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FEDERAL RESERVE SYSTEM

12 CFR Part 235

[Regulation II; Docket No. R–1748]

RIN 7100–AG15

Debit Card Interchange Fees and Routing

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors is adopting a final rule that amends Regulation II to specify that the requirement that each debit card transaction must be able to be processed on at least two unaffiliated payment card networks applies to card-not-present transactions, clarify the requirement that debit card issuers ensure that at least two unaffiliated networks have been enabled to process a debit card transaction, and standardize and clarify the use of certain terminology.

DATES: Effective July 1, 2023

FOR FURTHER INFORMATION CONTACT: Jess Cheng, Senior Counsel (202–452–2309), or Cody Gaffney, Senior Attorney (202–452–2674), Legal Division; or Krzysztof Wozniak, Manager (202–452–3878), Elena Falcettoni, Economist (202–452–2528), or Larkin Turman, Financial Institution and Policy Analyst (202–452–2388), Division of Reserve Bank Operations and Payment Systems. For users of TTY–TRS, please call 711 from any telephone, anywhere in the United States.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Authority

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) was enacted on July 21, 2010.[1] Section 1075 of the Dodd-Frank Act amended the Electronic Fund Transfer Act (EFTA) (15 U.S.C. 1693 *et seq.*) to add a new section 920 regarding interchange transaction fees for debit card transactions and rules for debit card and credit card transactions.[2]

EFTA section 920(b)(1) directs the Board to prescribe regulations that limit the restrictions issuers and payment card networks (networks) may place on the processing of debit card transactions.[3] A debit card transaction typically involves at least five parties: (i) a cardholder, (ii) the entity that issued the debit card to the cardholder (the issuer), (iii) a merchant, (iv) the merchant's depository institution (the acquirer), and (v) a network.[4] EFTA section 920(b)(1) contains two provisions that apply to issuers and networks.

First, EFTA section 920(b)(1)(A) directs the Board to prescribe regulations to prohibit an issuer or network from imposing exclusivity arrangements with respect to the networks over which a debit card transaction may be processed. Specifically, the statute directs the Board to prescribe regulations that prohibit issuers and networks from restricting the number of such networks to fewer than two unaffiliated networks.[5] Absent this prohibition, an issuer could enable only a single network, or only affiliated networks, to process a debit card transaction, thereby foreclosing the ability of the merchant or its acquirer to choose among competing networks to process the transaction.

Second, EFTA section 920(b)(1)(B) directs the Board to prescribe regulations to prohibit issuers or networks from restricting the ability of a merchant or its acquirer to choose among the networks enabled to process a debit card transaction when deciding how to route such transaction.[6] Specifically, the statute requires the Board to prescribe regulations that prohibit issuers and networks from directly or indirectly inhibiting any person that accepts debit cards for payment from directing the routing of a debit card transaction over any network that may process that transaction. Absent this prohibition, issuers or networks could establish rules or other restrictions that override a merchant's routing preferences, thereby preventing the merchant or its acquirer from routing a debit card transaction over a network with lower merchant fees, better fraud-prevention capabilities, or otherwise more favorable terms from the merchant's perspective.

B. Regulation II

The Board promulgated a final rule implementing these provisions of the EFTA in July 2011.[7] The routing provisions of Regulation II aim to ensure that merchants or their acquirers have the opportunity to choose from at least two unaffiliated networks when routing debit card transactions.

Section 235.7(a) of Regulation II implements the prohibition set out in EFTA section 920(b)(1)(A). Specifically, the provision prohibits an issuer or network from directly or indirectly

[1] Public Law 111–203, 124 Stat. 1376 (2010).

[2] EFTA section 920 is codified at 15 U.S.C. 1693o–2. Most of EFTA section 920's requirements relate to debit card transactions—referred to in the statute and in Regulation II as ''electronic debit transactions''—which are defined in EFTA section 920(c)(5) as ''transaction[s] in which a person uses a debit card.'' This notice uses the term ''debit card transaction'' interchangeably with ''electronic debit transaction.''

[3] EFTA section 920(c)(9) defines ''issuer'' as ''any person who issues a debit card, or credit card, or the agent of such person with respect to such card.'' EFTA section 920(c)(11) defines ''payment card network'' as ''an entity that directly, or through licensed members, processors, or agents, provides the proprietary services, infrastructure, and software that route information and data to conduct debit card or credit card transaction authorization, clearance, and settlement, and that a person uses in order to accept as a form of payment a brand of debit card, credit card or other device that may be used to carry out debit or credit transactions.''

[4] The issuer provides the cardholder with a debit card. The issuer enables various networks to process debit card transactions performed with such card. The cardholder can perform a debit card transaction at a merchant that accepts at least one of the enabled networks. If the merchant accepts more than one of the enabled networks, the merchant can choose to route the transaction over its preferred network. One or more of these parties may act through third-party vendors, such as payment processors.

[5] For this purpose, two networks are considered to be affiliated if they are owned, controlled, or otherwise operated by affiliated persons. EFTA section 920(c)(1) defines the term ''affiliate'' to mean any company that controls, is controlled by, or is under common control with another company.

[6] The merchant's choice of network is typically implemented by its acquirer or processor. The acquirer can incorporate a merchant's preferences when determining how to route a transaction, given the available networks.

[7] Regulation II, Debit Card Interchange Fees and Routing, codified at 12 CFR part 235. Regulation II also implements a separate provision of EFTA section 920 regarding debit card interchange fees.

restricting the number of networks on which a debit card transaction may be processed to fewer than two unaffiliated networks (the ''prohibition on network exclusivity''). Current § 235.7(a) provides that to comply with the prohibition on network exclusivity, an issuer must allow a debit card transaction to be processed on at least two unaffiliated networks, (i) each of which does not, by rule or policy, restrict the operation of the network to a limited geographic area, specific merchant, or particular type of merchant or transaction, and (ii) each of which has taken steps reasonably designed to enable the network to process the debit card transactions that the network would reasonably expect will be routed to it, based on expected transaction volume. Therefore, when configuring its debit cards, an issuer must enable at least two unaffiliated networks, neither of which has rules or policies that restrict it from processing transactions in, for example, a particular geographic area.

Section 235.7(b) implements the prohibition set out in EFTA section 920(b)(1)(B). Specifically, current § 235.7(b) prohibits any issuer or network from directly or indirectly inhibiting the ability of any person that accepts or honors debit cards for payments (such as a merchant) to direct the routing of debit card transactions for processing over any network that may process such transactions. Taken together, § 235.7(a) and § 235.7(b) of Regulation II require an issuer to enable two unaffiliated networks to process a transaction performed with the issuer's debit card and prohibit the issuer from inhibiting the merchant's ability to route the debit card transaction over the merchant's preferred network among those enabled by the issuer.

C. Overview of Proposed Rule

On May 13, 2021, the Board published in the **Federal Register** a proposal to amend Regulation II's prohibition on network exclusivity to clarify that debit card issuers should enable at least two unaffiliated networks for card-not-present debit card transactions.[8] Specifically, the Board proposed revisions to the Official Board Commentary on Regulation II to specify that the prohibition on network exclusivity applies to card-not-present debit card transactions by clarifying that card-not-present transactions are a particular type of debit card transaction for which two unaffiliated networks must be available.[9] The Board proposed further revisions to the rule and commentary to clarify the issuer's responsibility to enable at least two unaffiliated networks to comply with the prohibition on network exclusivity. In addition to these changes, the Board proposed revisions to the commentary to § 235.7 to standardize and clarify the use of certain terminology.[10]

As explained in the proposal, the Board proposed these revisions in light of data collected by the Board and information from debit card industry participants indicating that some issuers are not enabling two unaffiliated networks to process card-not-present transactions, and as a result, merchants often can route card-not-present debit card transactions only over a single network. When the Board promulgated Regulation II, the market had not yet developed solutions to broadly support multiple networks over which merchants could route card-not-present debit card transactions.[11] At the time, many networks could not process such transactions at all, while others could do so only with technology that was not widely deployed in the marketplace. In particular, the lack of widely-deployed methods for online entry of PINs was an impediment for single-message networks that traditionally required PIN entry during transaction authorization. In the decade since the adoption of Regulation II, however, technology has evolved to address these barriers, and most networks have introduced capabilities to process card-not-present transactions. Recent data collected by the Board confirm that most single-message networks are now capable of processing card-not-present transactions.

