affirmatively request a refund after the account has been inactive for 180 days would violate our rules. Such requirements may be appropriate when an account holder seeks a refund while an account is active, but cannot be a barrier to receiving a refund once an account is deemed inactive.

(v) Required Notices

554. We conclude that additional requirements are needed to ensure that account holders maintain control over IPCS accounts and receive refunds in a timely manner. As discussed above, we impose certain disclosure requirements on providers, including requiring the posting of their terms and conditions of service on their publicly available websites, the posting of their obligation to refund unused balances upon request, and other more detailed disclosure requirements related to their inactive

account balance procedures. We now also require providers to provide account holders, through their billing statements and statements of account, notice of the status of IPCS accounts prior to their being deemed inactive. This notice shall initially be provided at least 60 days prior to an account being deemed inactive. It shall be included in each billing statement, or statement of account, the provider sends, or makes available to, the account holder until either some action by the account holder results in the inactivity period being restarted or the account is deemed inactive. We agree with ViaPath that notices should be provided to the account holder only. This notice must describe how the account holder can keep the account active, as well as how the account holder may update the refund information associated with the account. We emphasize that providers may supplement their compliance with these requirements with any additional measures they deem appropriate to keep account holders informed of the status of their accounts and how to update their account information.

(vi) Controlling Judicial or Administrative Mandate

555. We also adopt an exception to our permanent rules regarding the disposition of funds in inactive accounts that allows a provider to dispose of funds in inactive accounts in compliance with a controlling judicial or administrative mandate. Our interim rules included an identical exception, which the Commission proposed to retain in 2022, and was supported in the record. We also update the definition of ''controlling judicial or administrative mandate'' from the interim rules to make clear that this exception to our rules regarding the disposition of funds in inactive accounts applies to all incarcerated people's communications services now subject to our authority. This revised definition encompasses any final court order that requires an incarcerated person to pay restitution, any fine imposed as part of a criminal sentence, and any fee imposed in connection with a criminal conviction to the extent that these payments are required to be made from an account that could be used to pay IPCS rates or charges. The revised definition also includes applicable state law requirements, including, but not limited to, requirements concerning unclaimed property in such accounts. Finally, the definition excludes from the scope of our final rules acts taken pursuant to a final court or administrative agency order adjudicating a valid contract between an IPCS provider and an IPCS account holder, entered into prior to the release date of the Report and Order, that allows or requires the provider to act in a manner that would otherwise violate our rules regarding the disposition of funds in inactive accounts.

556. In 2022, we invited comment on ''the ultimate disposition of unclaimed funds in a debit calling or prepaid calling account in circumstances where a provider's refund efforts fail and state law does not affirmatively require any particular disposition.'' We conclude that the provider's inability to refund money remaining in an inactive account does not alter the account holder's entitlement to use them or ultimately have them refunded as a matter of our rules. Consequently, the account holder's preexisting entitlement to those funds would be altered only where controlling judicial or administrative mandate or state law affirmatively requires otherwise. Therefore, as advocated by some commenters, we find that if reasonable efforts by providers to refund the funds in inactive accounts fail, the ''provider should be required to treat remaining funds consistent with applicable state law,'' including applicable state unclaimed property laws. While some commenters urge us to adopt specific unclaimed property requirements to be applied at the state level, we find compliance with state law to be presumptively reasonable. We note, however, concerns raised in the record that providers will forum shop for favorable unclaimed property laws outside of the location where the account holder resides. We find instead that providers will be subject to the standards the courts have articulated for resolving choice-of-law questions generally and rely on courts to address abuse by providers regarding choice-of-law matters.

H. Other Matters

1. Rule Revisions

557. In the Report and Order, we revise our rules pursuant to the direction of the Martha Wright-Reed Act. In particular, we amend our rules to make consistent use of the terms ''incarcerated people's communications services,'' ''IPCS,'' and ''incarcerated people,'' as opposed to ''inmate calling services,'' ''ICS,'' and ''inmates,'' terms previously used in this proceeding. In 2023, the Commission proposed to revise its rules to use the term ''incarcerated people's communications services'' or ''IPCS'' instead of ''inmate calling services'' or ''ICS'' to refer to ''the broader range of communications services subject to the Commission's jurisdiction as a result of the [Martha Wright-Reed] Act.'' The Commission also proposed to ''change[ ] references to 'inmates' to 'incarcerated people,' '' as public interest advocates urge. Nearly all commenters addressing the subject support these revisions. Indeed, several commenters use the term ''IPCS'' in place of ''ICS'' in their comments, following the Commission's proposed approach. Additionally, we note that these changes are consistent with and advance the Commission's goal of digital equity for all.

558. Securus argues that the ''the replacement of 'calling services' with the broader, and [in Securus's view] somewhat ambiguous term 'communications services' '' may ''engender confusion.'' Securus's concern appears to focus on ''retaining the distinction'' between audio communications and video communications, ''to avoid any suggestion that they may be subject to the same regulatory framework when in fact they are quite different services.'' Securus therefore suggests that we adopt the terms ''incarcerated calling services'' and ''incarcerated video services'' to refer to these respective types of communications services. We are not convinced that incorporating the term ''incarcerated people's communications services'' into our rules would have this effect. First, the Act explicitly contemplates a unified regulatory framework for these services by granting the Commission authority over ''any audio or video communications service used by inmates.'' The language of section 276, as modified by the Act, also refers to these types of services collectively. Second, these respective services share, to a substantial extent, similar operating conditions as well as being commonly subject to critical aspects of our regulatory framework (consistent with the Act), which warrants the use of a single term that encompasses all services under our jurisdiction. To the extent that the treatment of these two types of services differ under our regulatory framework, this distinction is effectively encapsulated by our use of the terms ''audio IPCS'' and ''video IPCS.'' Accordingly, we revise our rules to change all references to ''inmate calling services'' or ''ICS'' to instead refer to ''incarcerated people's communications services'' or ''IPCS,'' respectively, and to change all references to ''inmates'' to ''incarcerated people.'' We will, however, continue to use the term ''inmate calling services'' or ''ICS'' to refer to historic Commission actions in WC Docket No. 12–375. We encourage

commenters and other participants in this proceeding to adopt these changes in their submissions going forward.

559. We also revise our rules to incorporate terms used in the Martha Wright-Reed Act and to implement our actions in this Order. These revisions include changes to certain definitions in § 64.6000 of our rules, and reflect the extension of the application of our rules to intrastate IPCS, the addition of new rules addressing alternate pricing plans, and changes to our disability access, rate cap, ancillary service charge, annual report and certification, inactive account, and consumer rules.

2. Definitions of Prison and Jail

560. In 2022, the Commission sought comment on modifying the definitions of ''Jail'' and ''Prison'' in its rules ''to ensure that they capture the full universe of confinement facilities'' such as civil commitment, residential, group and nursing facilities. Two commenters, the Accessibility Coalition and UCC Media Justice, filed *ex partes* agreeing that the Commission should expand the definitions of ''Prison'' and ''Jail'' as suggested. In addition, the Commission sought comment on its authority to apply the inmate calling services rules, including those addressing communications access for people with disabilities, to these facilities. In addition, the Commission asked commenters to address whether residents of such facilities are able to access voice and other communications services through providers of their own choice, as opposed to being limited to the providers selected by third parties. In 2023, the Commission again invited comment about whether to expand the definitions of ''Jail'' and ''Prison'' to include these facilities, or any additional facilities, as part of the definitions of ''Jail,'' ''Prison,'' or ''Correctional Facility.''

561. Numerous commenters support expanding the definition of ''Jail'' to cover ''civil commitment facilities, residential facilities, group facilities, and nursing facilities in which people with disabilities, substance abuse problems, or other conditions are routinely detained.'' One commenter urges the Commission to continue to ''expand protections for vulnerable populations subject to various forms of detention.'' Another asserts that ''[j]ust as incarcerated people with disabilities in prisons and jails, as currently defined in the Commission's rules, face inequitable access to communications services, so too do those confined to civil commitment facilities.'' Two commenters raise concerns that the definition of ''Jail,'' as amended in the *2022 ICS Order,* ''did not fully capture the Commission's intent to include every type of facility where individuals can be incarcerated or detained,'' in particular immigrations detention facilities. Specifically, they point out that, although the Commission incorporated into its definition of ''Jail'' ''facilities used to detain individuals, operated directly by the Federal Bureau of Prisons or U.S. Immigration and Customs Enforcement, or pursuant to a contract with those agencies,'' it failed to include similar facilities operated by Customs and Border Protection (CBP) or the U.S. Marshals Service (USMS). Given the similar nature of these agencies and their corresponding facilities, theses commenters urge us to add detention facilities operated by, or pursuant to a contract with, CBP or USMS to the definition of ''Jail'' in our rules.

562. Other commenters oppose expanding our definition of ''Jail'' as proposed. The National Sheriffs' Association questions whether the types of facilities the Commission sought comment on including in its definition of ''Jail'' fall within the scope of section 276 of the Act which applies to ''the provision of inmate telephone service in correctional institutions.'' One provider argues that our IPCS regulations ''should apply only to facilities that contract with ICS providers to install and maintain secure, corrections-type communications systems.'' The National Sheriffs' Association also contends that ''it is unlikely that calling services in [civil commitment, residential, group, and nursing] facilities have the same cost characteristics of providing calling services in jails and prisons.''

563. Consistent with the Commission's intention in the *2022 ICS Order,* we modify the definition of ''Jail'' to cover all immigration detention facilities. This definition therefore encompasses every immigration detention facility operated by, or pursuant to a contract with, ICE, CBP, USMS, or any other federal, state, city, county, or regional authority. This modification to the definition of ''Jail'' addresses this unintended gap in our rules and also follows the Martha Wright-Reed Act's directive that we ensure ''just and reasonable charges for telephone and advanced communications services in correctional and detention facilities.''

564. We decline at this time to make further modifications to the definitions of ''Prison'' and ''Jail'' in our rules. While we agree with certain commenters that individuals in certain other facilities should benefit from the protections of the IPCS rate caps and other rules we adopt here, based on the current record, we find we lack sufficient information and data to address the issues raised in the record. Given our lack of data, particularly on the costs providers incur in providing service in these types of facilities, we do not find we have sufficient confidence at this time that the rate caps we adopt herein would fairly compensate providers for providing service to such facilities. We seek additional comment on these issues in the attached Notice.

3. Annual Reporting and Certification Requirement

565. Since 2013, the Commission has required providers of communications service to incarcerated people to file certain pricing and related data and information annually to promote transparency and heighten providers' accountability. These annual reports enable the Commission and the public to monitor pricing practices and trends in the IPCS marketplace generally. Pursuant to our rules, ICS providers must file annual reports and certifications by April 1 of each year. The reports contain information and data about the services provided for the preceding calendar year, and an officer or director of the provider must certify that the information and data are accurate and complete. We now modify the scope and content of our annual reports to reflect the Martha Wright-Reed Act's expansion of Commission jurisdiction over other communications services in carceral facilities, including video IPCS and other advanced communications services, as well as intrastate IPCS, and the providers that offer these services.

a. Background

566. The Commission's annual reporting requirements for providers of communications services to incarcerated people have changed over time reflecting the Commission's evolving perspective on the need for marketplace data. The Commission first adopted annual reporting and certification requirements for providers in its *2013 ICS Order.* The information and data required in the reports included interstate and intrastate ICS rates, ancillary service charges, and the number of disconnected calls. An officer or director was required to certify to the accuracy of the data and information, ''including the requirement that ICS providers may not levy or collect an additional charge for any form of TRS call, and the requirement that ancillary charges be cost-based.'' The Commission found that the certification requirement would facilitate

enforcement and ensure that ICS providers' rates and practices were just, reasonable, and fair, and in compliance with that Order. The Commission subsequently included additional reporting requirements relevant to industry oversight in 2015, and further amended its rules in 2022 to require data concerning various services for individuals with disabilities. The Commission added requirements to report data on: (a) site commissions; (b) the number of TTY-based ICS calls, the number of those calls that were dropped, and the number of complaints related to ICS made by TTY and TRS users; and (c) the usage, rates and ancillary service charges for video visitation services. In 2017, the D.C. Circuit vacated the reporting requirement for video visitation services, considering the requirement ''too attenuated to the Commission's statutory authority.'' In the *2020 ICS Order,* the Commission removed § 64.6060(a)(4)—the paragraph that had required ICS providers to submit data on video visitation services. The Commission required providers to report the number of calls and number of dropped calls for TTY-to-TTY ICS, for direct video calls placed or received by ASL users, and for each TRS available at a facility, as well as the number of complaints about dropped calls and poor call quality for these services. Additionally, the Commission determined that it was no longer necessary to collect data on dropped calls, so it adopted the proposed § 64.6060(a)(5) to (6) without the requirement to report on dropped calls, and made a conforming modification to § 64.6060(a)(7) which requires reports about complaints from TTY and TRS users. The changes to the three paragraphs, § 64.6060(a)(5) to (7), have not yet gone into effect.

567. In the *2023 IPCS Order,* the Commission reaffirmed and updated its prior delegation of authority to WCB and Consumer and Governmental Affairs Bureau (CGB) ''to modify, supplement, and update [the annual reporting] instructions and . . . template as appropriate to supplement the information [it would] be receiving in response to the Mandatory Data Collection.'' The Word and Excel templates are FCC Form 2301(a), and the certification is FCC Form 2301(b). The Commission also ''delegate[d] to WCB and CGB the authority to conduct the requisite Paperwork Reduction Act analysis for any changes to the annual report requirements that were implemented pursuant to [the *2023 IPCS Order*].'' In the accompanying *2023 IPCS NPRM,* the Commission asked what rule changes or new rules would be necessary to effectuate the Martha Wright-Reed Act. No commenter addresses possible changes to the annual reporting and certification requirement.

568. In the *Aug. 3, 2023 IPCS Public Notice,* WCB and CGB proposed revisions to the instructions and templates for the annual reports and annual certifications to implement the Martha Wright-Reed Act and reflect the changes that were adopted in the *2022 ICS Order.* Commenters generally supported the Commission's efforts to track trends in the IPCS marketplace as long as the reporting requirements were not unduly burdensome. However, one commenter argued that it was premature to require reports on video and the expanded TRS obligations, because the Commission had not adopted video IPCS regulations, and the expanded TRS regulations had not yet gone into effect. In response, the Commission refrained from adopting any changes to the annual reporting requirements prior to this Order. The Apr. 1, 2024 annual reports and certifications used the same forms as were used previously.

b. Discussion

569. We now modify our annual reporting and certification requirements, consistent with the Commission's expanded authority under the Martha Wright-Reed Act, to include the full scope of IPCS and all providers of IPCS. These modifications will provide greater visibility into the IPCS marketplace and provide an objective foundation for future Commission action to ensure IPCS rates are just and reasonable and IPCS providers are fairly compensated. We also provide WCB and CGB the flexibility to propose, seek comment on, and adopt further revised requirements in response to this Order and future IPCS marketplace developments in a timely fashion. Collectively, these modifications to our annual reporting requirements and our delegation of authority to WCB and CGB to implement these changes will enable the Commission to better ensure it meets its statutory directives.

570. First, we make several modifications to the annual reporting and certification rule. Specifically, we revise § 64.6060(a) so the annual reporting requirement now applies to *IPCS* providers, rather than *ICS* providers. Consistent with the revised definition of IPCS, this change makes providers of video IPCS and advanced communications services not previously covered by our IPCS rules subject to the annual reporting and certification rule. We also remove § 64.6060(a)(2) to (3) which referred to ancillary service charges and site commissions to reflect the prohibition on those charges adopted in this Order. We retain the reporting requirements concerning TRS and related communications services in § 64.6060(a)(5) to (7), but renumber them as § 64.6060(2) to (4). These requirements were originally adopted in the *2022 ICS Order* but have not yet gone into effect. When these paragraphs were adopted, the Commission found that the annual reports would provide ''valuable data showing to what extent the [TRS-related] rules adopted [in that order] are successfully implemented.'' These requirements will allow us to monitor incarcerated peoples' access to TRS and related communications services. Finally, we modify the certification requirement in § 64.6060(b) to now include examples of several executives of the provider that may make the certification, and for consistency. The current Annual Reporting and Certification Instructions, Word Template, Excel Template and Certification Form were adopted by WCB pursuant to authority delegated by the Commission and after public requests for comment and comment.

571. Next, we give WCB and CGB flexibility in revising and updating the annual reports, as necessary to provide useful transparency into industry practices and guide Commission efforts to regulate the industry. We direct that WCB pay particular attention to how best to capture developments in the rapidly changing, but nascent video IPCS marketplace in updating the requirements for the annual reports. We also direct CGB to pay attention to not only the availability of TRS, but growth of both the user base and the use of TRS, capturing data on the number of individuals with disabilities who are requesting access to the additional forms of TRS in carceral facilities, changes in the monthly minutes of use for each type of TRS, and other useful metrics. WCB and CGB therefore will be able to respond to regulatory and marketplace conditions more readily than if every specific annual report change needed to be adopted first by the Commission. We direct WCB and CGB to seek comment on and adopt all necessary revisions to annual report instructions, templates and certifications consistent with past practices. For example, on December 15, 2021, WCB released a Public Notice proposing to revise the annual reports to reflect rule amendments adopted in the *2021 ICS Order.* After considering the comments and replies submitted in

response to the Public Notice, WCB adopted an order that revised the instructions, reporting templates, and certification. The instructions, reporting template, and certification were made available online.

572. We also reaffirm and update the Commission's prior delegation of authority to WCB and CGB to revise the annual reports. Accordingly, WCB and CGB can modify, supplement, and update the required contents of the annual reports and the manner in which they are to be submitted, including all necessary instructions, templates and the required certification form, to ensure the reports reflect the Commission's expanded authority under the Martha Wright-Reed Act and the other actions taken in this Order. For example, this delegation includes authority to WCB and CGB to modify the annual reports to include data and information regarding the provision of TRS and related communications services to reflect the expanded requirements adopted in the *2022 ICS Order,* and our removal of § 64.6060(a)(5) to (7) in this Order. We further delegate authority to WCB and CGB, independently or collectively, to require IPCS providers to submit information related to their IPCS offerings and practices upon request, to provide WCB and CGB flexibility to monitor compliance with our rules in a timely manner. Such requests for information could result from complaints being filed by providers or by consumers, or on the Commission's or WCB's own motion. In delegating authority to WCB and CGB in this regard, we do not directly or indirectly limit or modify the otherwise-existing authority delegated to the Enforcement Bureau. We find that this delegation is necessary because it is difficult in advance to determine what information will be needed on a case-by-case basis by the Commission to decide whether providers are in compliance with our rules. Our delegations of authority to WCB and CGB will be effective upon publication of this Order in the **Federal Register**, enabling WCB and CGB to move expeditiously in modifying, supplementing, and updating the annual reports and certification for the next reporting period and thereafter, to facilitate the Commission's implementation of the Martha Wright-Reed Act and this Order. We also direct the Bureaus to conduct and submit the requisite Paperwork Reduction Act analysis for any changes to the annual report and certification requirements that are implemented pursuant to this Order.

4. Reporting and Recordkeeping

573. *Additional Data Collection.* We adopt an additional data collection obligation to collect the data and other information we will need to set permanent rate caps for video IPCS, reevaluate our rate caps for audio IPCS if necessary, and learn more about service quality, particularly the prevalence of dropped calls or communications. As the Commission explained in the *2023 IPCS Order,* the Martha Wright-Reed Act contemplates, among other things, the collection and analysis of advanced communications services' costs and related data, including for video communications, among other information. The Commission therefore directed WCB and OEA to initiate an additional data collection—the 2023 Mandatory Data Collection—to obtain the data and other information needed to implement the statute. Also, the record in this proceeding indicates that poor IPCS quality of service is a recurring issue. Therefore, in the accompanying Notice, we seek comment on adopting IPCS quality of service standards. Collecting more-detailed information about service quality, for example the frequency of dropped calls or communications, responds to concerns in the record and will help inform any future action the Commission may take regarding IPCS quality of service. We conclude that an additional data collection will be needed to set permanent rate caps for video IPCS and to update audio IPCS rate caps if necessary, including, as applicable, for the smallest size tier of jails. We therefore delegate to WCB and OEA the authority to conduct this data collection and direct them to structure an additional data collection as appropriate to enable us to accomplish these tasks.

574. In designing and structuring this additional data collection, WCB and OEA should consider how best and when to collect data that demonstrate the evolving nature of the video IPCS marketplace. As our rate cap analysis recognizes, the video IPCS data from the 2023 Mandatory Data Collection reflect conditions typical of a nascent market, including relatively high initial investment costs and relatively low initial demand. We anticipate that, as the video IPCS marketplace evolves, per-unit costs of providing video IPCS will fall significantly—a factor that we take into account in setting our interim rate caps for video IPCS. Given the importance of ensuring that the rate caps for video IPCS are just and reasonable and fairly compensatory over the longer term, WCB and OEA should collect not just updated data on video IPCS costs and demand, but also (to the extent practicable) how those costs and demand might change over time. In the 2023 Mandatory Data Collection the Commission sought information on the ''number of complaints regarding problems experienced with disability-related calls.'' We now give WCB and OEA the flexibility to add more generally applicable questions regarding IPCS quality of service to the next data collection.

575. Consistent with the above, we reaffirm the Commission's prior delegation of data collection authority to WCB and OEA to conduct an additional data collection to collect detailed data and other information, at the provider, contract and facility level, on audio and video IPCS from all providers subject to our expanded authority under the Martha Wright-Reed Act and the Communications Act. As part of their review of the providers' submissions in response to the additional collection, WCB and OEA should evaluate whether our permanent rate caps for audio IPCS remain just and reasonable and fairly compensatory. To allow for consistent data reporting, we direct WCB and OEA to make any appropriate modifications to the template and instructions for the 2023 Mandatory Data Collection. We also grant WCB and OEA authority to determine the timing and scope of the data collection, provided that such collection shall be conducted as soon as practicable understanding the need to ensure that the Commission obtains data representative of a more mature video IPCS marketplace and an audio IPCS marketplace that has fully adapted to our actions in this Order. As part of their review of providers' submissions, WCB and OEA may require any provider to clarify and supplement its response to the data collection where appropriate to enable a full and meaningful evaluation of the providers' cost, demand, and revenue data and costing methodology.

576. *No Recurring Data Collection.* We decline, at this time, to adopt a recurring data submission obligation for IPCS providers, as suggested in 2020 and 2021. The Commission invited comment on whether it should conduct data collections on a more routine, periodic basis, as opposed to relying on ad hoc data collections. While we agree with several commenters that a recurring data collection would potentially aid us in ensuring that IPCS rates and charges remain just and reasonable and fairly compensatory, we find that the burdens of a recurring data collection on providers would exceed any potential benefits. We also find that

the information we will obtain from our additional data collection, coupled with the information to be provided in the IPCS Annual Reports as revised pursuant to this Order, will allow us to respond to any changes in the IPCS marketplace in a timely manner without unduly burdening IPCS providers. We therefore conclude that, on balance, a recurring collection is not warranted at this time.

577. *No Accounting Requirements.* We also decline, at this time, to impose accounting requirements on IPCS providers, as suggested in 2021. In that Notice, the Commission sought comment on specific types of accounting requirements that may be useful if it were to adopt a recurring data collection. Given that we decide not to adopt recurring data collections, we also conclude that we should refrain from imposing accounting requirements on IPCS providers at this time.

5. Payphones Outside the Incarceration Context

578. We decline, at this time, to adopt new rules applicable to the provision of payphones outside the incarceration context. In 2023, the Commission observed that certain amendments that the Martha Wright-Reed Act made to section 276 of the Communications Act apply to payphones generally, including traditional payphones used outside the incarceration context. The Commission invited comment on whether section 3(a) of the Martha Wright-Reed Act required the adoption of new regulations applicable to traditional payphone services. In response, one commenter stated that the Commission did not need to address its traditional payphone compensation rules in this proceeding, but urged us to revisit our traditional payphone rules generally in a separate proceeding. We find that no modifications to our traditional payphone rules are necessary to implement the Martha Wright-Reed Act and its amendments to the Communications Act, and therefore decline to address those regulations in this proceeding.

6. Cost Benefit Analysis of Revised Interstate and Intrastate Rate Caps

579. We perform an analysis of the relative costs and benefits of establishing revised, final rate caps for audio IPCS and new interim rate caps for video IPCS, and find that the benefits of our actions greatly exceed their cost. As in the *2021 ICS Order,* we proceed by outlining the non-quantifiable but significant benefits to incarcerated persons and their families, the quantifiable benefits of expanded audio and video communications, and the likely implementation costs of our actions.

580. *Expected Non-Quantifiable Benefits.* In the *2021 ICS Order,* the Commission detailed the vast, but difficult-to-quantify, benefits of expanded incarcerated people's calling at lower IPCS rates, including maintaining incarcerated people's mental health, facilitating reentry, and improving the health and well-being of incarcerated people's families. We enlarge and extend all of these benefits as we again lower rate caps for interstate calls and mandate new, lower rate caps for intrastate and international calls, as well as video calls across all jurisdictions. Although we do not alter the termination component that can be added to the interstate rate cap in the case of international calls, because we are lowering the interstate rate cap that serves as the foundation for international rates, we anticipate an effective reduction in international rates as a result. Although we make no change to our rule allowing providers to add an amount to the rate caps to defray the costs of terminating international calls, because we are lowering the interstate rate caps that serve as the foundation for the international rate caps, we anticipate an effective reduction in international audio rates.

581. *Expected Quantitative Benefits of Expanded Call and Video Volumes.* In the *2021 ICS Order,* staff used available empirical evidence to estimate the responsiveness of incarcerated people's calling volumes to changes in inmate calling services rates, known as the price elasticity of demand for calling services. The available estimates led the Commission to conclude, conservatively, that inmate calling services have a demand elasticity of at least 0.3. No commenter disputed our elasticity estimate or the methodology underlying it. For the sake of consistency and simplicity, we continue to rely on this demand elasticity estimate and apply the same demand elasticity to audio and video incarcerated people's communications service. By the same token, we continue to rely on the conclusion drawn in the *2021 ICS Order* that the incremental per-unit cost of audio IPCS is likely less than $0.01, and may be *de minimis.* A similar principle applies to video IPCS, where many of its direct costs are also ''independent of the need to carry additional call minutes,'' especially given its proportionally greater share of capital expenses versus operating expenses. Thus, although video IPCS exhibits greater costs per minute than audio IPCS, the incremental per-unit costs of both services should be less than their average costs—such that the increased demand driven by a reduction in prices should, holding other factors equal, reduce providers' average costs for both audio and video IPCS.

582. The new, lower IPCS rate caps fall across two broad categories of call traffic—audio and video. The new rates for audio are: $0.06 per minute for prisons, $0.06 per minute for large jails, $0.07 per minute for medium-size jails, $0.09 per minute for small jails, and $0.12 per minute for very small jails. The new rates for video are: $0.16 per minute for prisons, $0.11 per minute for large jails, $0.12 per minute for medium-size jails, $0.14 per minute for small jails, and $0.25 per minute for very small jails. Our benefit estimation methodology for the new rate caps differs slightly from that used in the *2021 ICS Order.* Previously, staff estimated welfare gains using the difference between the previous interim interstate rate caps and the then new, lower interim, interstate rate caps. The current rate structure in the IPCS industry is more complex. Some interstate IPCS traffic subject to the rate caps is priced below the caps, while the price of intrastate, international, and video IPCS call traffic that was previously beyond the reach of our rate caps can vary widely. To capture this complexity, we measure the welfare gains from increased call volumes using the difference between existing weighted average revenue per unit (ARPU) for the different call-traffic categories and the new rate caps. Staff computed the average revenues per unit (ARPUs) by dividing the total billed revenue for each type of traffic at each size facility by total billed minutes to yield average revenue per minute for intrastate audio calls for prisons, average revenue per minute for intrastate calls at large jails, and so on, enabling the compilation of a complete list of rate categories by traffic and facility type. Staff then computed percentage changes in price and quantity for each rate category using the differences between the ARPUs and the rate caps and our price elasticity. The net welfare gain (loss) is the gain (loss) in IPCS consumer surplus not captured by IPCS service providers. We divide 2022 billed revenues by billed minutes to determine the effective rate for IPCS, or ARPU. We then compare this effective rate to the new rate cap for IPCS to determine the change in price, because going forward billed customers will be billed a rate equal to this rate cap (assuming the provider sets its rate at the cap). We assume site commissions

are only paid to the extent they do not result in rates that exceed our caps. With this methodological change, we estimate a total net welfare gain to incarcerated persons and their friends, families, and legal teams of about $386 million. Of this, $362 million is a transfer from correctional facilities and providers, leaving $24 million as a welfare gain from which implementation costs must be subtracted. Unsurprisingly, the largest contribution of $12.5 million is from intrastate audio calls (5.6 billion minutes), not currently subject to rate caps, followed by: $7.8 million from interstate audio (4.8 billion minutes); $2.9 million from video (407 million minutes); and $0.5 million from international audio (54 million minutes). We do not separately estimate welfare gains for video IPCS by jurisdiction because providers do not have a way to reliably record the jurisdiction associated with a video communication. Further, nothing in the record suggests providers charge video IPCS rates that vary by jurisdiction. As a matter of practice, providers charge a single rate without regard to the communication endpoint. The present value of a five-year stream of $24-million worth of benefits at a two percent discount rate exceeds $113 million.

583. *Benefits Weighted By Income Strata.* Weighting according to OMB guidelines greatly increases the welfare gain. OMB Circular A–4 enables us to weight the benefits distributed to incarcerated persons by the ratio of median incarcerated people's income to the U.S. median income, raised to the negative power of the absolute value of the elasticity of income. To account for the diminishing marginal utility of goods and income, the revised circular suggests that agencies apply weights to the benefits and costs accruing to different groups when estimating aggregate net benefits. To determine the weights, OMB recommends a constant elasticity for subgroups defined by income. The weight for each group is: $\Omega i = (Ii/IUS)\text{-}\gamma$ where Ωi is the weight for subgroup i, Ii is the median income for subgroup i, IUS is the U.S. median income, and γ is the absolute value of the elasticity of marginal utility. Based on an average gleaned from the empirical literature, OMB recommends a constant elasticity of marginal utility of 1.4. The impact of this could be large. Analyzing Bureau of Justice Statistics 2014 survey data for the month just prior to incarceration, researchers for the Prison Policy Initiative estimated a 2014 median annual income of $19,185 for incarcerated persons. U.S. median individual income for 2014 was $28,760. The resulting weight for incarcerated people's welfare gains is 1.76 (= ($19,185/$28,760)$^{-1.4}$), meaning that every dollar in welfare gain directly attributable to incarcerated people was worth $1.76 in 2014. If incarcerated people share equally in the total estimated net welfare gain, then about $12 million, or half, of the estimated $24 million is directly attributable to them, as opposed to friends and families. At the same time, if the average income of families and friends of incarcerated persons was that of the average American, then, under these assumptions, the net welfare gain is effectively worth about $33 million (= ($12 million * 1.76) + $12 million = $21 million + $12 million). This is likely an underestimate, as the average income of the families and friends of incarcerated persons is likely below the national average, but we do not know what this average is.

584. *Other Quantitative Benefits.* In the *2021 ICS Order,* the Commission estimated that expanded inmate calling services call volumes at the lowered interstate rate caps would help curtail recidivism, saving the U.S. economy $23 million over ten years and reducing costly foster-child placements. While we are certain that lowering IPCS rate caps further will increase these cost savings, we elect not to proffer precise estimates here, partly to avoid double-counting previous estimates.

585. Costs of Reducing Rates for Interstate, Intrastate, and International Incarcerated People's Communications Services. In the 2021 ICS Order, the Commission estimated that the cost of contract revisions needed to implement reduced interstate inmate calling services rates would total approximately $6 million. Adjusting for inflation, the industry cost for the same set of contract revisions—simultaneously lowering interstate, intrastate, and international incarcerated people's communications services rates—would be about $7 million as of April 2024. Lowering video calling rates, which we conservatively assume are contracted separately, would entail another $7 million in costs. We, therefore, estimate total implementation costs of $14 million.

586. *Comparison of Benefits and Costs.* The benefits of lowering IPCS interstate rate caps and extending IPCS rate caps to intrastate and international audio and video call traffic far exceed the accompanying costs. Without either weighting by income strata or summing and discounting future benefits, readily quantifiable benefits exceed costs by $10 million (= $24 − $14) in the inaugural year. Weighting by income strata and summing and discounting future benefits further increase the value of benefits relative to costs.

TABLE 1—AUDIO AND VIDEO CALL TRAFFIC

Rate cap	Intrastate			Interstate			International		
	Minutes	ARPU	Gain	Minutes	ARPU	Gain	Minutes	ARPU	Gain
Audio Call Traffic									
Prisons, $0.06	3,095,089,972	$0.060	$884	3,179,735,362	$0.070	$704,910	34,290,298	$0.147	$266,659
Large Jails, $0.06	878,094,584	0.099	1,990,573	686,852,024	0.102	1,761,431	4,767,832	0.174	53,188
Medium Jails, $0.07	850,607,843	0.154	5,798,496	640,947,740	0.144	3,635,531	10,718,912	0.158	79,202
Small Jails, $0.09	587,159,107	0.182	4,094,384	243,197,254	0.173	1,461,041	3,373,724	0.250	51,747
Very Small Jails, $0.12	207,201,790	0.180	628,327	72,774,874	0.180	217,658	743,867	0.264	8,743
Total	5,618,153,296	.....	12,512,663	4,823,507,254	.....	7,780,571	53,894,633	.....	459,539
Video Call Traffic									
Prisons, $0.16	85,787,195	0.257	471,462						
Large Jails, $0.11	60,592,954	0.230	567,352						
Medium Jails, $0.12	123,936,702	0.273	1,597,262						
Small Jails, $0.14	105,461,580	0.292	1,257,099						
Very Small Jails, $0.25	31,454,733	0.294	30,692						

TABLE 1—AUDIO AND VIDEO CALL TRAFFIC—Continued

Rate cap	Intrastate			Interstate			International		
	Minutes	ARPU	Gain	Minutes	ARPU	Gain	Minutes	ARPU	Gain
Total	407,233,163	.....	2,885,053						

7. Effective Dates and Compliance Dates

587. Our reforms eliminating site commissions and our new permanent audio and interim video rate caps will take effect 60 days after notice of them is published in the **Federal Register**, but compliance with those reforms will be required on a staggered basis, as set forth below:

• January 1, 2025 for all prisons and for jails with average daily populations of 1,000 or more incarcerated people, and April 1, 2025 for jails with average daily populations of less than 1,000 incarcerated people, subject to the following special provisions:

• Where a contract existing as of June 27, 2024 includes terms and conditions that would require material alteration through renegotiation due to a conflict with our new rules involving rates, contractually prescribed site commissions, or passthrough charges included in the rates, and the contract expires on or after January 1, 2025 for prisons and for jails with average daily populations of 1,000 or more incarcerated people, or on or after April 1, 2025 for jails with average daily populations of less than 1,000 incarcerated people, the compliance dates will be the earlier of the contract expiration date or January 1, 2026 for prisons and for jails with average daily populations of 1,000 or more incarcerated people, or the earlier of the contract expiration date or April 1, 2026 for jails with average daily populations of less than 1,000 incarcerated people. We choose a date certain, which is the date of public draft of the Report and Order. The public draft version set forth the Commission's new IPCS rate caps and site commission reforms, none of which have changed since that time. For purposes of the Report and Order, a contract expires after the expiration of its initial term in the contract without regard to any automatic extensions that might extend its validity.

