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

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

[Docket No. USDA–2024–0007]

RIN 0503–AA80

Implementation of HAVANA Act of 2021

AGENCY: Office of the Secretary, USDA.
ACTION: Interim final rule and request for comments.

SUMMARY: This rule implements the HAVANA Act of 2021 (the Act) for the U.S. Department of Agriculture (USDA). The Act provides the authority for the Secretary of Agriculture and other agency heads to provide payments to certain individuals who have incurred qualifying injuries to the brain. The rule covers current and former USDA employees and dependents of current or former employees.

DATES: Effective November 20, 2024. We will consider all comments that we receive on or before January 21, 2025.

ADDRESSES: You may submit comments by going to <http://www.regulations.gov> and searching for Docket ID: USDA–2024–0007. Follow the online instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. John Decato, Office of Human Resources Management, 1400 Independence Avenue SW, Washington, DC 20250; email John.Decato@usda.gov, phone (202) 720–6706.

SUPPLEMENTARY INFORMATION:

Background

On December 20, 2019, Congress gave authority (Pub. L. 116–94, division J, title IX, section 901) to the Department of State to pay benefits to certain individuals for injuries suffered after January 1, 2016, in the Republic of Cuba, the People’s Republic of China, or another foreign country designated by the Department of State, in connection

with certain injuries designated by the Secretary of State. These benefits were limited to Department of State employees, their dependents and other individuals affiliated with the Department of State.

On January 1, 2021, Congress amended that law (Pub. L. 116–283, div. A, title XI, section 1110), authorizing other Federal Government agencies (such as the U.S. Department of Agriculture [USDA]) to provide similar benefits to their own employees for those injuries. Those provisions are codified at 22 U.S.C. 2680b.

On October 8, 2021, the “Helping American Victims Afflicted by Neurological Attacks” (HAVANA) Act of 2021 became law (Pub. L. 117–46). In that Act, Congress authorized Federal Government agencies to compensate affected current employees, former employees, and their dependents for qualifying injuries to the brain. Section 3 of the HAVANA Act of 2021 removed the requirement in Public Law 116–94, division J, title IX, section 901, that the qualifying injury occur in “the Republic of Cuba, People’s Republic of China, or other foreign country designated by the Secretary of State” for the purpose of making a payment under the HAVANA Act. The Act also requires the Department (and other agencies) to “prescribe regulations” implementing the HAVANA Act not later than 180 days after the effective date of the Act. This interim final rule implements the HAVANA Act of 2021 for USDA.

The regulation herein applies only to current and former employees of USDA, and dependents of current or former employees, as defined in § 1.901 of this rule.

Definitions

This rule follows the definitional template provided in the HAVANA Act and its predecessors. The rule defines certain categories of individuals as employees, as well as those who are not considered employees.

The term “covered employee” captures Department Foreign Service and Civil Service employees (regardless of the nature of their appointment) who, on or after January 1, 2016, became injured by a qualifying injury to the brain while they were an employee of the Department.

The term “covered individual” captures any former employee of the Department (including retired or

separated employees) who, on or after January 1, 2016, became injured by a qualifying injury to the brain while they were an employee of the Department.

The term “covered dependent” captures a family member of a current or former Department employee who, on or after January 1, 2016, became injured by reason of a qualifying injury to the brain while the dependent’s sponsor was an employee of the Department. For purposes of determining whether an individual is a covered dependent, the term “family members” includes unmarried children under 21 years of age (or certain other children) at the time of injury; parents; sisters and brothers; and spouses. Stepparents and stepsiblings are included in the definition.

The definition of “qualifying injury to the brain” is based on current medical practices related to brain injuries. Further, the injury must have occurred in connection with certain hostile acts, including war, terrorist activity, or other incidents designated by the Secretary of State or the Secretary of Agriculture, as permitted by law, and must not have been the result of the willful misconduct of the individual. The individual must have: an acute injury to the brain such as, but not limited to, a concussion, penetrating injury, or as the consequence of an event that leads to permanent alterations in brain function as demonstrated by confirming correlative findings on imaging studies (to include computed tomography scan (CT), or magnetic resonance imaging scan (MRI)), or electroencephalogram (EEG); or a medical diagnosis of a traumatic brain injury (TBI) that required active medical treatment for 12 months or more; or acute onset of new persistent, disabling neurologic symptoms as demonstrated by confirming correlative findings on imaging studies (to include CT, MRI), EEG, physical exam, or other appropriate testing, and that required active medical treatment for 12 months or more.