Despite these developments, some issuers are not enabling two unaffiliated networks to process card-not-present transactions, like they currently do for card-present debit card transactions.[12] As a consequence, merchants often do not have the opportunity to choose from at least two unaffiliated networks when routing card-not-present transactions. Instead, merchants often have no alternative but to route card-not-present transactions over the dual-message network that an issuer has enabled as the only network available to process card-not-present transactions performed with its debit cards.[13]

II. Summary of Public Comments

The Board received slightly more than 2,750 comment letters in response to the proposal.[14] Of these comment letters,

[8] 86 FR 26189 (May 13, 2021). The original proposal requested public comment by July 12, 2021, but the Board later extended the comment period an additional 30 days to August 11, 2021. 86 FR 34644 (June 30, 2021).

[9] Card-not-present transactions are those in which a cardholder performs payment without physically presenting a debit card to a merchant. Card-not-present transactions typically involve remote commerce, such as internet, telephone, or mail-order purchases. According to the Board's most recent biennial data collection (required under EFTA section 920(a)(3)(B)), card-not-present transactions have become an increasingly significant type of debit card transaction, comprising almost 23 percent of all debit card transactions in 2019 (up from slightly less than 10 percent in 2009). *See* Federal Reserve Board, *2019 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card Transactions* (May 2021) at p. 3, available at *https://www.federalreserve.gov/paymentsystems/regii-data-collections.htm* [hereinafter 2019 Data Report]. In addition, data from the Federal Reserve Payments Study document that, in response to the COVID–19 pandemic, growth in card-not-present transactions accelerated in 2020. *See* Federal Reserve Board, *Developments in Noncash Payments for 2019 and 2020: Findings from the Federal Reserve Payments Study,* available at *https://www.federalreserve.gov/paymentsystems/december-2021-findings-from-the-federal-reserve-payments-study.htm.*

[10] The proposal did not concern other parts of Regulation II that directly address interchange fees for certain debit card transactions. As stated in the proposal, the Board will continue to review the regulation in light of the most recent data collected by the Board and may propose additional revisions in the future.

[11] Issuers typically enable one or more single-message networks and one dual-message network to process debit card transactions performed with the issuer's debit card. Single-message networks, which developed from automated teller machine networks, typically authorize and clear a transaction through a single message and have traditionally processed transactions that are authenticated using a cardholder's personal identification number (PIN). In contrast, dual-message networks, which developed from credit card systems, typically authorize and clear a transaction through two separate messages and have traditionally processed signature-authenticated transactions. Today, transactions over dual-message networks may no longer require signature authentication or may use PIN authentication. Similarly, transactions over single-message networks may no longer require PIN authentication. In addition, some networks have developed capabilities that depart from their primary messaging approach. In general, the interchange fees that issuers receive in connection with transactions routed over single-message networks are lower than for transactions routed over dual-message networks. See *Average Debit Card Interchange Fee by Payment Card Network,* available at *https://www.federalreserve.gov/paymentsystems/regii-average-interchange-fee.htm.*

[12] According to the Board's most recent biennial data collection, almost a quarter of issuers with consolidated assets over $10 billion, representing slightly more than 50 percent of the total number and value of all debit card transactions subject to Regulation II's interchange fee standards in 2019, did not process any card-not-present debit card transactions over single-message networks.

[13] Data collected by the Board indicate that single-message networks processed only 6 percent of all card-not-present debit card transactions in 2019. The single-message networks' low aggregate share of card-not-present debit card transactions contrasts sharply with their share of card-present debit card transactions, which exceeded 40 percent in 2019. *See* 2019 Data Report at p. 25.

[14] These figures include a number of comment letters received after the close of the comment period. The Board also accepted and considered these late-filed comment letters. In general, these late-filed comment letters addressed the extent to

approximately 1,700 were from debit card issuers (all of whom were depository institutions) and related trade associations, approximately 1,000 were from merchants and related trade associations, 5 were from networks, 3 were from federal agencies, 3 were from government officials, and around 40 were from other interested parties (including some consumers and consumer groups).[15] Approximately 2,600 of the comment letters were one of 11 form letters.

Merchants and related trade associations, single-message networks, and federal agencies uniformly supported the proposal. These commenters generally expressed the view that the proposal is consistent with the intent of the statute and would appropriately clarify requirements that already apply to issuers. Some of these commenters suggested that the statute and current text of Regulation II are sufficiently clear that the Board should not have needed to propose revisions to address routing issues for card-not-present debit card transactions. Commenters that supported the proposal further argued that it would increase routing choice for debit card transactions and promote competition between networks, thereby reducing costs for merchants and ultimately prices for consumers.

By contrast, most issuers, related trade associations, and dual-message networks opposed the proposal, with several commenters urging the Board to withdraw the proposal. These commenters generally, but not unanimously, expressed the view that the proposal goes beyond mere clarification of existing requirements and instead represents a fundamental change to the regulation that would impose new obligations on issuers. Commenters that opposed the proposal further argued that it would impose significant compliance costs on issuers and result in increased debit card fraud, and that these consequences would ultimately harm consumers. At the same time, a small number of issuer commenters and one related trade association expressed the view that the proposed amendments were consistent with the intent of the statute and represent clarifications to existing obligations that already apply to issuers and with which many issuers already comply.

The remainder of this section provides a general overview of some of the major themes raised by commenters. Issues raised by commenters are additionally discussed in the Final Rule and Section-by-Section Analysis, *infra* section III, and the Regulatory Analyses, *infra* section IV, as appropriate.

A. Extent of Issuer's Obligation

The Board received numerous comment letters, primarily from merchants and related trade associations, but also from federal agencies and some community bank issuers, stating that the proposal would merely clarify requirements that already apply to issuers and with which issuers should already comply. In particular, these commenters argued that the prohibition on network exclusivity already requires issuers to enable two unaffiliated networks to process a debit card transaction, and there is no exemption from this requirement in either the statute or Regulation II for card-not-present transactions.

However, numerous other comment letters, primarily from issuers, related trade associations, and dual-message networks, characterized the proposal as an expansion of both the coverage and substantive requirements of the prohibition on network exclusivity. Some of these commenters stated that the proposal would expand the prohibition on network exclusivity to include card-not-present transactions, which the commenters believed had not previously been subject to that prohibition. Commenters also raised concerns that the proposal would transform the existing requirement that an issuer allow a debit card transaction to be processed on at least two unaffiliated networks into a broad new mandate requiring issuers to affirmatively guarantee that two unaffiliated networks would always be available to all merchants in every conceivable transaction context. Commenters raised a variety of concerns with this broad reading of the proposal, including that it is impractical, contrary to the statute, and overly burdensome, and would deter innovation in the debit card industry. Commenters' concerns, including the Board's analysis of these concerns and corresponding adjustments to the final rule, are discussed further in the Final Rule and Section-by-Section Analysis, *infra* section III.

B. Impact on Fraud

Various commenters, especially issuers, related trade associations, and dual-message networks, expressed the view that the proposal would, in practice, require most issuers to enable single-message networks to process card-not-present debit card transactions, which in turn may result in an increased level of fraud for card-not-present transactions. In particular, such commenters suggested that single-message networks would be likely to have higher levels of card-not-present fraud than dual-message networks because of single-message networks' limited experience in processing card-not-present transactions. These commenters further argued that the proposal casts doubt on whether an issuer could decline specific transactions for good-faith fraud concerns.

Other commenters, including commenters representing merchants and single-message networks, argued that the proposal would not increase card-not-present fraud and that single-message networks are as effective at mitigating fraud as dual-message networks. A few commenters suggested that sending all information relevant to the transaction in a single message gives single-message networks an inherent advantage over dual-message networks in preventing card-not-present fraud. Commenters' concerns related to fraud are discussed further in the EFTA Section 904(a) Analysis, *infra* section IV.A.

C. Other Comments

The Board received numerous comment letters that raised issues not specifically related to the proposed changes.[16] Because these comments are not directly related to the proposal, the Board is not addressing them in this notice. The Board will continue to monitor developments in the debit card industry, including how these developments relate to the requirements of Regulation II.

which issuers are already compliant with the requirements of the proposal.

[15] Although the Board received numerous comment letters from individuals, most of these comment letters clearly represented the interests of either issuers or merchants (rather than, for example, the interests of the individual as a consumer). The Board has classified such comment letters from individuals as comment letters from either issuers or merchants, as appropriate, even where the individual did not specifically identify a particular issuer or merchant in the comment letter.

[16] These comment letters generally raised issues related to other provisions in Regulation II. For example, numerous comment letters, primarily from merchants and related trade associations, requested that the Board address various practices that these commenters believe issuers and payment card networks could use, or are allegedly already using, to restrict merchant routing choice, even where the issuer has complied with the prohibition on network exclusivity. In addition, numerous commenters, mostly merchants and related trade associations, urged the Board to act quickly to lower the interchange fee cap in section 235.3 of Regulation II.