• Where a contract existing as of June 27, 2024 includes terms and conditions that would require renegotiation due to a provision incorporating legally mandated site commission payments and the contract expires on or after July 1, 2025 for any size facility, the compliance date will be the earlier of the contract expiration date or April 1, 2026. To the extent any contract referenced here includes provisions that trigger automatic changes to contract terms in response to changes in the regulatory environment or, more specifically, changes in the Commission's rules such that renegotiation of contract terms would not be required, the compliance date extensions referenced in this paragraph do not apply.

588. These timeframes recognize that, as a general matter, IPCS providers, governmental officials, and correctional officials may need additional time beyond January 1, 2025 or April 1, 2025 (depending on the type of facility and the terms of the contract) to renegotiate contracts in response to our actions today. They also recognize that jails with average daily populations below 1,000 may need more time than prisons and larger jails to implement the Commission's new IPCS rate caps and to transition away from site commission payments, particularly since the smaller facilities were largely not impacted by the Commission's 2021 interim rate cap reforms. The reforms applicable to jails with average daily populations of less than 1,000 adopted in the *2021 ICS Order* were relatively modest, with ''the only rate cap change'' being a reduction of per-minute charges for collect calls from $0.25 to $0.21 per minute. In addition, by delaying the compliance date of our site commission and rate caps reforms at those correctional facilities where providers currently pay legally mandated site commissions, we recognize that more time may be needed to accommodate the legislative process to amend state or local laws and regulations that currently require site commission payments.

589. We conclude that the compliance dates we adopt for our new audio and video rate caps and site commission reforms ''strike[ ] a reasonable balance between [ ] competing interests.'' On the one hand, we recognize the need to ''help alleviate the burden of unreasonably high . . . rates on incarcerated people and those they [communicate with].'' On the other hand, and as the Commission has previously recognized, IPCS providers and correctional officials ''will need more than 30 days to execute any contractual amendments necessary to implement the new . . . rate caps and otherwise adapt to those caps.'' And smaller facilities likely need more time than larger facilities to implement rate cap and other changes. Furthermore, we recognize that those facilities where IPCS providers currently pay legally mandated site commissions may likely need additional time to come into compliance with our reforms. Thus, requiring compliance with the Commission's rate cap and site commission reforms on a staggered basis properly balances the need for expedited reform contemplated by the Martha Wright-Reed Act with the need to allow IPCS providers and correctional facilities sufficient time to adapt to our rules.

590. Except for those facilities where IPCS providers pay legally mandated site commissions, for prisons and jails with ADPs of 1,000 or more, we find that there will be ample time between adoption of this Order and January 1, 2025 for such prisons and jails with existing contracts expiring before the end of this year to comply with today's reforms and that the possible extension of this compliance date to January 1, 2026 as outlined above will be more than sufficient to accommodate the contract renegotiation process. In the *2021 ICS Order,* the Commission established a 90-day transition period following **Federal Register** publication for all facilities. The Commission also adopted a 90-day transition period for prisons in connection with implementing the reforms in the *2015 ICS Order.* One provider supports adopting a 90-day transition period. Here, given the comprehensive nature of the reforms we adopt to rate caps and site commissions, we adopt a transition period of slightly more than five months from the adoption date of the Report and Order and we permit additional time based on the extent there are existing contracts as of June 27, 2024 that require renegotiation due to a conflict with our new rules. This will allow providers and facilities significantly longer than the 30-day timeframe the Commission has previously recognized would be necessary to amend IPCS contracts.

591. We also find that delaying the compliance date of our rate caps and site commission reforms for jails with ADPs below 1,000 except at those

correctional facilities where IPCS providers pay legally mandated site commissions until April 1, 2025 or, in the alternative, until April 1, 2026 as described above, will afford IPCS providers and correctional officials sufficient extra time to adapt to these new rules. In the IPCS context, the Commission's use of the term ''smaller'' is focused on average daily population, and ''is not meant to imply'' that such facilities ''are small in any absolute sense.'' Here, we delay the compliance date of our rate cap and site commission reforms for correctional facilities with average daily populations below 1,000 except at those correctional facilities where IPCS providers pay legally mandated site commissions by slightly more than eight months from the date of adoption of the Report and Order, which, to the extent there are existing contracts as of June 27, 2024 that require renegotiation due to a conflict with our new rules, can be extended. These timeframes will be more than sufficient to ensure that IPCS providers and correctional facilities are able to amend their contracts to account for our reforms today.

592. Recent experience at the state level suggests that IPCS providers and correctional facilities should be able to adapt to regulatory changes in the allotted timeframes. For example, Massachusetts recently made IPCS free to consumers, and in doing so the state gave the industry and the state's prisons and jails less than five months to implement those changes—from July 31, 2023 to December 1, 2023—to account for budgetary impacts. On July 31, 2023, the Massachusetts legislature enacted a bill requiring unlimited free phone calls to incarcerated people retroactive to July 1, 2023, as part of the state's appropriations bill for Fiscal Year 2024. The free calling bill, H.4052, was enacted as sections 50, 85, and 111 of the appropriations bill, H.4040. The governor returned portions of the appropriations bill, including the portions relating to free calling for incarcerated people noting that making those provisions retroactive to July 1 ''pos[ed] serious implementation challenges'' and were also ''underfunded by $20M in the budget.'' The governor thereafter proposed that the effective date be delayed to December 1, 2023, which would avoid ''the need for retroactive reimbursements, provide[ ] time for the Department of Corrections and the Sheriff's Departments to manage vendor contracts more effectively, and address[ ] fiscal challenges while also ensuring that families will be able to connect with their incarcerated loved ones during the holiday season.'' The Massachusetts legislature eventually reenacted the free calling bill with a December 1, 2023 effective date and the governor signed it on November 15, 2023. While one commenter advocates for a phase-out of site commission payments, partially in recognition of the fact many local governments continue to rely on site commission revenues, other commenters argue that implementing changes ''should be a relatively easy and straightforward process'' such that a more immediate compliance date might be appropriate. We find, on balance, that the record supports a longer transition period for smaller jails. The timeframe we adopt for smaller facilities is more generous than the timeframes the Commission has adopted for such facilities previously. Insofar as the transition we adopt for smaller jails today is longer than previous transitions the Commission has adopted, we are persuaded that this additional time is necessary but sufficient for both IPCS providers and correctional officials to adapt to our rules while also ensuring the most expeditious relief possible for incarcerated people and their loved ones, consistent with the Martha Wright-Reed Act.

593. For all correctional facilities where IPCS providers currently pay legally mandated site commissions, we conclude that a longer transition period is justified such that compliance with our site commission reforms and our new rate caps will be required by July 1, 2025 unless a contract existing as of June 27, 2024 includes terms and conditions that would require renegotiation due to a provision incorporating legally mandated site commission payments and the contract expires on or after July 1, 2025, in which case the compliance date will be the earlier of the contract expiration date or April 1, 2026. For such facilities, in addition to any additional time necessary to facilitate contract renegotiation where applicable, additional time is also necessary to accommodate states' and localities' legislative and budgetary processes to make the adjustments necessary to comply with the Report and Order, including by amending or repealing relevant laws pursuant to state or local statutes or other formal legal processes. Because such processes may involve more than amending IPCS contracts, we expect that July 1, 2025 or, if applicable, April 1, 2026, will afford sufficient time for all parties involved to make the necessary legislative and contractual arrangements sufficient to implement our reforms. This determination is distinct from the actions we take today in preempting state and local laws or regulations that require or allow site commission payments. We provide this extra time for state and local authorities to comply with legal or administrative processes that may be required to repeal existing laws or regulations. The lack of such a process does not negate our preemption actions in connection with site commission payments.

594. We disagree that we should delay our compliance dates for site commission reform, in particular, beyond the timeframes established herein. We note that PPI's comments were made prior to the enactment of the Martha Wright-Reed Act, which gave the Commission authority over intrastate communications. Given that development and the fact that our reforms today sweep broadly to apply to all communications over which we now have jurisdiction, including intrastate communications, we conclude that the opportunities for the kind of arbitrage identified by PPI to be greatly reduced. IPCS providers and correctional authorities have been on notice since at least the *2014 ICS Notice* that the Commission might eliminate site commissions. Against that regulatory backdrop, to the extent IPCS providers and correctional authorities have continued to rely on revenues from site commissions, they have done so at their own risk. In addition, as discussed above, a number of jurisdictions have eliminated site commissions, which presumably triggered state budgetary processes to account for the lost revenues. Our extended implementation deadlines here attempt to account for these state and local budgetary processes to the extent possible. Any further delays in requiring compliance with our rate cap and site commission reforms risks perpetuating unjust and unreasonable rates and charges for IPCS consumers or yielding unfair compensation for IPCS providers, contrary to the directives of the Martha Wright-Reed Act. Section 276(b)(1)(A) of the Communications Act, as amended by the Martha Wright-Reed Act, directs the Commission to establish a compensation plan to ensure IPCS providers are ''fairly compensated'' and that ''all rates and charges are just and reasonable.''

595. *Other Deadlines.* Except for rules and requirements subject to OMB review under the Paperwork Reduction Act, all other rules and requirements adopted in this Order also will take effect 60 days after notice is published in the **Federal Register**, except the removal of § 64.6090, which will not

take effect until other rules requiring OMB review take effect. These timeframes are consistent with the terms of the Martha Wright-Reed Act, which requires the Commission to promulgate regulations necessary to implement the Act not earlier than 18 months and not later than 24 months after the date of enactment. Martha Wright-Reed Act § 3(a). Section 64.6090 prohibits flat-rate calling and will be removed to permit the offering of alternate pricing plans. With regard to reforms other than those related to our new rate caps and site commission prohibition that are not subject to the PRA, such as our rules pertaining to the seizing of balances in inactive accounts by providers, we find that making these changes effective 60 days after notice is published in the **Federal Register** best balances the need to bring these important, pro-consumer rules into effect expeditiously while affording IPCS providers sufficient time to implement any changes necessary to comply with our rules. Unlike our rate cap and site commission reforms, which may take longer to implement due to the need for contractual amendments or municipal budget adjustments, we do not view these other reforms as involving similar complexities such that a longer effective date period is necessary.

596. Our delegations of authority to WCB and CGB to revise the annual reports will be effective upon publication of the Report and Order in the **Federal Register**, as will our delegations of authority to WCB and OEA to conduct an additional data collection.

8. Enforcement

597. We will be vigilant in monitoring compliance with the reforms we adopt today and will take action to vigorously enforce our rules where appropriate. Compliance with the Commission's IPCS rules is essential to ensuring that incarcerated people and their loved ones receive the full range of benefits resulting from today's reforms. As NCIC illustrates, certain providers took advantage of our prior regulatory regime to engage in practices or other behavior in contravention of our rules. Robust enforcement is therefore necessary. To that end, we direct the Enforcement Bureau to work with CGB to develop a new IPCS complaint category, in addition to the existing informal consumer complaint process, within its existing intake system to ensure that IPCS industry providers, watchdogs, and other stakeholders have a mechanism for CGB to immediately bring any potential rule violations to the Enforcement Bureau's attention for investigation. We clarify that informal IPCS-related consumer inquiries and complaints should continue to be made to CGB, using established practices and procedures. Should the Commission observe or be made aware of practices, conduct, or other behavior that evades or is designed to evade our rules, we will not hesitate to take appropriate remedial action up to and including enforcement action, which may subject IPCS providers to, among other penalties, the imposition of monetary forfeitures. Thus, practices such as price gouging through, for example, charging rates above our rate caps, imposing ancillary service charges, or attempting to recover costs associated with the payment of site commissions, whether monetary or in-kind, through regulated rates may subject IPCS providers to investigation by the Commission's Enforcement Bureau and enforcement action. Similarly, practices that deprive consumers of funds in their IPCS accounts, circumvent the safeguards we adopt today governing alternate pricing plans or the Commission's disability access rules pertaining to IPCS may also subject IPCS providers to investigation and enforcement action by the Enforcement Bureau. At the same time, IPCS providers and other stakeholders are encouraged to provide the Commission with information at any time, whether through an informal complaint or otherwise, regarding attempts to skirt our rules or possible violations of our rules. In addition, the Commission will monitor providers' annual reports, which are due April 1 each year, for developments that may suggest noncompliance with our rules. Close scrutiny of these and other practices and behaviors, including through enforcement action where appropriate, will ensure that the reforms we adopt today are fully implemented.

I. Severability

598. The rules and policies adopted in this Order are designed to ensure that the rates and charges for IPCS are both just and reasonable for consumers and provide fair compensation for providers, in accordance with section 276, as amended by the Martha Wright-Reed Act, along with section 201(b) of the Communications Act. Other rules and policies seek to improve communications services for incarcerated people with disabilities. Each of the separate reforms we undertake here serves a particular function towards these goals. Therefore, it is our intent that each of the rules and policies adopted herein shall be severable. If any of the rules or policies is declared invalid or unenforceable for any reason, the unaffected rules shall remain in full force and effect. We find premature ViaPath's request that we make clear that the rules and policies we adopt that are ''related to IPCS rates and charges'' are not severable from each other. In the unlikely event any of those rules or policies is declared invalid or unenforceable, interested parties are free to bring the matter to our attention or raise such arguments in court, as appropriate.

IV. Procedural Matters

599. *Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to the Report and Order and this Order on Reconsideration, Clarification and Waiver. The FRFA is set forth in below.

600. *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 ''major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this *2024 IPCS Order* and *2024 IPCS Notice* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

601. *Paperwork Reduction Act Analysis.* The *2024 IPCS Order* may contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. All such requirements 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 any 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.

602. In this present document, we have assessed the effects of the information collection burdens imposed on small businesses and, in particular, businesses with fewer than 25 employees as a result of the Report and Order. Those requirements include consumer disclosure and inactive account requirements. We find that those requirements, including the posting of certain information on

publicly available websites, do not impose undue burdens on smaller businesses. We also find that obligations to collect and maintain consumer information in order to refund inactive account balances are commensurate with the number of customers served and therefore impose proportionate burdens on smaller businesses given the scale of their operations.

603. *Providing Accountability Through Transparency Act.* Consistent with the Providing Accountability Through Transparency Act, Public Law 118–9, a summary of the *2024 IPCS Order* will be available on *https://www.fcc.gov/proposed-rulemakings*.

604. *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. Congress enacted the OPEN Government Data Act as Title II of the Foundations for Evidence-Based Policymaking Act of 2018. This requirement is to be implemented ''in accordance with guidance by the Director'' of the OMB. OMB has not yet issued final guidance. 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 to the Wireline Competition 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 in the *2024 IPCS Order* are ''public data assets'' and if so, to determine when and to what extent such information should be published as ''open Government data assets.'' In doing so, WCB 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 Freedom of Information Act. *See, e.g.,* 5 U.S.C. 552(b)(4), (6) to (7) (exemptions concerning confidential commercial information, personal privacy, and information compiled for law enforcement purposes, respectively). We also seek comment in the *2024 IPCS Notice* on whether any of the information proposed to be collected in the Notice would constitute ''data assets'' for purposes of the OPEN Government Data Act and, if so, whether such information should be published as ''open Government data assets.''

605. *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 and Governmental Affairs Bureau at 202–418–0530.

606. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be publicly available online via ECFS.

607. *Further Information.* For further information, contact Stephen Meil, at (202) 418–7233 or *Stephen.Meil@fcc.gov* or *IPCS@fcc.gov*.

V. Final Regulatory Flexibility Analysis

608. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), Initial Regulatory Flexibility Analyses (IRFAs) were incorporated in the *Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services,* Notice of Proposed Rulemaking (Notice) in WC Docket Nos. 23–62 and 12–375 (released in March 2023), in the Sixth Further Notice of Proposed Rulemaking in WC Docket No. 12–375 (released in September 2022), and in the Fifth Further Notice of Proposed Rulemaking in WC Docket No. 12–375 (released in May 2021). The Federal Communications Commission (Commission) sought written public comment on the proposals in those Notices, including comment on the IRFAs. No comments were filed addressing the IRFA. This present Final Regulatory Flexibility Analysis (FRFA), relating to the Report and Order and the Order on Reconsideration, Clarification and Waiver (collectively, Report and Order), conforms to the RFA.

A. Need for, and Objectives of, the Report and Order

609. The Report and Order implements the expanded authority granted to the Commission by the Martha Wright-Reed Act to establish a compensation plan that ensures both just and reasonable rates and charges for incarcerated people's audio and video communications services and fair compensation for incarcerated people's communication services (IPCS) providers. The Report and Order fundamentally reforms the regulation of IPCS in all correctional facilities, regardless of the technology used to deliver these services, and significantly lowers the IPCS rates that incarcerated people and their loved ones will pay.

610. The reforms adopted by the Report and Order: (1) utilize the expanded authority granted the Commission, in conjunction with the Commission's preexisting statutory authority, to adopt just and reasonable IPCS rates and charges for all intrastate, interstate, and international audio and video IPCS, including video visitation services, that ensure fair compensation for providers; (2) lower existing per-minute rate caps for audio IPCS, based on industry-wide cost data submitted by IPCS providers, while permitting states to maintain IPCS rates lower than the Commission's rate caps; (3) lower the overall prices consumers pay for IPCS and simplify the pricing structure by incorporating the costs of ancillary services in the rate caps and prohibiting providers from imposing any separate ancillary service charges on IPCS consumers; (4) prohibit IPCS providers from making site commission payments for IPCS and preempt state and local laws and regulations requiring such commissions; (5) limit the costs associated with safety and security measures that can be recovered in the per-minute rates to only those costs that the Commission finds used and useful in the provision of IPCS; (6) allow, subject to conditions, IPCS providers to offer alternate pricing plans for IPCS that comply with the rate caps we establish; (7) revise and strengthen accessibility requirements for IPCS for incarcerated people with disabilities; (8) revise and strengthen existing consumer disclosure and inactive account requirements; and (9) revise the existing annual reporting and certification requirements. The Report and Order also addresses petitions for reconsideration, clarification and waiver pending in this proceeding.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

611. There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

612. 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.

D. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

613. 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 they adopt. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

614. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.

615. 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.

616. 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, we estimate that at least 48,724 entities fall into the category of ''small governmental jurisdictions.''

617. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry. Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.

618. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were engaged in the provision of fixed local services. Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

619. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include both incumbent and competitive local exchange service providers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were fixed local exchange service providers. Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

620. *Incumbent Local Exchange Carriers (Incumbent LECs).* Neither the Commission nor the SBA have developed a small business size standard specifically for incumbent local exchange carriers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 1,212 providers that reported they were incumbent local exchange service providers. Of these providers, the Commission estimates that 916 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, the Commission estimates that the majority of incumbent local exchange carriers can be considered small entities.

621. *Competitive Local Exchange Carriers (CLECs).* Neither the

Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include several types of competitive local exchange service providers. Wired Telecommunications Carriers is the closest industry with a SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 3,378 providers that reported they were competitive local service providers. Of these providers, the Commission estimates that 3,230 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

622. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers is the closest industry with a SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 127 providers that reported they were engaged in the provision of interexchange services. Of these providers, the Commission estimates that 109 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

623. *Local Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Local Resellers. Telecommunications Resellers is the closest industry with a SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 207 providers that reported they were engaged in the provision of local resale services. Of these providers, the Commission estimates that 202 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

624. *Toll Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Toll Resellers. Telecommunications Resellers is the closest industry with a SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 457 providers that reported they were engaged in the provision of toll services. Of these providers, the Commission estimates that 438 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

625. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. Wired Telecommunications Carriers is the closest industry with a SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 90 providers that reported they were engaged in the provision of other toll services. Of these providers, the Commission estimates that 87 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

626. *Payphone Service Providers (PSPs).* Neither the Commission nor the SBA have developed a small business size standard specifically for payphone service providers, a group that includes incarcerated people's services providers. Telecommunications Resellers is the closest industry with a SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees.

Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 36 providers that reported they were engaged in the provision of payphone services. Of these providers, the Commission estimates that 32 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

627. *Telecommunications Relay Service (TRS) Providers.* Telecommunications relay services enable individuals who are deaf, hard of hearing, deafblind, or who have a speech disability to communicate by telephone in a manner that is functionally equivalent to using voice communication services. Internet-based TRS connects an individual with a hearing or a speech disability to a TRS communications assistant using an internet Protocol-enabled device via the internet, rather than the public switched telephone network. Video Relay Service (VRS) one form of internet-based TRS, enables people with hearing or speech disabilities who use sign language to communicate with voice telephone users over a broadband connection using a video communication device. Internet Protocol Captioned Telephone Service (IP CTS) another form of internet-based TRS, permits a person with hearing loss to have a telephone conversation while reading captions of what the other party is saying on an internet-connected device. A third form of internet-based TRS, Internet Protocol Relay Service (IP Relay), permits an individual with a hearing or a speech disability to communicate in text using an Internet Protocol-enabled device via the internet, rather than using a text telephone (TTY) and the public switched telephone network. Providers must be certified by the Commission to provide VRS and IP CTS and to receive compensation from the TRS Fund for TRS provided in accordance with applicable rules. Analog forms of TRS, text telephone (TTY), Speech-to-Speech Relay Service, and Captioned Telephone Service, are provided through state TRS programs, which also must be certified by the Commission.

628. Neither the Commission nor the SBA have developed a small business size standard specifically for TRS Providers. All Other Telecommunications is the closest industry with a SBA small business size standard. Internet Service Providers (ISPs) and Voice over Internet Protocol (VoIP) services, via client-supplied telecommunications connections are included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of $35 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than $25 million. Based on Commission data there are 14 certified internet-based TRS providers and two analog forms of TRS providers. The Commission however does not compile financial information for these providers. Nevertheless, based on available information, the Commission estimates that most providers in this industry are small entities.

629. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Providers of internet services (*e.g.,* dial-up ISPs) or Voice over Internet Protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of $40 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than $25 million. Based on this data, the Commission estimates that the majority of ''All Other Telecommunications'' firms can be considered small.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

630. IPCS providers, including any that may be small entities, will need to change their operations, recordkeeping, and reporting to comply with the requirements of the Report and Order. These requirements include compliance with the rate caps the Report and Order establishes for IPCS. While the new rate cap structure is lower than the preexisting per-minute rate caps, given that the rate caps are based on cost data provided by IPCS providers, including smaller providers, small entities are likely to be able to recover their costs in the same manner as larger providers. Additionally, because the rate caps apply to both interstate and intrastate IPCS, the new rate cap structure reduces the recordkeeping and reporting burdens of complying with the Commission's rules with regards to audio IPCS because providers will no longer need to determine the jurisdictional nature of each call. The Report and Order's requirements also include a prohibition on the assessment of ancillary service charges associated with IPCS, which will greatly reduce the recordkeeping burdens on providers and simplify their billing operations.

631. The Report and Order prohibits IPCS providers from paying site commissions of any kind associated with IPCS and eliminates the requirement under the Commission's rules for providers to label, and disclose the source of, those payments on consumers' bills. The Report and Order requires that, where facilities claim to incur costs related to IPCS, providers are to determine whether those costs are in fact used and useful in the provision of IPCS and are, therefore, reimbursable under the Commission's rules. These changes will reduce the burdens of the Commission's billing rules, while requiring that IPCS providers make determinations regarding whether cost claims submitted to them by facilities are consistent with Commission requirements.

632. The Report and Order allows providers the option to offer alternate pricing plans in addition to providing IPCS at per-minute rates. IPCS providers may elect whether to offer such plans, and should they elect to do so, they may determine the format of such plans, provided that these plans comply with the Commission's generally applicable IPCS rules, certain specified limitations, and other safeguards adopted in the Report and Order. The Report and Order establishes additional requirements for alternative pricing plans regarding dropped communications, automatic renewals, and consumer cancellation.

633. The Report and Order adopts consumer disclosure requirements applicable to all IPCS, including requirements that providers disclose their IPCS rates, charges, and associated practices on their publicly available websites in a manner that is easily accessible and available to all members of the public. Providers must also make these disclosures available via their online and mobile applications, if consumers use such applications to enroll, and on paper, upon a consumer's request. The Report and Order further requires providers to make available billing statements and statements of account to account holders on a monthly basis, and details regarding the timing, manner, and content

requirements for these and other disclosure documents for alternate pricing plans. The Report and Order also ensures that the consumer disclosure rules, as amended, apply to all IPCS providers subject to the Commission's expanded jurisdiction under the Martha Wright-Reed Act.

634. The Report and Order extends the Commission's rules regarding inactive accounts to apply to all accounts that can be used to pay an IPCS-related rate or charge, to the extent they are controlled by IPCS providers or their affiliates. The Report and Order reaffirms that providers are barred from improperly disposing of unused funds in inactive accounts (which includes disposing of such funds before 180 calendar days of continuous account inactivity has passed), and are required to undertake reasonable efforts to refund unused funds. The Report and Order expands upon these rules, including by requiring providers to (1) contact the relevant account holder if and when they become aware that an incarcerated person has been released or transferred or upon the expiration of the 180-day inactivity period, (2) issue refunds within 30 calendar days of a request from an account holder, or of an account being deemed inactive (even in the absence of such a request), and (3) notify account holders of the status of IPCS accounts prior to their being deemed inactive. However, the Report and Order limits the requirement for automatic refunds (*i.e.,* in the absence of a consumer's specific request) to account balances of greater than $1.50. The Report and Order also clarifies what ''reasonable efforts'' entail, the procedures to follow if ''reasonable efforts'' to refund inactive accounts fail, and which refund mechanisms providers may use. Additionally, the Report and Order reaffirms and clarifies the exception to these rules that allows a provider to dispose of funds in inactive accounts in compliance with a controlling judicial or administrative mandate.

635. The Report and Order modifies the scope and content of the annual reporting requirements, to reflect the Commission's expanded jurisdiction under the Martha Wright-Reed Act, to include the full scope of IPCS and all providers of IPCS, and to reflect the changes to the Commission's rules adopted in the Report and Order. The Report and Order also amends the Commission's Part 14 rules as appropriate to reflect the Martha Wright-Reed Act's expansion of the Communications Act's definition of ''advanced communication service.'' It also modifies the Commission's rules to allow a form of enterprise registration for the use of Internet Protocol Captioned Telephone Service (IP CTS) in carceral facilities and clarifies that internet-based IPCS providers may provide access to traditional (TTY-based) TRS via real-time text. The Report and Order on Reconsideration also amends the Commission's rules to require that VRS and IP CTS providers update an incarcerated person's registration information within 30 days of receiving written notification from such person, the correctional authority, or IPCS provider of an incarcerated person's release or transfer.

F. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

636. 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.''

637. In the Report and Order, the Commission adopts a new, more comprehensive set of rate caps that differentiate between prisons and jails, and between four different sizes of jails—large, medium, small and very small—based on average daily population (ADP). The use of four different size tiers is supported in the record and accounts for differences in costs incurred by providers serving these different facility sizes. The Commission conducts a cost analysis specific to each size tier using data submitted by IPCS providers and adopts new rate caps for each of these facility size and type categories for both audio and video IPCS. The Commission believes that these actions properly recognize that some jails may be more costly for providers to serve than prisons, and similarly that jails with smaller ADPs may be more costly for providers to serve than those with larger ADPs.

638. Compliance with the Commission's new audio and video rate caps and its rules eliminating site commission payments will be required by January 1, 2025 for prisons and for jails with ADPs of 1,000 or above incarcerated persons where no site commissions mandated by law are currently paid; by April 1, 2025 for jails with ADPs less than 1,000 where no site commissions mandated by law are currently paid; and by July 1, 2025 for all size facilities where site commissions mandated by law are currently paid. The Commission extended the compliance deadline for providers serving smaller jails to account for the additional time that these facilities, and the providers that serve them, may need to adapt to the changes adopted in the Report and Order.

639. The Commission recognizes that it cannot foreclose the possibility that in certain limited instances, certain providers, possibly smaller providers with less ability to spread their costs over a larger number of facilities or minutes of use, may not be able to recover their costs of providing IPCS under the rate caps adopted in the Report and Order. To minimize the burden on such providers, the Commission retains, with modifications, its waiver process, which allows providers to seek relief from its rules at the facility or contract level if they can demonstrate that they are unable to recover their used and useful IPCS-related costs at that facility or for that contract. The Commission modifies this process to reflect the provisions of the Martha Wright-Reed Act, including its new authority thereunder. The waiver process will allow the Commission to review individual providers' data and potentially allow these providers to charge rates that enable them to recover their costs of providing IPCS at that facility or under that contract. This waiver process should benefit any IPCS providers that may be small businesses unable to recover their costs under the new rate caps.

640. In the Report and Order, the Commission prohibits providers from assessing ancillary service charges in addition to per-minute rates for IPCS. The Commission incorporates the costs of providing ancillary services in its rate caps to allow providers the opportunity to recover their average costs of providing these ancillary services, while eliminating the burden of administering independent billing processes for each of these services. At the same time, eliminating all separately assessed ancillary service charges prevents providers from engaging in rent-seeking activity in their application of these charges, helping to ensure that IPCS rates and charges are just and reasonable.

641. The Commission revises its rules to make clear that IPCS providers may meet the requirement to provide access to traditional TRS via real-time text, as an alternative to TTY transmissions, if real-time text transmission is supported by the available devices and reliable

service can be provided by this method. Permitting this alternative affords providers further flexibility in conducting their operations, and accommodates the needs of smaller providers that may have insufficient resources to expand or otherwise adjust their service format and infrastructure to enable TTY transmission.

642. The Commission revises its rules to permit providers to implement alternate pricing plans, other than per-minute pricing, subject to rules and conditions to protect IPCS consumers. Any provider that adopts these plans must offer them as a voluntary alternative to per-minute pricing. Providers are not required to offer such plans, but should they elect to do so, they will have the flexibility to determine the format of the plans they offer. Permitting this additional means of providing IPCS affords providers, including smaller providers, further flexibility in conducting their operations.

643. The Commission's rate caps incorporate the costs of only a subset of the safety and security measures reported by providers. The rate caps incorporate the costs of the two categories that the Commission finds to be both used and useful in the provision of IPCS: Communications Assistance for Law Enforcement Act (CALEA) compliance measures and communications security services. Because cost recovery through the rate caps is only accommodated for a more limited set of such measures, providers, particularly smaller providers, may not need to be capable of offering more sophisticated safety and security services in order to successfully compete for IPCS contracts.

G. Report to Congress

644. The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

VI. Ordering Clauses

645. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 2, 4(i) to (j), 201(b), 218, 220, 225, 255, 276, 403, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i) to (j), 201(b), 218, 220, 225, 255, 276, 403, and 617, and the Martha Wright-Reed Just and Reasonable Communications Act of 2022, Public Law 117–338, 136 Stat 6156 (2022), the Report and Order, Order on Reconsideration, Clarification and Waiver, and Further Notice of Proposed Rulemaking *are adopted.*

646. *It is further ordered* that, pursuant to the authority contained in sections 1, 2, 4(i) to (j), 201(b), 218, 220, 225, 255, 276, 403, and 716, of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i) to (j), 201(b), 218, 220, 225, 255, 276, 403, and 617, and the Martha Wright-Reed Just and Reasonable Communications Act of 2022, Public Law 117–338, 136 Stat 6156 (2022), the Report and Order *shall be effective* sixty (60) days after publication of a summary of it in the **Federal Register**, except as stated below. Amendments to sections 64.611(l)(2), (3), (5), (6); 64.6040(f); 64.6060; 64.6110; 64.6120; 64.6130(d), (e), (f), (h) to (k); 64.6140(c), (d), (e)(2) to (4), (f)(2), and (f)(4) will not become effective until the Office of Management and Budget (OMB) completes any review that the Wireline Competition Bureau or the Consumer and Governmental Affairs Bureau determine is required under the Paperwork Reduction Act (PRA). The removal of § 64.6090 will not become effective until after OMB completes any review of § 64.6140. The Commission directs the Wireline Competition Bureau and Consumer and Governmental Affairs Bureau to announce effective dates for these sections by publication in the **Federal Register** and by subsequent Public Notice.

647. *It is further ordered* that, pursuant to the authority contained in sections 1, 2, 4(i) to (j), 201(b), 218, 220, 225, 255, 276, 403, and 716, of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i) to (j), 201(b), 218, 220, 225, 255, 276, 403, and 617, and the Martha Wright-Reed Just and Reasonable Communications Act of 2022, Public Law 117–338, 136 Stat 6156 (2022), the delegations of authority to the Wireline Competition Bureau, Office of Economics and Analytics, and the Consumer and Governmental Affairs Bureau *shall be effective* upon publication in the **Federal Register**.

648. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the Report and Order and Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis and the Final Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

649. *It is further ordered* that the Office of the Managing Director, Performance Evaluation and Records Management, *shall send* a copy of the Report and Order and Further Notice of Proposed Rulemaking in a report to be sent to Congress and the Government Accountability Officer pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Parts 14 and 64

Advanced Services, Communications, Communications common carriers, Communications equipment, Computer technology, Individuals with disabilities, Prisoners, Reporting and recordkeeping requirements, Security measures, Telecommunications, Telephone, Video, Waivers.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons set forth above, the Federal Communications Commission amends parts 14 and 64 of Title 47 of the Code of Federal Regulations as follows:

PART 14—ACCESS TO ADVANCED COMMUNICATIONS SERVICES AND EQUIPMENT BY PEOPLE WITH DISABILITIES

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

Authority: 47 U.S.C. 151–154, 255, 303, 403, 503, 617, 618, 619 unless otherwise noted.

■ 2. Amend § 14.10 by revising paragraph (c) to read as follows:

* * * * *

(c) The term *advanced communications services* means:

(1) Interconnected VoIP service, as that term is defined in paragraph (l) of this section;

(2) Non-interconnected VoIP service, as that term is defined in paragraph (q) of this section;

(3) Electronic messaging service, as that term is defined in paragraph (i) of this section;

(4) Interoperable video conferencing service, as that term is defined in paragraph (m) of this section; and

(5) Any audio or video communications services used by inmates for the purposes of communicating with individuals outside the correctional institution where the inmate is held, regardless of technology used.

* * * * *

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 3. The authority citation for part 64 is revised to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 255, 262, 276, 403(b)(2)(B), (c), 616, 620, 716, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091; Pub. L. 117–338, 136 Stat. 6156.

■ 4. The authority citation for subpart F is revised to read as follows:

Authority: 47 U.S.C. 151–154, 225, 255, 303(r), 616, and 620; Pub. L. 117–338, 136 Stat. 6156.

■ 5. Amend section 64.601 by redesignating paragraphs (a)(21) through (a)(56) as paragraphs (a)(23) through (a)(58) and adding paragraphs (a)(21) and (a)(22) to read as follows:

* * * * *

(a) * * *

(21) *Incarcerated People's Communications Service or IPCS.* The term ''Incarcerated People's Communications Service'' or ''IPCS'' has the meaning given such term under § 64.6000.