In implementing this definition of “qualifying injury to the brain,” the Department adopts the standard set forth by the Department of State in its January 25, 2023, regulations implementing the HAVANA Act (see 88 FR 4722). With regard to these standards, this definition accounts for a variety of observable impacts to an

individual, including either a concussion, a penetrating injury, or absent either of those, the ability of an appropriately certified physician to review one of a variety of forms of medical imaging evidence indicating permanent alterations in brain function. This will ensure there is some documented evidence of impact to the brain, while minimally circumscribing what that impact entails. The definition of “qualifying injury to the brain” will provide multiple avenues for demonstrating sustained, long-term impact to the individual. Establishing a 12-month threshold of active medical treatment is indicative of a long-term injury which the Department believes must be demonstrated prior to the awarding of benefits. For example, the Centers for Disease Control and Prevention (CDC) broadly defines chronic diseases “as conditions that last 1 year or more and require ongoing medical attention or limit activities of daily living or both.”

The definition of “other incident” is a new onset of physical manifestations that cannot otherwise be explained.

Eligibility for Payments

The Department will communicate with its entire workforce to inform them of the rule, regulations, and process for requesting payment. The Department will work together with potential recipients to provide the necessary documentation to qualify for payment. The Department believes these efforts will ensure all potential requestors will be able to identify themselves to the Department and begin the process of requesting a payment. However, Form CD–350, the form associated with developing the necessary evidence to submit a claim, will also be publicly hosted on the Department’s public-facing website with instructions on how to contact the Department if a requestor believes they are eligible for a HAVANA Act payment.

Section 1.902 states the conditions required before the Department will consider payments to current or former employees and dependents of current or former employees: the qualifying injury to the brain for a former employee must have occurred on or after January 1, 2016, and while the former employee was an employee of the Department; and for a dependent, the injury must have occurred on or after January 1, 2016, and while the dependent’s sponsor was an employee of the Department. The Director, Office of Human Resources Management, must approve any HAVANA Act payment.

Payments will be a one-time, non-taxable, lump sum payment, based on

the annual salary of an Executive Schedule III employee (see 5 U.S.C. 5311 *et seq.*). The payment is non-taxable pursuant to 22 U.S.C. 2680b(g). As indicated in § 1.902, in determining the amount of the payment, the Department will consider (1) the responses on Form CD–350 and (2) whether the Department of Labor, Office of Workers’ Compensation Programs (DOL) has determined that the requestor has no reemployment potential, or the Social Security Administration (SSA) has approved the requestor for Social Security Disability Insurance or Supplemental Security Insurance, or the requestor’s board-certified physician has certified that the individual requires a full-time caregiver for activities of daily living, as defined by the Katz Index of Independence in Activities of Daily Living.

The award thresholds are based on the annual rate of basic pay for Level III of the Executive Schedule (ES). A Base payment will be 75 percent of Level III pay and a Base Plus payment will be 100 percent of Level III pay. If the requestor meets any of the criteria listed in (2) in the paragraph immediately above, the requestor will be eligible to receive a Base Plus payment. Requestors with a documented “qualifying injury to the brain” but who do not meet any of the criteria listed in (2) in the paragraph immediately above will be eligible to receive a Base payment. The criteria established in (2) in the paragraph immediately above are reflective of the Department’s objective of ensuring that the individuals most severely affected by anomalous health incidents (AHIs) (as indicated by a lack of reemployment potential, an inability to engage in substantial gainful activity, or the need for a full-time caregiver) receive additional payment. The specific use of the DOL or the SSA determinations is to ensure that both current and former Federal employees as well as covered dependents have access to a mechanism for this determination. The Department recognizes that criteria DOL and SSA use in their disability determinations are distinct, as well as the fact that the procedural timelines for seeking and receiving approval may be different between these agencies. The third option, that a board-certified physician certifies that the individual requires a full-time caregiver for activities of daily living (as defined by the Katz Index of Independence in Activities of Daily Living), provides an alternative mechanism for all individuals. Finally, the Department notes that if a requestor who received a Base payment later meets any of the criteria listed in (2)

above, the requestor may apply for an additional payment that will be the difference between the Base and Base Plus payment. As the payments are tied to the Executive Schedule, the amounts may change over time based on increases to that Schedule.