III. Final Rule and Section-by-Section Analysis

The Board has considered all comments received and is adopting a final rule that is substantively consistent with the proposal, but with certain changes, as described below, to address issues raised by commenters, including changes clarifying that an issuer is not required to ensure that two or more unaffiliated networks will actually be available to the merchant to process every electronic debit transaction. The final rule underscores that issuers should provide routing choice for card-not-present debit card transactions. Under the final rule, a debit card issuer must configure each of its debit cards so that card-not-present transactions performed with such cards can be processed on at least two unaffiliated networks. As a practical matter, an issuer will first need to determine whether card-not-present transactions performed with its debit cards can already be processed on at least two unaffiliated networks; if the issuer is not already compliant with the final rule, the issuer will need to adjust its debit card processing arrangements to meet the final rule's requirements.

A. Section 235.7 (Limitations on Payment Card Restrictions), Comment 235.7(a)–2 (Issuer's Role), and Comment 235.7(a)–3 (Permitted Networks) [17]

1. Proposal

The Board proposed to amend § 235.7 of Regulation II to emphasize the issuer's role in configuring its debit cards to ensure that at least two unaffiliated networks have been enabled to comply with the prohibition on network exclusivity. Specifically, with the proposed amendments, § 235.7(a)(2) would provide that an issuer satisfies the requirements of § 235.7(a)(1) only if, for every geographic area, specific merchant, particular type of merchant, and particular type of transaction for which the issuer's debit card can be used to process an electronic debit transaction, the issuer has enabled at least two unaffiliated networks to process the transaction. Under the proposal, an issuer would not be able to restrict the capability of one or more enabled networks to process debit card transactions for a geographic area, specific merchant, particular type of merchant, or particular type of transaction if doing so would result in fewer than two unaffiliated networks being available for a particular geographic area, specific merchant, particular type of merchant, or particular type of transaction.

The Board also proposed revising current comment 235.7(a)–2, which clarifies the types of network arrangements that may be used to satisfy the prohibition on network exclusivity. Specifically, the Board proposed revisions to specify that, for purposes of the prohibition on network exclusivity, card-not-present transactions are a ''particular type of transaction'' for which an issuer must enable at least two unaffiliated networks. The Board stated in the proposal that it believes this amendment is necessary in light of information gathered by the Board suggesting that some issuers are enabling only one dual-message network to process card-not-present transactions, even though most single-message networks have introduced capabilities in recent years that allow them to process card-not-present transactions.

Finally, the Board proposed changes to the commentary to emphasize the choices available to issuers in complying with the prohibition on network exclusivity. In particular, the Board proposed to add a new comment 235.7(a)–2(iii) to clarify that an issuer need not enable the same two unaffiliated networks to process a debit card transaction for every geographic area, specific merchant, particular type of merchant, and particular type of transaction for which the issuer's debit card can be used. Rather, as long as the issuer has enabled at least two unaffiliated networks to process a debit card transaction for every geographic area, specific merchant, particular type of merchant, and particular type of transaction for which the issuer's debit card can be used, the issuer has satisfied the prohibition on network exclusivity. The proposed comment would provide clear examples of how an issuer could comply with the rule by enabling various combinations of networks so that two unaffiliated networks are available to process debit card transactions for every geographic area, specific merchant, particular type of merchant, and particular type of transaction. These examples would demonstrate that, under the proposal (and unlike under current § 235.7), an issuer could comply with the prohibition on network exclusivity by enabling a network that, for example, operates in a limited geographic area, as long as there are at least two unaffiliated networks to process debit card transactions for every geographic area for which the issuer's debit card can be used.

2. Summary of Public Comments

As described in the Summary of Public Comments, section II *supra,* the Board received numerous comments that supported proposed § 235.7(a)(2) as a clarification of requirements that already apply to issuers and with which issuers should already comply. The Board also received numerous comment letters, primarily from issuers, related trade associations, and dual-message networks, stating that the proposal would expand the prohibition on network exclusivity to include card-not-present transactions, which commenters believed were previously not subject to that prohibition. In addition, commenters argued that the proposal would transform the existing requirement that an issuer allow a debit card transaction to be processed on at least two unaffiliated networks into a broad new mandate requiring issuers to affirmatively guarantee that two unaffiliated networks would always be available to all merchants in every conceivable transaction context.[18] These commenters raised a variety of concerns with this broad reading of the proposal.

First, commenters suggested that it would be impossible for issuers to affirmatively guarantee the availability of two unaffiliated networks to all merchants in all cases. Commenters raised a number of examples in which, for reasons outside an issuer's control, a merchant may not be able to choose between two unaffiliated networks when routing debit card transactions, even if the issuer had enabled two or more networks to process debit card transactions performed with the issuer's debit cards. In particular, a merchant may choose to contract with an acquirer or payment processor that does not support one of the networks that the issuer has enabled to process debit card transactions, with the result that the merchant can only route its transactions over the other enabled network(s). Similarly, a merchant's choice of card acceptance technologies could restrict the merchant's routing choice if these technologies are not compatible with some networks. Finally, a merchant may choose to enter into a commercial agreement (for example, with a franchisor or corporate parent) that restricts the networks over which the merchant may route transactions, resulting in a lack of routing choice

[17] The Board is combining its discussion of section 235.7(a)(2) and comments 235.7(a)–2 and –3 of the final rule in this notice for ease of reference and due to the substantial overlap in the issues presented with respect to each of these portions of the final rule.

[18] Moreover, a few commenters stated that the proposal could be interpreted even more broadly to require issuers to enable networks at the merchant's demand.

even if the issuer has enabled two or more networks. Under some commenters' broad reading of the proposal, an issuer could be deemed non-compliant if a merchant could not choose between unaffiliated networks in these or similar scenarios, even though the merchant's lack of routing choice is the result of actions outside the issuer's control.

Second, several commenters argued that issuers cannot control, and may not even know, networks' coverage across all transactions, such as whether a network operates in a particular geographic area. As a result, these commenters argued that it may not be possible for an issuer to know whether the networks that the issuer has enabled are sufficient for the issuer to comply with the proposal's requirements. To address this concern, one commenter suggested that the Board publish lists of networks that can be used to satisfy the prohibition on network exclusivity for a geographic area or particular type of transaction. Other commenters argued that the Board should establish a presumption that a network operates, for example, for a geographic area (or is willing to expand its capabilities to operate for a geographic area) if the network does not by rule or policy limit its operation or expansion to such geographic area.

A third concern raised by commenters was the application of the proposal to innovative technologies and transactions. Specifically, commenters stated that, under the proposal, an issuer would not be permitted to configure its debit cards to support new technologies, such as technologies used to initiate or authenticate transactions, or to perform new types of transactions until at least two unaffiliated networks develop the capability to support the new technology. As a result, these commenters argued that the proposal would deter innovation, and potentially even require parties in the debit card industry to share proprietary technology with their competitors. Relatedly, some commenters identified examples of certain highly specific transaction contexts where commenters believe that only one network is desirable (for example, rapid throughput transactions, such as in public transit contexts) or even technically capable of processing debit card transactions (for example, airline cabin sales and other ''offline'' environments). These commenters suggested that, under the proposal, an issuer whose debit cards can be used to perform transactions that only one network is technically capable of processing would be in violation of the prohibition on network exclusivity.

Other commenters, however, disputed the suggestion that only one network is capable of processing these specialized transactions.

Fourth, several issuer commenters criticized the proposal's use of the word ''enable.'' These commenters viewed this term as an expansion of the substantive requirements that issuers must meet to comply with the prohibition on network exclusivity.[19] These commenters additionally argued that because the proposal does not define the term ''enable,'' it is not clear what steps issuers must take to comply with the proposal. Other commenters, in turn, argued that the term ''enable'' accurately reflects the role of the issuer in configuring its debit cards to comply with the prohibition on network exclusivity. In addition, merchant commenters argued that issuers should not be permitted to disable capabilities of the enabled networks if doing so would result in fewer than two unaffiliated networks that can process card-not-present debit card transactions.