(22) *Incarcerated Person or Incarcerated People.* The term ''Incarcerated Person'' or ''Incarcerated People'' has the meaning given such term under § 64.6000.

* * * * *

■ 6. Amend section 64.611 by revising paragraph (k) and adding paragraph (l) to read as follows:

§ 64.611 Internet-based TRS registration.

* * * * *

(k) *Individual registration for use of TRS in correctional facilities*—(1) *Registration information and documentation.* If an individual eligible to use TRS registers with an internet-based TRS provider while incarcerated, the provider shall collect and transmit to the TRS User Registration Database the information and documentation required by the applicable provisions of this section, except that:

(i) The residential address specified for such Incarcerated Person shall be the name of the correctional authority with custody of that person along with the main or administrative address of such authority;

(ii) A Registered Location need not be provided; and

(iii) If an Incarcerated Person has no Social Security number or Tribal Identification number, an identification number assigned by the correctional authority along with the facility identification number, if there is one, may be provided in lieu of the last four digits of a Social Security number or a Tribal Identification number.

(2) *Verification of VRS and IP CTS registration data.* An Incarcerated Person's identity and address may be verified pursuant to § 64.615(a)(6) of this chapter, for purposes of VRS or IP CTS registration, based on documentation, such as a letter or statement, provided by an official of a correctional authority that states the name of the person; the person's identification number assigned by the correctional authority; the name of the correctional authority; and the address of the correctional facility. The VRS or IP CTS provider shall transmit such documentation to the TRS User Registration Database administrator.

(3) *Release or transfer of an Incarcerated Person.* Upon release (or transfer to a different correction authority) of an Incarcerated Person who has registered for VRS or IP CTS, the VRS or IP CTS provider with which such person has registered shall update the person's registration information within 30 days of receiving written notification from such person or the correctional authority of such release or transfer. Such updated information shall include, in the case of release, the individual's full residential address, Registered Location (if required by this section or part 9 of this chapter), and any other registration information required by this section and not previously provided, and in the case of transfer shall include the information required by paragraph (k)(2) of this section.

(4) *Dial-around calls for VRS.* VRS providers shall not allow dial-around calls by Incarcerated People.

(l) *Enterprise registration for the use of TRS in correctional facilities.*

(1) Notwithstanding the other provisions of this section, a TRS provider may provide VRS, IP Relay, or IP CTS to an Incarcerated Person, without individual user registration, if the TRS provider has completed enterprise registration of the correctional facility or correctional authority for which service will be provided.

(2) [Reserved]

(3) [Reserved]

(4) *Confidentiality.* The TRS provider shall maintain the confidentiality of any registration and certification information obtained by the TRS provider, and shall not disclose such registration and certification information, or the content of such registration and certification information, except as required by law or regulation.

■ 7. Delayed indefinitely, amend § 64.611 by adding paragraphs (l)(2), (3), (5) and (6) to read as follows:

§ 64.611 Internet-based TRS registration.

* * * * *

(l) * * *

(2) *Signed certification*—(i) *VRS and IP Relay.* For enterprise registration to use VRS or IP Relay, the TRS provider shall obtain a signed certification from the individual responsible for the devices used to access VRS or IP Relay (who may be an employee of the correctional authority or a provider of Incarcerated People's Communications Services), attesting that:

(A) The individual understands the functions of the devices used to access the service and that the cost of this relay service is financed by the federally regulated Interstate TRS Fund; and

(B) The correctional authority (or the provider of Incarcerated People's Communications Services, if the individual is employed by such a provider) will make reasonable efforts to ensure that only persons with a hearing or speech disability are permitted to use the service.

(ii) *IP CTS.* For enterprise registration to use IP CTS, the TRS provider shall obtain a signed certification from the individual responsible for the devices used to access IP CTS (who may be an employee of the correctional authority or of a provider of Incarcerated People's Communications Services), attesting that:

(A) The individual understands the functions of IP CTS and that the cost of IP CTS is supported by the federally regulated Interstate TRS Fund; and

(B) The correctional authority (or the provider of Incarcerated People's Communications Services, if the individual is employed by such a provider) will make reasonable efforts to ensure that only persons with hearing loss that necessitates the use of IP CTS to communicate by telephone are permitted to use IP CTS.

(iii) *Electronic signatures.* The certification required by paragraph (l)(2) of this section shall be made on a form separate from any other agreement or form, and must include a separate signature specific to the certification. For the purposes of this paragraph (l)(2)(iii), an electronic signature, defined by the Electronic Signatures in Global and National Commerce Act as an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record, has the same legal effect as a written signature. For the purposes of this paragraph (l)(2)(iii), an

electronic record, defined by the Electronic Signatures in Global and National Commerce Act as a contract or other record created, generated, sent, communicated, received, or stored by electronic means, constitutes a record.

(3) *Consent for transmission of registration information.* A VRS or IP CTS provider shall obtain consent from the individual making the certification described in paragraph (l)(2) of this section to transmit the information required by this section to the TRS User Registration Database. Before obtaining such consent, the TRS provider shall describe, using clear, easily understood language, the specific information being transmitted, that the information is being transmitted to the TRS User Registration Database to ensure proper administration of the TRS program, and that failure to provide consent will result in denial of service. The TRS provider shall obtain and keep a record of affirmative acknowledgment of such consent.

* * * * *

(5) *Registration data.* To complete enterprise registration, a VRS or IP CTS provider shall collect and transmit to the TRS User Registration Database, in a format prescribed by the Database administrator:

(i) The TRS provider's name;

(ii) The telephone numbers or unique identifiers assigned to the relevant TRS device(s) at the correctional facility or correctional authority;

(iii) The name and address of the affected correctional facility or correctional authority;

(iv) The date of initiation of service and;

(v) The name of the individual executing the certification required by paragraph (l)(2) of this section, and the date the certification was obtained.

(6) When a VRS or IP CTS provider ceases providing relay service to a correctional authority via enterprise registration, the provider shall transmit the date of termination of such service to the TRS User Registration Database Administrator.

■ 8. Revise the heading to subpart FF to read as follows:

Subpart FF—Incarcerated People's Communications Services

■ 9. Revise § 64.6000 to read as follows:

§ 64.6000 Definitions.

As used in this subpart:

Alternate Pricing Plan or *Plan* means the offering of Incarcerated People's Communications Services to Consumers using a pricing structure other than per-minute pricing.

Ancillary Service Charge means any charge to Consumers associated with the provision or use of Incarcerated People's Communications Services that is not:

(1) Included in the per-minute charges assessed, in accordance with §§ 64.6010 and 64.6030, for individual Incarcerated People's Communications Services;

(2) Included in the charges assessed, in accordance with § 64.6140, in connection with an Alternate Pricing Plan; or

(3) An Authorized Fee, a Mandatory Fee, or a Mandatory Tax.

Authorized Fee means a government authorized, but discretionary, fee which a Provider must remit to a federal, state, or local government, and which a Provider is permitted, but not required, to pass through to Consumers for or in connection with intrastate, interstate, or international Incarcerated People's Communications Services. An Authorized Fee may not include a markup, unless the markup is specifically authorized by a federal, state, or local statute, rule, or regulation.

Average Daily Population or *ADP* means the sum of all Incarcerated People in a Correctional Facility for each day of the preceding calendar year divided by the number of days in that year, calculated each year on or before April 30.

Billing Statement or *Statement of Account* means the vehicle by which IPCS Account information is provided to the Consumer on a monthly basis, regardless of IPCS Account type, including: (a) the amount of any deposits in the IPCS Account; (b) the duration of any call(s) or communication(s) for which a charge is assessed; and (c) the balance remaining in the IPCS Account after deduction of those charges.

Breakeven Point means, for purposes of an Alternate Pricing Plan, the usage amount:

(1) Below which a Consumer would pay more under the Alternate Pricing Plan than the Consumer would have paid under the Provider's per-minute rates, and

(2) At or above which the cost of the Alternate Pricing Plan would be less than or equal to what the Consumer would pay under the Provider's per-minute rates.

Collect Calling means an arrangement whereby the called party takes affirmative action clearly indicating that it will pay the charges associated with a communication originating from an Incarcerated Person's Communications Device.

Consumer means the party paying a Provider of Incarcerated People's Communications Services.

Controlling Judicial or *Administrative Mandate* means:

(1) A final court order requiring an Incarcerated Person to pay restitution;

(2) A fine imposed as part of a criminal sentence;

(3) A fee imposed in connection with a criminal conviction; or

(4) A final court or administrative agency order adjudicating a valid contract between the Provider and the IPCS Account holder, entered into prior to July 22, 2024 that allows or requires that a Provider of Incarcerated People's Communications Services act in a manner that would otherwise violate § 64.6130.

Correctional Facility, Facility, or *Correctional Institution* means a Jail or a Prison.

Debit Calling means a presubscription or comparable service which allows an Incarcerated Person, or someone acting on an Incarcerated Person's behalf, to fund an IPCS Account set up through a Provider that can be used to pay for Incarcerated People's Communications Services originated by the Incarcerated Person.

Facility-Related Rate Component means either the Legally Mandated Facility Rate Component or the Contractually Prescribed Facility Rate Component identified in § 64.6030(d).

Incarcerated Person or *Incarcerated People* means a person or persons detained at a Jail or Prison, regardless of the duration of the detention.

Incarcerated People's Communications Service or *IPCS* means the provision of telephone service; interconnected VoIP service; non-interconnected VoIP service; interoperable video conferencing service; and any audio or video communications service used by Incarcerated People for the purpose of communicating with individuals outside the Facility where the Incarcerated Person is held, regardless of the technology used and regardless of interstate, intrastate or international jurisdiction.

Incarcerated People's Communications Service Account or *IPCS Account* means any type of account administered, or directly or indirectly controlled by a Provider or an affiliate of a Provider that can be used to pay IPCS rates and charges, including accounts where the Incarcerated Person is the account holder.

Incarcerated Person's Communications Device means a telephone instrument or other device capable of initiating communications, set aside by authorities of a Correctional Facility for use by one or more Incarcerated People.

Interconnected Voice over Internet Protocol or Interconnected VoIP means a service that:

(1) Enables real-time, two-way voice communications;

(2) Requires a broadband connection from the user's location;

(3) Requires internet protocol-compatible customer premises equipment; and

(4) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

Interoperable Video Conferencing Service means a service that provides real-time video communications, including audio, to enable users to share information of the user's choosing.

International Communications means communications that originate in the United States and terminate outside the United States.

International Destination means the rate zone in which an International Communication terminates. For countries that have a single rate zone, International Destination means the country in which an International Communication terminates.

Inmate means a person detained at a Jail or Prison, regardless of the duration of the detention;

Inmate Calling Service means a service that allows Inmates to make calls to individuals outside the Correctional Facility where the Inmate is being held, regardless of the technology used to deliver the service;

Inmate Telephone means a telephone instrument, or other device capable of initiating calls, set aside by authorities of a Correctional Facility for use by Inmates;

Jail means a Facility of a local, state, or federal law enforcement agency that is used to primarily hold individuals who are:

(1) Awaiting adjudication of criminal charges;

(2) Post-conviction and committed to confinement sentences of one year or less; or

(3) Post-conviction and awaiting transfer to another Facility. The term also includes city, county, or regional facilities that have contracted with a private company to manage day-to-day operations; privately owned and operated Facilities primarily engaged in housing city, county or regional Incarcerated People; immigration detention facilities operated by, or pursuant to contracts with, federal, state, city, county, or regional agencies; juvenile detention centers; and secure mental health facilities.

Jurisdiction means:

(1) The state, city, county, or territory where a law enforcement authority is operating or contracting for the operation of a Correctional Facility; or

(2) The United States for a Correctional Facility operated by or under the contracting authority of a Federal law enforcement agency.

Jurisdictionally Mixed Charge means any charge Consumers may be assessed for use of Incarcerated People's Communications Services that is not included in the per-minute charges assessed for individual communications and that are assessed for, or in connection with, uses of Incarcerated People's Communications Service to make such communications that have interstate or international and intrastate components that are unable to be segregated at the time the charge is incurred.

Mandatory Tax or *Mandatory Fee* means a fee that a Provider is required to collect directly from Consumers, and remit to federal, state, or local governments. A Mandatory Tax or Mandatory Fee that is passed through to a Consumer for, or in connection with, Incarcerated People's Communications Services may not include a markup, unless the markup is specifically authorized by a federal, state, or local statute, rule, or regulation.

Non-interconnected VoIP means a service, other than an Interconnected VoIP service, that enables real-time voice communications that originate from, or terminate to, the end-user's location using Internet Protocol or any successor protocol and that requires Internet Protocol compatible customer premises equipment.

Per-Call, Per-Connection, or *Per-Communication Charge* means a one-time fee charged to a Consumer of IPCS at call or communication initiation.

Prepaid Calling means a presubscription or comparable service in which a Consumer, other than an Incarcerated Person, funds an account set up through a Provider of Incarcerated People's Communications Services. Funds from the account can then be used to pay for Incarcerated People's Communications Services that originate with the same Incarcerated Person.

Prepaid Collect Calling means a calling arrangement that allows an Incarcerated Person to initiate an Incarcerated People's Communications Services communication without having a pre-established billing arrangement and also provides a means, within that communication, for the called party to establish an arrangement to be billed directly by the Provider of Incarcerated People's Communications Services for future communications from the same Incarcerated Person.

Prison means a Facility operated by a territorial, state, or Federal agency that is used primarily to confine individuals convicted of felonies and sentenced to terms in excess of one year. The term also includes public and private facilities that provide outsource housing to other agencies such as the State Departments of Correction and the Federal Bureau of Prisons; and facilities that would otherwise fall under the definition of a Jail but in which the majority of Incarcerated People are post-conviction and are committed to confinement for sentences of longer than one year.

Provider of Incarcerated People's Communications Services or *Provider* means any communications service provider that provides Incarcerated People's Communications Services, regardless of the technology used.

Provider-Related Rate Component means the interim per-minute rate specified in either § 64.6030(b) or (c) that Providers at Jails with Average Daily Populations of 1,000 or more Incarcerated People and all Prisons may charge for interstate Collect Calling, Debit Calling, Prepaid Calling, or Prepaid Collect Calling.

Site Commission means any form of monetary payment, in-kind payment, gift, exchange of services or goods, fee, technology allowance, or product that a Provider of Incarcerated People's Communications Services or affiliate of a Provider of Incarcerated People's Communications Services may pay, give, donate, or otherwise provide to an entity that operates a Correctional Institution, an entity with which the Provider of Incarcerated People's Communications Services enter into an agreement to provide Incarcerated People's Communications Services, a governmental agency that oversees a Correctional Facility, the city, county, or state where a Facility is located, or an agent of any such Facility.

■ 10. Add § 64.6010 to read as follows:

§ 64.6010 Incarcerated People's Communications Services rate caps.

(a) A Provider must offer each Incarcerated People's Communications Service it provides at a per-minute rate. A Provider may also offer an Incarcerated People's Communications Service under one or more Alternate Pricing Plans, pursuant to § 64.6140.

(b) A Provider must not charge a per-minute rate for intrastate or interstate audio Incarcerated People's Communications Services in excess of the following rate caps on or after the dates specified below:

(1) $0.06 per minute for each Prison;
(2) $0.06 per minute for each Jail having an Average Daily Population of 1,000 or more Incarcerated People;
(3) $0.07 per minute for each Jail having an Average Daily Population of between and including 350 and 999 Incarcerated People;
(4) $0.09 per minute for each Jail having an Average Daily Population of between and including 100 and 349 Incarcerated People; and
(5) $0.12 per minute for each Jail having an Average Daily Population of below 100 Incarcerated People.

(c) A Provider must not charge a per-minute rate for video Incarcerated People's Communications Services in excess of the following interim rate caps except as set forth in paragraph (d) of this section:
(1) $0.16 per minute for each Prison;
(2) $0.11 per minute for each Jail having an Average Daily Population of 1,000 or more Incarcerated People;
(3) $0.12 per minute for each Jail having an Average Daily Population of between and including 350 and 999 Incarcerated People;
(4) $0.14 per minute for each Jail having an Average Daily Population of between and including 100 and 349 Incarcerated People; and
(5) $0.25 per minute for each Jail having an Average Daily Population of below 100 Incarcerated People.

(d) A Provider must charge the rate caps described in paragraphs (b) and (c) of this section beginning January 1, 2025 for all Prisons and for Jails with Average Daily Populations of 1,000 or more Incarcerated People, and April 1, 2025 for Jails with Average Daily Populations of less than 1,000 Incarcerated People, subject to the following special provisions.

(1) Where a contract existing as of June 27, 2024 includes terms and conditions that would require material alteration through renegotiation due to a conflict with our new rules involving rates, contractually-negotiated Site Commission payments or passthrough charges included in the rates, and the contract expires on or after January 1, 2025 for Prisons and for Jails with Average Daily Populations of 1,000 or more Incarcerated People, or on or after April 1, 2025 for Jails with Average Daily Populations of less than 1,000 Incarcerated People, the compliance dates for the rate caps set forth in paragraphs (b) and (c) of this section and the Site Commission rules set forth in § 64.6015 will be the earlier of the contract expiration date or January 1, 2026 for Prisons and for Jails with Average Daily Populations of 1,000 or more Incarcerated People, or the earlier of the contract expiration date or April 1, 2026 for Jails with Average Daily Populations of less than 1,000 Incarcerated People.

(2) Where a contract existing as of June 27, 2024 includes terms and conditions that would require renegotiation due to a provision incorporating legally-mandated Site Commission payments and the contract expires on or after July 1, 2025 for any size Facility, the compliance date for paragraphs (b) and (c) of this section and the Site Commission rules set forth in § 64.6015 will be the earlier of the contract expiration date or April 1, 2026.

(e) A Provider must not charge a per-minute rate for international audio Incarcerated People's Communications Services in each Prison or Jail it serves in excess of the applicable interstate and intrastate cap set forth in paragraph (b) of this section plus the average amount that the Provider paid its underlying international service providers for audio communications to the International Destination of that communication, on a per-minute basis. A Provider shall determine the average amount paid for communications to each International Destination for each calendar quarter and shall adjust its maximum rates based on such determination within one month of the end of each calendar quarter.

■ 11. Add § 64.6015 to read as follows:

§ 64.6015 Prohibition against Site Commissions.

A Provider must not pay any Site Commissions associated with its provision of Incarcerated People's Communications Services on or after the dates specified below:

(a) Providers must comply with this section beginning January 1, 2025 for all Prisons and for Jails with Average Daily Populations of 1,000 or more Incarcerated People, and April 1, 2025 for Jails with Average Daily Populations of less than 1,000 Incarcerated People, subject to the special provisions in paragraphs (b) and (c) of this section.

(b) Where a contract existing as of June 27, 2024 includes terms and conditions that would require material alteration through renegotiation due to a conflict with our new rules involving rates, contractually-negotiated Site Commission payments or pass-through charges included in the rates, and the contract expires on or after January 1, 2025 for Prisons and for Jails with Average Daily Populations of 1,000 or more Incarcerated People, or on or after April 1, 2025 for Jails with Average Daily Populations of less than 1,000 Incarcerated People, the compliance dates for this section will be the earlier of the contract expiration date or January 1, 2026 for Prisons and for Jails with Average Daily Populations of 1,000 or more Incarcerated People, or the earlier of the contract expiration date or April 1, 2026 for Jails with Average Daily Populations of less than 1,000 Incarcerated People.

(c) Where a contract existing as of June 27, 2024 includes terms and conditions that would require renegotiation due to a provision incorporating legally-mandated Site Commission payments and the contract expires on or after July 1, 2025 for any size Facility, the compliance date for this section will be the earlier of the contract expiration date or April 1, 2026.

■ 12. Revise § 64.6020 to read as follows:

§ 64.6020 Ancillary Service Charges.

A Provider of Incarcerated People's Communications Services must not charge any Ancillary Service Charge, as defined in § 64.6000 of this chapter.

■ 13. Revise § 64.6030 by adding paragraph (f) to read as follows:

§ 64.6030 Inmate Calling Services interim rate caps.

* * * * *

(f) Paragraphs (a) through (e) of this section shall cease to be effective upon the individual compliance dates prescribed in the revisions to § 64.6010 and the addition of § 64.6015 for the Providers serving the Facilities subject to each such date.

■ 14. Amend § 64.6040 by revising paragraph (b)(1) and adding paragraph (e) to read as follows:

§ 64.6040 Communications access for Incarcerated People with disabilities.

* * * * *

(b)(1) A Provider shall provide access for Incarcerated People with hearing or speech disabilities to Traditional (TTY-Based) TRS and STS. As an alternative to supporting transmissions from a TTY device, where broadband internet access service is available, an IPCS Provider may provide access to Traditional TRS via real-time text, in accordance with 47 CFR part 67, if real-time text is supported by the available devices and reliable access to a provider of traditional TRS service can be provided by this method.

* * * * *

(e)(1) Paragraphs (a) through (c) of this section apply to services offered pursuant to an Alternate Pricing Plan, as defined in § 64.6000.

(2) Except as provided in this paragraph (e) of this section, in the

context of a Provider offering an Alternate Pricing Plan, the Provider shall not levy or collect any charge or fee, or count any minute(s) of use, or call(s) or communication(s), toward the amount included in an Alternate Pricing Plan, on or from any party to a TRS call to or from an Incarcerated Person, or any charge for the use of a device or transmission service when used to access TRS from a Correctional Facility, or any charge for the internet or other connections needed for services covered by this section.

(3) When providing access to IP CTS or CTS within the context of a Provider offering an Alternate Pricing Plan:

(i) If the Alternate Pricing Plan consists of a fixed number of calls or communications, the IP CTS or CTS call shall count as one call or communication.

(ii) If the Alternate Pricing Plan offers a fixed number of minutes, the IP CTS or CTS call shall count as the number of minutes used for the voice portion of the IP CTS or CTS call.

(iii) If the Alternate Pricing Plan offers an unlimited number of minutes, calls or communications, the IP CTS or CTS call shall be counted as part of the unlimited number of minutes, calls or communications.

(iv) There shall be no charge or fee for any internet or data portion of an IP CTS or CTS call.

(4) When providing access to a point-to-point video service, as defined in § 64.601(a), within the context of a Provider offering an Alternate Pricing Plan for Incarcerated People with hearing or speech disabilities who can use ASL:

(i) If the Alternate Pricing Plan consists of a fixed number of calls or communications, the point-to-point call shall be counted as one video communication (if only video is included in the Alternate Pricing Plan), or one audio call (if audio is included in the Alternate Pricing Plan).

(ii) If the Alternate Pricing Plan offers a fixed number of minutes, then the point-to-point call shall count as the number of minutes used and shall apply to the minutes provided for video, if only video is including in the Alternate Pricing Plan, or shall apply to the minutes provided for audio, if audio is included in the Alternate Pricing Plan.

(iii) If the Alternate Pricing Plan offers an unlimited number of minutes, calls or communications, the point-to-point call shall count as a video communication (if only video is provided as part of the Alternate Pricing Plan) or as an audio call (if audio is provided as part of the Alternate Pricing Plan).

(iv) Regardless of the format of the Alternate Pricing Plan, there shall be no charge or fee for the use of the equipment.

(5) When providing access for TTY-to-TTY use within the context of a Provider offering an Alternate Pricing Plan that includes audio service:

(i) If the Plan consists of a fixed number of calls, the TTY-to-TTY call shall count as one call;

(ii) If the Plan offers a fixed number of minutes, then the TTY-to-TTY call shall count as no more than one-fourth of the minutes used; and

(iii) If the Plan offers an unlimited number of minutes, or calls, the TTY-to-TTY call shall count as an audio call.

■ 15. Delayed indefinitely, amend § 64.6040 by adding paragraph (f) to read as follows:

§ 64.6040 Communications access for Incarcerated People with disabilities.

* * * * *

(f)(1) A Provider shall ensure that the information and documentation that it provides to current or potential Consumers of Incarcerated People's Communications Services is accessible. Such information and documentation includes, but is not limited to, disclosures of charges, user guides, bills, installation guides for end user devices, and product support communications.

(2) The term ''accessible'' has the same meaning given such term under § 14.10 of this chapter, as such section may be amended from time to time.

(3) The requirement to ensure the information is accessible also includes ensuring access, at no extra cost, to call centers and customer support regarding the products and services for current or potential Consumers of Incarcerated People's Communications Services.

■ 16. Revise § 64.6050 to read as follows:

§ 64.6050 Billing-related call blocking.

No Provider shall prohibit or prevent completion of a Collect Calling IPCS communication or decline to establish or otherwise degrade any Collect Calling IPCS communication solely for the reason that it lacks a billing relationship with the called party's communications service provider unless the Provider offers Debit Calling, Prepaid Calling, or Prepaid Collect Calling for IPCS communications.

■ 17. Delayed indefinitely, revise § 64.6060 to read as follows:

§ 64.6060 Annual reporting and certification requirement.

(a) Each Provider must submit a report to the Commission, by April 1 of each year, regarding intrastate, interstate and international audio and video IPCS for the prior calendar year. The report shall be categorized both by service type and Facility type and size and shall contain:

(1) Current intrastate, interstate, and international rates for Incarcerated People's Communications Services.

(2) For each Facility served, the kinds of TRS that may be accessed from the Facility.

(3) For each Facility served, the number of calls completed during the reporting period in each of the following categories:

(i) TTY-to-TTY calls;

(ii) Point-to-point video calls placed or received by ASL users as those terms are defined in § 64.601(a) of this chapter; and

(iii) TRS calls, broken down by each form of TRS that can be accessed from the Facility.

(4) For each Facility served, the number of complaints that the reporting Provider received in each of the categories set forth in paragraph (a)(3) of this section.

(5) Such other information as the Consumer and Governmental Affairs Bureau or the Wireline Competition Bureau may require.

(b) The Chief Executive Officer, Chief Financial Officer, or other senior executive of the reporting Provider, with first-hand knowledge of the truthfulness, accuracy, and completeness of the information provided pursuant to paragraph (a) of this section, must certify that the reported information and data are true, accurate and complete to the best of his or her knowledge, information, and belief.

■ 18. Revise § 64.6070 to read as follows:

§ 64.6070 Taxes and fees.

(a) A Provider must not charge a Consumer any tax or fee associated with Incarcerated People's Communications Services other than a Mandatory Tax, a Mandatory Fee, or an Authorized Fee, as defined in § 64.6000 of this chapter.

■ 19. Revise § 64.6080 to read as follows:

§ 64.6080 Per-Call, Per-Connection or Per-Communication Charges.

A Provider must not impose a Per-Call, Per-Connection, or Per-Communication Charge on a Consumer for any Incarcerated People's Communications Services communication.

§ 64.6090 [Removed and reserved].

■ 20. Delayed indefinitely, remove and reserve § 64.6090.

■ 21. Revise § 64.6100 to read as follows:

§ 64.6100 Minimum and maximum Prepaid Calling and Debit Calling account balances.

(a) No Provider shall institute a minimum balance requirement for a Consumer to use Debit or Prepaid Calling for Incarcerated People's Communications Services.

(b) No Provider shall prohibit a Consumer from depositing at least $50 per transaction to fund a Debit or Prepaid Calling account that can be used for Incarcerated People's Communications Services.

■ 22. Delayed indefinitely, revise and republish § 64.6110 to read as follows:

§ 64.6110 Consumer Disclosure of Incarcerated People's Communications Services Rates.

(a) Providers must clearly, accurately, and conspicuously disclose their intrastate, interstate, and international Incarcerated People's Communications Services rates, charges and associated practices on their publicly available websites. In connection with international rates, Providers shall also separately disclose the rate component for terminating calls to each International Destination where that Provider terminates International Communications.

(1) In addition to the information required in paragraph (a) of this section, the Provider must disclose information on:

(i) How to manage an IPCS Account;

(ii) How to fund an IPCS Account;

(iii) How to close an IPCS Account and how to obtain a refund of any unused balance in that account; and

(iv) How to obtain a refund of any unused balance in inactive accounts pursuant to § 64.6130 of this chapter.

(b) Providers must clearly label the Facility-Related Rate Component (either the Legally Mandated Facility Rate Component or the Contractually Prescribed Facility Rate Component) identified in § 64.6030(d) as a separate line item on Consumer bills for the recovery of permissible facility-related costs contained in Site Commission payments. To be clearly labeled, the Facility-Related Rate Component shall:

(1) Identify the Provider's obligation to pay a Site Commission as either imposed by state statutes or laws or regulations that are adopted pursuant to state administrative procedure statutes where there is notice and an opportunity for public comment that operates independently of the contracting process between Correctional Institutions and Providers or subject to a contract with the Correctional Facility;

(2) Where the Site Commission is imposed by state statute, or law or regulation adopted pursuant to state administrative procedure statutes where there is notice and an opportunity for public comment and that operates independently of the contracting process between Correctional Institutions and Providers, specify the relevant statute, law, or regulation.

(3) Identify the amount of the Site Commission payment, expressed as a per-minute or per-call charge, a percentage of revenue, or a flat fee; and

(4) Identify the amount charged to the Consumer for the call or calls on the bill.

(c) Providers must clearly label all charges for International Communications in § 64.6010(d) of this chapter as a separate line item on Consumer Billing Statements and Statements of Account. To be clearly labeled, Providers must identify the amount charged to the Consumer for the International Communication, including the costs paid by the provider to its underlying international providers to terminate the International Communication to the International Destination of the call.

(d) Providers shall make disclosures pursuant to this section available:

(1) Via the Provider's website in a form generally accessible to the public without needing to have an IPCS Account with the Provider;

(2) Via the Provider's online or mobile application, if Consumers use that application to create an IPCS Account with the Provider; and

(3) On paper, upon request of the Consumer.

(e) Billing Statements and Statements of Account:

(1) Providers must make available Billing Statements and Statements of Account to all IPCS Account holders on a monthly basis via:

(i) The Provider's website;

(ii) The Provider's online or mobile application; or

(iii) On paper, upon request of the Consumer.

(2) Billing Statements and Statements of Account shall include:

(i) The amount of any deposits to the account;

(ii) The duration of any calls and communications for which a charge is assessed; and

(iii) The balance remaining in the IPCS Account after the deduction of those charges.

(f) All disclosures made pursuant to this section, and §§ 64.6130 and 64.6140 shall be clear, accurate, and conspicuous, and shall be available in accessible formats for people with disabilities.

(g) Paragraph (b) of this section shall cease to be effective upon the individual compliance dates prescribed in the revisions to § 64.6010 and the addition of § 64.6015.

23. Delayed indefinitely, revise § 64.6120 to read as follows:

§ 64.6120 Waiver process.

(a) A Provider may seek a waiver of the rate caps established in § 64.6010 on a Correctional Facility or contract basis if the applicable rate caps prevent the Provider from recovering the costs of providing Incarcerated People's Communications Services at a Correctional Facility or at the Correctional Facilities covered by a contract.

(b) At a minimum, a Provider seeking such a waiver must submit:

(1) The Provider's total company costs, including the nonrecurring costs of the assets it uses to provide Incarcerated People's Communications Services, and its recurring operating expenses for these services at the Correctional Facility or under the contract;

(2) The methods the Provider used to identify its direct costs of providing Incarcerated People's Communications Services, to allocate its indirect costs between its Incarcerated People's Communications Services and other operations, and to assign its direct costs to and allocate its indirect costs among its Incarcerated People's Communications Services contracts and Correctional Facilities;

(3) The Provider's demand for Incarcerated People's Communications Services at the Correctional Facility or at each Correctional Facility covered by the contract;

(4) The revenue or other compensation the Provider receives from the provision of Incarcerated People's Communications Services at the Correctional Facility or at each Correctional Facility covered by the contract;

(5) A complete and unredacted copy of the contract for the Correctional Facility or Correctional Facilities, and any amendments to such contract;

(6) Copies of the initial request for proposals and any amendments thereto, the Provider's bid in response to that request, and responses to any amendments (or a statement that the Provider no longer has access to those documents because they were executed prior to the effective date of this rule);

(7) A written explanation of how and why the circumstances associated with that Correctional Facility or contract differ from the circumstances at similar Correctional Facilities the Provider

serves, and from other Correctional Facilities covered by the same contract, if applicable; and

(8) An attestation from a company officer with knowledge of the underlying information that all of the information the Provider submits in support of its waiver request is complete and correct.

(c) A Provider seeking a waiver pursuant to section 64.6120(a) must provide any additional information requested by the Commission during the course of its review.

24. In § 64.6130 revise paragraphs (a) through (c) to read as follows:

§ 64.6130 Interim protections of consumer funds in inactive accounts

(a) All funds deposited into an IPCS Account shall remain the property of the account holder unless or until the funds are either:

(1) Used to pay for products or services purchased by the account holder or the Incarcerated Person for whose benefit the account was established;

(2) Disposed of in accordance with a Controlling Judicial or Administrative Mandate; or

(3) Disposed of in accordance with applicable state law, including, but not limited to, laws governing unclaimed property.

(b) No Provider may dispose of unused funds in an IPCS Account until at least 180 calendar days of continuous account inactivity have passed, or at the end of any longer, alternative period set by state law, except as provided in paragraphs (a) and (d) of this section or through a refund to the IPCS Account holder or such other individual as the account holder may have designated to receive a refund.

(c) The 180-day period, or any longer alternative period set by state law, must be continuous. Any of the following actions by the IPCS Account holder or the Incarcerated Person for whose benefit the account was established ends the period of inactivity and restarts the 180-day period:

(1) Depositing, crediting, or otherwise adding funds to an IPCS Account;

(2) Withdrawing, spending, debiting, transferring, or otherwise removing funds from an IPCS Account; or

(3) Expressing an interest in retaining, receiving, or transferring the funds in an IPCS Account, or otherwise attempting to exert or exerting ownership or control over the account or the funds held within the IPCS Account.

* * * * *

■ 25. Delayed indefinitely, revise and republish § 64.6130 to read as follows:

§ 64.6130 Protection of consumer funds in inactive accounts.

(a) All funds deposited into an IPCS Account shall remain the property of the account holder unless or until the funds are either:

(1) Used to pay for products or services purchased by the account holder or the Incarcerated Person for whose benefit the account was established;

(2) Disposed of in accordance with a Controlling Judicial or Administrative Mandate; or

(3) Disposed of in accordance with applicable state law, including, but not limited to, laws governing unclaimed property.

(b) No Provider may dispose of unused funds in an IPCS Account until at least 180 calendar days of continuous account inactivity have passed, or at the end of any longer, alternative period set by state law, except as provided in paragraphs (a) and (d) of this section or through a refund to the IPCS Account holder or such other individual as the account holder may have designated to receive a refund.

(c) The 180-day period, or any longer alternative period set by state law, must be continuous. Any of the following actions by the IPCS Account holder or the Incarcerated Person for whose benefit the account was established ends the period of inactivity and restarts the 180-day period:

(1) Depositing, crediting, or otherwise adding funds to an IPCS Account;

(2) Withdrawing, spending, debiting, transferring, or otherwise removing funds from an IPCS Account; or

(3) Expressing an interest in retaining, receiving, or transferring the funds in an IPCS Account, or otherwise attempting to exert or exerting ownership or control over the account or the funds held within the IPCS Account.