The Department may consult with the appropriate officials in other Federal agencies to identify their current and former covered employees, and current and former dependents who reported an anomalous health incident. The Department will not process payment for employees, former employees, or dependents of current or former employees of other agencies. While payments under the HAVANA Act may be on top of other leave, disability, or workers’ compensation payments the requestor is receiving or may be entitled to receive that also help augment any loss of income, the Department believes this is an appropriate additional payment. The Department also believes this amount is the most it can reasonably compensate each requestor while ensuring available funds for all expected payments. The Department also notes that, because payments are contingent on appropriated funds, all payments will be paid out on a first come, first served basis. This is also in accordance with compensation awarded by the Department of State under the HAVANA Act.

Immediate Action

Immediate action is necessary in order to ensure expeditious payments are made to injured persons. Under these circumstances, prior notice and opportunity for public comment are contrary to the public interest and there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Orders 12866 and 13563

The Office of Management and Budget has determined that this regulatory action does not meet the criteria for significant regulatory action pursuant to Executive Order 12866, Regulatory Planning and Review.

Potential causes of AHI are being investigated but remain unknown. Given the nature of the incidents, it is difficult to accurately estimate future

incidents and numbers of individuals affected.

The Department has reviewed the rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and finds that the benefits of the rule (in providing mechanisms for individuals to obtain compensation for certain injuries) outweigh any costs to the public. The Department has also considered this rulemaking in light of Executive Order 13563 and affirms that this regulation is consistent with the guidance therein.

Regulatory Flexibility Act

This rule applies only to certain individuals who are current or former Department employees and family members who are eligible for payments as a result of certain injuries. Therefore, the rule will provide for payments to certain individuals, and is therefore not expected to impact any small entities. As a result, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*).

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 1405–0250.

List of Subjects in 7 CFR Part 1

Administrative practice and procedure, Antitrust, Claims, Cooperatives, Courts, Equal access to justice, Fraud, Freedom of information, Government employees, Indemnity payments, Lawyers, Motion pictures, Penalties, Privacy.

Accordingly, we are amending 7 CFR part 1 as follows:

PART 1—ADMINISTRATIVE REGULATIONS

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

Authority: 5 U.S.C. 301, unless otherwise noted.

- 2. Add subpart Q to read as follows:

Subpart Q—Implementation of the HAVANA Act of 2021

Sec.

1.900 Authority.

1.901 Definitions.

1.902 Eligibility for payments by the Department of Agriculture.

1.903 Consultation with other agencies.

Authority: 22 U.S.C. 2680b.

Subpart Q—Implementation of the HAVANA Act of 2021

§ 1.900 Authority.

(a) Under section 3 of the HAVANA Act of 2021 (22 U.S.C. 2680b), the Secretary of Agriculture or other agency heads may provide a payment for a qualifying injury to the brain to a covered employee or covered dependent who incurred a qualifying injury to the brain on or after January 1, 2016. The authority to provide such payments is at the sole discretion of the Secretary or the Secretary's designee.

(b) The regulations in this part are issued in accordance with 22 U.S.C. 2680b(i)(4) and also apply to former covered employees of the Department of Agriculture and their covered dependents.

§ 1.901 Definitions.

(a) *Covered employee.* (1) An employee of the Department of Agriculture who, on or after January 1, 2016, becomes injured by reason of a qualifying injury to the brain.

(2) The following are considered employees of the Department of Agriculture for the purposes of this part: Department of Agriculture employees in the Foreign Service and Department of Agriculture employees who meet the definition of “employee” set forth in 5 U.S.C. 2105(a), including students providing volunteer service under 5 U.S.C. 3111.

(3) The following are not considered employees of the Department of Agriculture for purposes of this part: Employees or retired employees of other agencies.