Finally, the Board received several comment letters from issuers, merchants, and trade associations concerning the proposal's requirement that an issuer must enable at least two unaffiliated networks for every particular type of transaction for which the issuer's debit card can be used. In general, these comments argued that the meaning of ''particular type of transaction'' is not clear in the proposal. Many of these commenters recommended that the Board clarify what constitutes a ''particular type of transaction'' in the final rule. For example, one commenter representing merchants argued that ''particular type of transaction'' should refer to any substantial set of transactions. Some of these commenters stated that the Board should go further by enumerating additional examples of particular types of transactions beyond card-present and card-not-present transactions, potentially including automated fuel dispenser and low-value transactions. Other commenters, in turn, opposed enumerating additional types of transactions beyond card-present and card-not-present transactions.

The Board intended the proposal to clarify, but not expand, both the coverage and substantive requirements of the prohibition on network exclusivity.[20] Current § 235.7(a)(2) generally provides that an issuer satisfies the prohibition on network exclusivity only if the issuer allows a debit card transaction to be processed on at least two unaffiliated networks, each of which does not, by rule or policy, restrict the operation of the network to a particular type of transaction (among other dimensions, such as type of merchant). The proposal emphasizes the role of the issuer in ensuring that at least two unaffiliated networks have been enabled for each type of transaction (among other dimensions) and specifies that card-not-present transactions are a particular type of transaction to which the prohibition on network exclusivity applies. The Board notes that numerous commenters, particularly issuers and dual-message network commenters, viewed the Board's proposal as an expansion of coverage of the prohibition of network exclusivity to include card-not-present transactions, and an expansion of the substantive requirements that apply to issuers. However, the Board did not intend to expand the regulation's substantive requirements, but rather intended to specify that existing requirements also apply to card-not-present transactions and emphasize that issuers have an active role to play in order to comply with the prohibition on network exclusivity.

3. Final Rule

The Board is adopting amendments to § 235.7(a)(2) and the commentary to § 235.7(a) that are substantively consistent with the proposal, but with certain changes to address issues raised by commenters. Specifically, § 235.7(a)(2) of the final rule provides that an issuer satisfies the prohibition on network exclusivity only if the issuer enables at least two unaffiliated networks to process an electronic debit transaction, where such networks satisfy two requirements. First, the enabled networks in combination must not, by their respective rules or policies, or by contract with or other restriction imposed by the issuer, result in the operation of only one network or only multiple affiliated networks for a geographic area, specific merchant, particular type of merchant, or particular type of transaction. Second, the enabled networks must have each taken steps reasonably designed to be able to process the electronic debit transactions that they would reasonably

[19] By comparison, EFTA section 920(b)(1)(A) prohibits an issuer from directly or indirectly restricting the number of networks on which a debit card transaction may be processed to fewer than two unaffiliated networks. Current section 235.7(a)(2) of Regulation II, which implements this statutory provision, states than issuer must allow an electronic debit transaction to be processed on at least two unaffiliated networks.

[20] *See* 86 FR 26189, 26192 (May 13, 2021).

expect will be routed to them, based on expected transaction volume.

The Board believes that § 235.7(a)(2) of the final rule appropriately states that the obligation of the issuer is to ''enable'' at least two unaffiliated networks to process a debit card transaction, where such networks satisfy the rule's two requirements.[21] Compared with the language in current § 235.7(a)(2)—which provides that an issuer must ''allow'' a debit card transaction to be processed on at least two unaffiliated networks—the Board believes that term ''enable'' more accurately describes the role of the issuer in configuring its debit cards so that the issuer complies with the prohibition on network exclusivity.

As described above, numerous commenters interpreted the proposal to require an issuer to affirmatively guarantee that all merchants will be able to route a transaction over two unaffiliated networks in every conceivable transaction context. To better reflect the Board's intent behind the proposal, and to foreclose the overly broad reading of the proposal put forward by many commenters, § 235.7(a)(2) of the final rule establishes discrete, objective requirements with which issuers must comply; these requirements do not require an issuer to ensure that two unaffiliated networks will actually be available to the merchant for every transaction. Specifically, under the final rule, to comply with the prohibition on network exclusivity, an issuer must enable at least two unaffiliated networks to process an electronic debit transaction, where such networks satisfy two requirements.

The first requirement provides, in part, that an issuer must enable a combination of networks that does not result in certain impermissible outcomes, namely only one network or only multiple affiliated networks for a geographic area, specific merchant, particular type of merchant, or particular type of transaction. The Board believes this reformulation of the proposed requirement in the final rule should address much of the confusion reflected in the comment letters, and alleviate the concerns of numerous issuer commenters in particular.

In determining whether an issuer has enabled a combination of networks that avoids the impermissible outcomes, the final rule allows issuers to rely on network rules or policies, consistent with the recommendations of some commenters. Specifically, the final rule provides that the combination of networks that an issuer enables to process a debit card transaction may not, *by their respective rules or policies,* result in the operation of only one network or only multiple affiliated networks for a geographic area, specific merchant, particular type of merchant, or particular type of transaction. Current § 235.7(a)(2) already permits issuers to rely on network rules or policies in determining whether a network may be used to satisfy the prohibition on network exclusivity.[22] The final rule preserves the structure and wording of current § 235.7(a)(2) in this respect, thereby allowing issuers to rely on the same information sources that they currently use to determine whether they comply with the prohibition on network exclusivity.

In addition to permitting issuers to rely on network rules or policies in determining whether the networks enabled by an issuer may be used to satisfy the prohibition on network exclusivity, the final rule clarifies that issuers may not disable capabilities of the enabled networks if doing so would result in fewer than two unaffiliated networks to process a debit card transaction. Specifically, the final rule provides that the combination of networks that an issuer enables to process a debit card transaction may not, *by contract with or other restriction imposed by the issuer,* result in the operation of only one network or only multiple affiliated networks for a geographic area, specific merchant, particular type of merchant, or particular type of transaction. This addition—which makes more prominent a key aspect of the proposal's requirement that an issuer enable at least two unaffiliated networks to process a debit card transaction—is intended to directly address the cases that the Board described in connection with the proposal, and that were highlighted by many commenters, in which certain issuers are actively disabling, or failing to enable, the card-not-present capabilities of one or more enabled networks, resulting in fewer than two unaffiliated networks to process such transactions.[23]

With respect to the second requirement related to expected transaction volume, the Board notes that this requirement is substantively unchanged from both current § 235.7(a)(2) and from the proposed rule.

To further clarify the scope of § 235.7(a) and address the confusion reflected in the views of numerous issuer and some dual-message network commenters, the Board is adopting new comment 235.7(a)–2, which was not included in the proposal. Comment 235.7(a)–2 of the final rule clarifies that § 235.7(a) does not require an issuer to ensure that two or more unaffiliated networks will actually be available to the merchant to process every electronic debit transaction. Rather, comment 235.7(a)–2 clarifies that, to comply with the requirement in § 235.7(a), it is sufficient for an issuer to configure each of its debit cards so that each electronic debit transaction performed with such card can be processed on at least two unaffiliated networks, even if the networks that are actually available to the merchant for a particular transaction are limited by, for example, the card acceptance technologies that a merchant adopts or the networks that the merchant accepts.

The Board is adopting proposed comment 235.7(a)–2 (now renumbered as comment 235.7(a)–3) substantially as proposed.[24] The Board does not believe it is necessary to further define what constitutes a ''particular type of transaction'' because the prohibition on network exclusivity applies to each debit card transaction performed with a debit card. As stated clearly in comment 235.7(a)–1 of the final rule, § 235.7(a) requires an issuer to configure its debit cards so that *each* electronic debit transaction performed with such cards can be processed on at least two unaffiliated networks. In addition, because the Board issued the proposal to address the observed lack of routing choice for card-not-present transactions, the Board does not believe it is necessary at this time to provide additional examples of particular types of transactions beyond card-present and card-not-present transactions. Moreover, the Board is concerned that providing additional examples of particular types

[21] The Board notes that the term ''enable'' is already used in the current commentary to section 235.7(a) to describe the obligation of the issuer.

[22] The proposal would have eliminated the relevant language in current section 235.7(a)(2). The Board believes that the omission of this language in the proposal, which is retained in the final rule, contributed significantly to the broad reading of the proposal put forward by many issuer and dual-message network commenters, who interpreted the proposal as requiring an issuer to ensure that two unaffiliated networks will actually be available to the merchant for every debit card transaction.

[23] 86 FR 26189, 26191–92.

[24] The final rule specifies that card-not-present debit card transactions are a ''particular type of transaction'' for purposes of Regulation II's prohibition on network exclusivity as applied to debit card issuers in section 235.7(a)(2). The Board emphasizes that card-not-present debit card transactions are ''electronic debit transactions'' for other Regulation II purposes, including Regulation II's prohibition on network exclusivity as applied to networks in section 235.7(a)(3), and prohibition on routing restrictions in section 235.7(b).

of transactions could create the misimpression that types of transactions not enumerated in the final rule are not subject to the prohibition on network exclusivity.