(d) After 180 days of continuous account inactivity have passed, or at the end of any longer alternative period set by state law, the Provider must:

(1) Contact the account holder prior to closing the account and refunding the remaining balance to determine whether the account holder wishes to continue using the IPCS Account, or to close it and obtain a refund; and

(2) Make reasonable efforts to refund the balance in the IPCS Account to the account holder or such other person as the account holder has specified. Reasonable efforts include, but are not limited to:

(i) Notification to the account holder that the account has been deemed inactive;

(ii) The collection of contact information needed to process the refund; and

(iii) Timely responses to inquiries from an account holder.

(e) If a Provider's reasonable efforts to refund the balance of the IPCS Account fail, the Provider must dispose of remaining funds in accordance with applicable state consumer protection law concerning unclaimed funds or the disposition of such accounts.

(f) If a Provider becomes aware that an Incarcerated Person has been released or transferred, the 180-day inactivity period shall be deemed to have run and the Provider shall begin processing a refund in accordance with this section. The Provider shall contact the account holder prior to closing the IPCS Account and refunding the remaining balance in the IPCS Account, to determine whether the account holder wishes to continue using the IPCS Account, or to close it and obtain a refund from the Provider.

(g) Any refund made pursuant to this section must include the entire balance of the IPCS Account, including any deductions the Provider may have made in anticipation of taxes or other charges that it assessed when funds were deposited and that were not actually incurred. The Provider shall not impose any fees or charges for processing the refund.

(h) Any refund made pursuant to this section shall be issued within 30 calendar days of the IPCS Account being deemed inactive or within 30 calendar days of a request for a refund from an account holder or other such individual as the account holder may have specified to receive a refund.

(i) In the absence of a Consumer's request for a refund, the requirement to provide a refund in accordance with this section shall not apply where the balance in an inactive IPCS Account is $1.50 or less. To the extent a Provider is unable to issue a refund requested by a Consumer, the Provider shall treat such balances consistent with applicable state consumer protection law concerning unclaimed funds or the disposition of such accounts.

(j) Providers shall issue refunds required pursuant to this section through:

(1) The IPCS Account holder's original form of payment;

(2) An electronic transfer to a bank account;

(3) A check; or

(4) A debit card.

(k) Providers shall clearly, accurately, and conspicuously disclose to IPCS Account holders, through their Billing Statements or Statements of Account,

notice of the status of IPCS Accounts prior to their being deemed inactive.

(1) This notice shall initially be provided at least 60 calendar days prior to an IPCS Account being deemed inactive.

(2) The notice shall be included in each Billing Statement or Statement of Account the Provider sends, or makes available to, the account holder until the IPCS Account holder takes one of the actions sufficient to restart the 180-day period in paragraph (c) of this section or the IPCS Account becomes inactive pursuant to this section.

(3) All notices provided pursuant to this paragraph shall describe how the IPCS Account holder can keep the IPCS Account active and how the IPCS Account holder may update the refund information associated with the IPCS Account.

■ 26. Add § 64.6140 to read as follows:

§ 64.6140 Alternate Pricing Plans.

(a) *General Parameters.* (1) A Provider offering IPCS via an Alternate Pricing Plan must comply with this section as well as § 64.710 and this subpart FF.

(2) Enrollment in an Alternate Pricing Plan must be optional for the Consumer.

(3) A service period for an Alternate Pricing Plan shall be no longer than one month.

(4) When determining the format of an Alternate Pricing Plan, Providers must consider:

(i) Any limits on the number of and length of calls or communications imposed by the Correctional Facility;

(ii) The availability of correctional staff to manage the use of IPCS at the Correctional Facility; and

(iii) Equipment availability for the calls or communications at the Correctional Facility.

(b) *Alternate Pricing Plan Rates.* (1) An Alternate Pricing Plan must be offered at a rate such that the Breakeven Point is at or below the applicable rate cap(s).

(i) A consumer complaint about an IPCS Provider's Alternate Pricing Plan rates will not be entertained under the rules in this section unless the consumer's usage meets or exceeds the Breakeven Point(s) for the Alternate Pricing Plan.

(2) If a Consumer believes that the rates under an Alternate Pricing Plan exceed the applicable per-minute rates for that Correctional Facility, the Consumer must show that their usage meets or exceeds the Breakeven Point for the Alternate Pricing Plan. It is the Provider's burden to demonstrate that the rate charged to that Consumer under its Alternate Pricing Plan is less than or equal to the applicable rate cap.

(3) After a Consumer uses all of the minutes, calls, or communications available during a service period of an Alternate Pricing Plan, the charge for subsequent minutes, calls, or communications during the remaining part of the service period shall not exceed the Provider's per-minute rate for the corresponding service.

(c) [Reserved]

(d) [Reserved]

(e) *Automatic Renewals and Related Consumer Disclosures.* (1) If a Provider of an Alternate Pricing Plan offers automatic renewals, the automatic renewals must be optional to the Consumer.

(2) [Reserved]

(f) *Cancellation by the Consumer and Related Consumer Disclosures.* (1) A Provider must allow a Consumer using an Alternate Pricing Plan to cancel their participation in the Alternate Pricing Plan at any time during the relevant service period and revert to per-minute pricing. The Consumer may end their participation in the Alternate Pricing Plan on the date of their choosing. The process for cancelling an Alternate Pricing Plan must be readily accessible to the Consumer and must include the method that the Consumer used to enroll in the Alternate Pricing Plan.

(2) [Reserved]

(3) The refund amount provided to the Consumer upon the Consumer's cancellation of an Alternate Pricing Plan for the special circumstances provided in paragraph (f)(2) of this section must be at least the pro-rated amount that corresponds to the unused portion of the service period.

(g) *Application to Telecommunications Relay Service (TRS) and Related Communications Services.* A Provider that offers an Alternate Pricing Plan shall make TRS and related communications services available via the Alternate Pricing Plan, pursuant to § 64.6040 of this chapter.

■ 27. Delayed indefinitely, amend § 64.6140 by adding paragraphs (c), (d), (e)(2) through (4), (f)(2) and (f)(4) to read as follows:

§ 64.6140 Alternate Pricing Plans.

* * * * *

(c) *Consumer Disclosures.* (1) A Provider offering an Alternate Pricing Plan must comply with the consumer disclosure requirements in § 64.6110 as well as the requirements in this section.

(2) Before a Consumer enrolls in an Alternate Pricing Plan; upon request, at any time after Alternate Pricing Plan enrollment; with a Billing Statement or Statement of Account, and any related communications; and at the beginning of each call or communication, the Provider also must make disclosures that include the following information for each Alternate Pricing Plan offered by the Provider:

(i) The rates and any added Mandatory Taxes or Mandatory Fees, a detailed explanation of the Mandatory Taxes and Mandatory Fees, total charge, quantity of minutes, calls or communications included in the Plan, the service period, and the beginning and end dates of the service period;

(ii) Terms and conditions, including those concerning dropped calls and communications in paragraph (d) of this section, automatic renewals in paragraph (e) of this section and cancellations in paragraph (f) of this section;

(iii) An explanation that per-minute rates are always available as an option to an Alternate Pricing Plan and that per-minute rates apply if the Consumer exceeds the calls/communications allotted in the Plan;

(iv) The Breakeven Point indicating at the amount of Alternate Pricing Plan usage above which the Consumer will save money compared to the Provider's applicable per-minute rate for the same type and amount of service at the Correctional Facility; and

(v) The ability to obtain prior usage and billing data, upon request, for each of the most recent three service periods (where feasible), including total usage and total charges including taxes and fees.

(3) The Provider must make the disclosures for Alternate Pricing Plans pursuant to this paragraph (c) of this section available: to the public on the Provider's website; on the Provider's online or mobile application, if Consumers use the application to enroll in the Plan; via paper upon request; and via the methods for general IPCS disclosures pursuant to § 64.6110 before, during, and after a Consumer's enrollment in a Plan.

(4) In every communication between the Provider and a Consumer (or the Incarcerated Person, if they are not the Consumer) concerning the Alternate Pricing Plan, the Provider must either include the disclosures for Alternate Pricing Plans pursuant to paragraph (c) of this section, or provide clear, easy to follow, instructions for how the consumer (or Incarcerated Person, if not the Consumer) may immediately obtain access to those disclosures.

(5) Before a Consumer enrolls in a Plan, and at any time upon Consumer request, the Provider must also provide to the Consumer:

(i) The rates, Breakeven Point, and total cost including any Mandatory

Taxes or Mandatory Fees associated with the Plan; and

(ii) An explanation that the Consumer's prior usage and billing data is available upon request through a readily accessible means and must include:

(A) For the Provider's most recent three service periods (where feasible): the minutes of use for each of the calls or communications made by the Consumer and the applicable per-minute rate that was charged; the total number of minutes; and the totals charged for each service period including the details of any Mandatory Taxes and Mandatory Fees; and

(B) This prior usage and billing data must be made available to the Consumer via the Provider's website or online or mobile application or via paper upon request of the Consumer.

(6) After the Consumer enrolls in a Plan, the Provider must provide Billing Statements and Statements of Account for the Plan via the same method the Consumer used to sign up for the Plan, and via paper upon Consumer request. The Billing Statements and Statements of Account must include information specific to the Alternate Pricing Plan for the service period but the Consumer must be able to receive, upon request, information for the past three service periods (where feasible). The Billing Statement or Statement of Account must include for each service period:

(i) Call details, including the duration of each call made, and the total minutes used for that service period, and the total charge including Mandatory Taxes and Mandatory Fees, with explanations of each Mandatory Tax or Mandatory Fee;

(ii) The charges that would have been assessed for each call using the Provider's per-minute rate, and the total of those charges;

(iii) The calculated per-minute rate for the service period under the Alternate Pricing Plan, calculated as the charge for the service period divided by the total minutes used by that Consumer, with an explanation of that rate;

(iv) The Breakeven Point with an explanation of the Breakeven Point; and

(v) Information about deposits made to the Consumer's IPCS Account and the IPCS Account balance.

(7) The Provider must make available the number of minutes, calls, or communications remaining under a Consumer's Alternate Pricing Plan for the service period without the Consumer having to initiate a call or communication that would count toward a fixed allotment of minutes, calls, or communications in an Alternate Pricing Plan.

(d) *Dropped Calls or Communications and Related Consumer Disclosures.* (1) A Provider offering an Alternate Pricing Plan must explain its policies regarding dropped calls or communications in plain language in its consumer disclosures.

(2) The consumer disclosures must include:

(i) The types of dropped calls and communications that a Consumer can seek a credit or refund for;

(ii) How the Provider will calculate a credit or refund for a dropped call or communication; and

(iii) The method the Consumer must use to request a credit or refund for a dropped call or communication, and that method must be easy for the Consumer to complete.

(e) * * *

(2) A Provider offering an Alternate Pricing Plan must explain the terms and conditions of the automatic renewal in plain language in its consumer disclosures when it initially offers the automatic renewal option and before any automatic renewal is about to occur by whatever method the Provider has established for consumer notifications to the Consumer.

(3) The consumer disclosures must include an explanation that if a Consumer who requested automatic renewals does not later want the Alternate Pricing Plan to be renewed, the Consumer may cancel their participation in the Alternate Pricing Plan.

(4) The Provider must give notice of an upcoming renewal for an Alternative Pricing Plan directly to the Consumer no later than three business days prior to the renewal date. Along with providing the notice, the Provider must explain, in plain language, the terms and conditions of the automatic renewal using, at a minimum, the method of communication the Consumer agreed to at the time they enrolled in the Alternate Pricing Plan.

(f) * * *

(2) A Provider must issue a refund for the remaining balance on an Alternate Pricing Plan if:

(i) The Incarcerated Person is released;

(ii) The Incarcerated Person is transferred to another Correctional Facility; or

(iii) The Incarcerated Person is not permitted to make calls or communications for a substantial portion of the subscription period.

* * * * *

(4) Consumer disclosures related to Consumer cancellation of an Alternate Pricing Plan must include:

(i) An explanation that a Consumer enrolled in an Alternate Pricing Plan may cancel at any time and where applicable, the Provider will begin billing the Consumer at the Provider's per-minute rates by the first day after the termination date;

(ii) An explanation of the process for requesting cancellation of the Alternate Pricing Plan;

(iii) An explanation that the Consumer can end the Alternate Pricing Plan on a specific termination date of their choosing; and

(iv) The special circumstances for which a Consumer who has cancelled their enrollment shall receive a refund and how that refund will be calculated.

* * * * *

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendix D: Data Collection

1. This appendix and the other technical appendices that follow outline the data compilation and analysis that the Commission staff (staff) conducted using the 2023 Mandatory Data Collection as part of the Commission's efforts to determine just and reasonable and fairly compensatory rate caps for incarcerated people's communications services (IPCS). Collectively, the appendices provide: a description of the database compilation (Appendix A); a description of methods (Appendix B); summary statistics (Appendix C); a least absolute shrinkage and selection operator (Lasso) analysis to determine what characteristics of IPCS provision have a meaningful association with providers' reported per-minute expenses (Appendix D); our upper bound analysis (Appendix E); our lower bound analysis, including validation analyses (Appendix F); and a validation analysis of the rate caps adopted in the Order (Appendix G).

2. Description of Data Collection. On July 26, 2023, the Wireline Competition Bureau and the Office of Economics and Analytics released an Order implementing the 2023 Mandatory Data Collection regarding IPCS. All providers of IPCS were required to respond to the data request by October 31, 2023. For the purposes of the 2023 Mandatory Data Collection, a provider is defined as any contractor or subcontractor that provides IPCS, regardless of whether that entity has a contract directly with the facility or with another provider. The aim of this collection was to acquire IPCS providers financial and operating data as part of the Commission's efforts to set just and reasonable and fairly compensatory rate caps. Generally, the data collection required IPCS providers to report, for 2022, billed and unbilled demand (minutes and communications) and billed revenues for audio and video IPCS and ancillary services; monetary and in-kind site commission payments, both legally mandated and contractually prescribed; and investments and expenses for audio and video IPCS, safety and security measure services,

ancillary services, and all other products and services. Throughout Appendices D through J, we use terms defined in the 2023 Mandatory Data Collection. Unless otherwise specified, we observe the following conventions: ''minutes'' refers to Billed and Unbilled Minutes sometimes also written ''billed and unbilled minutes''; ''IPCS minutes'' refers to the sum of Audio IPCS Billed and Unbilled Minutes and Video IPCS Billed and Unbilled Minutes; ''audio IPCS services'' is typically shortened to ''audio services''; ''video IPCS services'' is typically shortened to ''video services''; ''audio minutes'' refer to Audio IPCS Billed and Unbilled Minutes; ''video minutes'' refer to Video IPCS Billed and Unbilled Minutes; the same conventions for minutes apply to communications, which generally can be thought of as calls; ''revenues'' refer to Billed Revenues; ''safety and security measure services'' are typically shortened to ''safety and security services''; and ancillary services refer to the five types of services defined in the data collection as ''Permissible Ancillary Services,'' for which the Commission's rules allowed providers to assess charges: (i) automated payment services, (ii) live agent services, (iii) paper bill/statement services, (iv) single-call and related services, and (v) third-party financial transaction services (all other ancillary services are defined as ''Other Ancillary Services''). To minimize the burden of the collection, we required providers to supply information based on their internal accounts, while remaining consistent with their financial reports and GAAP.

3. The data collection requested information from providers at company-wide and facility levels, as well as by various categories of investments and expenses. We required reports at the company level for two reasons: such reports may be compared with company financial statements and doing so constrains the investments and expenses to be allocated among IPCS and IPCS-related services and non-IPCS. We required reports at the facility level to give us insight into how costs might vary with facility size and type. Staff also prepared a detailed set of instructions for providers, which required providers to allocate their reported investments and expenses among IPCS and IPCS-related services and other products and services and to further allocate the IPCS investments and expenses among facilities. Specifically, we required providers to allocate their investments and expenses, to the extent possible, in the following order: direct assignment; direct attribution based on factors that cause a particular business activity and thus investments or expenses to increase or decrease; indirect attribution in proportion to related categories of investments or expenses that are directly assigned or directly attributed; or allocation based on the share of the total of all investments or expenses already directly assigned or attributed.

4. *Structure of the Collection.* To collect these financial and operating data, and to help the Commission understand the data at different levels and across different categories, staff developed an Excel template and a Word template, which we required providers to populate. Providers were required to report information at the company-wide level (worksheets C1–C2), including total company investments, capital expenses, operating expenses, and revenues. Investments (capital assets) categories include: tangible assets; capitalized research and development; purchased software; internally developed software; trademarks; capitalized site commissions; other identifiable intangible assets; and goodwill. Gross investment, accumulated depreciation or amortization, and net investment are reported separately for each of these categories of assets. The remaining investment categories are: accumulated deferred federal income taxes, accumulated deferred state income taxes, customer prepayments or deposits, cash working capital, and net capital stock. None of these categories is specific to any category of capital assets. The Excel template calculates net capital stock—gross investment in assets, net of accumulated depreciation and amortization, accumulated deferred federal and state income taxes, and customer prepayments or deposits, plus an allowance for cash working capital. Capital expenses categories include: depreciation—tangible assets; amortization—capitalized research and development; amortization—purchased software; amortization—internally developed software; amortization—trademarks; amortization—capitalized site commissions (includes amortization recognized as an offset against gross revenues); amortization—other identifiable intangible assets; amortization—goodwill; return; interest other than interest paid on customer prepayments or deposits; interest paid on customer prepayments or deposits; federal income tax; state income tax. The Excel template calculates return by multiplying net capital stock by the provider's claimed weighted average cost of capital or the default after-tax rate of return of 9.75%. Federal and state income taxes are not allocated. The Excel template uses the provider's reported federal and state income tax rates and tax-deductible interest expense to calculate the federal and state income tax income taxes that correspond to the taxable fraction of the return. Operating expenses categories are: maintenance, repair, and engineering of site plant, equipment, and facilities; payments to telecommunications carriers or other entities for interstate, international, or intrastate communications other than extra payments to telecommunications carriers or other entities for international communications; extra payments to telecommunications carriers or other entities for international communications; field services; network operations; call center; data center and storage; payment of site commissions recognized as an expense or an offset against gross revenues when paid or when the commissions-related transaction occurred; billing, collection, client management, and customer care; sales and marketing; general and administrative; other overhead; taxes other than income taxes; transactions related to mergers and acquisitions; and bad debt. Annual total expenses is the sum of annual operating expenses and annual capital expenses (including a return on net capital stock to cover the cost of capital). Providers were also required to allocate their data across ten (10) categories of services: audio IPCS, video IPCS, safety and security measures, permissible ancillary services (automated payment services, live agent services, paper bill/statement services, single-call and related services, and third-party financial transaction services), other ancillary services, and other products and services. Site commissions are reported only for the entire company; they are not allocated among services or facilities. Ancillary service reports are not split out as between audio and video. Providers also were required to report their revenues from each of the 10 service categories.

5. Providers were further required to allocate their company-wide investments and expenses to the facility level for audio and video IPCS costs, respectively (worksheet D1). These data are providers' allocations of the annual expenses they incurred to supply IPCS to each facility. Providers were also required to report revenues and demand for audio IPCS, video IPCS, and ancillary services at the facility level, by reporting billed revenues and total billed and unbilled minutes of use for each facility. For audio and video IPCS, providers reported billed, unbilled, and the total of billed and unbilled communications and minutes and billed revenues for each facility. In addition to the billed totals, billed communications, minutes, and revenues are reported separately for interstate, international, and intrastate communications for each facility. For ancillary services, providers reported billed demand separately for automated payment service (number of uses), live agent service (uses), paper bill/statement service (uses), single-call and related services (number of transactions), and third-party financial transaction service (transactions), and billed revenues separately for each these services for each facility. Providers were required to report company-wide annual safety and security expenses among seven different safety and security categories: (i) the Communications Assistance for Law Enforcement Act (CALEA) compliance measures; (ii) law enforcement support services; (iii) communication security services; (iv) communication recording services; (v) communication monitoring services; (vi) voice biometrics services; and (vii) other safety and security measures (worksheet C3). Safety and security expenses were allocated across four different service categories: (a) audio IPCS; (b) video IPCS; (c) ancillary services; and (d) other products and services. The company-wide safety and security expenses for audio and video IPCS were then allocated among facilities as well (worksheet D2.c). Providers were directed simply to use estimates to allocate their safety and security expenses.

6. Providers also were required to report site commissions attributable to all company products and services. They were further required to report company-wide ''IPCS and associated ancillary services,'' to report site commissions as either legally-mandated or contractually-prescribed, and were further required to sub-categorize these commissions as monetary, in-kind, fixed, upfront, and

variable site commissions (worksheet C3). Throughout Appendices D–J, the term ''site commissions'' without further modification means all site commissions of all forms. These company-wide site commission figures were also required to be allocated among facilities (worksheet D2.b). There was no requirement to allocate site commissions between audio IPCS, and video IPCS and associated ancillary services separately.

7. Providers were required to identify any affiliates or third parties they used to provide ancillary services, to report any payments to third parties for ancillary services, and to quantify any third-party fees they paid for ancillary services that they passed through to their customers (worksheet C3). Providers were also required to report any IPCS or ancillary services revenues passed through to their affiliates and any payments made to their affiliates to complete international communications. Similarly, providers were required to supply these responses at a facility level (worksheet D2.e).

8. *Breadth of the Collection.* Twenty-one providers submitted responses to the 2023 Mandatory Data Collection. The list of filers with associated short names or acronyms used for these providers in appendices D through J: Ameelio, Inc. (Ameelio); ATN, Inc. (ATN); City Tele-Coin Co. (City Tele-Coin); Correct Solutions, LLC (Correct); Combined Public Communications (CPC); Crown Correctional Telephone, Inc. (Crown); Consolidated Telecom, Inc. (Consolidated); Custom Teleconnect (Custom); Encartele, Inc. (Encartele); Global Tel*Link Corporation d/b/a ViaPath (ViaPath); HomeWAV, LLC (HomeWAV); ICSolutions, LLC (ICSolutions); iWebVisit.com, LLC (iWeb); NCIC Inmate Communications (NCIC); Pay Tel Communications, Inc. (Pay Tel); Prodigy Solutions, Inc. (Prodigy); Reliance Telephone of Grand Forks, Incorporated (Reliance); Securus Technologies, LLC (Securus); Smart Communications (Smart); Talton Communications, Inc. (Talton); and TKC Telecom, LLC (TKC). Of this group, twelve provided data, or revisions to their data, before May 1, 2024, which, as explained below, we were able to process and include in our provider database: ATN, City Tele-Coin, CPC, ICSolutions, HomeWAV, NCIC, Pay Tel, Prodigy, Securus, Smart, TKC, and ViaPath. Staff made the IPCS database available to Reviewing Parties in accordance with the relevant *Protective Orders* and *Public Notice.* The resulting IPCS database covers 2,750 contracts and 4,537 facilities, accounting for an average daily population of 2,112,042 incarcerated people and 11.3 billion billed and unbilled minutes of audio and 563 million billed and unbilled minutes of video. Unless otherwise indicated, our analyses and tables that follow are derived from this database.

9. The IPCS database provides a helpful depiction of the IPCS industry. The database's twelve providers represent the vast majority of the IPCS industry, and their worksheets, though not audited, are broadly consistent with their submitted financial accounts. For seven providers beyond these twelve, staff were able to capture data such as minutes and/or revenues, though not the same data from each. The additional seven are from Ameelio, Correct, Crown, Consolidated, Custom, iWeb, and Talton. For the remaining two providers, {[REDACTED]}. Incorporating these data shows that the database of twelve providers covers approximately 84% of reported facilities, and approximately 87% of incarcerated persons. Table 1 reports shares of minutes, communications (the number of audio or video calls), and revenues covered by the twelve providers included in the database alongside the shares of the seven providers we excluded to the extent those seven providers provided processable data (the data from {[REDACTED]} were either missing or unreliable). As described above, our database includes twelve providers: ATN, CPC, City Tele-Coin, HomeWAV, ICSolutions, NCIC, Pay Tel, Prodigy, Securus, Smart, TKC, and ViaPath. There are another seven providers reflected in this table's second row whose data we could process in part, but who were ultimately excluded from the database for the reasons discussed below: Ameelio, Correct, Crown, Consolidated, Custom, iWeb, and Talton. Finally, staff could not process the submissions of Encartele and Reliance. The table marginally overstates the relative marketplace significance of the providers included in the database, though the impact is *de minimis.* The overstatement arises for several reasons: some of {[REDACTED]}; and some very small providers did not file. It is staff's view that if data were available for all these providers, the impact on our conclusions would amount to no more than a rounding error.

Table 1: Relative Percentage of Minutes, Communications, and Revenue in Database

	Audio			Video		
	Percent Billed and Unbilled Minutes	Percent Billed and Unbilled Communications	Percent Revenue	Percent Billed and Unbilled Minutes	Percent Billed and Unbilled Communications	Percent Revenue
Providers in Database (12)	99.03%	99.27%	96.89%	99.95%	99.97%	99.98%
Providers Excluded from Database (7)	0.97%	0.73%	3.11%	0.05%	0.03%	0.02%

Note: Based on providers' submitted worksheets aggregated up from the facility-level with minimal processing.

A. Description of Initial Data Processing, Data Cleaning, and Database Compilation

10. This subsection reviews the steps we took to process, clean, and combine the collected 2023 Mandatory Data Collection data into a database.

11. *Data Combination.* Staff created variable names for each row of data in the Excel templates. Staff combined the processed twelve provider submissions into a database, segmented by tabs organized by worksheet from the submissions. Since the same facilities appear in multiple worksheets, staff took care to ensure the

database linked the same facilities across all worksheets.

12. *Data Review.* Staff reviewed each submission, including the narratives supplied in the Word template, and checked for errors to evaluate whether the submitted data complied with the Excel template parameters. To minimize data submission errors, the Excel template included formulas to check for consistency between provider's company-wide and facility-specific entries. In all cases, staff communicated issues identified in our review, and allowed providers to resubmit corrected data. This resulted in some form of extended interaction between staff and providers in all cases except Consolidated, Custom, and Talton. In these communications, staff answered provider questions about the data collection requirements and/or explained the data collection process to aid submission. We received 14 refilings as a result of our error check process. The following providers refiled: Ameelio, CPC, Correct, City Tele-Coin, HomeWAV, ICSolutions, NCIC, Prodigy, Securus, Smart, TKC, ViaPath, and Pay Tel on two occasions. The conversations which staff had with these providers to prompt their refiling illustrates that the Commission ''made inquiries to providers during the data-collection process regarding ''questionable'' cost data.''

13. *Removing Invalid or Incomplete Data.* Despite these efforts, staff concluded that we could not incorporate into the database worksheets submitted by nine providers: Ameelio, Correct, Crown, Consolidated, Custom, Encartele, iWeb, Reliance, and Talton. Staff would have removed {[REDACTED]}. Most commonly, filings could not be incorporated because providers' reports of expense, revenue, or demand data were wholly or partially omitted. For example, among other problems, {[REDACTED]} did not provide costs at the facility level. Thus, their data could not be used to analyze how per-minute expenses vary by facility type, a matter which is central to the analysis. Similarly, among other problems, {[REDACTED]} did not provide IPCS minutes, making analysis of per-minute expenses, which is the basis for capping rates, impossible. In other cases, the provider failed to fully allocate investments or expenses, failed to identify the relevant subcontractor, or failed to report video expenses at a facility level, among other problems. For example, {[REDACTED]} did not allocate investments or expenses to the other products and services category (though it supplies other services, *e.g.,* electronic incarcerated person messaging services and management services) overstating {[REDACTED]} IPCS expenses. {[REDACTED]} also did not identify the name of the subcontractor, address, and facility geographic coordinates for all facilities making it impossible to match {[REDACTED]} expense reports with those of its subcontractors, making analysis of {[REDACTED]} facilities impossible. {[REDACTED]} did not allocate IPCS costs between audio IPCS and video IPCS (though it provides both services). {[REDACTED]} provided no financial statements, providing no means of cross-checking their expense reports. Without such cross checks staff and outside parties cannot even determine whether {[REDACTED]} reports are internally consistent. {[REDACTED]} also left the company-wide investment and expenses and facility video worksheets blank (though it sells video), making analysis of its expenses, and of video services impossible. In contrast to claims in the record, no provider was excluded from the database based on the provider's costs relative to industry costs.

14. *Excluding an Anomalous Provider.* {[REDACTED]}

15. *Excluding Federally Managed Facilities.* Staff also excluded from the database facilities subject to the Immigration and Customs Enforcement (ICE) and the Bureau of Prisons (BOP) contracts because these facilities are not comparable to other correctional facilities. Significant portions of incarcerated people's communications services in these institutions are managed by a federal incarceration authority rather than the reporting provider. As was the case in the *2021 ICS Order,* {[REDACTED]}. {[REDACTED]} under those subcontracts from the database. Staff removed all BOP contracts they were able to identify. In *2021 ICS Order,* staff allocated the shared costs to the BOP contract before dropping it, but that is not necessary for this data collection as it required providers to allocate all their costs down to the facility, {[REDACTED]}.

16. *Data Corrections.* For the 12 filings reflected in the database, staff made corrections where necessary and feasible. In cases where unique facility identifiers were not identical across worksheets due to misspellings, abbreviations, or other mistakes (*e.g.,* ''Couny'' versus ''County''), staff corrected these. In cases where the provider did not identify the facility as a jail or prison, and staff was able to do so, staff inserted the relevant facility type. Twenty-four entries could not be identified as a jail or prison, and were removed. Of these 24 facilities, {[REDACTED]} entries given at the contract level that could not be matched to a facility. Two more entries do not correspond to a specific facility, and are instead attributed to 'No Specific Contract' and 'Other Non IPCS Facility Sites.' The last is an {[REDACTED]}. ViaPath submitted average daily population (ADP) and site commissions data at the contract level, so staff allocated ADP from contracts to facilities in proportion to ViaPath's total audio and video IPCS communications. Communications were chosen as the allocator variable as it correlates strongly with ADP in ViaPath's single-facility contracts. Communications was chosen over minutes as the allocator as the Pearson correlation coefficient was higher between ADP and communications than ADP and minutes. However, the impact of this choice is small. The difference in methodologies influences the industry per-minute IPCS expenses by no more than $0.0046 and by no more than 2.22% in any size-bracket, audio or video. This largest difference can be found in video IPCS per-minute expenses for very small jails, where the minutes-weighted methodology is $0.0046 lower than the calls-weighted methodology. Additionally, for some facilities reported total (billed + unbilled) minutes of use did not match the sum of billed and unbilled minutes of use. To fix these discrepancies, for both audio and video, total minutes of use were recalculated by summing billed and unbilled minutes of use.

17. *Treatment of Subcontractors.* At certain facilities, IPCS is provided by a contractor and a subcontractor. In some cases, both the contractor and subcontractor submitted cost or demand data for a single facility, because each incurred some part of costs or bills for service. To account for this, staff matched or removed facilities across contractor/subcontractor pairs to avoid double counting the same facility. As facility IDs are not consistent among providers, staff performed many matches by examining information on address, counterparty, building, type, latitude, and longitude. Table 2 below depicts the attempted and successful matches:

Table 2: Subcontractor to Contractor Matching Results

Subcontractor	Contractor	Facilities with Contractor	Successfully Matched
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

18. In cases where the contractor and subcontractor both submitted data that could be incorporated into the dataset, multiple entries for a single facility were merged into one. For non-numeric descriptive data and numeric data that could not easily aggregate across entries, such as max call duration, average daily population, or tax rates, staff used the values given by the contractor for the merged entry if available. Staff summed numeric data that would not be duplicated across entries, such as revenue, cost, and minute information. In total, staff merged 82 subcontractor entries with 81 contractor entries. In one case, a facility is reported by three providers, with {[REDACTED]} both acting as subcontractors. In the three instances where a match was attempted but could not be made, staff removed the facilities, as identified. Additionally, {[REDACTED]} remain in the dataset, but staff removed the video information. In other cases, where the subcontractor was not incorporated into the dataset, either because it never filed or was excluded, staff removed those facility entries. This accounts for the removal of 354 facility entries, which, in addition to the other steps, leaves 4,537 facility entries in the dataset.

19. *Geocoding.* The providers were asked to provide address and coordinate information for each facility. However, many facilities lacked coordinate information. Staff used address information, where given, to geocode the dataset to generate coordinate information. As many providers' coordinates were incomplete, inaccurate, had low precision, or were different from staff-geocoded coordinates by a large distance, staff-geocoded coordinates were used where possible. To identify facilities as urban or rural, staff used Census-block data published by the US Census Bureau. The US Census identifies urban census tracts with five-digit UACE codes. Using UACE codes provided in the 2020 Census, staff identified 2,474 urban and 1,975 rural facilities, for a total of 4,449 identified facilities. 98% of included facilities across all providers could be identified as urban or rural using provider coordinates or geocoded addresses. This is used in the Lasso Analysis in Appendix D.

Appendix E: Rate Cap Methodology

1. This appendix describes the method staff used to analyze the 2023 Mandatory Data Collection data and estimate the upper and lower bounds of our zones of reasonableness for incarcerated people's communications services (IPCS) per-minute expenses. The structure of the data collection allows staff to determine the fully distributed cost of providing IPCS for each provider and the entire industry. Providers were required to directly assign, attribute, or allocate all of their investments and expenses among audio IPCS, video IPCS, safety and security measures, ancillary services, and other products and services. Our measure of the fully distributed cost of providing a service, annual total expenses, sums the provider's operating expenses and capital expenses, including an allowance for recovery of its cost of capital. As described in Appendix A above, annual total expenses accounts for all of a provider's expenses, including maintenance, repair, and engineering and 14 other categories of operating expenses, depreciation and amortization expenses, federal and state income taxes, and the provider's cost of capital. Annual total expenses were reported for audio IPCS, video IPCS, safety and security measures, and ancillary services at the company level and separately for audio IPCS and video IPCS at each facility. Company-wide annual total expenses of providing safety and security were allocated among seven different safety and security categories separately for audio IPCS, video IPCS, ancillary services, and other products and services. Audio IPCS and video IPCS safety and security expenses were further allocated by category among facilities. We determine our lower and upper bounds described in this Order by dividing allowable amounts of the reported expenses for various IPCS components by billed and unbilled minutes separately for prisons and different jail sizes. In this appendix, we outline the critical components of this analysis necessary to set just and reasonable rate caps for the provision of IPCS.

2. *Unit of Analysis.* As discussed in the data collection description section, the 2023 Mandatory Data Collection required providers to report audio IPCS and video IPCS investments and expenses at two levels: that of the provider (company-wide) and that of individual facilities the provider serves. Our analysis of providers' costs is performed primarily at the level of the individual facility. This is in contrast to the *2021 ICS Order* where staff analyzed provider data at the level of the contract, which was necessary because, in the ordinary course of business, many filers did not maintain requested cost data at the facility level. Relying on multi-facility contracts encompassing facilities of varying sizes, and in particular contracts that included facilities with less than 1,000 ADP, likely led to an overestimate of interim rate caps. The rate-setting methodology staff employ in this rulemaking relies on reported facility-level data, and thus avoids this problem. The structure of the 2023 Mandatory Data Collection, delineated by a detailed set of instructions requiring providers to assign, attribute, or allocate reported audio IPCS and video IPCS investments and expenses among facilities, allows for a more granular facility-level analysis. This ensures that the analysis is fully consistent with our rate-setting approach, which establishes rate caps for facilities rather than for contracts.