(b) *Covered dependent.* A family member of a Department of Agriculture current or former employee who, on or after January 1, 2016, becomes injured by reason of a qualifying injury to the brain while the dependent's sponsor was an employee of the Department of Agriculture as specified in paragraph (a)(2) of this section.

(c) *Covered individual.* A former employee of the Department of Agriculture who, on or after January 1, 2016, becomes injured by reason of a qualifying injury to the brain while they were an employee of the Department of Agriculture as specified in paragraph (a)(2) of this section.

(d) *Family member.* For purposes of determining “covered dependent,” a family member is defined as follows:

(1) Children who are unmarried and under 21 years of age at the time of the qualifying injury or, regardless of age, are unmarried and due to mental and/or physical limitations are incapable of self-support. The term “children” must

include natural offspring, step-children, adopted children, and those under permanent legal guardianship (at least until age 18), or comparable permanent custody arrangement, of the employee or spouse or domestic partner when dependent upon and normally residing with the guardian or custodial party, and U.S. citizen children placed for adoption if a U.S. court grants temporary guardianship of the child to the employee and specifically authorizes the child to reside with the employee in the country of assignment before the adoption is finalized;

(2) Parents (including stepparents and legally adoptive parents) of the employee, or of the spouse or of the domestic partner, as these terms are defined in 5 CFR 875.101;

(3) Sisters and brothers (including stepsisters or stepbrothers, or adoptive sisters or brothers) of the employee, or of the spouse when such sisters and brothers are at least 51 percent dependent on the employee for support, unmarried and under 21 years of age, or regardless of age, are physically and/or mentally incapable of self-support; and

(4) Spouse or domestic partner at the time of injury.

(e) *Qualifying injury to the brain.* (1) The injury must have occurred in connection with war, insurgency, hostile act, terrorist activity, or other incidents designated by the Secretary of State or the Secretary of Agriculture, as permitted by law, and was not the result of the willful misconduct of the individual; and

(2) The individual must have:

(i) An acute injury to the brain such as, but not limited to, a concussion, penetrating injury, or as the consequence of an event that leads to permanent alterations in brain function as demonstrated by confirming correlative findings on imaging studies (to include computed tomography scan (CT), or magnetic resonance imaging scan (MRI)), or electroencephalogram (EEG); or

(ii) A medical diagnosis of a traumatic brain injury (TBI) that required active medical treatment for 12 months or more; or

(iii) Acute onset of new persistent, disabling neurologic symptoms as demonstrated by confirming correlative findings on imaging studies (to include CT or MRI), or EEG, or physical exam, or other appropriate testing, and that required active medical treatment for 12 months or more.

(f) *Other incident.* A new onset of physical manifestations that cannot otherwise be readily explained.

(g) *Requestor.* A requestor is a covered employee, a covered individual, or a

covered dependent who applies for payment under this subpart.

§ 1.902 Eligibility for payments by the Department of Agriculture.

(a) The Department of Agriculture may provide a payment to covered individuals, as defined in this § 1.901, if the qualifying injury to the brain was assessed and diagnosed in person by a currently board-certified physician from the American Board of Psychiatry and Neurology (ABPN), the American Osteopathic Board of Neurology and Psychiatry (AOBNP), the American Board of Physical Medicine and Rehabilitation (ABPMR), or the American Board of Physical Medicine and Rehabilitation (AOBPMR); and occurred on or after January 1, 2016, and while the individual was a covered employee of the Department of Agriculture.

(b) The Department of Agriculture may provide a payment to covered employees, as defined in this section, if the qualifying injury to the brain was assessed and diagnosed in person by a currently board-certified physician from ABPN, AOBNP, ABPMR, or AOBPMR; and occurred on or after January 1, 2016, and while the employee was a covered employee of the Department.

(c) The Department of Agriculture may provide a payment to a covered dependent, if the qualifying injury to the brain was assessed and diagnosed in person by a currently board-certified physician from the ABPN, AOBNP, ABPMR, or AOBPMR; and occurred on or after January 1, 2016, and while the dependent was a family member of the covered employee of the Department.

(d) Payment for a qualifying injury to the brain will be a non-taxable, one-time lump sum payment.