The Board notes that comment 235.7(a)–3 of the final rule makes clear that § 235.7(a)(2) of the final rule permits issuers to use more combinations of networks to satisfy the prohibition on network exclusivity than are permitted under current § 235.7(a)(2). Specifically, current § 235.7(a)(2) provides that an issuer satisfies the prohibition on network exclusivity *only if* the issuer allows an electronic debit transaction to be processed on at least two unaffiliated networks, each of which does not, by rule or policy, restrict the operation of the network to a limited geographic area, specific merchant, or particular type of merchant or transaction, among other requirements. Under the final rule, however, issuers may satisfy the prohibition on network exclusivity by enabling networks whose operations are limited to, for example, a limited geographic area, as long as the final rule's two requirements are met. Comment 235.7(a)–3 of the final rule provides examples of issuers satisfying the prohibition on network exclusivity by enabling networks whose operations are restricted to a limited geographic area and particular type of transaction. The combinations of networks in these examples are not permitted under current § 235.7(a)(2) but are permitted under the final rule, and thus, the final rule provides issuers greater flexibility in complying with the prohibition on network exclusivity.

Finally, the Board believes that it is unlikely that the final rule will deter innovation, as some commenters suggested. Current § 235.7(a)(2) generally provides that an issuer satisfies the prohibition on network exclusivity only if the issuer allows a debit card transaction to be processed on at least two unaffiliated networks, each of which does not, by rule or policy, restrict the operation of the network to a particular type of transaction (among other dimensions, such as type of merchant). Like the proposal, the final rule specifies that card-not-present debit card transactions are a particular type of transaction to which the prohibition on network exclusivity applies. In this respect, the final rule represents a modest clarification of existing requirements, and thus, the Board does not believe that the final rule will have a significant impact on innovation.

B. Comment 235.7(a)–1 (Scope of Restriction)

1. Proposal

The Board proposed additional revisions to comment 235.7(a)–1, which clarifies that § 235.7(a) does not require an issuer to have two or more unaffiliated networks available for each method of cardholder authentication. The Board proposed to update the examples of cardholder authentication methods listed in the comment to better align with current industry practices. Specifically, the Board proposed to add biometrics to the list of cardholder authentication methods in the commentary, which currently only includes signature and PIN authentication. The Board further proposed adding ''or any other method of cardholder authentication that may be developed in the future'' to capture cardholder authentication methods that do not yet exist. The Board also proposed revisions to recognize instances where no method of cardholder authentication is used.

2. Summary of Public Comments

The Board received few comments that specifically addressed proposed comment 235.7(a)–1. The comments that specifically addressed proposed comment 235.7(a)–1 generally supported the proposed amendments.

3. Final Rule

The Board is adopting amendments to comment 235.7(a)–1 substantially as proposed. Relative to the proposal, the final rule makes minor changes to comment 235.7(a)–1 to bring the comment in line with terminology used elsewhere in Regulation II. In particular, the final rule uses the term ''perform,'' rather than the terms ''process'' or ''initiate'' as proposed, to refer to the use of a debit card to perform a debit card transaction, consistent with the terminology used in other parts of Regulation II.[25]

B. Comment 235.7(a)–8 (Application of Rule Regardless of Form)

1. Proposal

The Board proposed revising current comment 235.7(a)–7, which clarifies that the prohibition on network exclusivity applies regardless of ''form factor.'' The Board proposed to replace the term ''form factor'' with ''means of access'' to better align with current industry terminology. The revisions would also add, as an example of means of access, ''information stored inside an e-wallet on a mobile phone or other device,'' to capture recent technological developments. The Board further proposed adding ''or another means of access that may be developed in the future'' to capture means of access that do not yet exist but that would be captured by Regulation II if they were to be developed. The proposed revisions would further clarify that an issuer must enable at least two unaffiliated networks for each means of access that carries the debit card information, as required by the prohibition on network exclusivity. For example, if the issuer provides the cardholder with a fob in addition to a plastic card, the fob must allow transactions to be processed over at least two unaffiliated networks.

2. Summary of Public Comments

The Board received several comments from issuers, related trade associations, and a dual-message network expressing the view that because the term ''means of access'' is not defined in the proposal, the proposal would create ambiguity as to whether a particular technology is a means of access (for which the issuer must enable at least two unaffiliated networks) or, for example, a technology supporting a method of authentication (for which the issuer need not enable at least two unaffiliated networks). These commenters generally argued that the term ''means of access'' should be limited only to the hardware and software necessary to process the transaction, and thus, the term should exclude technologies supporting ancillary features related to authentication or security. Some of these commenters additionally stated that it was not necessary for the proposal to capture any means of access that may be developed in the future.

At least one merchant commenter also commented on the lack of definition of ''means of access,'' but instead argued for a definition that would capture any technology used to send the cardholder's debit card credentials through the merchant to the issuer. Other comment letters from merchants and related trade associations generally supported the proposal's clarification that the prohibition on network exclusivity applies to any means of access, including any means of access that may be developed in the future.

3. Final Rule

Current comment 235.7(a)–7 clarifies that the prohibition on network exclusivity applies to all types of debit cards. In proposing revisions to current

[25] Relative to the proposal, the final rule makes other non-substantive changes to terminology outside of comment 235.7(a)–1, including in the commentary to 235.7(b).

comment 235.7(a)–7, the Board intended only to update the term ''form factor'' to align with current industry terminology. In light of the comments received, the Board has determined that adopting the undefined term ''means of access'' is unnecessary, would create confusion, and would undermine clarity. Instead, the Board is adopting a modified version of proposed comment 235.7(a)–7 (now renumbered as comment 235.7(a)–8) that states that the prohibition on network exclusivity applies to electronic debit transactions performed with any debit card as defined in § 235.2 of Regulation II, regardless of the form of such debit card. The final rule further states that the requirement applies to electronic debit transactions performed using, for example, a plastic card, a supplemental device such as a fob, information stored inside an e-wallet on a mobile phone or other device, or any other form of debit card, as defined in § 235.2, that may be developed in the future. The Board is also adopting conforming changes to current comment 235.7(b)–2(iii).

Importantly, while current comment 235.7(a)–7 refers to a token as an example of a form factor to which the prohibition on network exclusivity applies, the final rule (like the proposal) removes the term ''token.'' The Board believes that the use of the term ''token'' in the context of current comment 235.7(a)–7 is outdated. In particular, the term ''token'' was intended to be synonymous with ''fob,'' rather than refer to tokenized debit card numbers.[26] Thus, as in the proposal, the final rule removes an outdated use of the term ''token.''

Removal of the word ''token'' in the final rule is not intended to suggest that tokenized debit card numbers are not subject to the prohibition on network exclusivity. To the contrary, the Board is aware of a variety of different types of tokenization arrangements in the marketplace (many of which were described in comment letters) and believes that some tokenized debit card numbers qualify as debit cards as defined in § 235.2. Under the final rule, where a tokenized debit card number qualifies as a debit card, the prohibition on network exclusivity would apply, and the issuer would be required to enable two unaffiliated networks to process transactions performed with the tokenized debit card number.

[26] Tokenization is a process whereby the primary account number associated with a debit card is converted into substitute credentials (a ''tokenized debit card number'' or ''token''), usually to improve security and decrease fraud associated with debit card transactions.

D. Effective Date of Final Rule

For the reasons described below, the Board is adopting the final rule with an effective date of July 1, 2023.[27]

The Board received numerous comments related to the timeline for implementing the proposal. In general, merchants argued that issuers should already be complying with the proposal's requirements with respect to card-not-present debit card transactions and, therefore, urged the Board to finalize the proposal as quickly as possible, with some merchants suggesting that the proposal should be effective before the 2021 holiday shopping season. In contrast, issuers argued for a much longer implementation time frame (for example, four or more years), stating that compliance with the proposal would require significant time and resources, which they would need to divert from other priorities.

The Board does not believe that the final rule requires either a very short or very long implementation timeline, as commenters variously argued.[28] When § 235.7(a) was originally adopted in 2011, the Board gave issuers nine months to comply with the prohibition on network exclusivity, with limited exceptions.[29] The final rule specifies that card-not-present debit card transactions are a particular type of transaction to which the prohibition on network exclusivity applies. The Board believes that, as when § 235.7(a) was originally adopted, approximately nine months is a sufficient amount of time for issuers to comply with the final rule. In addition, and as described in the Regulatory Analyses, *infra* section IV, the Board understands that many issuers, and especially most community bank issuers, are already compliant with the final rule because they have already enabled two unaffiliated networks to process card-not-present transactions performed with their debit cards.[30]

[27] Section 302 of the Riegle Community Development and Regulatory Improvement Act, Pub. L. 103–325, requires that amendments to regulations prescribed by a federal banking agency that impose additional requirements on insured depository institutions must take effect on the first day of a calendar quarter that begins on or after the date of publication in the **Federal Register**. 12 U.S.C. 4802. Consistent with this requirement, the effective date of the final rule is July 1, 2023.