3. *Separation into Tiers.* Staff separate facility observations into prisons versus jails and into jail size tiers based on average daily population (ADP), analyzing provider IPCS investments and expenses separately within each tier. Staff establish the following tiers for the purposes of rate setting: prisons; large jails (ADP ≥ 1,000); medium jails (350 ≤ ADP < 1,000); small jails (100 ≤ ADP < 350); and very small jails (ADP < 100). This approach is largely consistent with the approach taken in the *2021 ICS Order* and is similarly consistent with record evidence of the cost differences among facilities of different sizes. However, whereas the *2021 ICS Order* did not adopt rate caps for jails with ADP less than 1,000, the 2023 Mandatory Data Collection enables us to address IPCS facilities of all sizes. As such, staff must establish additional jail size tiers for the purposes of rate setting. Staff analysis of the variation in IPCS costs across jails of different sizes showed that significant cost differences exist among facilities served. These cost differences reflect progressively greater costs for jails with smaller ADPs, which warrants a more granular tiering

structure for jails than that adopted in previous orders, comprising four tiers based on jail size. Staff examined per-minute costs both graphically and using simple regressions. While there were no sharply obvious break points, per-minute costs increased at an increasingly steep rate as facility ADP fell. This suggested use of the tiers adopted in the *Rates for Inmate Calling Services,* WC Docket No. 12–375, Second Report and Order and Third Further Notice of Proposed Rulemaking, 30 FCC Rcd 12763 (2015) with the small jails tier split into two tiers, now called small jails and very small jails. Grouping facilities into the tiers outlined above is necessary to ensure that our rate caps reflect underlying differences in the cost of IPCS provision across different types and sizes of facilities. Prisons and jails are distinguished under our rules largely by their respective confinement periods, with prisons used to confine individuals ''sentenced to terms in excess of one year'' and jails used to confine those with shorter sentences. This definitional difference entails a meaningful difference in average confinement periods and turnover rates, which drives part of the difference in costs between the two types of facilities. Thus, by accounting for facility type, our rate caps account for the impact of turnover on costs. We examine the impact of other factors in the Lasso analysis below.

4. *Unit of Sale.* Our rate setting methodology relies on the sum of billed and unbilled minutes of audio or video IPCS as the unit of sale. That is, we divide annual total expenses by billed and unbilled minutes to determine separate per-minute rate caps for audio and video IPCS for each facility tier. Use of a per-minute rate structure is consistent with past Commission action, reflects the predominant industry pricing strategy for IPCS, and is consistent with existing Commission rules covering interstate and international audio IPCS, which require providers to charge for service on a per-minute basis. While this rulemaking allows alternate pricing plans, such as monthly plans for a set number of calls or minutes, subject to certain specified conditions, all providers still must offer per-minute pricing for audio and video IPCS. The use of both billed and unbilled minutes is an improvement from the *2021 ICS Order,* which divided expenses by paid minutes, and better reflects the cost of actual minutes. This approach helps ensure all incarcerated persons are charged no more than the cost of their calls, and treats all minutes equally, regardless of a facility's or a provider's policy decisions on whether and how to provide free minutes. We disagree with commenters who argue that, similar to the *2021 ICS Order,* we should have calculated per-minute costs on the basis of billed minutes rather than the sum of billed and unbilled minutes. The ratio of billed minutes to unbilled minutes varies across facilities, and rate caps based on the average cost of a billed minute would allow over recovery of costs, and therefore unreasonably high rates, in facilities that had a lower ratio than the average facility in 2022, while allowing under-recovery in other facilities. As a result, such an approach would also mean the Commission was effectively requiring incarcerated people who receive relatively few free minutes to subsidize other users. Further, if the relative proportions of billed to unbilled minutes were to shift in the future, a rate cap based on the amount of billed minutes would become outdated. It is true that many ''IPCS providers—particularly those serving jails—are required to provide certain calls (*e.g.,* calls for booking and calls to public defenders) free of charge.'' The Report and Order does not prevent or in any way discourage this. Just as correctional authorities may pay providers to offer calling plans that (from the incarcerated person's perspective) are free, correctional authorities may enter into arrangements with providers that allow incarcerated people to make certain types, or a certain number, of free calls. Correctional authorities remain free to decide whether and how providers should offer unbilled minutes. We further note that there is no strict parallel between ''Paid Minutes,'' as used in the *2021 ICS Order,* and ''Billed Minutes'' as used in the 2023 Mandatory Data Collection. Billed minutes do not equal paid minutes to the extent minutes are billed for, but not paid. The instructions for the 2023 Mandatory Data Collection define billed minutes as the number of audio or video IPCS minutes supplied for which payment is demanded, and define unbilled minutes as the number of audio or video IPCS minutes supplied for which payment is not demanded. Thus, billed minutes reported in response to the 2023 Mandatory Data Collection are intended to *include* minutes billed to the caller, called party, incarcerated authority, or any other third party whether or not these bills were actually paid. By contrast, paid minutes reported in response to the Second Mandatory Data Collection were intended to *exclude* minutes which were billed, but for which the bills were not actually paid. (Our measure of expenses reflected in the rate caps includes an allowance for bad debt expense to recognize unpaid bills that are no longer expected to be collected due to customer default.)

5. *Industry Average Costs.* The Martha Wright-Reed Act expressly granted the Commission authority to use industry-wide average costs to set IPCS rate caps. Our rate-setting approach relies on this new statutory authority. As such, our analysis of provider investments and expenses calculates the minute-weighted average expense of IPCS provision, separately for audio and video IPCS and within each rate tier. If staff were confident of three things: That the providers' cost allocations reasonably reflect cost-causation; there was no underlying cost variation within each of our five facility categories when looking at audio and video separately; and there was no overstatement of costs—then rate caps based on the industry average would be far too high from an efficiency perspective. For example, our analysis showed no material variation from facility to facility in local market conditions. However, it is unlikely that any of these three things are true, so instead staff use the minute-weighted industry average to account for potential variation in costs within our categories, and discount certain costs using a zone of reasonableness analysis, to account for potentially misallocated or cost variation otherwise not controlled for. Specifically, our analysis calculates the minute-weighted average expense of providing IPCS, separately for audio and video IPCS for each facility tier (prisons, and jails of differing sizes). Staff calculate minute-weighted average costs as annual total expense divided by total billed and unbilled minutes, separately for audio and video IPCS and within each rate tier. Staff reliance on industry average costs is further supported by the Brattle Group's analysis of the 2023 Mandatory Data Collection data. Brattle finds considerable variation in costs among IPCS providers and the facilities they serve, particularly in the provision of video IPCS, and ultimately drop all facility observations with costs above $0.25 per minute in their analysis of per-minute expenses. We have concerns with such an approach, as dropping observations creates a delta between company-wide expenses and those reported across providers' facilities. In addition, any threshold relied upon for pruning outliers must either be untenably high or would potentially drop valid data points. However, given that Brattle relies on simple, rather than weighted, averages of facility-level per-minute expenses, pruning of outliers needs to take place to obtain meaningful results. Staff's use of weighted industry average expenses per minute avoids this concern, allowing even significant outlier observations to be included in the calculation of rate caps while ensuring that such observations do not have a disproportionate impact on the results. We disagree with commenters who argue that the use of the industry average to develop our caps is ''confiscatory.''

6. Staff consider that the industry minute-weighted averages, controlling for audio or video service, and whether the facility is a prison or a jail of a particular size, are good, if high, estimates of efficient costs for the following reasons. First, providers differ in their cost accounting practices, and use different and necessarily imperfect cost allocators. These cost allocation variations create cost differences across facilities that are not related to the efficient cost of service delivery. However, by definition, these cost allocation problems cancel out across each provider—that is, if costs are overallocated to one facility, they must be under allocated to another. This conclusion does not apply, of course, to costs that are improperly allocated to IPCS rather than to nonregulated services. If these inappropriate cost allocations are relatively random across all facilities, and there is no evidence to the contrary, then the use of the per-minute weighted mean would, as a good approximation, net these differences out. The Commission could only take a different action if there was a known correctable cost allocation bias. Second, given providers' incentives, costs are likely overstated, biasing the industry mean toward overstating efficient costs. That {[REDACTED]} reported company-wide IPCS revenues that were respectively about 15%, 15%, and 25% below their reported IPCS costs plus site commissions is evidence of cost overstatement. There are many ways that costs could be overstated which we cannot audit on the record before us and, to the

extent additional information would help us resolve the matter, within the timeframe the Martha Wright-Reed Act sets for Commission action. Securus argues that ''the assumption that costs must be inflated is contrary to the draft's conclusion that the cost information is reliable.'' We disagree. Third, to the extent that providers' cost reports are not overstated in the sense that they reflect actual costs, many providers appear to be inefficient, implying that the industry mean is further biased toward overstating efficient costs. For example, there is substantial variation in provider costs that quality or scale differences do not readily explain. While the largest providers, {[REDACTED]}. These disparities are not likely explained by quality differences, since, for example, the large providers tend to offer more features than smaller ones, suggesting they should have higher per-minute costs. Fourth, while there may be some variation in efficient costs, after controlling for audio or video service, and whether the facility is a prison or a jail of a particular size, the cost variation that can be attributed to any given factor is relatively small compared with the preceding two sources of difference. The record suggests the key drivers of audio cost are facility-type and size, which are already controlled for in our rate-setting approach. The Lasso analysis shows the relationship between costs and other variables, apart from provider identity and state, to be largely statistically insignificant. Although our Lasso analysis points to provider identity and state as the dominant predictors of costs, we find that these variables are not appropriate for incorporation into our rate caps. In summary, when taking the industry mean, the variation due to the first of these points likely cancels out; the variation due to the second and third points likely results in substantial overstatement of efficient per-minute expenses; and the true cost variation of the fourth point is small. Thus, the industry minute-weighted mean likely lies above efficient costs. This is further supported by analysis of facility per-minute revenues.

7. *Overview of Our Zones of Reasonableness.* Staff establish zones of reasonableness, separately for audio and video IPCS and for each facility tier, and determine final audio and interim video IPCS rate caps from within these zones. A zone of reasonableness approach helps avoid giving undue weight to imprecise and likely overstated provider cost data, as well as to data assumptions and adjustments that could lead to unduly high or low per-minute rate caps.

8. Staff begin by using data that providers submitted in response to the 2023 Mandatory Data Collection to establish upper bounds. Staff make no adjustments to provider reported expenses beyond the data cleaning, processing, and corrections discussed in the data collection appendix, and supplement these data with estimates of the costs incurred by facilities to provide access to IPCS and by providers to provide TRS. As discussed above, we find that, in light of the Martha Wright-Reed Act's elimination of the requirement that ''each and every'' completed communication be fairly compensated, it is appropriate to set our upper and lower bounds based on industry-wide average costs at each tier of facilities, without the need to consider one standard deviation or any other measure of deviance from the average. Staff then make reasonable, conservative adjustments to the reported data and use those data to establish the lower bounds of our zones of reasonableness. Finally, we select rates from within each zone of reasonableness to establish final audio and interim video IPCS rate caps for each facility rate tier.

9. *Components of Our Upper Bounds.* Our upper bounds incorporate five distinct components of expenses for audio and video IPCS: (i) audio/video IPCS expenses; (ii) audio/video IPCS safety and security expenses; (iii) ancillary service expenses; (iv) correctional facility expense component; and (v) TRS allowance. Staff discuss and explain each of these components in the upper bounds appendix.

10. *Components of Our Lower Bounds.* As indicated, staff establish our lower bounds by making reasoned disallowances and adjustments to reported provider cost data. The lower bounds appendix explains the need for these steps. After the disallowances and adjustments, the lower bounds incorporates the following components of industry average costs: (i) audio/video IPCS expenses after adjustments to certain expense categories; (ii) audio/video IPCS safety and security expenses after certain disallowances and adjustments to expense categories; (iii) ancillary service expenses after adjustments to certain expense categories; and (iv) unadjusted TRS allowance. The impact of the expense adjustments on ancillary service expenses is trivial, shaving $0.001 off the lower bounds.

Appendix F: Summary Statistics

1. The database, developed as described in Appendix A, is the primary data source for our analysis. This appendix provides summary statistics and associated analysis for that database. The database used in our analyses contains data for 4,537 facilities supplied by 12 providers, referred to throughout as the industry. The following discussion summarizes key aspects of audio and video incarcerated people's communications services (IPCS) provision, including industry demand, revenue, and expenses as reported in the database.

2. As mentioned in previous sections, the data used for this analysis comes from two levels of data: company-wide and facility-specific. It is important to note that the estimates from company-wide and facility-specific do not always perfectly match one another. Therefore, estimates using company-wide data may vary slightly from facility-specific data.

A. Industry Fundamentals

3. Table 1 provides an overview of the size and composition of audio and video supply and of the nature of audio and video expenses. In 2022, IPCS audio was the predominate form of communication, and IPCS audio usage outweighed IPCS video. There were 11,266 million audio IPCS minutes, and 558 million video IPCS minutes. Thus, audio minutes comprised approximately 95% of industry minutes—see Table 1. Similarly, audio communications comprised approximately 97% (1.82 billion/1.878 billion) of industry communications. This difference was less marked in terms of facilities: 2,092 facilities had video calls, or about half as many 2,092, was about half as many as had audio, 4,151. This suggests that in 2022 video had barely taken off as a service, and it is highly likely that video share today is much higher than in 2022, and likely will continue to grow. It is best to first focus on audio given the lopsided share of audio data and, as evidenced below, the odd results for video, which are likely attributable to the nascent nature of video supply in 2022. Either in terms of minutes or average daily population (ADP) the two largest IPCS providers by far were {[REDACTED]}.

4. [REDACTED]. Video is also different from audio in other ways. {[REDACTED]}.

BILLING CODE 6712–01–P

Table 1: Summary Statistics for Audio and Video IPCS, By Provider and Industry

	Number of Facilities Where Audio is Supplied	ADP Where Audio is Supplied	ADP (Percent of Industry ADP)	Billed and Unbilled Audio Minutes	Audio Minutes (Percent of Industry Audio Minutes)	Audio IPCS Expenses Per Audio Minute	Audio IPCS and Safety & Security Expenses Per Minute
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

Industry	4,151	1,817,786	100%	11,266,271,215	100%	$0.029	$0.075

	Number of Facilities Where Video is Supplied	**ADP Where Video is Supplied**	**ADP (Percent of Industry ADP)**	**Billed and Unbilled Video Minutes**	**Video Minutes (Percent of Industry Video Minutes)**	**Video IPCS Expenses Per Video Minute**	**Video IPCS and Safety & Security Expenses Per Minute**
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Industry	2,234	1,102,165	100%	558,129,967	100%	$0.118	$0.209

Source: Data from facility-specific Excel tabs. There are 4,537 facilities in our dataset. Of these, 4,235 facilities have entries for both audio minutes and expenses, and, of these 4,235 facilities, 4,151 have entries for ADP. Of the original 4,537 facilities in the dataset, 2,266 facilities have entries for both video minutes and expenses, and, of these 2,266 facilities, 2,234 have entries for ADP. Minute(s) refer to the sum of billed and unbilled minute(s).

5. Table 1 also illustrates that per-minute audio expenses vary significantly across carriers. Focusing first on audio, while {[REDACTED]}.

6. Per-minute video expenses vary much more than audio. The industry standard deviation across providers is 210.7 for audio and 1,187.5 for video. And again there are surprises. For example, despite being a relatively low-cost audio provider, {[REDACTED]}. This wide variation could arise from accounting differences, including choices on how to depreciate assets over time, quality differences, and providers being at different points in their video deployment. For example, some providers may be further down the ''learning by doing'' cost curve, and/or have incurred costs without yet achieving the sales volumes they are capable of.

7. Finally, Table 2 shows providers' shares of audio minutes can be quite different from their share of audio communications, implying that the average length of an audio communication varies across providers. This is directly shown in Table 2, and is also true for video. Table 2 also shows that the average video communication lasts about 18.3 minutes, more than double the average audio communication length of 7.3 minutes. Yet, {[REDACTED]}. Video communication lengths are also considerably more varied than those of audio. Audio communications lengths vary by about nine minutes, from 4.3 to 12.9, while video communications lengths vary by about twenty-one minutes, from 3.6 to 25.1 minutes. The industry standard deviation across providers is 2.3 for audio and 6.8 for video.

Table 2: The Ratio of Audio Minutes to Audio Communications and Video Minutes to Video Communications[385]

	Audio Minutes / Communications	Video Minutes / Communications
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Industry	7.3	18.3
Obs (#)	4,244	2,287

BILLING CODE 6712–01–C

B. Expenses, Revenues, and Margins

8. Expenses. Table 3 shows provider-reported expenses, as allocated between five categories: audio, video, safety and security services, site commissions, and ancillary services. Throughout Appendices D through J, the term ''site commissions'' refers to the sum of all forms of monetary payment, in-kind payment, gift, exchange of services or goods, fee, technology allowance, or product that a provider or affiliate of a provider may pay, give, donate, or otherwise provide to an entity that operates a facility, an entity with which the provider enters into an agreement to provide IPCS, a governmental agency that oversees a facility, the city, the county, or state where a facility is located, or an agent of any such facility. In-kind site commissions amount to less than one percent of all site commissions. Site commissions are not IPCS costs. Ancillary services refer to the five types of services defined in the data collection as ''Permissible Ancillary Services,'' which our rules allowed providers to charge: (i) automated payment services, (ii) live agent services, (iii) paper bill/statement services, (iv) single-call and related services, and (v) third-party financial transaction services (all other ancillary services are defined as ''Other Ancillary Services''). As expected, {[REDACTED]}. Safety and security expenses are the largest source of industry expenses, accounting for more than a third of the sum of reports for the five listed expenses. Yet, there is a sharp difference between {[REDACTED]}, a matter we will turn to when discussing Table 4.

9. After safety and security, site commissions account for the second largest fraction of industry expenses—over one fourth. (Percent of Site Commissions of All Related Expenses = (Legally Mandated Site Commissions + Contractually Prescribed Site Commissions)/Total Expenses = ($29,017,010 + $403,577,600)/$1,555,228,234 = 27.8%.) By comparison, audio expenses account for about one fifth of industry expenses, and ancillary services for about one tenth. A distant last place, video expenses only account for less than five percent of this total, again likely reflecting that video was a new service in 2022.

BILLING CODE 6712–01–P

Table 3: Industry Expenses and Site Commissions, By Provider and Category

	Audio Expenses	Video Expenses	Safety & Security Expenses	Site Commissions	Ancillary Service Expenses	Sum of Expenses and Site Commissions
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Industry	$346,353,404	$71,350,523	$569,889,222	$432,594,611	$135,040,474	$1,555,228,234

Source: Data from Company-Wide Information, Safety & Security Measures, and Commissions and Rev Sharing Excel tabs.

10. Using facility-specific data from providers, we also analyze expenses and revenues separately for prisons and jails, and for different jail sizes. We categorize jails based on average daily population (ADP). A large jail is defined as a jail with an ADP

equal to or greater than 1,000. A medium jail is a jail with an ADP of or greater than 350 and less than 1,000. A small jail has an ADP of or greater than 100 and less than 350. Lastly, a very small jail has an ADP of less than 100. As demonstrated in the tables below, a large majority of facilities are jails as opposed to prisons and, of all jails, about half classify as very small, with ADPs of less than 100.

11. Table 4 reports first audio expenses, excluding safety and security expenses, per billed and unbilled audio minute by facility type for each provider and the industry average, and then the same thing for video. Focusing first on audio, it shows that audio expenses per billed and unbilled minute tend to be lower for prisons compared to jails for the entire industry, with an industry average of about $0.02 for prisons and between $0.02 and $0.09 across the different jail sizes. However, for the three providers that serve prisons, the difference between prisons and jails is minimal. Similarly, smaller jails tend to have higher per-minute expenses for audio compared to larger jails. Industry audio expenses per billed and unbilled minute are about $0.02, $0.04, $0.06, and $0.09 for large, medium, small, and very small jails, respectively. Again, the data for video contain anomalies. Video per-minute expenses for prisons were $0.156, greater than that for jails of all sizes except very small jails, reversing the same comparison for audio. And the per-minute expenses of the three providers of prisons are very different, with an order of magnitude range of {[REDACTED]}. With only ten providers reporting video expenses, industry video expenses per billed and unbilled minute are about $0.09, $0.09, $0.12, and $0.21 for large, medium, small, and very small jails, respectively. Table 4 also shows the outsized impact of {[REDACTED]}.

Table 4: IPCS Expenses Per Billed and Unbilled Minutes, By Facility Type and Provider

		All Facilities ($ / Min)	Prisons ($ / Min)	Large Jails ($ / Min)	Medium Jails ($ / Min)	Small Jails ($ / Min)	Very Small Jails ($ / Min)
Audio	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	Industry	0.029	0.023	0.023	0.037	0.059	0.087
	Obs (#)	4,184	1,361	120	415	873	1,415
Video	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}{{[REDACTED]}}	{[REDACTED]}

{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Industry	0.121	0.156	0.094	0.094	0.116	0.208
Obs (#)	2,740	968	88	343	667	674
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

Source: Data from facility-specific Excel tabs.

12. *Safety and Security Expenses.* Table 5 presents per-minute audio and per-minute video IPCS safety and security expenses for facility types. It shows that {[REDACTED]}.

Table 5: Audio and Video Safety & Security Expenses Per Billed and Unbilled Audio and Video Minute, By Facility Type and Provider

		All Facilities	**Prisons**	**Large Jails**	**Medium Jails**	**Small Jails**	**Very Small Jails**
Audio	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	Industry	0.046	0.051	0.042	0.040	0.029	0.030
	Obs (#)	4,159	1,330	120	414	873	1,422

Video	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	Industry	0.092	0.137	0.097	0.089	0.058	0.047
	Obs (#)	2,255	633	83	326	625	588

Source: Data from facility-specific Excel tabs.

{[REDACTED]}

BILLING CODE 6712–01–C

13. *International Audio Termination Expenses.* Staff examine the providers' reported international termination expenses to determine the feasibility of establishing a

separate rate cap to recover those expenses. Under the Commission's current rules, a provider can charge a per-minute rate for international audio communications that does not exceed the applicable interstate rate cap plus the average per-minute amount the provider paid its international service providers for communications to a particular international destination. Under these rules, a provider is also required to determine the average amount paid for communications to each international destination for each calendar quarter and to adjust its maximum rates based on this determination within one month of the end of each calendar quarter. Providers were required to report extra payments to telecommunications carriers or other entities for international communications as an operating expense on row 75 on the C1–C2. Company-Wide Information worksheet. {[REDACTED]} {[REDACTED]}. As these extra payments are for termination of audio communications to international destinations, and providers can impose a separate charge on international minutes to recover these expenses under our rules, staff divide {[REDACTED]}. Logically, if none of the extra payments to telecommunications carriers or other entities for international communications were allocated to video IPCS, then the portion of the extra payments allocated to safety and security measures would be attributed to audio IPCS provision. Table 6 below details this calculation.

Table 6: {[REDACTED]}

{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}

14. {[REDACTED]}. In addition, nothing in the record suggests a need to create a separate charge for video analogous to the separate charge for termination of international audio communications.

15. Staff note that annual total expenses, as developed on the Excel template, excludes extra payments to telecommunications carriers or other entities for international communications. {[REDACTED]} other providers make payments for termination of international communications. They likely report these as expenses on a different row than the row designated for reporting these extra payments in the Excel template. For example, providers may have reported the extra payments for international communications not as extra payments but instead as part of payments to telecommunications carriers or other entities for interstate, international, or intrastate communications other than extra payments to telecommunications carriers or other entities for international communications. In other words, they may have reported the extra payments on row 74 on the C1–C2. Company-Wide Information worksheet and row 85 on the D1. Facility Audio IPCS Costs and D1. Facility Video IPCS Costs worksheets. To the extent that these other providers report these extra payments as expenses on any other row, these expenses are reflected in annual total expenses and thus in the upper and lower bounds of our audio rate caps. Consequently, the upper and lower bounds for our audio rate caps are likely overstated because providers can still impose a separate charge for termination of international audio communications, consistent with the Commission's existing rules.

16. *Revenues.* Turning to the other side of the ledger, Table 7 depicts IPCS billed revenues, inclusive of the portion of those revenues used to pay monetary site commissions (revenues hereafter), by category for each provider and the overall industry. Table 7 shows that the overwhelming majority of IPCS revenue is audio revenue, roughly 77%. {[REDACTED]} We conclude that generally safety and security measures are not priced separately. Our instructions specified that only revenues derived from safety and security measures that are priced separately were to be reported separately.

BILLING CODE 6712–01–P

Table 7: IPCS Billed Revenues, By Provider and Industry

	Audio Revenue (1)	**Video Revenue** (2)	**Safety & Security Revenue** (3)	**IPCS Ancillary Revenue** (4)	**Total Revenue** (1) + (2) + (3) + (4)
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Industry	$1,025,851,747	$115,802,730	$5,820,502	$188,778,151	$1,336,253,130

Source: Using data drawn from the company-wide Excel tab. Revenue includes site commission payments passed on to the correctional facility.

17. The top of Table 8 shows the audio revenues per billed and unbilled audio minutes among the different facility types for each provider and for the industry average. Looking at the industry; revenues, per billed and unbilled minutes, are lowest for prisons, increasing by about 50% for large jails, by 50% again for medium jails, and finally by about 20% for small jails, with no change for very small jails. However, this pattern is largely driven by {[REDACTED]}. Many of the smaller providers' per-minute revenues fall for some jail size declines, and often their per-minute revenues are quite close across the jail types they serve. The latter half of Table 8 reveals less variation across facility types for video than for audio revenues per billed and unbilled minutes, but directionally the effects are similar.

Table 8: IPCS Revenues Per Billed and Unbilled Minutes, By Facility Type and Provider

		All Facilities (Rev / Min)	Prisons (Rev / Min)	Large Jails (Rev / Min)	Medium Jails (Rev / Min)	Small Jails (Rev / Min)	Very Small Jails (Rev / Min)
Audio	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	Industry	0.088	0.061	0.092	0.139	0.169	0.167
	Obs (#)	4,184	1,361	120	415	873	1,415
Video	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Industry	0.196	0.158	0.140	0.206	0.238	0.176
Obs (#)	2,740	968	88	343	667	674
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

Source: Data from facility-specific Excel tabs. Revenue includes site commission payments passed on to the correctional facility.

18. *Margins.* Provider's reported margins, the difference between their reported revenues and expenses, including site commission payments, are remarkable—see Table 9. Half of the 12 companies in the database, including the largest three,

{[REDACTED]}. And five of these companies {[REDACTED]}. The reported losses are so large that they result in an industry loss of about $219 million, more than 16% of industry revenue. {[REDACTED]}

Table 9: Industry Revenues, Expenses, and Margins

	Calling + Safety & Security + IPCS Ancillary Service Revenues (1)	Calling + Safety & Security + IPCS Ancillary Service Expenses + Site Commissions (2)	Difference between Industry Revenues and Industry Expenses (1) - (2)	Percent Margin [(1) - (2)]/(1)
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Industry	$1,336,253,130	$1,555,228,234	($218,975,104)	-16.4%

Source: Using data drawn from the company-wide Excel tab.

BILLING CODE 6712–01–C

19. A firm's revenues from the sale of services over the long run must cover the expenses it incurs to provide these services, including its cost of capital. Otherwise, a firm will cease to operate as it will be unable to pay its employees, suppliers, or creditors, or compensate its owners with a normal rate of return for use of their money. A normal rate of return is a rate of return equal to what the firm's owners could expect to earn if they invested in their next best alternative, holding other things, most notably risk, constant. There is no evidence that a current IPCS provider is failing to recover enough to justify long-run ongoing service. While recent press reports suggest Securus may be considering filing for bankruptcy, {[REDACTED]}. As such, a useful benchmark to gauge the suitability of the providers' reported expenses for setting rate caps is whether their revenues cover their expenses. Some providers produce services other than and in addition to IPCS. IPCS is a key business segment for all providers and this segment would be expected to operate as a profit center. Thus, a narrower comparison between IPCS revenues and expenses is a useful benchmark for the business segment.

20. Thus, the reported losses of at least the six companies, {[REDACTED]} are difficult to reconcile with a reasonable expectation of these providers' economic profits—their capacity to recover the least cost of their operations, including a return on capital commensurate with efficient risk bearing—rather than accounting losses relevant for tax purposes, or to investors who may have overpaid for the company or debtors who may have underappreciated the risks associated with their loans. {[REDACTED]} are large and sophisticated, with many years of experience in the provision of IPCS. Indeed, the smaller companies reporting losses also have many years of experience in this industry. All these companies routinely and voluntarily bid on contracts in an environment they understand. They know what services correctional authorities are interested in and what is necessary to offer them. They have a deep knowledge of the characteristics of their customers and the regulatory and political environment, and thus of what protections are needed in their contracts. There is nothing in the record that suggests 2022 was a year in which any of these providers faced unusual economic difficulties, or to suggest that these providers' operations are not going concerns. 2022 was unusual due to the ongoing impacts of

COVID, which led correctional facilities to request changes in contract terms, for example, so as to provide more free calling. However, these were voluntary, and subject to the original terms of the existing contracts. There is no evidence that these changes created financial hardship for any providers.

21. It is therefore implausible that {[REDACTED]}. Such deficits call into question the suitability of these four providers' reported expenses for setting rate caps. In sum, these figures suggest that, at a high level, reported costs are overstated. In either case, use of the providers' reported expenses without adjustment to set rate caps or without considering other record evidence or recognizing that this deficit is simply a snapshot in time that does not reflect long run expectations may produce rate caps that are too high, thereby enabling even an inefficient provider to earn more than a normal rate of return.

C. Video Versus Audio IPCS Investment and Expense Data

22. We compare key net investment and expense categories reported industry-wide for video IPCS, a relatively new service, with the same categories reported for audio IPCS, a service that has been provided for many years. Staff observe large differences between the video IPCS and audio IPCS net investment and expense data across the various categories. This analysis excludes consideration of safety and security investments and expenses as providers were not required to further allocate the various investment and expense categories for safety and security measures between audio and video. Rather, providers more simply allocated annual total expenses, our measure of the fully distributed costs of providing IPCS, between audio and video. Table 10 below shows each of these categories of net investment and expense and billed revenues, depicted in absolute dollar amounts, and billed and unbilled minutes. Investment and expense data are from the C1–C2. Company-Wide Information worksheet. Revenue and minutes data are from the D1. Facility Demand and Revenue worksheet.

BILLING CODE 6712–01–P

Table 10: Video versus Audio Industry-Wide Financial Data

	Audio		Video		Video versus Audio	
	Totals	$ / Min	Totals	$ / Min	Ratio of Video to Audio Totals	Ratio of Video to Audio per Min
Net Investment in Tangible Assets	103,350,224	0.009	50,202,172	0.085	0.49	9.62
Net Investment in Intangible Assets	205,719,708	0.018	29,249,902	0.050	0.14	2.82
Net Investment in Goodwill	297,443,629	0.025	29,860,041	0.051	0.10	1.99
Total Net Investment	606,513,561	0.052	109,312,115	0.185	0.18	3.57
Depreciation and Amortization Expenses	56,432,644	0.005	20,983,000	0.036	0.37	7.37
Total Operating Expenses	215,336,567	0.018	35,633,412	0.060	0.17	3.28
Billed Revenues	1,025,851,747	0.088	115,802,730	0.196	0.11	2.24
Billed and Unbilled Minutes	11,687,826,443		589,888,581		0.05	

BILLING CODE 6712–01–C

23. Table 10 shows that the dollar amount for each of these categories is much smaller for video relative to audio. For example, the ratios of video to audio dollars for net investment in tangible assets, total net investment, depreciation and amortization expenses, total operating expenses, billed revenues, and billed and unbilled minutes are respectively about 0.49, 0.18, 0.37, 0.17, 0.11, and 0.05. In short, video has yet to achieve anywhere near the scale of operations as audio. This is not surprising, given that audio is an established industry, while video is still emerging. These facts demonstrate relative size but not relative efficiency between video and audio operations.

24. One current difficulty in establishing permanent video rate caps stems from relative cost inefficiencies reflected in the video net investment and expense data. To enable a comparison between the provision of audio and video, staff must provide a measure of efficiency and adjust for scale. Staff first divide the absolute dollar amount reported for each of the net investment and expense categories by billed and unbilled minutes separately for video and audio. A service is provided more efficiently if it requires fewer dollars of investments or expenses to produce a unit of output (*e.g.,* a minute of audio or video). We then divide the resulting per-minute video net investment and expense numbers by the analogous audio numbers to compare the efficiency of providing video and audio. The last column of Table 10 shows that the resulting video to audio ratios for all of the net investment and expense categories are well above one, and as high as ten. As video and audio are different services, we would expect the video to audio per-minute ratios for the various net investment and expense categories to differ somewhat from one, even after video matures, though not nearly to this same extent. Overall, these results demonstrate that provision of video is far less efficient than that of audio. We note that the ratio of video to audio billed revenue per billed and unbilled minute is also set out in the last column of Tbl. 10. This ratio is greater than two, meaning that average revenue per minute for video is more than twice that average for audio.

25. Most notably, the highest ratios of video to audio per-minute net investments and expenses are for tangible assets net investment (about 10) and depreciation and amortization expenses (about 7). While video may have greater capital requirements than audio, we would not expect the ratios of video to audio per minute for tangible assets net investment and depreciation and amortization expenses to be nearly as high as video usage grows significantly over time. These high ratios may reflect providers' large capital outlays for purchasing and installing long-term assets necessary for the roll out and delivery of video, as would be expected for a new service that requires significant investment in fixed assets during its early phases. At the same time, limited customer awareness of and experience with a new service such as video may limit initial customer demand over which the capital outlays for these assets may be spread. Depreciation and amortization allocate the initial capital outlay for a long-term asset over its useful life as a periodic expense for accounting or tax purposes. (While depreciation and amortization are conceptually the same, tangible assets are said to be depreciated over time whereas definite-life intangible assets are said to be amortized over time.) We can reasonably expect video to experience considerable growth in the future. As this growth occurs, we can expect video to be provided far more efficiently and therefore at a much lower cost per-minute than the current video investment and expense data suggest. Consequently, we hesitate to establish permanent cost-based rate caps for video at this time given the likelihood that these caps will soon be considerably above cost.

D. Ancillary Services

26. Table 13 shows expenses, by provider and for the industry, per billed and unbilled audio and video minutes for each of the ancillary services for which providers may assess separate interstate charges under the Commission's rules. Per-minute expenses for these ancillary services collectively range from less than {[REDACTED]}, with an industry average of $0.011. Eight providers reported automated payment services expenses, and these expenses account for most of the ancillary services expenses. Automated payment services per-minute expenses range from {[REDACTED]}, with an industry average of about $0.01. Industry expenses per minute for the other ancillary services are no higher than one tenth of a cent. Seven providers reported live agent expenses; of these providers, these per-minute expenses are as large as {[REDACTED]}. Only four, three, and two providers reported expenses for third-party financial services, paper bill/statement services, and single-call and related services, respectively. As Table 11 demonstrates, providers failed to reliably or consistently allocate their costs among the various ancillary services.