(e) The Department will determine the amount paid to each eligible person based on the following factors:

(1) The responses on Form CD-350, "Eligibility Questionnaire for HAVANA Act Payments"; and

(2) Whether the Department of Labor has determined that the requestor has no reemployment potential, or the Social Security Administration has approved the requestor for Social Security Disability Insurance or Supplemental Security Insurance (SSI) benefits; or the requestor's ABPN, AOBNP, ABPMR, or AOBPMR-certified physician has certified that the individual requires a full-time caregiver for activities of daily living, as defined by the Katz Index of Independence of Daily Living.

(3) The award thresholds are based on the Level III of the Executive Schedule: Base payment will be 75 percent of

Level III pay, and Base Plus payment will be 100 percent of Level III pay. If the requestor meets any of the criteria listed in paragraph (e)(2) of this section, the requestor will be eligible to receive a Base Plus payment. Requestors who are otherwise eligible for payment for a qualifying injury to the brain (defined in § 3.2(e)) but do not meet any of the criteria listed in paragraph (e)(2) of this section will be eligible to receive a Base payment. If a requestor who received a Base payment later meets any of the criteria listed in paragraph (e)(2) of this section, the requestor may apply for an additional payment that will be the difference between the Base and Base Plus payment.

(f) The Director, Office of Human Resources Management may approve payments under this section. The Office of Human Resources Management will notify individuals of the decision in writing.

(g) An appeal of a decision made by the Director, Office of Human Resources Management may be directed to the Deputy Assistant Secretary for Administration in writing. The Deputy Assistant Secretary for Administration is the final appeal authority. The Office of Human Resources Management will notify individuals of the decision in writing.

§ 3.4 Consultation with other agencies.

The Department may consult with the appropriate officials in other Federal agencies to identify their current and former covered employees, and current and former dependents who reported an anomalous health incident. The Department will not process payment for employees, former employees, or dependents of current or former employees of other agencies.

Xochitl Torres Small,

Deputy Secretary, U.S. Department of Agriculture.

[FR Doc. 2024-27112 Filed 11-19-24; 8:45 am]

BILLING CODE 3410-90-P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Docket No. R-1846]

RIN 7100 AG 86

Regulation A: Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System ("Board") has

adopted final amendments to its Regulation A to reflect the Board's approval of a decrease in the rate for primary credit at each Federal Reserve Bank. The secondary credit rate at each Reserve Bank automatically decreased by formula as a result of the Board's primary credit rate action.

DATES: *Effective date:* This rule is effective November 20, 2024.

Applicability date: The rate changes for primary and secondary credit were applicable on November 8, 2024.

FOR FURTHER INFORMATION CONTACT: M. Benjamin Snodgrass, Senior Counsel (202-263-4877), Legal Division, or Nicole Trachman, Financial Institution & Policy Analyst (202-973-5055), Division of Monetary Affairs; for users of telephone systems via text telephone (TTY) or any TTY-based Telecommunications Relay Services, please call 711 from any telephone, anywhere in the United States; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Federal Reserve Banks make primary and secondary credit available to depository institutions as a backup source of funding on a short-term basis, usually overnight. The primary and secondary credit rates are the interest rates that the twelve Federal Reserve Banks charge for extensions of credit under these programs. In accordance with the Federal Reserve Act, the primary and secondary credit rates are established by the boards of directors of the Federal Reserve Banks, subject to review and determination of the Board.

On November 7, 2024, the Board voted to approve a 0.25 percentage point decrease in the primary credit rate, thereby decreasing the primary credit rate from 5.00 percent to 4.75 percent. In addition, the Board had previously approved the renewal of the secondary credit rate formula, the primary credit rate plus 50 basis points. Under the formula, the secondary credit rate decreased by 0.25 percentage points as a result of the Board's primary credit rate action, thereby decreasing the secondary credit rate from 5.50 percent to 5.25 percent. The amendments to Regulation A reflect these rate changes.

The 0.25 percentage point decrease in the primary credit rate was associated with a 0.25 percentage point decrease in the target range for the federal funds rate (from a target range of 4¾ percent to 5 percent to a target range of 4½ percent to 4¾ percent) announced by the Federal Open Market Committee on November 7, 2024, as described in the Board's amendment of its Regulation D