[28] The Board believes that some commenters' requests for a very long implementation timeline largely stemmed from their broad reading of the proposal. As described above, the final rule includes changes (relative to the proposal) to foreclose the overly broad reading of the proposal put forward by many commenters.

[29] Specifically, section 235.7 was promulgated on July 20, 2011. The general compliance date for issuers for section 235.7(a) was April 1, 2012, but the compliance date was extended for certain types of debit cards. 76 FR 43393 (July 20, 2011).

IV. Regulatory Analyses

A. EFTA Section 904(a) Analysis

1. Statutory Requirement

Section 904(a)(2) of the EFTA requires the Board to prepare an economic analysis of the impact of the final rule that considers the costs and benefits to financial institutions, consumers, and other users of electronic fund transfers. The analysis must address the extent to which additional paperwork will be required, the effect upon competition in the provision of electronic fund transfer services among large and small financial institutions, and the availability of such services to different classes of consumers, particularly low-income consumers. The section also requires, to the extent practicable, the Board to demonstrate that the consumer protections of the proposed regulations outweigh the compliance costs imposed upon consumers and financial institutions.

EFTA section 904(a)(2) requires the Board to perform this economic analysis with respect to both proposed and final rules implementing EFTA section 920. The Board published a preliminary economic analysis in connection with the proposal. The Board received six comment letters from issuers and related trade associations and one additional comment letter that explicitly referenced the EFTA section 904(a)(2) economic analysis that was published with the proposal. In general, these commenters stated that the Board's economic analysis was insufficiently detailed and did not fully account for the economic impact of the proposal. In addition to these comments that directly referenced the EFTA section 904(a)(2) economic analysis, the Board received numerous comments discussing the proposed rule's impact on various debit card industry participants. Further discussion of these comments is provided in this section and in the Summary of Public Comments, *supra* section II, Final Rule and Section-by-Section Analysis, *supra* section III, and the Regulatory Flexibility Act Analysis, *infra* section IV.C.

[30] As a practical matter, an issuer will first need to determine (potentially by consulting its payment processor) whether card-not-present transactions performed with its debit cards can already be processed on at least two unaffiliated networks. If the issuer confirms that is the case, no further action is required for the issuer to comply with the final rule.

2. Cost/Benefit Analysis

(a.) Effects on Merchants [31]

i. Comments Received

Many commenters, primarily merchants, but also some issuers, networks, federal agencies, and consumers, expressed the view that the proposal would result in merchants being able to choose from at least two unaffiliated networks for card-not-present debit card transactions. Many of these commenters suggested that such choice between multiple networks would benefit merchants through increased competition between networks for card-not-present transactions. Commenters suggested that merchants may benefit from being able to route debit card transactions over networks with lower interchange or network fees, better fraud-prevention capabilities, or otherwise better service. These commenters also widely expressed the view that merchants operating in competitive conditions would ultimately pass through such benefits to consumers in the form of lower prices and improved service.

Some commenters, mainly issuers, expressed the view that merchants would retain most of the benefits from increased routing choice for card-not-present debit card transactions rather than passing them to consumers, while others suggested that the benefits of the proposal would accrue primarily to large merchants. Some of these commenters also suggested that the proposal might result in increased fraud for card-not-present debit card transactions, with merchants bearing some of the higher fraud burden.

ii. Analysis

The Board believes that the primary way in which the final rule will benefit merchants will be by providing them the opportunity to choose to route card-not-present debit card transactions over competing networks, allowing the merchant to select a network with potentially lower fees, better fraud-prevention capabilities, or otherwise more favorable terms from the merchant's perspective. While such benefits will be greater for those merchants who accept more card-not-present payments and merchants who optimize their routing decisions, the Board believes merchants broadly will benefit from more network choices. In the long term, increased competition for card-not-present debit card transactions between networks should further increase benefits to merchants as networks improve their fraud-prevention capabilities and lower their fees. Finally, the Board expects that merchants in more competitive markets will pass a greater portion of the benefits to consumers, relative to those in less competitive markets.

Although a merchant may need to incur adjustment costs to take advantage of the opportunity to choose between competing networks when routing card-not-present debit card transactions, a merchant's decision to incur those costs is at the merchant's discretion.[32] In particular, the final rule does not impose any obligations on merchants, and as such, merchants may continue to use their existing debit card processing arrangements without incurring any adjustment costs. Some merchants that choose not to incur adjustment costs may nevertheless experience increased routing choice through their existing arrangements as a result of the final rule. However, the Board expects some merchants to voluntarily adjust their debit card processing arrangements to capture benefits of the final rule, but only if such benefits outweigh the costs. These potential costs include modifying their ecommerce platforms, choosing to incur costs in switching processors or acquirers, or enhancing their fraud-prevention capabilities.

(b.) Effects on Issuers [33]

i. Comments Received

Many commenters, primarily issuers, expressed the view that the proposal may result in substantial costs and lost revenues for some issuers. In particular, these commenters suggested that issuers not already compliant with the proposed rule would bear implementation and compliance costs, and that such costs could be especially high for community bank issuers. The commenters also expressed the view that issuers would realize lower interchange fee revenues and greater fraud losses as a result of the proposed rule. Some commenters further suggested that such increased costs may force some issuers to pass on a portion of the costs to consumers in the form of higher fees and lower availability of free checking accounts and similar programs; a few commenters expressed the view that the inability to sufficiently offset the higher costs may threaten some issuers' survival. Other comments, primarily merchants, suggest that implementation and adoption costs for issuers to comply with the proposed rule would be limited because many issuers, and especially most community bank issuers, are already compliant with the proposal.

ii. Analysis

Board analysis suggests that the effect of the final rule on issuers will depend on four key factors. First, the effect will depend on the number of issuers not already compliant with the final rule because they have not already enabled at least two unaffiliated networks to process card-not-present debit card transactions; these issuers will need to make changes to their debit card programs to comply with the final rule. Both information received through the comment process and data collected by the Board suggest that those affected by the rule may differ by issuer size. In particular, some comment letters and Board data suggest that some large issuers will need to make changes to their debit card programs to come into compliance with the final rule.[34] By contrast, several comment letters received in connection with the proposal suggest that many issuers, and especially most community bank issuers, are already in compliance with the final rule. In particular, a comment letter submitted by a major trade association representing community banks stated that the vast majority of community banks have already enabled two unaffiliated networks to process card-not-present transactions. Other comment letters from issuers and merchants stated that many or most community bank issuers are already compliant with the proposal.

Second, the effect of the final rule on issuers will depend on the costs that issuers not already in compliance with the rule will need to incur to come into compliance. The Board believes that the costs of coming into compliance with the rule are likely to differ between issuers. In particular, implementation and compliance costs are likely to depend on issuers' current debit card processing arrangements, and the new arrangements issuers choose to establish to become compliant with the rule. Importantly, the Board believes issuers

[31] The Board interprets ''other users of electronic fund transfer services'' in EFTA section 904(a)(2) to refer primarily to merchants.

[32] To extent to which a merchant may be able to realize the benefits of the final rule, and any costs it may incur, could depend on decisions of the merchant's acquirer or payment processor, among other things.

[33] The Board interprets ''financial institutions'' in EFTA section 904(a)(2) to refer primarily to issuers of debit cards.

[34] As noted previously, according to the Board's most recent biennial data collection, almost a quarter of issuers with consolidated assets over $10 billion, representing slightly more than 50 percent of the total number and value of all debit card transactions subject to Regulation II's interchange fee standards in 2019, did not process any card-not-present debit card transactions over single-message networks.

will be able to choose between multiple solutions available today to become compliant with the rule, allowing them to select new arrangements that best suit them. Moreover, as described above, the final rule permits issuers to use more combinations of networks to satisfy the prohibition on network exclusivity than are permitted under current § 235.7(a)(2), which give issuers greater flexibility to choose how they combine multiple networks to comply with the final rule.