BILLING CODE 6712–01–P

Table 11: Ancillary Expenses Per All Billed and Unbilled Audio and Video Minutes, By Provider

	APS Expenses Per Minute	LA Expenses Per Minute	PBS Expenses Per Minute	SC Expenses Per Minute	TPFT Expenses Per Minute	Total Ancillary Expenses Per Minute
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Industry*	0.010	0.001	0.00004	0.001	0.0007	0.011

Source: Data drawn from the Commissions and Revenue Sharing Excel tab with the exception of minutes.

Notes: Excludes all providers that report zero or nothing for each cost category. Three providers, {[REDACTED]}, reported no ancillary expenses. Expense per minute for each ancillary service and for all ancillary services collectively set out on the bottom row are calculated by excluding the minutes reported by providers that did not report expenses for a particular service, or in the last column, reported no expenses for any service. For example, {[REDACTED]} reported expenses for each ancillary service, except single-call and related services expenses. Therefore, {[REDACTED]} expenses and minutes are included in the calculation of industry per-minute expense for each service except for single-call and related services.

BILLING CODE 6712–01–C

E. Site Commissions

27. Table 12 shows site commissions, by provider and industry. Site commissions are equal to the sum of legally mandated and contractually prescribed site commissions, and are only attributable to audio, video, safety and security measures, and ancillary services, not other products and services. Over 93% ($403.6 million/$432.6 million) of site commissions are contractually prescribed as opposed to legally mandated. Only two providers, {[REDACTED]}, reported legally mandated site commissions. The total site commissions figure understates the overall industry cost for site commissions, as it omits the excluded providers, whose collective submissions comprise less than 1% of reported billed and unbilled minutes in the 2023 Mandatory Data Collection, and total an additional $13,433,691 in reported site commissions, or 3% of the industry total of $446,038,302.

BILLING CODE 6712–01–P

Table 12: Site Commissions by Site Commission Type and in Total, By Provider and Industry

	Legally Mandated Site Commissions	Contractually Prescribed Site Commissions	Site Commissions
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Industry	$29,017,010	$403,577,601	$432,594,611

Notes: Data drawn from the company-wide Excel tab.

28. Table 13 shows that legally mandated and contractually prescribed site commissions, expressed per billed and unbilled minute, range from{[REDACTED]} {[REDACTED]} with an industry average of $0.036. {[REDACTED]}

Table 13: Site Commissions Per Total Audio and Video Billed and Unbilled Minutes, By Provider and Industry

Providers/Industry	Site Commissions Per Minute
{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}
Industry	0.036

Source: Site Commission data from the company-wide tab and minutes, being billed and unbilled minutes, from the facility tab.

29. Table 14 presents site commissions per billed and unbilled minute, by facility type for each provider and the overall industry. Similar to other expenses and revenues, site commissions per minute are typically lower among prisons and higher among medium and smaller-sized jails.

Table 14: Site Commissions Per Billed and Unbilled Audio and Video Minutes, By Facility Type and Provider

	Site Commissions Per Minute - All Facilities	Site Commissions Per Minute - Prisons	Site Commissions Per Minute - Large Jails	Site Commissions Per Minute - Medium Jails	Site Commissions Per Minute - Small Jails	Site Commissions Per Minute - Very Small Jails
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Industry	0.045	0.023	0.045	0.082	0.083	0.074
Obs (#)	3634	1075	109	395	851	1204

Source: Data from facility-specific Excel tabs. Only facilities with site commissions greater than zero listed.

F. Supplemental Data Tables

30. Detailed Tables Showing Industry Shares for Minutes, Communications, and Facilities. Tables 15 and 16 provide detailed breakdowns of provider shares, first by minutes and communications, and then by facilities and ADP.

Table 15: Minute and Communications and Shares of Industry for Audio and Video, By Provider

	Audio				Video			
	Minutes		Communications		Minutes		Communications	
Provider	*Count*	*Percent*	*Count*	*Percent*	*Count*	*Percent*	*Count*	*Percent*
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Total	11,276,212,436	100.0%	1,836,047,657	100.0%	562,743,071	100.0%	62,258,030	100.0%
Obs.	4,244	4,244	4,244	4,244	2,287	2,287	2,294	2,294

Source: Data from facility-specific Excel tabs.

Table 16: Facility and ADP Counts and Share of Industry, By Facility Type and Provider

	Facilities		**Prisons**		**Jails**		**ADP**	
Provider	*Count*	*Percent*	*Count*	*Percent*	*Count*	*Percent*	*Count*	*Percent*
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Industry	4,441	100%	1,542	100%	2,899	100%	2,112,042	100%

Source: Data from facility-specific Excel tabs.

31. *Safety and Security Expenses—Detailed Tables.* Tables 17- through 19 provide detailed breakdowns of safety and security expenses.

Table 17: Audio, Video and Safety and Security Expenses Per Billed and Unbilled Audio and Video Minute Respectively, By Provider and Industry

		Audio and Video Expenses Per Billed and Unbilled Minute	Safety & Security Expenses Per Billed and Unbilled Minute	Audio, Video and Safety & Security Expenses Per Billed and Unbilled Minute
Audio	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	Industry	0.030	0.045	0.075
Video	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
	Industry	0.122	0.092	0.213

{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

Source: Data drawn from the company-wide Excel tab with the exception of minutes. Company-wide safety and security expenses are separated between audio and video. {[REDACTED]}

Table 18: Safety & Security Expenses Per Billed and Unbilled Audio and Video Minute, By Provider

	Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8 = sum (Col 1 to Col 7)
	CALEA Compliance Measures ($ / min)	**Law Enforcement Support Services ($ / min)**	**Communication Security Services ($ / min)**	**Communication Recording Services ($ / min)**	**Communication Monitoring Services ($ / min)**	**Voice Biometrics Services ($ / min)**	**Other Safety & Security ($ / min)**	**Total Safety & Security ($ / min)**
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Industry	**0.0000005**	**0.002**	**0.016**	**0.012**	**0.008**	**0.004**	**0.005**	**0.047**
Industry (no 0s)	**0.00001**	**0.002**	**0.010**	**0.013**	**0.009**	**0.004**	**0.005**	**0.047**

Note: This table uses data provided at the company-wide level with the exception of the calculation for the sum of total audio minutes and total video minutes. {[REDACTED]}

Table 21: Share of Billed and Unbilled Audio and Video Minutes with Safety & Security Costs, By Provider (% of Minutes)

	Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8 = sum(Col 1 to Col 7)
Provider	**CALEA Compliance Measures**	**Law Enforcemt. Support Services**	**Comm. Security Services**	**Comm. Recording Services**	**Comm. Monitoring Services**	**Voice Biometrics Services**	**Other Safety & Security**	**Total IPCS Safety & Security**
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Industry	**2.3%**	**87.1%**	**88.6%**	**90.4%**	**88.6%**	**93.3%**	**87.9%**	**96.3%**
Industry (no zeroes)	**98.9%**	**90.7%**	**90.9%**	**91.0%**	**90.9%**	**93.3%**	**90.9%**	**96.3%**

Note: This table uses data provided at the facility level. {[REDACTED]}

*{[REDACTED]}

BILLING CODE 6712–01–C

Appendix G: Lasso Analysis

1. In this appendix, staff analyze incarcerated people's communications services (IPCS) providers' responses to the 2023 Mandatory Data Collection to determine what characteristics of IPCS provision have a meaningful association with providers' reported per-minute expenses. The Commission performed a similar analysis in Appendix F of the *2021 ICS Order,* Appendix F of the *2020 ICS Order on Remand,* and in the 2020 ICS Notice of Proposed Rulemaking (NPRM) (85 FR 67480, October 23, 2020). Those analyses found that provider identity and the state a facility is in to be the most important predictors of a contract's per-minute audio costs. Staff update that analysis here, using the 2023 Mandatory Data Collection data and looking at both audio and video facility-level costs. Staff consider characteristics such as the average daily population (ADP) of the facility, the type of facility served (prison or jail), and the rurality of the facility. If these variables are associated with statistically significant variation in provider costs, then our analysis would support a rate-setting approach that has audio and video rate caps that vary along these dimensions.

2. As before, staff use the statistical method called Lasso (least absolute shrinkage and selection operator). This method identifies predictors of an outcome variable—in our case, the logarithm of either audio or video costs per minute—by trading off goodness of fit against the complexity of the model, as measured by the number of predictors. Lasso is especially useful in situations where many variables, and interactions among those variables, can predict an outcome of interest. Given that we are interested in determining the potential cost effects of many categorical variables as well as their interactions with one another, the overall number of potential variables is extremely large: our baseline Lasso specifications consider 490 variables for audio, and 381 for video. Estimating the effects all these variables have on costs via more traditional methods (such as linear regression) is infeasible. The results of our Lasso analysis indicate that the main predictors of provider costs per minute at the facilities they serve, for both audio and video, are provider identity and the state where the facility is located. We also find that whether the facility is a prison or jail is a predictor of costs per minute, although the effect is weaker than provider identity and state. A wide range of other variables have less or essentially no predictive power for either audio or video expenses.

3. We use the upper bound processed dataset with the facility operated by a provider as the unit of observation for our analysis. For both audio and video communications, we use the logarithm of per-minute costs as the dependent variable. Log transformation of the dependent variable has two benefits: (i) it can reduce the impact of outliers; and (ii) it can reduce skewness of the underlying per-minute cost data and make the distribution of the dependent variable more normal, which can improve model fit and help to ensure that residuals are normally distributed. Among the variables that we are interested in are monetary and in-kind site commission payments by providers at facilities they serve. Providers, however, did not allocate site commissions between audio and video. Therefore, for some of our models we will rely on the logarithm of the sum of audio and video per-minute costs as the dependent variable. To avoid having the Lasso biased by misreported and outlier data, we conservatively drop facilities with per-minute audio costs above $1, per-minute video costs above $5, or for which per-minute audio or video costs are reported as negative. Standard regression analysis is vulnerable to distortion from outliers. The simplest regression of the dependent variable on an independent variable fits a line by minimizing the sum of the squared differences between each observation and that line. Points on the line are the model's ''prediction,'' and can be thought of as the expected values of the dependent variable for the values of the independent variable. Outlier observations are farther from the prediction line and squaring those differences has a disproportionate effect on the sum of squared differences, pulling the prediction line towards those outliers. The same logic applies for a multivariate regression except that the prediction line is a ''hyperplane'' across the multidimensional space of all the independent variables. The Lasso model, like standard linear regression, minimizes the sum of squared differences and is therefore also sensitive to outliers. In the case of the 2023 Mandatory Data Collection, there are some extreme outliers, *e.g.,* per-minute expense reports in excess of $1,000 for audio and $100,000 for video. We also drop facilities for which negative commission payments were reported. The predictor variables that we considered in our analysis are as follows:

- The identity of the incarcerated people's communications service provider;
- The state(s) in which the correctional facilities are located;
- The type of facility (prison or jail);
- An indicator for joint contracts (*i.e.,* contracts for which an IPCS service provider subcontracts with another incarcerated people's communications service provider);
- An indicator for whether the facility receives a site commission;
- Contract average daily population (ADP);
- Five indicators for whether a facility meets one of the five following criteria: it is a jail with average daily population ≤100; it is a jail with average daily population between 100 and 350; it is a jail with average daily population between 350 and 1,000; it is a jail with average daily population >1,000; or it is a prison;
- Log of safety and security expenses;
- Rurality of the facilities covered by the contract (urban if the facility is located in an area designated by the Urban Area Census (UACE20) as urban);
- Various combinations (*i.e.,* multiplicative interactions) among the above variables.

4. *Lasso and Costs per Minute.* The Lasso results indicate significant differences in costs per minute across different providers and states. The baseline Lasso models, when all variables, including multiplicative interactions, are included, explain approximately 62% of the variation in audio costs across facilities, and 67% of the variation in video costs across facilities. In addition to provider and state variables, these baseline models also select variables for facility type (*i.e.,* prison versus jail), and whether or not a site commission was collected. For both our audio and video baseline models, facility type is selected by the Lasso almost exclusively for its interaction effect with state dummy variables. However, the explanatory power of variables other than provider and state is small.

5. To establish the incremental explanatory power of state and provider, staff consider

audio and video Lasso models where only provider and state variables are included and compare them with models that included all variables except for provider and state. Staff find the provider and state variables explain far more than what all the other variables are able to explain. When only provider and state variables are included, the Lasso models explain approximately 52% of the variation in audio costs across contracts, and 56% of the variation in video costs. This is a difference of about 10% as compared with the full model. By contrast, for models that include all variables except for provider and state, Lasso explains just 23% of variation in audio costs across contracts, and 20% of the variation in video costs, a difference of about 40% as compared with the full model.

6. The differences in costs across providers identified by the Lasso may reflect systematic differences in underlying costs of IPCS provision but may also point to differences in the way providers allocated their company-wide investment and expenses to the facility-level. The cost variation attributed to the state variable may reflect state-level differences in costs arising from different regulatory frameworks, including state-specific price caps that may be correlated with provider decisions to bid on contracts (allowing only the most efficient providers to operate in certain states), or to underlying cost differences due to other state-specific factors. Given concerns that the Lasso model may be placing undue weight on the provider and state variables due to cost allocation approaches that are unrelated to the underlying cost of IPCS provision, and given that we have substantial record evidence indicating that facility type and size are important dimensions along which costs of IPCS vary, it would not be appropriate to consider the Lasso model results as suggesting that rate caps be established by directly taking into account the IPCS provider or location of a facility. Rather, the Lasso results confirm that there are certain data deficiencies at the facility-level, likely due to differences in cost allocation approaches across providers as well as instances of cost misallocation, and provide additional support for the industry average cost approach to rate-setting, as such an approach is less impacted by individual provider decisions on cost allocation and cost-allocation anomalies that create outlier facility cost observations.

7. While the provider and state variables were most significant in explaining the variation in audio and video costs in our Lasso models, facility type was also selected by the Lasso as an important predictor of per-minute costs. Given the results from the Lasso models, and the strong record support for jails being more costly to service than prisons and smaller jails being more costly to serve than larger ones, we explored whether a cost difference between jails and prisons, and between jails of different sizes, existed using a double-selection Lasso model. Unlike regular Lasso, which selects predictors but does not allow for standard statistical inference (*e.g.,* confidence intervals, t-statistics), double-selection Lasso allows for statistical inference to be performed on a subset of variables of interest. In double-selection Lasso, the researcher selects a subset of predictor variables as the variables of interest. Two Lasso models are then run. In the first, a Lasso is run regressing the variables of interest on all other predictor variables. In the second, a Lasso is run regressing the dependent variable (in our case, the per-minute cost of service) on all the predictor variables except for the variables of interest. The researcher then takes all of the predictor variables that were selected by the two Lasso models and runs a regression of the dependent variable on that subset of predictor variables and the variables of interest. This process allows for statistical inference on the variables of interest.

8. For audio communications, the results of the double selection Lasso model indicated that—all other things equal—the costs of providing audio services are approximately 113% greater in jails than in prisons, and the costs of providing video services were approximately nine percent greater in jails than in prisons. The audio result was statistically significant at the 99% confidence level, whereas the video result was not significant (z-score of 0.31). The lack of statistical significance in the difference between video costs in jails and prisons may be further evidence that the 2022 video data is unreliable; for example, it could be the result of certain providers in the data making significant upfront capital expenditures in video provision, without yet realizing high video usage. When audio and video costs were combined, the per-minute costs of providing audio and video service were approximately 33% higher in jails than in prisons, with the cost difference between jails and prisons statistically significant at the 90% level, but not 95% confidence level (z-score of 1.90).

9. Lastly, we test whether providers that pay legally mandated or contractually prescribed site commissions at their facilities have significantly lower per-minute expenses than providers who do not pay site commissions. If our results showed this, it would be consistent with there being cost shifting between the provider and the correctional facility (*i.e.,* the facility is receiving a commission in exchange for covering some costs of IPCS provision). With respect to audio communications, however, we find that facilities for which providers pay site commissions—all else equal—have *higher* per-minute costs, with the result being significant at the 99% confidence level. This is not consistent with cost-shifting between the provider and the incarceration authority receiving the site commission. Instead, it may reflect how different providers allocated their costs and site commissions, or something else. For video communications, we find no statistically significant difference in costs between facilities that do and do not collect a site commission. Recognizing the aforementioned issues with our per-minute video cost data, we also consider the sum of per-minute video and audio costs. We find no statistically significant difference between costs in facilities that do and do not pay site commissions. Altogether, our double-selection Lasso results do not support the premise that site commissions represent cost-shifting between the provider and the correctional facility.

Appendix H: Upper Bound Analysis

1. The following appendix explains how staff determined the upper bounds of our zones of reasonableness for incarcerated people's communications services (IPCS) per-minute expenses (hereafter ''upper bound(s)''), using the providers' reported expenses and billed and unbilled minutes without adjustment. The data used consist of the database as described in Appendix A. Staff reviewed providers' data for compliance with the basic parameters of the Incarcerated People's Communications Services 2023 Mandatory Data Collection Instructions, WC Docket Nos. 23–62 and 12–375, at 29, *https://www.fcc.gov/files/2023-ipcs-mandatory-data-collection-instructions,* including a comparison with their financial statements, and shared that review with providers. In response, providers revised and resubmitted their data, also providing a narrative to address these compliance issues. The expenses of the unadjusted dataset are likely too high. These upper bounds reflect the allocation methods that providers chose following our instructions. Providers allocated their reported company-wide investment and expenses among audio IPCS, video IPCS, safety and security measures, automated payment services, live agent services, paper bill/statement services, single-call and related services, third-party financial transaction services, other ancillary services, and other products and services. Providers further allocated audio IPCS, video IPCS, and safety and security investments and expenses among individual facilities. The providers chose the basis for allocation, or allocators, as necessary to allocate their investments and expenses among the above services and facilities. Staff calculated ten upper bounds—five for audio IPCS and five for video IPCS, for prisons, large jails, medium-size jails, small jails, and very small jails. Staff did this to control, albeit imperfectly, for the effect of facility type and size on expense per minute. The average per-minute expense for each category measures the central tendency of the data for similar facilities.

2. The respective upper bounds for audio and video services for the five facility types are the sum of five per-minute expense components: (i) audio IPCS or video IPCS; (ii) audio or video IPCS safety and security measures (hereafter ''safety and security measures''); (iii) ancillary services; (iv) Telecommunications Relay Services (TRS) compliance; and (v) correctional facilities' expenses. We discuss these in turn.

3. *Audio and Video Expenses.* Audio and video IPCS, safety and security, and ancillary services expenses per minute are calculated in the same way as per-minute expenses in the summary statistics section above. Audio IPCS and video IPCS expenses per minute, respectively, are calculated by taking the sum of, respectively, the reported audio IPCS and video IPCS expenses and audio IPCS and video IPCS billed and unbilled minutes across all providers, and dividing the expenses by the minutes. Safety and security expenses per minute, respectively, sum the

reported safety and security expenses and audio IPCS and video IPCS billed and unbilled minutes across all providers and divides the expenses by the minutes. Ancillary services expenses per minute sums the reported ancillary services expenses and billed and unbilled audio and video minutes across all providers that reported ancillary services expenses and divides the expenses by the minutes. The ancillary services are automated payment services, live agent services, paper bill/statement services, single-call and related services, and third-party financial transaction services. Staff calculated safety and security expenses per minute for all seven safety and security measure categories combined. The seven safety and security measures are: (i) the Communications Assistance for Law Enforcement Act (CALEA), 47 U.S.C. 1001 *et seq.,* 47 CFR 1.20000 *et seq.,* Compliance Measures; (ii) law enforcement support services; (iii) communication security services; (iv) communication recording services; (v) communication monitoring services; (vi) voice biometrics services; and (vii) other safety and security measures. This ensures our upper bounds reflect all safety and security expenses reported by providers without consideration as to whether they are used and useful in the provision of audio or video IPCS.

4. *Ancillary Services.* Prior to this Order, ancillary services were billed separately, but going forward will be recovered under our caps. To incorporate ancillary service expenses into the upper bounds, staff divide the sum of ancillary expenses by the sum of audio and video minutes for providers reporting said expenses and add this quotient, $0.011, to each of our ten caps. Staff do this because ancillary service expenses are not reported separately for audio and video. This also is a reasonable way to allocate these costs for three reasons: billing and collection services cover both audio and video IPCS; both sets of charges would generally appear on the same bill; and it is not obvious billing and collection services for audio would be more expensive than for video or *vice versa.* Indeed, commenters asserted that the costs of ancillary services were not distinguishable for audio versus video IPCS.

5. *TRS Expenses.* The 2023 Mandatory Data Collection invited providers to estimate the incremental expense of complying with the TRS requirements adopted in the *2022 ICS Order,* to the extent those expenses are not reflected in their data for 2022. Those rules require that IPCS providers must provide access for incarcerated people with communications disabilities to all relay services eligible for TRS Fund support in any correctional facility where broadband is available and where the average daily population incarcerated in that jurisdiction totals 50 or more persons. They also require that where incarcerated people's communication services providers are required to provide access to all forms of TRS, they also must allow American Sign Language direct, or point-to-point, video communication. The Commission clarified and expanded the scope of the restrictions on incarcerated people's communications service providers assessing charges for TRS calls, expanded the scope of the required Annual Reports to reflect the above changes, and modified TRS user registration requirements to facilitate the use of TRS by eligible incarcerated persons. One provider, {[REDACTED]} submitted an incremental expense estimate, providing the only data from which we extrapolated these costs for the industry. The upper-bound TRS compliance expense per minute component divides {[REDACTED]}. The resulting figure, rounded to $0.002, is used as an estimate for the industry, as no other provider submitted an incremental TRS expense estimate. It is added to each of the ten upper bound calculations.

6. *Correctional Facilities' Expenses.* The 2023 Mandatory Data Collection recognized that, in some cases, the authorities that operate prisons or jails may incur costs attributable to providing IPCS. Specifically, the 2023 Mandatory Data Collection directed providers to report any verifiable, reliable, and accurate information about the costs incurred by facilities that the providers served in 2022 to offer safety and security measures or other functions regarding the provision of IPCS. None of the providers submitted these cost data. Hence, staff develop the facilities component of the upper bounds by again relying on the $0.02 expense additive adopted as part of the interim rate caps in the *2021 ICS Order* (86 FR 40682, July 28, 2021). Staff add this amount to each upper bound rate cap tier for both audio and video IPCS. Including this amount likely overstates facilities' IPCS costs.

7. Table 22 shows the upper bound industry average components for prisons and the four jail sizes, depicting audio and video IPCS and IPCS safety and security, excepting the ancillary services, TRS, and facility components, and the sum of these components plus $0.011 for ancillary services, $0.002 for TRS, and $0.02 for facility expenses. Columns (1A) and (2A) summarize the industry average components of the upper bounds of our zones of reasonableness for audio IPCS and safety and security expenses, separately for each rate tier. Staff adds a flat per-minute allowance for ancillary services ($0.011), TRS ($0.002), and facility expenses ($0.02) to calculate the upper bounds for audio IPCS rate caps in the third column.

Table 1: Upper Bound IPCS Expenses Per Billed and Unbilled Minutes, By Facility Type

($/minute)

	Audio			Video		
	IPCS Expenses Per Minute (1A)	Safety & Security Expenses Per Minute (2A)	Upper Bound (1A) + (2A) + $0.011 + $0.002 + $0.020	IPCS Expenses Per Minute (1B)	Safety & Security Expenses Per Minute (2B)	Upper Bound (1B) + (2B) + $0.011 + $0.002 + $0.020
Prisons	0.023	0.051	0.107	0.156	0.137	0.326
Large Jails	0.023	0.042	0.098	0.094	0.097	0.223
Medium Jails	0.037	0.040	0.110	0.094	0.089	0.216
Small Jails	0.059	0.029	0.121	0.116	0.058	0.208
Very Small Jails	0.087	0.030	0.151	0.208	0.047	0.288

Source: Data from facility-specific Excel tabs.

8. Columns (1B) and (2B) show the industry average components of the upper bounds of our zones of reasonableness for video IPCS and safety and security expenses. Staff adds a flat per-minute allowance for ancillary services ($0.011), TRS ($0.002), and facility expenses ($0.02) to calculate the upper bounds for video IPCS rate caps in the final column of Table 1.

9. The upper bound results for audio IPCS and video IPCS are driven by the two largest providers, {[REDACTED]} which supply a majority of IPCS minutes. As a result, {[REDACTED]}, discussed in the summary statistics above, likely distort our video upper bounds. Tables 2 and 3 present the upper bound results, for audio and video respectively, for each individual provider to permit comparisons across and between providers' per-minute expenses and the industry average per-minute expense. The fixed add-ons for ancillary services, TRS, and facility expenses are excluded.

10. Table 23 suggests that the upper bounds for audio IPCS rate caps do not disadvantage smaller providers that appear to operate efficiently in their provision of audio IPCS compared to the industry average. Setting an audio IPCS zone of reasonableness upper bounds at the industry average implies four carriers, {[REDACTED]}, have average per-minute expenses that are either less than the upper bounds or within five percent of them for all facility types. This is also true for {[REDACTED]}. That leaves five providers with average per-minute expenses that are more than five percent above the cap for a majority, but not always for all of the facility types: {[REDACTED]}. While, to some degree, these results support the view that larger providers have lower unit costs, {[REDACTED]} are small providers who report costs largely or entirely under, or close to, the upper bounds. In fact, for small and very small jails, {[REDACTED]}. Thus, though {[REDACTED]} appear to benefit from scale economies, there is no clear indication that the rest of the industry is systematically disadvantaged in its ability to provide audio IPCS at rates below our upper bounds. That being said, efficient costs are the least costs of provision, and there is no onus on the Commission to set rate caps that support inefficient business models, even if a provider is inefficient due to its scale.

BILLING CODE 6712–01–P

Table 2: Upper Bound Audio Expenses, Per Billed and Unbilled Audio Minutes, By Provider

($/minute)

	Prisons	**Large Jails**	**Medium Jails**	**Small Jails**	**Very Small Jails**
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Industry	0.107	0.098	0.110	0.121	0.151

Source: Data from facility-specific Excel tabs.

11. Table 24 shows that using the industry average to determine the five upper bounds for video IPCS expenses leaves only {[REDACTED]} with per-minute expenses that exceed the industry average by more than five percent for a majority of facility types. However, this result is largely driven by one provider. {[REDACTED]} per-minute expenses substantially raise the average, ranging from nearly twice to more than seven times as high as the next highest provider. It is also not clear that reported per-minute video expenses represent long run expenses, because video calling is a nascent market. Thus, providers may still be making large expenditures to improve their platforms, while supply may be constrained and demand is still growing. These effects would overstate per-minute video expenses relative to a future steady state, as current expenses are higher than those in a future steady state, while demand is lower.

Table 3: Upper Bound Video Expenses, Per Billed and Unbilled Video Minutes, By Provider ($/minute)

	Prisons	**Large Jails**	**Medium Jails**	**Small Jails**	**Very Small Jails**
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Industry	0.326	0.223	0.216	0.208	0.288

Source: Data from facility-specific Excel tabs.

Notes: Double-underlined cells indicate a provider's upper bound per-minute video expenses exceed the industry average by more than ten percent. No provider's upper bound per video minute expenses exceed the industry average by more than five percent but less than ten percent.

{[REDACTED]}

BILLING CODE 6712–01–C

Appendix I: Lower Bound Analysis

1. The following appendix explains how staff estimated the lower bounds of our zones of reasonableness for incarcerated people's communications services (IPCS) per-minute expenses (hereafter ''lower bounds''). The first section explains a range of adjustments made to the upper bounds, to produce our lower bounds, while the second section brings these together, producing ten lower bounds, being the five for each facility type for both audio and video. The final section uses three independent sources to validate our lower bounds.

A. Lower Bound Analysis and Adjustments

2. This section develops the lower bounds for audio and video IPCS per-minute rate caps for each rate cap tier by making the following adjustments to the upper bounds: bringing the WACCs reported by {[REDACTED]} down to 9.75%; removing the allowances for expenses incurred by correctional facilities; removing categories of safety and security expenses that are not generally used and useful in the provision of IPCS; adjusting the ancillary service expenses to reflect the WACC changes; and adjusting for anomalies in {[REDACTED]} The section also explains our concerns with providers' reports of goodwill, but that we decline to make goodwill adjustments due to a lack of data. While at least one commenter has argued that the lower bounds are ''unreasonably low,'' we disagree. As set out herein, we reach those bounds based on a reasonable, logical analysis of the collected data. In making these adjustments, staff rely on the providers' data reports, financials, and Word templates.

1. WACC Analysis and Adjustments

3. The weighted average cost of capital, or WACC, is the sum of a company's cost of equity, cost of preferred stock, and cost of debt, each expressed as an annual percentage rate and weighted by its proportion in the capital structure. It represents the average rate-of-return that debt, preferred stock, and equity investors require to provide a company with the capital it uses to finance its assets and operations. Mathematically, WACC = [(Equity/(Debt + Equity + Preferred Stock)) * Cost of Equity] + [(Debt/(Debt + Equity + Preferred Stock)) * Cost of Debt] + [(Preferred Stock/(Debt + Equity + Preferred Stock)) * Cost of Preferred Stock]. Staff programmed the Excel template to multiply the WACC by net capital stock to determine the return component of the provider's annual total expenses. Net capital stock means gross investment in assets, net of accumulated depreciation and amortization, accumulated deferred federal and state income taxes, and customer prepayments or deposits, plus an allowance for cash working capital. Annual total expenses is the sum of annual operating expenses and annual capital expenses. Return is the allowance for

recovery of the cost of capital and is therefore a component of capital expenses.

4. The instructions directed providers to use either a default WACC of 9.75% or an alternative WACC. {[REDACTED]}. All other providers used the default WACC. If the provider claimed a WACC greater than 9.75%, the instructions for the 2023 Mandatory Data Collection required the provider to fully document, explain, and justify how it developed that alternative WACC. Specifically, the instructions required that the provider ''fully document . . . by submitting data, formulas, cost of equity analyses[,] . . . calculations, and worksheets, and explain and justify the development of'' its claimed cost of capital, as well as its claimed cost of debt, its claimed cost of equity, and the other components of its claimed capital structure. The instructions warned providers that a failure to do so may result in reversion to the default WACC. We note that, despite an opportunity for comment, neither Securus nor ViaPath (nor any other party) objected to the use of 9.75% as the default WACC during the pleading cycle leading to its adoption.

5. The default 9.75% WACC is equal to the Commission's currently authorized rate of return for local exchange carrier services subject to rate of return on rate base regulation. The Commission adopted this rate of return as part of a formal rulemaking proceeding and it reflects rigorous analyses of the costs of debt and equity, capital structure, and the WACC, as the authorized rate of return is designed to compensate these carriers for their cost of capital. The Commission's determination was informed by comments, data and other information entered into the record by interested parties and the analyses reflected in this prescription underwent peer review.

6. While we accept the claimed WACC of both Securus and ViaPath to establish the upper bounds, we decline to do so for the purpose of establishing the lower bounds. As explained below, neither Securus nor ViaPath sufficiently justifies its claimed WACC. Given this lack of justification and the limited information otherwise available to the Commission to develop its own estimate, we also decline to develop an alternative WACC for either of these two providers. Estimates of the true WACC can vary over a wide range under different sets of reasonable assumptions. A firm's cost of equity, in particular, must be estimated because it reflects both current and future investors' constantly changing expectations of that firm's future profits. Cost of equity estimates are necessarily developed from imperfect models such as the Capital Asset Pricing Model or Discounted Cash Flow Model. Where a firm does not issue publicly traded stock, as is the case for Securus and ViaPath, one must apply these (or other) models to a sufficiently comparable proxy group of firms that issue publicly traded stock. Identifying a proxy group of comparable and publicly traded firms can be a difficult and imprecise exercise and using different proxies can produce significantly different estimates. Consequently, cost of equity estimates developed from models and using proxy groups are often susceptible to large errors and the cost of equity is often impossible to measure precisely. Given this, if the Commission were to attempt to estimate Securus's or ViaPath's costs of capital, the estimates would come with wide error ranges that would encompass the 9.75% default. We therefore find that adopting our default WACC provides a reasonable lower bound assumption.

7. *Cost of Debt.* Of the three estimates needed to estimate the WACC (*i.e.,* cost of debt, cost of equity, and capital structure estimates), the cost of debt estimate typically is the least complicated. Yet, both Securus and ViaPath make mistakes in how they estimate their costs of debt.

8. {[REDACTED]}.

9. {[REDACTED]}.

10. *Capital Structure.* Capital structure refers to the shares of equity, preferred stock, and debt capital that a firm uses to finance its operations and assets. Each capital structure component is equal to: value of a capital component/(value of debt + value of preferred stock + value of equity). Each share is used to weight its respective capital cost to estimate the weighted average cost of capital. Financial theory requires use of market value weights to estimate the WACC. Financial theory also specifies that a firm's target capital structure should be used to estimate the WACC. Regulators, including the Commission, typically use book value weights to estimate the WACC, though under the Commission's represcription rules, market value weights can be used if use of book value weights would produce unreasonable results. Under the Commission's rules for represcribing the authorized rate of return for local exchange carriers regulated on a rate-of-return basis, the results of book value capital structure calculations are to be used unless their use would be unreasonable. In fact, the Commission's current authorized rate of return for local exchange carriers regulated on a rate-of-return basis, 9.75%, reflects the use of market value weights.

11. {[REDACTED]}.

12. {[REDACTED]}.

13. {[REDACTED]}.

Table 1: {[REDACTED]}

14. {[REDACTED]}.

15. {[REDACTED]}.

16. {[REDACTED]}.

17. {[REDACTED]}.

18. {[REDACTED]}.

19. {[REDACTED]}.

20. {[REDACTED]}.

21. {[REDACTED]}.

22. {[REDACTED]}.

23. {[REDACTED]}.

24. {[REDACTED]}. Total beta is equal to the standard deviation of a security's expected returns divided by the market's expected return. Alternatively, total beta equals the CAPM beta estimate divided by the square root of the coefficient of determination for the regression equation used to estimate beta. {[REDACTED]}

25. The use of total beta to develop cost of equity estimates for a private business is not broadly accepted. For example, Pratt and Grabowski argue: ''This interpretation of beta as the risk measure in estimating total returns is based on the premise that most owners of private businesses are completely undiversified and, therefore, the cost of equity capital of the private business should include that extra amount due to the owner being undiversified. This leads to the unreasonable position that there are at least two costs of capital for a business—the cost of capital for investors who are the pool of likely buyers who are likely to be diversified (for whom in theory only market or beta risk matters) and the cost of equity capital to the current owner who is completely undiversified (for whom both market risk and unsystematic risk matter).''

26. Moreover, Securus is not an undiversified investor. Securus is a subsidiary of Aventiv Technologies, which in turn is owned by the private equity firm Platinum Equity. On its website, Platinum Equity explains that it has been in business for more than 28 years, made more than 450 acquisitions, and manages over $48 billion in assets. It further explains that it ''generate[s] returns by investing in companies across a wide range of industries that need financial and operational support.'' Securus cannot credibly argue that its owner, Platinum Equity (or Platinum Equity's investors collectively), is an undiversified owner, and it therefore fails to justify its company specific risk premium adjustment.

27. {[REDACTED]}.

28. {[REDACTED]}.

29. {[REDACTED]}.

30. {[REDACTED]}.

31. {[REDACTED]}.

32. {[REDACTED]}.

33. {[REDACTED]}. While CAPM is widely used among practitioners and is featured prominently in most finance textbooks, CAPM is not perfect, as no model can be. For this reason, in addition to reasons we set out above, we are reluctant to rely on the results of a single model, adjusted or not. When the Commission last prescribed the rate of return for local exchange carriers, for example, it relied on CAPM and the Discounted Cash Flow Model, recognizing that neither model is perfect. That would have been our preferred approach here as well. However, we do not have access to data that would allow us to develop a Discounted Cash Flow Model for either provider.

34. In summary, a substantial range of Securus's and ViaPath's assumptions in developing their WACCs are not fully documented and/or appear inappropriate. Consequently, we cannot rely on their estimates. Given there is insufficient evidence in the record to allow the Commission to develop robust estimates of our own, we revert to our default WACC of 9.75%.

35. *WACC Adjustment Mechanics.* Staff replace Securus's and ViaPath's claimed WACC figures with the default WACC of 9.75% on their Excel templates to adjust their reported annual total expenses. Staff also replace the tax-deductible interest expense {[REDACTED]} Section 163(j) limits the interest expense deduction to the sum of (i) the taxpayer's business interest income; (ii) 30% of the taxpayer's adjusted taxable income; and (iii) the taxpayer's floor plan financing interest expense for the taxable year. Business interest income is not a cost

of providing IPCS and is not reported on the Excel template or relevant to the development of rate caps. Under section 163(j), floor plan financing interest expense is interest on debt used to finance the acquisition of motor vehicles held for sale or lease where the debt is secured by the acquired inventory. Floor plan financing interest expense is not reported separately on the Excel template and neither {[REDACTED]} nor any other IPCS provider is likely to incur this type of expense. Staff add this formula even though {[REDACTED]} approach likely understates tax-deductible interest expense, leading to a larger income tax allowance and larger annual total expenses than otherwise. Under section 163(j), adjusted taxable income aligns with earnings before (subtracting) interest expense and taxes. Return on the Excel template is generally a smaller number than adjusted taxable income under section 163(j) because return is equivalent to earnings after interest expense and taxes with the interest expense added back to this calculation of earnings. The portion of return subject to taxes must be ''grossed up'' by dividing it by one minus the tax rate, and then added to the portion of the return that is not subject to taxes to calculate the pre-tax return (including interest expense). {[REDACTED]}. Lastly, staff reduce the safety and security expenses these providers report at the facility level by the same percentage as these expenses are reduced by at the company-wide level as a result of the WACC and tax-deductible interest expense adjustments. Securus argues against this adjustment by noting that by reducing Securus's and ViaPath's costs of capital, ''the draft cut {[REDACTED]} for [sic] the industries' total safety and security expenses.'' We find this effect is a natural consequence of the adjustment, given the fact that capital expenses constitute a significant portion of safety and security measure costs, and do not find this a compelling reason to avoid making said adjustment.

36. We reject the argument that the Commission's default 9.75% WACC ''bears no resemblance to rate of return for companies like Securus that are primarily technology and IT service providers.'' We recognize that IPCS is a communication service, yet not necessarily the same as local exchange carrier service. This distinction is why the 2023 Mandatory Data Collection instructions directed providers to use either the default WACC of 9.75% or an alternative WACC, with providers bearing the burden to fully document, explain, and justify how they developed any alternative WACC. While the Commission's 9.75% rate-of-return prescription dates back to 2016, that prescription was conservative. The Commission found that an overall range for reasonable WACC estimates for rate-of-return-regulated local exchange carriers is 7.12% to 9.01%, based on WACC estimates derived from CAPM and a discounted cash flow model. It expanded the upper end of the rate of return zone of reasonableness beyond these WACC estimates based on policy considerations and adopted the rate of return from the upper end of this zone. Specifically, the Commission expanded the zone of reasonableness to provide an additional cushion for rate-of-return incumbent LECs that may have relatively high costs of capital. It also added a cushion to account for regulatory lag between recognition of the need to prescribe a different rate of return, as capital markets change significantly over time, and actually prescribing a new rate of return. It therefore added about three-quarters of a percentage point to the top of the WACC range developed from the cost of equity models, expanding the overall zone of reasonableness for rate of return estimates to 7.12% to 9.75%, and then prescribed a 9.75% rate of return. Neither Securus nor any other party objected to the use of 9.75% as the default WACC during the pleading cycle leading to its adoption.

37. As discussed elsewhere, Securus relies on a number of aggressive and insufficiently justified assumptions to develop its WACC estimate. For example, CAPM assumes that investors are able to diversify away exposure to non-systematic risk such as company-specific risk. Securus, however, adds a company-specific risk premium {[REDACTED]} to its CAPM cost of equity estimate, even though its owner, Platinum Equity (or Platinum Equity's investors collectively), is able to diversify away exposure to non-systematic risk such as company-specific risk. For these and the other reasons discussed, we therefore find it reasonable to use the default WACC for Securus to develop lower bounds for our rate caps.

2. Aggressive Assumptions on Facilities Additive

38. *Expenses Incurred by Correctional Facilities.* To the extent correctional facilities bear some IPCS expenses and recover these through site commissions, our rate caps should allow for the reimbursement of the legitimately recoverable expenses facilities incur. In our upper bound analysis, relying on record claims, we add $0.02 for such expenses. We do not make this addition in our lower bound analysis because our dataset provides no evidence that site commissions lower providers' expenses.

39. If site commissions were in some instances associated with facilities bearing some of the expenses of IPCS provision, then we would expect to see that providers' expenses in facilities where site commissions are paid would, on average, be lower than in facilities where they are not. In fact, the presence of site commissions tends to raise, rather than lower, providers' audio and video IPCS and safety and security expenses—see Table 2. For four of the five facility types, the average expenses per minute rise by between $0.021 and $0.012 per minute, only declining by $0.006 for small jails. We therefore disagree with those commenters that urge the Commission to include a $0.02 additive to account for facility costs in the lower bounds. Commenters have not provided sufficient data on either the costs or type of facility costs to contradict the analysis we perform here. Nor have they provided any data or other information that might independently justify a $0.02 additive, or indeed any other additive, to the lower bounds.

Table 2: Audio and Video IPCS Expenses per Minute at Facilities where Site Commissions (SC) are Paid or Not Paid

IPCS and Safety and Security Expenses per Minute	Prison	Large Jail	Medium Jail	Small Jail	Very Small Jail	All
SC = 0	$0.069	$0.059	$0.075	$0.104	$0.103	$0.070
SC > 0	$0.081	$0.076	$0.089	$0.098	$0.124	$0.085
Change between SC = 0 and SC > 0	$0.012	$0.017	$0.014	-$0.006	$0.021	$0.015

Notes: SC = site commissions; minutes are billed and unbilled minutes.

40. To the extent that a correctional facility incurs IPCS expenses (*e.g.,* a broadband connection or safety and security measure), its corresponding provider would face fewer expenses than otherwise. Further, one would expect this to be reflected in higher site commission payments, holding other things constant. However, the payment of site commissions is not associated with a reduction of providers' audio and video IPCS and safety and security expenses. Providers' mean per billed and unbilled minute IPCS expenses at facilities with no site commissions is $0.070, which is less than the $0.085 IPCS per-minute expenses where site commissions are paid. This difference is not statistically significant: there is an approximately 50% chance of the observed difference randomly occurring if the means were in fact identical. Based on a linear regression of expenses per minute on an indicator variable for when site commissions are zero versus when site commissions are greater than zero, the p-value for the coefficient of the indicator variable is 0.488. (The regression model is of the form: *Expense Per Minute = A + B * Site Commission Dummy (0,1)*). In contrast, the conventional default for statistical significance requires a p-value of less than 0.05, that is, less than a one in twenty chance that the observed difference occurred by chance. Finally, the results of our Lasso analysis are also consistent with the conclusion that provider expenses are not offset by the payment of site commissions to the correctional facilities they serve. In fact, the Lasso model finds that facilities at which site commissions are paid have higher per-minute expenses than facilities at which site commissions are not paid.

3. Lower Bound TRS Additive

41. We add to the lower bounds of our zones of reasonableness the same per-minute estimate of TRS expenses, $0.002, that we added to the upper bound zones. This estimate, as explained above in the upper bound analysis, is derived from {[REDACTED]} study of the incremental expense of TRS compliance. {[REDACTED]} study reasonably adheres to our instructions for developing the incremental expense of TRS compliance. At the same time, no other provider submitted an estimate of these expenses. As there is nothing in the record to support a lower estimate, we use the same estimate for both the upper and the lower bounds of our zones of reasonableness.

4. Goodwill Analysis

42. Four providers report goodwill as an investment, and this section discusses these investments and their implication for the development of rate caps. In particular, we find that we lack the necessary information to determine the appropriate amount of goodwill assigned to regulated services and whether the resulting amount should be reflected in the development of our rate caps. We conclude that the best way forward is to accept goodwill as reported in the development of our upper and lower bounds, but to take account of this uncertainty in choosing how we set our rate caps within those bounds.

43. The section begins by defining goodwill. Next, it provides information on each of the four providers' reported goodwill, including a description of the relative importance of goodwill as reflected in their overall investment and expenses. It then discusses regulatory approaches to goodwill and describes our concerns with these providers' reported goodwill. Finally, it explains our approach to goodwill in this proceeding.

44. Goodwill is a balance sheet item that is recorded when one company acquires another company, being the difference between the purchase price and the sum of the fair value of the assets acquired, net of the sum of the fair value of the liabilities assumed. Goodwill recognizes that the present value of the expected future return of the going concern is greater than what would be necessary to compensate the original owners for the value of their assets net of their debts. Like other long-lived assets measured at carrying value on a company's financial statements, goodwill is impaired if the carrying value is not recoverable. The goodwill impairment test is a test of whether the aggregate carrying value of the assets of a business including the value of the goodwill is recoverable. Goodwill impairment testing assesses whether a business acquisition is successful and holds management accountable for the acquisition. For example, if after an acquisition the hoped for synergies fail to materialize, then this should be recognized through impairment testing. If the impairment testing so indicates, the carrying value of the goodwill is written down or reduced on the balance sheet, and the amount of the reduction is recorded as a loss on the income statement.

45. Four IPCS providers, {[REDACTED]}, report goodwill on the Excel template. Providers were required to report goodwill gross investment, accumulated amortization, net investment, and amortization expense on rows 36, 37, 38, and 55 on the C1–C2. Company-Wide Information worksheet and on rows 47, 48, 49, and 66 on the D1. Facility Audio IPCS Costs and D1. Facility Video IPCS Costs worksheets, respectively. The goodwill data reported on the Company-Wide Information worksheet are used for the analysis in this section. Table 3 below shows the dollar amount of each provider's reported goodwill net investment (or more simply goodwill) and the percentage of the accounting entity total each provider reported for regulated services and nonregulated services. For purposes of our discussion of goodwill, regulated services are audio IPCS, video IPCS, safety and security measures, automated payment services, live agent services, paper bill/statement services, single-call and related services, and third-party financial transaction services. Nonregulated services are other ancillary services and other products and services. These four providers attribute 100% of their safety and security investments and expenses to audio IPCS and video IPCS and thus none to ancillary services or other products and services on the C3. Safety & Security Measures worksheet.

Table 3: Reported Goodwill Net Investment by Provider

Provider	Regulated Services		Nonregulated Services	
	$	% of Accounting Entity Total	$	% of Accounting Entity Total
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

46. These four providers collectively report goodwill of approximately $1.2 billion for regulated services, about 94% of the accounting entity total, as compared to approximately $79 million for nonregulated services, about six percent of that total.

47. A provider's reported annual total expenses increase as the amount of reported goodwill increases. Goodwill reported on the Excel template is a component of net capital stock. The Excel template multiplies each provider's net capital stock by its claimed WACC or the default WACC of 9.75% to calculate return. The Excel template also calculates the federal and state income taxes on this return, net of tax-deductible interest expense, using the provider's reported federal and state tax income tax rates. The return and income taxes are components of annual total expenses, and these expenses are reflected in our rate cap calculations. A private firm under GAAP may elect to amortize goodwill on a straight-line basis over a period of 10 years or less. {[REDACTED]}.

48. Net investment is the building block for net capital stock. Net capital stock equals net investment in assets minus accumulated deferred federal income taxes, minus accumulated deferred state income taxes, minus customer prepayments or deposits, plus cash working capital. Net capital stock is not developed on the Excel template for nonregulated services. To get a sense of the relative magnitude of each of these providers' reported goodwill, Table 4 below shows their reported goodwill net investment, total net investment including goodwill, and goodwill's share of total net investment separately for regulated and nonregulated services. Total net investment includes net investment in tangible assets, capitalized research and development, purchased software, internally developed software, trademarks, other identifiable intangible assets, and goodwill. It excludes capitalized site commissions.

49. The four providers collectively report total net investment of {[REDACTED]} for regulated services, and of this total goodwill accounts for about {[REDACTED]}. Thus, for these four providers, goodwill accounts for over half the return and related income tax allowances that are reflected in our rate caps for the industry. In contrast, the four providers collectively report total net investment of approximately {[REDACTED]} for nonregulated services, and of this total, goodwill accounts for only about {[REDACTED]}. There is no ''net capital stock'' for these nonregulated services upon which a return is ''allowed'' to be earned or reflected in rate caps.

Table 4: Reported Goodwill Net Investment versus Reported Total Net Investment By Provider

	Regulated Services			Nonregulated Services		
Provider	**Goodwill Net Investment**	**Total Net Investment**	**Goodwill Net Investment as a Percent of Total Net Investment**	**Goodwill Net Investment**	**Total Net Investment**	**Goodwill Net Investment as a Percent of Total Net Investment**
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

50. Table 29 shows the impact of removing goodwill on each provider's annual total expenses. Annual total expenses are the sum of reported capital expenses, including a return on net capital stock, and operating expenses and is the key component to the upper and lower bounds of our zones of reasonableness. Removing goodwill from each provider's reported annual total expenses reduces the four providers' expenses collectively by approximately $141 million, or about 15%. Staff assume a 9.75% return on net capital stock to determine this impact. For {[REDACTED]}, the reduction to annual total expenses reflects removal of the remaining unamortized value of capitalized goodwill from net capital stock and removal of amortization expense.

Table 5: Annual Total Expenses for Regulated Services With and Without Goodwill by Provider

Provider	**Annual Total Expenses With Goodwill**	**Annual Total Expenses Without Goodwill**	**Percent Difference**
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

51. Regulators often exclude goodwill from the base on which a return is allowed, absent a showing by the regulated firm that its rate payers stand to benefit from the sale that gives rise to the goodwill. Otherwise, a firm that is sold for more than the original cost, fair value, or other regulator-specified valuation of its assets would be able to earn a return that exceeds what that same firm was entitled to earn immediately prior to the sale for no reason other than the exchange of ownership for money. Methods of asset valuation imposed on regulated firms vary among regulators. The 2023 Mandatory Data Collection simply requires that IPCS providers report values for the components of net capital stock consistent with GAAP. The burden typically is on the acquiring firm to

demonstrate to the satisfaction of the regulator that the acquisition will, for example, create efficiencies that lower the firm's operating expenses or lead to superior service quality or more innovative services, and thus benefit rate payers. Otherwise, the regulator may exclude the goodwill arising from the acquisition from the base upon which the regulator allows a return to be earned.

52. For the reasons stated above, regulators are skeptical of allowing goodwill to be included in net capital stock. While these four firms assign large dollar amounts of goodwill to regulated services relative to nonregulated services, they do not explain the basis for these assignments. We looked for justification of these providers' goodwill claims in their financial statements and in their Word templates. What we found only further increased our skepticism. For example, {[REDACTED]}.

53. We are also skeptical of {[REDACTED]} reported goodwill. {[REDACTED]}. Finally, we have no information that would allow us to determine whether the four providers' reported goodwill reflects value to the incarcerated persons that the prior owner was unable to deliver. Absent a demonstration of that value, goodwill typically would not be allowed to earn a return or recovered as an expense.

54. In summary, the four providers that report goodwill have not justified the amount of their claimed goodwill, nor the assignments they make to regulated and nonregulated services. A proper assignment of goodwill to regulated services and nonregulated services would reflect a comparison between the fair values of these services to the fair value of their assets, net of liabilities. Among other complexities, determining the fair value of these services would require an estimate of the present worth of their future cash flows. Staff lack the type of detailed and comprehensive financial information and the insight into the operations of these services that would be needed to develop our own present worth estimates and thus have no accurate and feasible way to re-assign or make targeted disallowances to the goodwill these providers' report on their Excel templates. Further, we lack sufficient information to estimate the goodwill recorded on the balance sheet at time of the acquisition, to conduct impairment tests, or to determine the source of the goodwill, and hence to determine whether it should be allowed to earn a return or recovered as an expense. We therefore make no reassignment of or disallowance to the providers' claimed goodwill. Instead, we consider the possibility of misassignment or overstatement of goodwill when choosing rate caps from within our zones of reasonableness.

5. Safety and Security Expenses

55. Safety and security expenses as reported in the data collection are divided into seven categories: the Communications Assistance for Law Enforcement Act (CALEA) compliance measures and communication security services, law enforcement support, communication recording services, communication monitoring services, voice biometric services, and other safety and security measures. Of the providers included in our dataset, 11 providers reported expense data and additional information regarding their delivery of safety and security measures. Of those 11 providers, all reported offering some mix of safety and security measures and allocated their expenses by category. Table 6 shows these expenses by category and facility type, after the WACC and tax-deductible interest expense adjustments.

BILLING CODE 6712–01–P

Table 6: Audio and Video Safety and Security Measures Expenses by Category and Facility Type

		Prisons	Large Jails	Medium Jails	Small Jails	Very Small Jails	All
Audio Safety and Security Expenses ($)	CALEA Compliance	-	1,775	2,184	1,026	321	5,306
	Law Enforcement	15,496,861	2,500,354	2,010,475	674,735	261,580	20,944,006
	Communication Security	105,671,155	23,640,795	21,162,701	8,358,914	3,105,390	161,938,954
	Communication Recording	76,853,881	17,150,363	15,399,531	6,108,059	2,272,789	117,784,624
	Communication Monitoring	60,722,633	10,374,258	9,076,623	3,525,398	1,255,842	84,954,753
	Voice Biometrics	25,055,363	5,264,356	6,028,900	2,948,166	997,187	40,293,972
	Other Safety and Security	32,947,510	7,727,510	6,188,009	2,061,319	743,464	49,667,811
	All Categories	316,747,403	66,659,410	59,868,423	23,677,616	8,636,573	475,589,426
	CALEA + Security Services	105,671,155	23,642,570	21,164,885	8,359,940	3,105,711	161,944,261
Video Safety and Security Expenses ($)	CALEA Compliance	-	-	26	36	22	84
	Law Enforcement	487,103	240,241	450,459	255,901	66,723	1,500,426
	Communication Security	6,374,137	3,344,311	4,981,924	2,479,923	540,365	17,720,659
	Communication Recording	5,615,118	2,973,351	4,243,216	2,078,946	466,170	15,376,802
	Communication Monitoring	2,601,918	1,410,152	2,018,519	1,014,162	222,998	7,267,749

Voice Biometrics	379,510	202,909	431,787	334,646	79,618	1,428,469
Other Safety and Security	1,516,377	767,952	1,409,925	868,099	183,328	4,745,683
All Categories	16,974,163	8,938,916	13,535,856	7,031,714	1,559,223	48,039,872
CALEA + Security Services	6,374,137	3,344,311	4,981,949	2,479,959	540,387	17,720,743

Note: Does not include jails with zero or missing ADP. Expenses reflect WACC and tax-deductible interest expense adjustments.

BILLING CODE 6712–01–C

56. Because these expenses were exclusively reported at the level of these seven categories and each category contains more than one safety and security measure, it is not possible to isolate the expenses incurred to provide each individual safety and security measure within each category, much less the portion of the expenses within each category that are used and useful in the provision of IPCS. The instructions for the 2023 Mandatory Data Collection required providers to allocate safety and security expenses among *the* seven categories at the facility level, and gave providers the option to further allocate these expenses among individual services within each category, notwithstanding NCIC's claim to the contrary. Providers, including NCIC, declined to allocate costs among individual services, precluding the Commission from identifying those expenses on a more granular basis. While our upper bounds include all expenses reported for each of the seven categories, the lower bounds include only the expenses reported for the two of these categories that consist of safety and security measures that we find are generally used and useful in the provision of IPCS: CALEA compliance measures and communication security services. Providers' narrative responses also indicate that the suite of safety and security measures they provide are often offered as a *default* package at the time of contract, however some providers also offer optional add-on services. The fact that these services are optional belies the claim that they are necessary for the provision of IPCS. For example, {[REDACTED]}. Together, CALEA compliance measures and communication security services capture 34.1% of reported audio and 36.9% of reported video safety and security measure expenses after the WACC and tax-deductible interest expense adjustments.

57. Table 7 compares per-minute audio and video IPCS safety and security expenses after the WACC and tax-deductible interest expense adjustments, with and without the category adjustment. Across the industry, the adjustment for the lower bounds decreases audio safety and security expenses by $0.028 per billed audio minute and video safety and security expenses by $0.054 per billed video minute. The percent decrease from the unadjusted to adjusted total is similar across all facility types within audio and video.

Table 7: Safety and Security Expenses per Total Minute

	Audio Safety and Security Expenses Per Total Minute			Video Safety and Security Expenses Per Total Minute		
	No Adjustment	After Adjustment	Percent Decrease	No Adjustment	After Adjustment	Percent Decrease
Prisons	0.0469	0.0157	66.6%	0.1276	0.0479	62.4%
Large Jails	0.0389	0.0138	64.5%	0.0901	0.0337	62.6%
Medium Jails	0.0371	0.0131	64.6%	0.0822	0.0302	63.2%
Small Jails	0.0267	0.0094	64.7%	0.0543	0.0191	64.7%
Very Small Jails	0.0285	0.0103	64.0%	0.0442	0.0153	65.3%
Total	0.0422	0.0144	65.9%	0.0855	0.0315	63.1%

Note: Does not include jails with zero or missing ADP. The safety and security adjustment was made after the WACC and interest expense adjustments.

6. Ancillary Services Cost Analysis

58. Ancillary services are billing and collection services for both audio and video IPCS, and consequently are not reported separately. The reported expenses for these services are included in the upper bounds of our zones of reasonableness for audio and video IPCS by dividing them by the sum of audio and video minutes and adding this quotient to the separate audio and video caps. This upper bound adjustment adds a flat per-minute allowance, $0.011, for ancillary services, for all five size-type facilities. This is computed as industry ancillary services expenses, $125.2 million, divided by the sum of the audio and video IPCS minutes of the providers that reported ancillary services expenses, 11,585.9 million (a smaller number than the industry total number of minutes).

59. The lower bounds reflect reductions in ancillary services expenses for {[REDACTED]} due to restatements (lowering) of their WACCs, with an accompanying adjustment to {[REDACTED]} reported tax-deductible interest expense. The result is an industry ancillary service expense of $0.010 per minute. Industry ancillary services expense for the five services, $125.2 million, is reduced by WACC and interest expense adjustments for {[REDACTED]}. The minutes for providers who report these expenses are 11,585.9 million. Like the $0.011 ancillary expense added to the upper bounds, this lower figure is added to the lower bounds as a flat per-minute allowance for all five size-type facilities.

7. Video Expense Adjustment(s)

60. {[REDACTED]} *Video IPCS Adjustment.* {[REDACTED]} reports extremely high costs for the provision of video IPCS. Their video IPCS per-minute expenses are a substantial outlier vis-a-vis their closest competitors and the industry as a whole, and their resulting reported per-minute video IPCS expenses significantly skew the industry average. They are three times higher than the industry average and about {[REDACTED]}. Staff did not adjust {[REDACTED]} per-minute expenses in establishing the upper bounds of our zones of reasonableness but find it appropriate to adjust these expenses in establishing the lower bounds. While staff cannot fully determine why {[REDACTED]} reported expenses are so different to everyone else's, they are not indicative of efficient operations. For example, it is likely {[REDACTED]} future demand will rise to at least proportionately match that of {[REDACTED]}, and that may result in spreading {[REDACTED]} capital expenditures over significantly more video minutes.

61. Staff make a conservative adjustment to {[REDACTED]} video IPCS expenses to align them more closely with the rest of the industry by recalculating their expenses based on the industry average costs per minute. More specifically, we calculate the weighted average video IPCS cost per minute of all providers, excluding {[REDACTED]}. This estimate is multiplied by {[REDACTED]} total billed and unbilled video IPCS minutes to estimate {[REDACTED]} video expenses as if they were equivalent to the rest of the industry. {[REDACTED]} adjusted expenses are then divided by their original expenses and subtracted from one to calculate the percent reduction to {[REDACTED]} video expenses. With an industry cost per minute for video IPCS of 0.076 when {[REDACTED]} is excluded, the reduction to {[REDACTED]} expenses is 78.5%. We apply this reduction to video IPCS expenses separately to each of {[REDACTED]} facility tiers and divide by total minutes for each tier to arrive at per-minute estimates. This approach is conservative as a more appropriate adjustment of {[REDACTED]} video expenses would weigh more heavily towards {[REDACTED]} video expenses, given their comparable sizes and market positions. Such a reduction would bring {[REDACTED]} video per-minute costs even lower, as {[REDACTED]} is a relatively low-cost provider of video IPCS.

62. Table 8 shows the unadjusted and adjusted video IPCS expenses for {[REDACTED]} as well as the industry average, which includes {[REDACTED]}, for each facility type. The adjusted video IPCS expense per minute for {[REDACTED]} across all facilities does not equal that of the industry average because the reduction applied to the video expenses for {[REDACTED]} is calculated using all observations while the industry average expense per minute estimates presented in Tbl. 8 must exclude facilities that do not report ADP so that facilities can be grouped by tier. All other adjustments made to the

lower bounds are applied to both scenarios presented in the table. When compared to the industry average, which includes {[REDACTED]}, {[REDACTED]} cost per minute across each facility type is roughly three or more times higher, with the exception of small jails, which are still twice that of the industry average. Once the adjustment is made to {[REDACTED]} video IPCS expenses, {[REDACTED]} video cost per minute for each facility type is much more comparable to the industry average for each corresponding facility type. However, when including safety and security we find that {[REDACTED]} total IPCS video expenses are still substantially above the industry average, both overall and for each corresponding facility type. Despite what is likely a similar overinvestment in video safety and security relative to competitors, we do not adjust {[REDACTED]} safety and security expenses for video IPCS provision.

BILLING CODE 6712–01–P

Table 8: Non-Adjusted* and Adjusted Video IPCS and Safety & Security Costs Related to Video IPCS Per Billed and Unbilled Video Minute, For {[REDACTED]} and Industry**

	{[REDACTED]}				{[REDACTED]}			
	{[REDACTED]}		{[REDACTED]}		{[REDACTED]}		{[REDACTED]}	
	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

Source: Data from facility-specific Excel tabs.

{[REDACTED]}

63. {[REDACTED]} *Tablet Deployment.* We examine {[REDACTED]} deployment of tablets relative to its competitors to determine whether {[REDACTED]} has over-invested in tablets, and whether tablet deployment costs have an outsized impact on {[REDACTED]} video IPCS expenses. Table 9 shows tablet deployment per ADP across providers and facility tiers. {[REDACTED]} deployed the most tablets per ADP for each jail tier, and has the same per-ADP deployment as {[REDACTED]} in prisons.

For medium jails, {[REDACTED]} tablets exceed the incarcerated person population by 21%. In total, as seen further down in Table 10 below, {[REDACTED]} has deployed nearly twice as many tablets as {[REDACTED]}.

Table 9: Tablets per ADP

Provider	Prison	Large Jail	Medium Jail	Small Jail	Very Small Jail	Total
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Minute Weighted Average	0.33	0.42	0.59	0.48	0.38	0.38

Source: Tab D1. Facility Demand and Revenue.

64. {[REDACTED]} reports a $400 million gross investment in tablets. {[REDACTED]} tablet deployment should be reflected in higher investment in tangible assets in the 2023 Mandatory Data Collection data. Table 10 shows industry net tangible asset attribution between regulated and nonregulated business segments. While {[REDACTED]} has a significant investment in net tangible assets, possibly due to its investment in tablets, it attributes the lowest percentage of net tangible assets to regulated services among all providers {[REDACTED]}. As such, despite {[REDACTED]} tablet deployment being out of line with {[REDACTED]} and the rest of the industry, the large majority of {[REDACTED]} tangible asset net investment is not reflected in its net capital stock for regulated IPCS services. As such, we refrain from making any adjustments with respect to {[REDACTED]} video investments or expenses on the basis of tablet deployment.

Table 10: Attribution of Net Tangible Assets

Provider	Tablets	Net Tangible Regulated	Net Tangible Nonregulated	Percentage Regulated
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

Source: Tab D1. Facility Demand and Revenue; Tab C1-C2. Company-Wide Information.

B. Audio and Video IPCS Lower Bounds

65. Incorporating the adjustments discussed above, staff have calculated ten lower bounds—five for audio IPCS and five for video IPCS, in each case for prisons, large jails, medium-size jails, small jails, and very small jails. As with the upper bounds, our rate-setting approach controls for the effect of facility type and size on expense per minute.

66. The respective lower bounds for audio and video services for the five facility types are the sum of four per-minute expense components: (i) audio IPCS or video IPCS; (ii) audio or video IPCS safety and security measures; (iii) ancillary services; and (iv) the TRS additive.

67. Table 11 summarizes the industry average components of the lower bounds of our zones of reasonableness for audio and video IPCS expenses, separately for audio and video, and for each rate tier. Column (1) shows the industry average for per-minute audio IPCS expenses by facility type, column (2) shows the industry average for per-minute safety and security expenses by facility type, and column (3) shows the final lower bound estimates for audio IPCS, including the ancillary service and TRS additives. Columns (4), (5), and (6) report the corresponding estimates for video IPCS expenses per minute.

Table 11: Lower Bound Audio and Video IPCS and IPCS-Related Expenses Per Billed and Unbilled Audio and Video Minutes, By Facility Type ($/minute)

	Audio			Video		
	IPCS Per Minute (1)	Safety & Security Per Minute (2)	Lower Bound (1) + (2) + $0.01 + $0.002	IPCS Per Minute (3)	Safety & Security Per Minute (4)	Lower Bound (3) + (4) + $0.01 + $0.002
All Facilities	0.028	0.014	0.054	0.073	0.032	0.117
Prisons	0.021	0.016	0.049	0.062	0.048	0.122
Large Jails	0.022	0.014	0.047	0.042	0.034	0.087
Medium Jails	0.035	0.013	0.061	0.060	0.030	0.102
Small Jails	0.058	0.009	0.080	0.094	0.019	0.126
Very Small Jails	0.086	0.010	0.109	0.187	0.015	0.214

Source: Data from facility-specific Excel tabs.

BILLING CODE 6712–01–C

C. Validation of Lower Bounds

68. This section uses three different sources to validate our lower bounds. The first examines evidence submitted by the Brattle Group as to reasonable per-minute audio and video expenses and find that to be consistent with, if somewhat lower, than our lower bounds for audio. The second shows that large fractions of facilities in all likelihood would be viable at rates that are less than our lower bounds, validating that our lower bounds are not set too low. Staff demonstrate this for many facilities—presumably those with the most efficient operations after controlling for facility type. The third compares counties in the region of Dallas and Denton in Texas and finds that per-minute audio rates of {[REDACTED]}. Because we set each of our rate caps somewhat above the respective lower bounds, but in each case closer to the lower bounds than the upper bounds, these sources also offer support for the rate caps that we adopt.

1. Brattle Analysis

69. In reviewing the record, we find the Brattle Group's model carrier analysis provides external validation for our lower bounds. The Brattle Group's analysis estimates per-minute costs for audio and video calls in small, medium, and large facilities, drawing on market data and data from the 2023 Mandatory Data Collection. The initial model was filed on July 12, 2023, and a revised model was filed on February 9, 2024. Comments were filed on the Brattle model carrier analysis.

70. The Commission finds the model carrier approach useful to evaluate the analysis of reported industry investments and expenses undertaken by staff to establish the lower bounds of our zones of reasonableness. Brattle's model carrier analysis aggregates estimates of the costs of the various components that comprise IPCS, including a markup on expenses to cover overhead. Its aim is to estimate IPCS costs based on publicly available prices that are constrained by market forces capturing industry standards for efficiency, cost, and performance. As explained below, we find that, by and large, Brattle has produced a credible and transparent model of industry costs.

71. The advantages of Brattle's model carrier approach include its transparency and

that market forces ''audit'' the relied-upon price data, in contrast to the inability of the Commission and other stakeholders to audit providers' expense reports. The disadvantages are that there are aspects of IPCS for which there are limited market data, notably many safety and security measures (which the Brattle Group does not model), that it is not clear how to add up piece parts from different wholesale markets to ensure the sum of the parts is a good estimate of the whole, and that it may be difficult for a model carrier approach to capture cost variation along relevant cost-causative dimensions, notably the distinction between prisons and jails, and across jail sizes. The Brattle Group address this difficulty by using wholesale prices, which already include markups for overheads, and then apply further markups for overheads to the sum of these component estimates. Arguably, economies of scope and scale in IPCS supply may be missed by such an approach, resulting in cost overestimation. The Brattle Group seek to capture these differences by choosing component cost models that, in their analysis, likely overstate costs.

72. Brattle filed an initial model carrier approach, and then in the light of comments, a revised approach. We focus on the latter. Brattle created its model carrier by identifying five modules of costs, populating the modules with data taken from, where available, publicly available prices, the sources for which they document in their report; the Commission's data collection from IPCS providers; and other market estimates. The five cost modules are described in Table 12.

Table 12: Model Carrier – Five Cost Modules

Module	Audio	Video
Telecom	Voice over Internet Protocol (VoIP) call Broadband cost (leased line)	Video call Broadband cost (leased line)
Facilities	Phone handset Enclosures, etc. Installation	Kiosk Enclosure, etc. Installation
Security	None additional, for purposes of the model	None additional, for purposes of the model
Overhead	{[REDACTED]} based on available industry data	{[REDACTED]} based on available industry data
Allowable margin	{[REDACTED]} based on industry benchmarks	{[REDACTED]} based on industry benchmarks

73. Brattle's revised model carrier analysis makes several adjustments to the Telecom and Facilities cost modules in response to critiques in the record. These adjustments include the following four responsive adjustments. First, Brattle made an upward revision in VoIP call cost by eliminating zero-cost providers from the set used to calculate an average price. This revision responded to Mr. Wood's critique that the model picked the lowest prices. FTI argues even this high rate is too low, but offers no alternative. Second, Brattle made an upward adjustment to the price of a video call with a rate from Microsoft Azure at $0.0004 per minute. This revision responded to Mr. Wood's critique that the model picked the lowest prices. FTI argues even this higher rate is too low but offers no alternative. Third, Brattle made an upward adjustment to the number of necessary T–1 lines based on high-definition video call quality for 60 minutes. Fourth, Brattle shortened the useful life of equipment and relied on a wider array of equipment pricing to respond to Mr. Wood's critique that providers make tradeoffs between maintenance and replacement of assets.