Third, the effect of the final rule on issuers will depend on the extent to which the rule will indirectly impact issuers' revenues in the form of lower interchange fee revenues or higher fraud losses for issuers with respect to card-not-present debit card transactions. As mentioned above, increased routing choice will allow merchants to route card-not-present transactions over networks with lower fees, better fraud prevention, and other terms that merchants may find desirable. To the extent that merchants take advantage of increased routing choice beyond what is already available for card-not-present transactions, merchants may choose to route a greater number of card-not-present transactions over networks with lower interchange fees. If these choices by merchants generate a substantial shift in card-not-present transaction volumes to networks with lower interchange fees, current interchange fee levels suggest that community bank issuers exempt from Regulation II's interchange fee standards that are not already compliant with the rule in particular may experience lower interchange fee revenues.[35] Similarly, a change in the networks over which merchants route card-not-present transactions may generate a change in the composition of card-not-present fraud. In particular, fraud losses experienced by issuers may change depending on fraud-prevention capabilities and liability rules for networks whose share of card-not-present transactions increases as a result of the final rule.

Finally, the effect of the final rule on issuers will depend on the extent to which issuers can and do choose to pass on to their customers any implementation and compliance costs, and potential changes to their interchange fee revenues and fraud losses. In particular, issuers could adjust product terms and fees for their customers in a way that offsets some or most of the economic impact resulting from the final rule. The Board expects that issuers in more competitive markets will be less likely than those in less competitive markers to seek to offset the economic impact of the final rule in this way.

Thus, the effect of the final rule on issuers will depend on a variety of factors, including the number of issuers not already compliant with the final rule, the costs that issuers not already in compliance with the rule will need to incur to come into compliance with the final rule, the extent to which the rule will indirectly impact issuers' revenues, and the extent to which issuers pass on to their customers any potential costs and foregone revenue. Importantly, only those issuers not already compliant with the final rule will need to incur compliance costs and could potentially experience indirect impacts on their interchange fees revenues and fraud losses. Issuers that are already compliant with the final rule will not experience additional compliance costs or the effects of changes in merchant routing behavior.

(c) Effects on Consumers and Availability of Services to Different Classes of Consumers

i. Comments Received

Some commenters, primarily issuers and related trade associations, expressed the view that the proposal would harm consumers. In particular, commenters suggested that some issuers would pass incremental implementation and compliance costs associated with the proposal onto consumers through higher account fees and reduced availability of free checking accounts and similar programs, curtailing consumers' access to financial services. Such commenters further suggested that consumers could also be negatively impacted by higher fraud levels or increased consumer fraud liability associated with increased routing of card-not-present transactions over single-message networks. Finally, some commenters suggested that higher fees and fraud rates as a result of the proposal would harm consumers if they switch to financial services provided by nonbank institutions.

Other commenters, primarily merchants and related trade associations, but also some commenters representing consumers, expressed the view that the proposal would benefit consumers. In particular, commenters suggested that competition between merchants would result in merchants passing on some or most benefits associated with the proposal to consumers in the form of lower prices, greater payment method choice, or other service enhancements.

ii. Analysis

The effect of the final rule on consumers will depend on the behavior of various participants in the debit card industry. Increased choice for merchants and the resulting ability to route card-not-present transactions over networks with lower interchange or network fees could lead to a decrease in merchants' costs of debit card acceptance, which merchants could in turn pass on to consumers in the form of lower prices or foregone price increases. Merchants operating in highly competitive markets with low margins may pass the bulk of these savings on to consumers, while merchants operating in less competitive markets may retain a greater portion of the savings. Any such price reductions would benefit all consumers, not just those paying with debit cards. In addition, increased choice in how to route card-not-present transactions could provide merchants with a greater economic incentive to accept debit cards for card-not-present transactions, which would benefit consumers by increasing their ability to use debit cards.

At the same time, as noted above, issuers who are not already compliant with the rule may seek to offset any implementation and compliance costs, and potentially lower interchange fee revenues and any higher fraud losses, by setting higher fees for checking accounts or reducing availability of free checking accounts. The extent to which issuers are able to do this, however, will be limited by how sensitive consumers are to such fee increases and reduced benefits. In particular, attempts by some issuers to increase fees and lower benefits may push consumers to switch to issuers with more favorable pricing, including those issuers who are already compliant with the rule.

The effect of the rule could differ between particular classes of consumers in several ways. First, because the most common way to make card-not-present payments is to do so using a debit card, increasing the ability to make such payments would benefit consumers without access to credit cards.[36] Second,

[35] By contrast, interchange fees for issuers subject to Regulation II's interchange fee standards currently exhibit less variation across networks, suggesting that merchant routing decisions will have less impact on interchange fees received by those issuers. See *Average Debit Card Interchange Fee by Payment Card Network,* available at *https://www.federalreserve.gov/paymentsystems/regii-average-interchange-fee.htm.* Nevertheless, increased merchant routing choice could place downward pressure on those fees or other fees charged by networks (for example, network switch fees).

[36] Federal Reserve Board, *Developments in Noncash Payments for 2019 and 2020: Findings*

issuers' choice to increase checking account fees or reduce the availability of free checking accounts would have a greater impact on consumers who are more sensitive to such fees, although competition between issuers could limit such fee changes.

(d) Additional Paperwork

The final rule does not alter the reporting and recordkeeping requirements that § 235.8 of Regulation II imposes on issuers, and the section imposes no reporting or recordkeeping requirements on consumers or merchants. The Board did not receive any comments in response to the proposal related to paperwork burden.

(e) Effect on Fraud

Although section 904(a)(2) of the EFTA does not require the Board to consider the impact of the final rule on fraud, the Board believes it is appropriate to address this topic in light of comments received in connection with the proposal.

i. Comments Received

As described in the Summary of Public Comments, *supra* section II, various commenters, especially issuers, related trade associations, and dual-message networks, expressed the view that the proposal would, in practice, require most issuers to enable single-message networks to process card-not-present debit card transactions, which in turn may result in increased level of fraud for card-not-present transactions. These commenters further argued that the proposal casts doubt on whether an issuer could decline specific transactions for good-faith fraud concerns. Other commenters, including commenters representing merchants and single-message networks, argued that the proposal would not increase card-not-present fraud and that single-message networks are as effective at mitigating fraud as dual-message networks. A few commenters stated that single-message networks have an inherent advantage in preventing card-not-present fraud over dual-message networks because single-message networks send all information relevant to the transaction in a single message.

ii. Analysis

EFTA section 920(b)(1)(A) directs the Board to prescribe regulations providing that an issuer or network shall not directly or indirectly restrict the number of networks on which a debit card transaction may be processed to fewer than two unaffiliated networks. In fulfilling this statutory mandate, the Board acknowledges that requiring issuers to enable two unaffiliated networks to process card-not-present transactions may alter the composition of card-not-present fraud if merchants choose to route card-not-present transactions over networks that are different from those they use today. In particular, the Board previously noted that, in 2019, single-message networks experienced significantly lower fraud losses relative to dual-message networks, but these lower fraud losses were partially driven by the fact that single-message networks were rarely used to process card-not-present transactions in 2019.[37] Given this fact, and as a result of the final rule, the Board believes it is likely that the share of card-not-present fraud attributable to single-message networks will increase in the coming years relative to dual-message networks, as single-message networks become a more widespread alternative over which merchants can route card-not-present debit card transactions. In addition, the apportionment of fraud losses among various parties to debit card transactions may change to the extent that single-message networks' liability rules differ from those of dual-message networks.

Importantly, however, nothing in the final rule requires issuers to enable any particular network, such as a network with higher levels of fraud, to process card-not-present debit card transactions. Similarly, nothing in the final rule requires merchants to choose to route card-not-present debit card transactions over any particular network. In addition, even though the Board believes it is likely that the share of card-not-present fraud attributable to single-message networks will increase in the coming years relative to dual-message networks, the Board does not agree with commenters' suggestion that single-message networks have categorically weaker fraud-prevention capabilities compared with dual-message networks. In particular, data collected by the Board does not demonstrate that single-message networks have overall higher fraud rates or higher card-not-present fraud rates compared with dual-message networks, and there is nothing to suggest that card-not-present fraud rates between dual-message networks and single-message networks will diverge as a result of the final rule.[38] To the contrary, increased adoption of card-not-present capabilities among single-message networks in recent years suggests that such networks have implemented fraud-prevention measures to combat card-not-present fraud that make them a viable alternative to dual-message networks. Finally, the Board believes that increased competition between networks for card-not-present transactions spurred by the final rule is likely to result in all networks improving their fraud-prevention capabilities, including fraud-prevention capabilities for card-not-present transactions.