74. The model carrier analysis assumes all video calls are made over kiosks, which Brattle explains are more expensive than tablets. Brattle does not use tablets because tablets can be used for nonregulated services like books and movies, which creates a cost allocation issue. FTI's comments argue that in fact tablets are widely used, sometimes in conjunction with kiosks. This may be so, but may reflect a transition from kiosks to tablets, with such duplication being inherently inefficient. Without record evidence, staff do not consider it appropriate to add both kiosk and tablet costs together for the purposes of the model carrier model. Further, even a partial transition from kiosks to tablets would imply that Brattle's revised model may overestimate the number of kiosks but underestimate the cost of tablets, with the net impact on recoverable expenses arguably being an over, rather than an underestimate.

75. In its revised model carrier analysis, Brattle also lowers the video to audio minutes ratio from 1:2 to 1:4, which raises video per-minute costs. The more video minutes in the model, the lower the per-minute cost would be, because a large fraction of costs are fixed. Video IPCS is still developing, and the Commission's data collection does not provide a robust basis for

establishing a ratio based on long-run relative demand for audio vs. video IPCS. In developing our lower bounds, the Commission implicitly assumes an audio to video ratio as given by the industry average, excluding Securus. {[REDACTED]} If, as is likely, the ratio of video to audio calls were to increase substantially, then our per video minute lower bounds would be much too high. Outside of the IPCS context, video calls are increasingly popular, and it is likely we will see a similar trajectory for the provision of video IPCS going forward. For example, Juniper Research predicts a continued decline in revenues from voice service for mobile network operators, despite investments in 5G and growing subscriber numbers, because the quality of over-the-top services like video conferencing applications are improving. To the degree that happens, the Brattle model and our own projections would overstate long-run video expenses. It is uncertainty about long run video expenses that leads us to set interim, rather than permanent, rate caps for video IPCS.

76. Site commissions are not included the model carrier, something Wood criticizes. However, the exclusion of site commissions as an expense is consistent with the used and useful analysis in our Order. Consequently, excluding those costs from the data analysis accords with the legal determinations we make.

77. Table 13 shows costs for audio and video calls when applying the model carrier for small, medium, and large facilities in Brattle's revised model. {[REDACTED]}

Table 13: Model Carrier Cost per Minute

	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Audio	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Video	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

78. *The Model Carrier Analysis Is Largely Consistent with Our Lower Bounds for Audio IPCS.* Brattle Group's revised model carrier analysis makes several reasoned adjustments in response to record criticism of its original submission, resulting in the per-minute estimates in Table 13 above. For audio, these estimates generally align with the lower bound audio IPCS component of expenses that staff derived through an examination of industry average costs based on provider 2023 Mandatory Data Collection data ($0.021 per minute for prisons and $0.022 for large jails). While the model's estimated video IPCS expenses, excluding safety and security, are about {[REDACTED]} than those established in our lower bounds, this disparity can be, at least in part, attributed to the market for video being less established than audio, as reflected by {[REDACTED]}.

79. Staff acknowledge that the model carrier is not a substitute for a fully distributed cost analysis of provider investments and expenses because it is unable to capture all sources of cost variation in the provision of IPCS, most notably cost differences between facilities of different types and sizes, and because a model that aggregates piece-parts of service provision to create an efficient provider by definition does not reflect the real world investment, operating, and other decisions of IPCS providers. However, staff are encouraged that the benchmark audio IPCS rates estimated by the revised model align closely with the lower bounds we have established, which helps to validate both our lower bound estimates and the rate caps that we ultimately adopt.

2. Reported Facilities Earning Per-Minute Revenues Below Our Lower Bounds

80. *Comparing Per-Minute Audio Revenues with Our Lower Bounds.* This section examines the facilities in which the per-minute audio revenue, less site commissions, that is, the per-minute revenues providers keep at a given facility, is less than our lower bounds for that facility type. We do not perform a similar analysis for video because the video data is unreliable and likely reflects a nascent market with significant up-front expenses and low demand. This means that both per-minute video revenues and per-minute video expenses (relied upon to establish the lower bounds) are distorted, and a comparison of the two would not yield meaningful results in terms of validating our interim video lower bounds. {[REDACTED]} These facilities demonstrate that our lower bounds may be too high (and so provide further validation for setting our rate caps closer to the lower bounds). Such facilities are *prima facie* profitable at prices that approximate their per-minute audio revenue rates, otherwise providers would be seeking to exit these contracts, thus showing their per-minute audio costs, net of site commissions, to be below our lower bounds. This result applies most strongly for prisons and large jails, where nearly two thirds and nearly one half of facilities, respectively, have per-minute audio revenues net of site commissions that lie below their respective lower bounds. For medium, small and very small jails this share is between more than a fifth and more than a third of facilities. We also find that the share of providers with per-minute audio revenues less site commissions that are less than our lower bounds is not significantly impacted by whether the provider is in a rural or urban area.

81. In undertaking the analysis, staff's first step is to calculate, for each facility, the sum of IPCS audio, safety and security and ancillary service revenues net of site commissions and divide this amount by the sum of the facility's billed and unbilled minutes. Safety and security revenues are allocated to facilities using safety and security expenses, as the two are likely correlated. {[REDACTED]}. Site commissions at the facility level are allocated between audio video using revenue weights, since site commissions are in many cases proportional to revenues. To make an apples-to-apples comparison between the resulting revenue per minute for a facility and its corresponding lower bound, staff subtract from the lower bound the $0.002 allowance for TRS costs and add back in the safety and security expenses removed from the lower bounds. The safety and security expenses added back in are: law enforcement support, communication recording services, communication monitoring services, voice biometric services, and other safety and security measures. CALEA compliance measures and communication security services are included in the lower bounds. The TRS allowance is subtracted because in 2022 TRS was largely not provided, and so TRS costs did not need to be recovered. Staff add back in the safety and security expenses that were removed to create the lower bounds, because revenue reported in 2022 was for services that included these safety and security expenses. The last row of Table 14 shows the net impact of these two adjustments on the lower bound. Thus, staff compare the revenue per-minute calculation for each facility with the lower bound appropriate to that facility, thereby identifying facilities for which the per-minute revenue is less than the lower bound.

BILLING CODE 6712–01–P

Table 14: Number and Industry Share of Facilities For Which Per-Minute Audio IPCS Revenues, Net of Site Commissions, Is Less Than Its Adjusted Lower Bound, By Provider and Facility Type

Provider	Prison	Large Jail	Medium Jail	Small Jail	Very Small Jail	All Facilities	All Facilities with Audio	Percent of All Facilities with Audio
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Industry with Audio	1,330	120	414	873	1,413	4,150		
Share of Industry (%)	65.4%	49.2%	37.4%	22.9%	31.6%	41.7%		
Lower bound ($)	$0.046	$0.045	$0.058	$0.077	$0.106			
Adjusted Lower Bound ($)	$0.075	$0.068	$0.080	$0.092	$0.122			

Notes: Lower bounds are adjusted by removing the TRS addon of $0.002, and by adding in the safety and security costs removed in constructing the lower bounds. The facilities included in these counts reported positive numbers for audio revenues, audio minutes and ADP.

82. Table 15 shows the facilities depicted in Table 14 categorized by whether they are located in an urban area, as classified by the Census (locations that we could not geocode were unassigned). It suggests that geography does not have a material impact on whether facilities have per-minute revenues less than their lower bounds as calculated. The last row shows that non-urban facilities are 75% less common than urban facilities. This ratio is also true for facilities that could be identified as urban or rural with the per-

minute revenues as described being less than the adjusted lower bounds, suggesting geography has no impact on the likelihood that a facility's per-minute rates being lower than the lower bounds as calculated here.

Table 15: Facilities for which Per-Minute Audio IPCS Revenues, Net of Site Commissions, Is Less Than their Adjusted Lower Bound, By Whether Categorized as Urban

Provider	Urban	Non-Urban	Unassigned	Total	Percent Urban	Percent Non-Urban	Percent Unassigned
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
All < Adjusted Lower Bound	621	480	629	1,730	35.9%	27.7%	36.4%
All ≥ Adjusted Lower Bound	1,083	764	573	2,420	44.8%	31.6%	23.7%
Industry with Audio	1,704	1,244	1,202	4,150	41.1%	30.0%	29.0%

Notes: Lower bounds are adjusted by removing the TRS addon of $0.002, and by adding in the safety and security costs removed in constructing the lower bounds. A facility is unassigned if it had an address that could not be geocoded. Rows with percent sum horizontally to 100 percent.

BILLING CODE 6712–01–C

83. In summary, our lower bounds do not appear too low. Nearly 42% of facilities operate at imputed per-minute rates, after netting of site commissions, that lie below our caps, yet there are no signs that these contracts are not viable. Thus, it is likely per-minute costs for at least the vast bulk of these contracts are less than our lower bounds.

3. Low-Priced Contracts Analysis

84. *A Comparison Across 13 Contiguous Texas Counties.* This section shows two things. First, that our lower bounds may be excessive for the region of Dallas-Fort Worth and surrounding counties, which provide a broad range of conditions, from urban to rural. And staff have no reason to think there is something special about this region. Second, that despite there being no obvious reasons why costs would vary significantly across comparable counties within this region, the per-minute revenues kept by providers, that is, per-minute revenues net of site commissions, vary widely. This suggests in most instances where one sees high per-minute revenues, net of site commissions, these do not reflect costs.

85. {[REDACTED]} We then reviewed the publicly available contracts we were able to find to better determine if these low prices were driven by unusual factors (aside from having limited site commissions). {[REDACTED]} Consequently, staff examined the cluster of 13 counties contiguous to Dallas, Tarrant (Fort Worth), and Denton in Texas—Figure 1, {[REDACTED]}. The twin cities of Dallas and Fort Worth (Tarrant) are natural comparators. Collin and Denton are also natural comparators. They are neighbors of similar geographic size, each lies above a major urban agglomeration, and has a population of about one million people. Collin had a population of 1,064,465, and Denton of 906,422. Ellis, Hunt, Grayson, Johnson, Parker are all of geographically similar sizes with populations ranging from about 100,000 to about 200,000. Their respective 2020 Census population estimates were: Ellis: 192,455; Grayson: 135,543; Hunt: 99,956; Johnson: 179,927; Kaufman: 145,310; and Parker: 148,222. Rockwall's population is 107,819, very similar to Hunt's, but Rockwall is geographically much smaller than all the counties considered here. That leaves Cooke and Wise, which are of similar geographic size to all the other counties, except Rockwall. Cooke and Wise have the two smallest populations, respectively of 41,668 and 8,632.

Figure 1: The Counties of, and Surrounding, Dallas-Fort Worth and Denton, Texas, Sorted According to Their Reported IPCS Audio Rates

{[REDACTED]}

Source: Rates are as found in the providers' 2022 Annual Reports (covering 2021).

86. Of the 13 counties just outlined, staff were able to identify all but {[REDACTED]} in the 2023 Mandatory Data Collection—*see* Table 16. {[REDACTED]}

BILLING CODE 6712–01–P

Table 16: Audio Revenues Per Minute, Net of Site Commissions, for the Texas Counties Surrounding Dallas and Denton, Texas (from 2023 Mandatory Data Collection)

County	Site Commissions Per Minute	Revenues Less Site Commissions Per Minute	Revenues (Including Site Commissions) Per Minute
Collin	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Cooke	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Dallas	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Denton	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Ellis	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Grayson	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Hunt	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Kaufman	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Parker	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Rockwall	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Tarrant	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Wise	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

Notes: IPCS site commissions, which are reported for audio and video together, are allocated to audio using IPCS revenue shares. Staff were unable to find Johnson County in the 2023 Mandatory Data Collection. Source: 2023 Mandatory Data Collection.

87. {[REDACTED]}

88. Given the disparity in reported per-minute revenues, net of site commissions, staff sought further information on each of these counties. Staff could identify no factors that would justify cost differences substantially above the implied costs for the counties with low prices.

89. Staff first checked providers' 2023 Annual Reports for 2022 for consistency with their 2023 Mandatory Data Collection reports. Each county's IPCS audio rates are listed in Table 17, along with whether the county receives any site commissions. This data was largely consistent with the reports in the 2023 Mandatory Data Collection.

Table 17: Per-Minute Audio Rates, and Whether a Site Commission is Paid, for the Counties Surrounding Dallas and Denton, Texas (from Annual Reports)

County	Provider	Audio Rate ($)	Site Commission Paid?
Cooke	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Collin	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Ellis	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Dallas	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Denton	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Grayson	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Hunt	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Johnson	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Kaufman	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Parker	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Rockwall	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Tarrant (Fort Worth)	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Wise	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

Source: Rates are from 2023 Reports (covering 2022).

BILLING CODE 6712–01–C

90. *Summary of Contract Analysis.* Commission staff then analyzed the five contracts they were able to find for these 13 counties, those of Dallas, Denton, Grayson, Tarrant and Wise. Comparing the twin cities of Dallas and Fort Worth (Tarrant) shows that Securus's per minute revenues, net of site commissions, were about $0.015 per audio minute in Dallas, much less than in Tarrant, which were $0.133 per audio minute, for no reasons staff could identify. Thus, staff concludes the costs of supplying populated suburban counties like Dallas and Tarrant are around or less than $0.016 per minute. This is well below our lower bound.

91. {[REDACTED]}

92. Staff examination of the Grayson contract showed it only provides fairly basic features. {[REDACTED]} In turn, this suggests that our rate caps should be set closer to our lower bounds.

93. *Dallas and Tarrant Contracts.* The Dallas contract shows nothing that would suggest it is for facilities with unusually low costs. {[REDACTED]} the Dallas contract was with Securus, involved no site commissions, and included free community tablets and included hosted video visitation services. Per-minute domestic audio and video visitation rates were respectively $0.0119 and $0.13, with the only other charges being $0.24 to send an email, and $5 per month for a personal tablet and charges for games, video and audio content.

94. Given their proximity, and extent of interaction, Dallas and Tarrant likely face similar cost conditions. {[REDACTED]} They showed audio rates were set on to $0.16 per minute on November 16, 2021, with two sources of site commissions: Tarrant received $0.02 per minute, and $59,420 per month, which previously came from per-minute site commissions. Staff could not calculate Tarrant's effective per-minute site commission from the contract. In comparison, Securus received $0.0119 per IPCS minute in the Dallas contract. There is nothing in the contracts to suggest that IPCS provision in Tarrant is more expensive than IPCS provision in Dallas.

95. *Denton contract.* Staff next compared the ''sister'' counties Denton and Collin. {[REDACTED]} Staff only had the Denton contract to examine. It specifies call prices of $0.02 per minute with a 95% site commission payment. {[REDACTED]}

96. *Grayson and Wise Contracts.* The only other contracts staff were able to find were for the relatively small and rural Grayson and Wise Counties. Both contracts are with Correct. In Grayson, Correct sets the following per-minute rates: interstate prepaid and debit, $0.21, interstate collect, $0.25, international, $1.00, intrastate, $0.30, and video visitation $0.50. The contract's domestic rates are consistent with the 2022 annual report Correct made to the Commission for calendar year 2001. There is a $3.00 credit card transaction fee, a $1 for debit calling moving fee, a $5.95 live operator fee, a $0.50 message or email fee, and $0.99 per hour for tablet use, though prisoners are allowed 15 minutes of free tablet use every four hours. Correct installs and maintains equipment, including kiosks and tablets, and undertakes certain services, such as contraband and remote mail scanning. Under the contract, Correct pays an 82% site commission on all but interstate calls and 10% on video visitation, suggesting Correct collects $0.21 per minute on interstate calls, and $0.06 (= (1 − 0.82) * $0.30) on intrastate calls. {[REDACTED]}

97. Wise County contracted with Correct effective October 1, 2018, to provide audio IPCS setting the following rates: interstate prepaid, $0.21, interstate collect, $0.25, international, $0.50, intrastate, $0.50, kiosk transactions, $3.00, and live operator transactions, $5.95. {[REDACTED]} Under

the contract, Correct was to provide what appear to be relatively basic services: the equipment and platform required for IPCS and voicemail services. Wise County was also to receive 75% of calling revenue ''with the exception of interstate calls with regard to the FCC rule,'' and 100% of voicemail revenues. Staff understand the exception to be the same as for Grayson, that no commission is paid on interstate calls. The contract was amended three times, numbered one through three, and still appears to be in place. One of those amendments is relevant here. In that, Correct agrees to increase the services it requires, in particular to provide 100 tablets, two correctional grade kiosks, chargers and similar and certain services such as electronic messaging, law library, and medical scheduling. There was also a memorandum of understanding which states that due to an ''excessive increase in cost of business'' Correct will now ''impose a five percent reduction in the number of minutes on which the commission is calculated.''

98. {[REDACTED]}

Appendix J: Rate Cap Validation

1. *Selection of Rate Caps from Within Zones of Reasonableness.* We establish our final audio IPCS and our interim video IPCS rate caps from within our zones of reasonableness. Table 1 presents the rate caps for audio and video IPCS.

Table 1: Audio and Video Rate Caps ($/Min)

	Prisons	Large Jails	Medium Jails	Small Jails	Very Small Jails
Audio	0.06	0.06	0.07	0.09	0.12
Video	0.16	0.11	0.12	0.14	0.25

2. *Validity Check on the Audio Rate Caps.* This appendix counts the facilities where the per-minute audio revenue, less site commissions, is less than our rate cap for that facility type. On the revenue side, for each facility, we calculate the sum of IPCS audio, safety and security, and ancillary service revenues, net of site commissions, and divide this amount by the sum of the facility's billed and unbilled minutes. Safety and security revenues are allocated to facilities using safety and security expenses, as the two are likely correlated. {[REDACTED]} Site commissions at the facility are allocated between audio and video using revenue weights, since site commissions are in many cases proportional to revenues. To ensure apples-to-apples comparisons, staff subtracts the TRS addon of $0.002 from our rate cap and adds back those safety and security expenses which were removed from the lower bounds. We do not perform a similar analysis for video because the video data is comparatively unreliable and likely reflects a nascent market with significant up-front expenses and low demand. We agree that ''[v]ideo calling is a relatively new service compared to audio calling'' and that providers ''will gradually enhance their efficiency in providing this service over time.'' In sum, a comparison of per-minute video revenues and per-minute video expenses using data from the 2023 Mandatory Data Collection, which are for calendar year 2022, would not meaningfully validate our interim video rate caps. About half of facilities meet this condition, as shown in Table 2. It is likely that our audio caps will have little impact on these facilities, for those facilities which collect revenues per minute which lie below our caps will not need to adjust their pricing, things otherwise constant. This result applies most strongly for prisons and large jails, where about three quarters and more than half of facilities, respectively, collected per-minute audio revenues below their respective rate caps. Shares of medium, small, and very small jails facilities with per-minute revenues below the rate caps are about 42%, 29%, and 39% respectively.

BILLING CODE 6712–01–P

Table 2: Number and Industry Share of Facilities for Which Per-Minute Audio IPCS Revenues, Net of Site Commissions, is Less Than their Adjusted Rate Caps, By Provider and Facility Type

Provider	Prison	Large Jail	Medium Jail	Small Jail	Very Small Jail	All Facilities Below Adjusted Cap	All Facilities with Audio	Percent Below Adjusted Cap
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACT	{[REDACT	{[REDACT	{[REDACT	{[REDACT	{[REDACT	{[REDACT	{[REDACT	{[REDACT

ED]}	ED]}	ED]}	ED]}	ED]}	ED]}	ED]}	ED]}	ED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Total	976	66	172	251	553	2,018	4,150	48.6%
Industry with Audio	1330	120	414	873	1,413	4,150		
Share of Industry (%)	73.4%	55.0%	41.5%	28.8%	39.1%	48.6%		
Rate Cap ($)	$0.060	$0.060	$0.070	$0.090	$0.120			
Adjusted Rate Cap	$0.089	$0.083	$0.092	$0.105	$0.136			

Notes: Rate caps are adjusted by removing the TRS addon of $0.002, and by adding in the safety and security costs removed in constructing the lower bounds. The facilities included in these counts reported positive numbers for audio revenues, audio minutes, and ADP.

BILLING CODE 6712–01–C

3. A large fraction of facilities of all types demonstrate profitability at rates consistent with our rate caps. While certain providers claim otherwise and argue that our rate caps will prevent many providers from recovering costs, we reject these claims as explained herein. Many facilities appear to have per-minute revenues net of site commissions that exceed plausible estimates of costs. For example, 1,294, or over 30% of facilities, report per-minute audio revenue, less site commissions, that exceed our highest upper bound, $0.152, which is for very small jails. Of these, 627, or 15% of, facilities have reported per-minute audio revenues, net of site commissions, that exceed $0.21, our highest interim cap, but there are no credible claims that per-minute costs come close to this level. In fact, the highest per-minute average cost for audio, including safety and security costs, any provider reported in the current collection, was {[REDACTED]}. Our upper bound analysis suggests it is unlikely that these per-minute revenues are cost-reflective. Per-minute expenses, net of site commissions, also vary widely within the same facility tier. Given there were facilities where providers' per-minute revenues less site commissions exceeded our rate caps, this suggests that their revenues per-minute either exceed costs per-minute, or some providers' costs are inefficiently high.

4. In an efficient market for the same service, all providers' per-minute revenues (net of site commissions) would be similar, as would providers' per-minute expenses net of site commissions. After controlling for facility type, we do not see this similarity. There is no suggestion in the record that we are missing key sources of cost variation that could explain the substantial differences we observe. In fact, our Lasso analysis shows providers' identities are more correlated with costs than any other variable, reinforcing the conclusion that reported per-minute revenues do not reflect efficient costs. The Lasso analysis shows that provider identity and state are primarily correlated with per-minute expenses. Facility type and whether or not a site commission is collected also matter, but far less than provider identity and state. Consequently, our caps will put market pressure on providers with inefficient per-minute costs. Because so many facilities, after controlling for facility type, have per-minute revenues below our rate caps, we find it likely that efficient per-minute costs are below our caps as well. Thus, our caps incentivize firms with particularly inefficient costs to reduce their costs through increased efficiencies.

5. Comparing revenues under our rate caps to reported expenses shows that a range of providers, both big and small, are expected to recover their costs, again supporting our finding that our rate caps will allow efficient providers to meet demand for IPCS. Inefficient firms may well face market pressure as a result, but we are not persuaded by such claims. Table 3 shows the revenues a provider would receive if their reported respective audio minutes and video minutes for each facility were multiplied by the respective audio and video rate caps. It also shows the sum of audio IPCS, video IPCS, and CALEA and Communication Security expenses. The difference between these understates the expected margin since call volumes would rise with lower prices, but, due to economies of scale, costs would rise less quickly. We likewise reiterate that we believe reported costs are inflated, particularly given that total industry reported costs exceed total industry reported revenues by such a wide margin. Of the 4,441 facilities, 3,202 have revenues at the rate caps that match or exceed their costs, accounting for 72% of facilities. Eight of the twelve providers in our database have implied revenues under the caps that exceed their reported costs. The eight providers are {[REDACTED]} This is also true for revenues calculated as the product of reported minutes and the lower of our rate caps and existing prices. We do not find that the other four providers would not recover their costs, only that they would not recover revenues as calculated here. We therefore disagree that many providers would not be "fairly compensated." These providers, {[REDACTED]}, cover about 85% of all facilities. {[REDACTED]}

BILLING CODE 6712–01–P

Table 3: Revenues at Rate Caps and Expenses, by Provider

			Audio and Video IPCS			
Provider	**Facilities**	**Facilities with Capped Revenue >= Expenses**	**Potential Revenue at Caps**	**Expenses**	**Percent of Facilities where Capped Revenue >= Expenses**	**Provider Capped Revenue >= Expenses**
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Total	4,441	3,202	820,764,940	593,111,871	72%	

Notes: Excludes jails where ADP is missing or zero. Capped revenue is calculated on the facility-level by multiplying the relevant rate cap by the total number minutes. Audio, video, and safety and security Categories I and III (CALEA and Communication Security) expense are included as expenses.

Contrary to some claims, which argue that our rate caps impact smaller providers and thus smaller facilities, provider size is no predictor of the choice to serve very small jails. We disagree with such claims. As we explain, the eight providers which already have revenues less site commissions beneath our caps serve an overwhelming number of small and very small facilities, as well as medium and large facilities. As illustrated in Table 4, all eight of the providers discussed above serve very small jails. {[REDACTED]} Thus, it is implausible that our caps will prevent supply in small jails. Even if we take all providers' reported costs at face value, which we do not, we would not be setting just and reasonable rates if we allowed any provider to recover its reported costs-of-service where these exceed those of an efficient provider. As articulated therein, we find the reasons that reported costs are overstated to be compelling, and disagree that such a finding is ''erroneous[ ].'' Equally, we must ensure providers are fairly compensated. To that end, we have chosen to set rate caps that likely exceed efficient costs, even if they are lower than some providers' reported costs.

Table 4: Facility Counts for Providers and Industry, by Facility Type

	Prisons	Large Jails	Medium Jails	Small Jails	Very Small Jails
ATN	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
CPC	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
City Tele-Coin	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
HomeWAV	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
ICSolutions	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
NCIC	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Pay Tel	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Prodigy	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Securus	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Smart	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
TKC	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
ViaPath	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Industry	1542	124	433	904	1438

BILLING CODE 6712–01–C

7. We reject claims that our actions could harm competition. Competition should not be mistaken for the number of competitors. Competition delivers lower prices, adjusted for quality, and competition may sometimes drive out inefficient competitors. Competition also leads inefficient competitors to become more efficient. Setting rate caps to enable inefficient competitors to survive would not be pro-competitive, and would not result in just and reasonable prices. It would also allow providers to be overcompensated, rather than to receive fair compensation. Nor would an inefficient provider's exit from the market indicate a reduction of competition as some commenters allege. This commenter would do well to mind the age-old antitrust maxim: the law protects competition, not competitors. We agree with those commenters that observe that ''the Commission is not obligated to set rates to cover an inefficient business model.''

8. We also disagree with claims that inflation and concomitant regulatory obligations are ''plausible explanations'' for why industry reported costs are exceeding IPCS revenues. Commercial contracts commonly include clauses addressing inflation and changes of law, and here, contract renegotiation seems common; in any year, a material fraction of contracts are won, renewed and renegotiated. Without any evidence in the record, we decline to assume that half of providers, including Securus, would broadly renew unviable contracts, place bids at non-viable prices, or would not seek to renegotiate contracts in the face of unanticipated inflation. Neither Securus nor any other party has shown that IPCS expenses have grown sufficiently fast since 2022, after accounting for industry productivity, to render 2022 expenses too low for the purpose of setting our rate caps. In fact, over the past decade, telecommunications industry inflation has been significantly lower than broader measures of inflation. The Telecommunications PPI over the last ten years averaged 0.7% annually, as opposed to 2.6% average annual increases in the GDP deflator over the same period. Likewise, we are unconvinced that regulation compliance costs made IPCS unviable in 2022. In 2022, roughly half of all audio call minutes were for intrastate calls, which were not subject to Commission pricing regulation at that time. Further, our 2022 rate caps were set substantially above our current upper bounds, which take providers' 2022 reported costs at face value, so they too cannot have held rates below costs. Nor are we convinced that regulation at the state level adequately explains the disparity between industry-wide costs and revenues. For example, Securus points to Pay Tel's exit from California, but IPCS continued to be supplied at the correctional facility in question, just by a different, and presumably more efficient provider. In sum, we do not find it credible that inflation could have caused the apparent losses providers reported in 2022, nor is it the Commission's responsibility to cure contracts that fail to anticipate common exigencies.

9. We are likewise unpersuaded that the difference between industry contract revenues and IPCS expenses is explained by providers use of profits from other non-IPCS services to cross-subsidize the price of IPCS. The record presents no substantive evidence of cross-subsidization, or of its extent, let alone establish that the practice was

widespread and led to material reductions of IPCS revenues below costs. Cross-subsidization, while potentially making an otherwise unprofitable business segment profitable for the overall contract, can also obscure inefficiencies within the regulated business and misalign incentives. For example, providers may be disincentivized to reduce costs and efficiently provide IPCS if they only use it to generate other business within the same contract. In Securus' own words, ''regulated rates must enable companies to earn a positive return specifically from the service being regulated.'' Given the distortionary effects of cross-subsidization, we find the most direct way to assess viability of IPCS provision at a facility is to compare IPCS revenues with IPCS costs.

10. In validating our caps, we do not place significant weight on analysis of facility-level per-minute audio expenses as that would be misleading for at least the following reasons: different providers allocate costs differently, no provider's cost allocations are likely to be particularly accurate at the level of the facility, and the likelihood of reporting errors at the facility. There are also corner cases, for example, where costs are incurred at the start of a contract, but few or no minutes are supplied. Tables 5 and 6 illustrate the difficulties with facility-level data. These tables show provider-reported per-minute expenses vary widely within a single provider's data, often over implausible ranges. However, because providers allocate all their costs down to their facilities, a focus at the level of the provider avoids cost allocation problems. Similarly, viewing an aggregation of facilities, including at the level of the provider, or across providers, tends to smooth out reporting errors and corner cases. This is not the case when considering a provider's higher cost facilities, since, by definition, one is choosing the facilities to which more costs were allocated and ignoring those to which fewer costs were allocated. Thus, Pay Tel's argument that one third of its facilities will be loss-making under our rate caps requires belief that its cost allocations accurately reflect underlying costs. That seems improbable for at least some of its facilities given its per-minute cost estimates for very small jails range from {[REDACTED]}. If it is true that Pay Tel overall could not operate profitably under our rate caps, we find that to be because Pay Tel's costs exceed efficient costs. We reject, for the same reasons, a similar claim made by Securus. Securus argues that a substantial number of facilities will be ''underwater at the lower bound cost level given the proposed rate caps,'' and that certain ''providers' lower bound per minute costs exceed the rate cap[s].'' We find this analysis implausible, unsupported, and, given the fact that Securus did not submit the calculations in the record, we are unable to analyze or otherwise replicate their results. As an initial matter, Securus fails to separately identify audio and video profitability, leaving the differences between these services obscure. Further, we find Securus's analysis misleading. By ''excluding {[REDACTED]}'' from the analysis, Securus removes the substantial majority of facilities and cost data from its analysis, and uses a sample size of less than 20% of the industry to support its conclusions. Such a limited picture is particularly inappropriate for developing rate caps based on industry average costs, an approach which is expressly permitted by the statute. For example, given that our upper bounds reflect all costs as submitted, we find it unlikely that certain providers have ''lower bound costs [that] exceed rate caps by {[REDACTED]}'' as Securus claims, because costs which lie {[REDACTED]} above the rate caps would also lie above the upper bounds for all jail size tiers.

BILLING CODE 6712–01–P

Table 5: Minimum Per-Minute Audio Expense, Inclusive of CALEA and Communication Security Expenses, at a Facility by Facility Type

Provider	Prisons	Large Jails	Medium Jails	Small Jails	Very Small Jails
ATN	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
CPC	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
City Tele-Coin	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
HomeWAV	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
ICSolutions	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
NCIC	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Pay Tel	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Prodigy	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Securus	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Smart	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
TKC	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
ViaPath	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

Table 6: Maximum Per-Minute Audio Expense, Inclusive of CALEA and Communication Security Expenses, at a Facility by Facility Type

Provider	Prisons	Large Jails	Medium Jails	Small Jails	Very Small Jails
ATN	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
CPC	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
City Tele-Coin	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
HomeWAV	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
ICSolutions	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
NCIC	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Pay Tel	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Prodigy	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Securus	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
Smart	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
TKC	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}
ViaPath	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}	{[REDACTED]}

[FR Doc. 2024–19037 Filed 9–18–24; 8:45 am]
BILLING CODE 6712–01–C

Reader Aids

Federal Register

Vol. 89, No. 183

Friday, September 20, 2024

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6050**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.govinfo.gov.**

Federal Register information and research tools, including Public Inspection List and electronic text are located at: **www.federalregister.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html and select** *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

71153–71794 3
71795–72278 4
72279–72714 5
72715–72956 6
72957–73248 9
73249–73554 10
73555–74104 11
74105–74828 12
74829–75444 13
75445–75944 16
75945–76388 17
76389–76708 18
76709–77010 19
77011–77444 20

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

1800 75947
5900 75445

3 CFR

Proclamations:
10795 72279
10796 72283
10797 72285
10798 72287
10799 72289
10800 72291
10801 72293
10802 72295
10803 73249
10804 73555
10805 73557
10806 74105
10807 74829
10808 75945
10809 76389
10810 76391
10811 76393
10812 76709
10813 76711

Executive Orders:
14126 73559

Administrative Orders:
Memorandums:
Memorandum of August 9, 2024 71795
Memorandum of August 16, 2024 71799
Memorandum of August 23, 2024 71801
Notices:
Notice of September 6, 2024 73251
Notice of September 9, 2024 74101
Notice of September 9, 2024 74103
Notice of September 18, 2024 77011
Presidential Determinations:
No. 2024–10 of August 9, 2024 71797
No. 2024–11 of September 13, 2024 76397

5 CFR

1200 72957
1201 72957
1203 72957
1209 72957
2641 74107

6 CFR

Proposed Rules:
37 74137

7 CFR

1205 75445
4284 75762

Proposed Rules:
915 77037
944 77037
989 74851
3555 76745

9 CFR

317 73253
381 73253
412 73253

10 CFR

72 ..... 72299, 72304
73 73257
1703 73258

Proposed Rules:
50 76750
72 ..... 72342, 72344
1008 ..... 73312, 77040

11 CFR

Proposed Rules:
104 72346

12 CFR

1002 76713

Proposed Rules:
613 72759

13 CFR

121 74109

Proposed Rules:
126 ..... 72763, 76751

14 CFR

39 ..... 72309, 72312, 72966, 72968, 72971, 72974, 72976, 73260, 73262, 73264, 73267, 73269, 75460, 75462, 75464, 75470, 75472, 75949, 76399, 76401, 76403, 76406, 76408, 76411, 76413, 77013
61 73271
71 ..... 72981, 73272, 73273, 74131, 76713, 77015
97 75475
401 76714
413 76714
415 76714
431 76714
435 76714
437 76714
440 76714
450 76714
460 76714

Proposed Rules:
25 73604
39 ..... 73003, 73009, 73014, 73316, 73608, 75507, 75977,

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List September 17, 2024

Public Laws Electronic Notification Service (PENS)

PENS is a free email notification service of newly enacted public laws. To subscribe, go to *https://portalguard.gsa.gov/__layouts/PG/register.aspx*.

Note: This service is strictly for email notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.