The Board does not agree with commenters' interpretation that the proposal (or the final rule) casts doubt on the ability of an issuer to decline specific debit card transactions for good-faith fraud concerns. In particular, the final rule does not prohibit an issuer from declining a specific debit card transaction for such concerns; rather, it requires that the issuer enable at least two unaffiliated networks to process such debit card transactions.

(f) Effects Upon Competition in the Provision of Electronic Banking Services [39]

i. Comments Received

Some commenters, primarily merchants, single-message networks, and federal agencies, expressed the view that the proposal would promote greater competition between networks by ensuring at least two unaffiliated networks are available for card-not-present debit card transactions. These commenters noted that such a competitive landscape may be necessary for some of the networks currently in the market to remain competitive as more debit card transactions move into the card-not-present environment. At the same time, a few commenters expressed the view that the proposal is unnecessary because competitive forces within the debit card industry are strong enough to provide merchants with routing choice for card-not-present transactions.

ii. Analysis

The Board expects the final rule to increase competition between networks. By making it possible for merchants to route card-not-present debit card transactions over two or more unaffiliated networks, the final rule should encourage greater competition

from the Federal Reserve Payments Study, available at *https://www.federalreserve.gov/paymentsystems/december-2021-findings-from-the-federal-reserve-payments-study.htm.*

[37] *See* 2019 Data Report at p. 17.

[38] *See* 2019 Data Report at p. 28.

[39] Although EFTA section 904(a)(2) requires the Board to consider ''the effects upon competition in the provision of electronic banking services among large and small financial institutions,'' the Board is considering the impact of the final rule on competition generally, including competition between large and small financial institutions.

between networks for such transactions. There could be multiple benefits from such increased competition, including lower fees borne by merchants and enhanced fraud-prevention capabilities among networks. Importantly, both such effects could benefit not just merchants but also issuers (through lower fraud rates) and consumers (through lower prices and fraud rates). Moreover, the final rule gives issuers greater flexibility to combine multiple networks (including networks that may operate for a limited geographic area) to satisfy the rule's requirements. As a consequence, networks whose operations are limited in one or more dimensions could become more competitive in the marketplace as a result of the final rule.

In addition, the Board believes that the final rule could promote competition between issuers of different sizes. As described above, some comment letters and Board data suggest that several of the largest issuers have not enabled two unaffiliated networks to process card-not-present debit card transactions, but most community bank issuers have already done so. The final rule will thus level the playing field between issuers of all sizes by requiring all of them to consistently enable two unaffiliated networks to process card-not-present debit card transactions.

(g) Consumer Protections and Compliance Costs

As noted above, EFTA section 904(a)(2) requires that, to the extent practicable, the Board must demonstrate that the consumer protections of the proposed regulations outweigh the compliance costs imposed upon consumers and financial institutions. Based on the analysis above, the Board cannot, at this time, determine whether the benefits to consumers exceed the possible costs to financial institutions. In particular, the final rule may yield benefits for consumers; however, as described in the analysis above, the magnitude of these benefits will depend on the behavior of various participants in the debit card industry. The final rule may also impose compliance costs on financial institutions that have not already enabled at least two unaffiliated networks to process card-not-present debit card transactions; however, an individual financial institution's compliance costs, if any, will depend on its particular circumstances. The overall effects of the final rule on consumers and on financial institutions are dependent on a variety of factors, and the Board cannot predict the market response to the final rule.

B. EFTA Section 904(a) Interagency Consultation Requirement

In addition to the economic analysis provided above, EFTA section 904(a)(2) requires the Board to consult with the other agencies that have enforcement authority under the EFTA on any rulemakings related to EFTA section 920.[40] The Board consulted with each of the relevant agencies prior to issuing this final rule.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR part 1320, Appendix A.1), the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a valid Office of Management and Budget (OMB) control number. The Board reviewed the final rule under the authority delegated to the Board by the OMB and determined that it contains no collections of information under the PRA. Accordingly, there is no paperwork burden associated with the final rule.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires an agency to consider whether its rules will have a significant economic impact on a substantial number of small entities. Under the RFA, in connection with a final rule, an agency is generally required to publish a final regulatory flexibility analysis (FRFA), unless the head of agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and the agency publishes the factual basis supporting such certification. An FRFA must contain (i) a statement of the need for, and objectives of, the rule; (ii) a statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis (IRFA) that was prepared in connection with the proposed rule, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (iii) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (iv) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (v) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (vi) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, 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.

The Board is providing an FRFA with respect to the final rule.

1. Need for and Objectives of the Rule

The first required element of an FRFA—a statement of the need for, and objectives of, the rule—is provided in the Background, *supra* section I.

2. Significant Issues Raised by Public Comments in Response to the IRFA

The Board received seven comment letters from issuers and related trade associations that explicitly referenced the IRFA that was published with the proposal. In general, these commenters summarily stated that the Board's IRFA was insufficiently detailed; a few commenters stated that it was not possible to evaluate the compliance burden that the proposal would impose on issuers based on the limited analysis in the Board's IRFA. However, none of these commenters provided detailed comments on the Board's IRFA. In addition to these comments that directly referenced the IRFA, the Board received numerous comments discussing the proposed rule's impact on entities of all sizes, including community bank issuers. Further discussion of these comments is provided in the Summary of Public Comments, *supra* section II, Final Rule and Section-by-Section Analysis, *supra* section III, and the EFTA Section 904(a) Analysis, *supra* section IV.A. As described in the Final Rule and Section-by-Section Analysis, the Board is adopting a final rule that is substantively consistent with the proposal, but with certain changes to address issues raised by commenters.

[40] These agencies include the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Department of Transportation, the Securities and Exchange Commission, the Consumer Financial Protection Bureau, and the Federal Trade Commission. *See* EFTA section 918.

3. Response to Comments Filed by the Chief Counsel for Advocacy of the Small Business Administration

The Board transmitted a copy of the IRFA that was published with the proposal to the SBA's Chief Counsel for Advocacy, as required by statute. The Board did not receive any comments from the SBA's Chief Counsel for Advocacy in response to the proposal.

4. Estimate of the Number of Small Entities

The final rule applies to all debit card issuers; thus, the number of small entities to which the final rule will apply is the number of debit card issuers that are considered small entities. For this purpose, the SBA has adopted size standards that provide that card-issuing institutions with average assets of less than $750 million over the preceding year (based on the institution's four quarterly financial statements) are considered small entities.[41]

Based on this size standard and Call Report data, the Board estimates that approximately 8,000 small entities will be subject to the final rule. The Board derived this estimate by (i) identifying those depository institutions that, together with their affiliates, had average assets of less than $750 million in 2021 based on the depository institutions' four quarterly Call Reports (that is, FFIEC 041 and NCUA 5300) and, where applicable, holding company financial reports (that is, FR Y–9C) in 2021, and (ii) determining the number of such depository institutions that reported the type of income that includes debit card interchange fees in 2021. Although the Board believes that 8,000 small entities is a reasonable estimate of the number of small entities that will be subject to the final rule, the Board notes that this estimate may represent an overcount because the line items in the Call Reports on which the Board's estimate is based aggregate several types of income, including income other than debit card interchange fee income, and thus, some of the depository institutions that report income on these lines may not in fact be debit card issuers.[42] On the other hand, the Board's estimate may represent an undercount because it would not include debit card issuers that are not depository institutions that are required to file quarterly Call Reports.[43]

5. Description of Reporting, Recordkeeping, and Other Compliance Requirements

The final rule does not alter the reporting requirements that § 235.8(b) of Regulation II imposes on issuers.

With respect to recordkeeping requirements, § 235.8(c) of Regulation II requires issuers to retain records to demonstrate compliance with the requirements of Regulation II for not less than five years after the end of the calendar year in which the debit card transaction occurred; if an issuer receives actual notice that it is subject to an investigation by an enforcement agency, the issuer must retain the records until final disposition of the matter. The final rule does not directly alter the requirements of § 235.8(c). However, as a result of the final rule, an issuer that is not already compliant with the final rule's requirements will need to retain records to demonstrate that the issuer has enabled two unaffiliated networks to process card-not-present transactions performed with the issuer's debit cards. The Board believes that this additional recordkeeping burden should not be significant because such issuers should already be retaining records to demonstrate that they are complying with the prohibition on network exclusivity under the current rule and can retain the same types of records to demonstrate that they are compliant with the requirements of the final rule with respect to card-not-present transactions. For the same reason, the additional professional skills necessary for the preparation of such records should not be significant. The Board did not receive any comments in response to the proposal related to paperwork burden.

With respect to other compliance requirements, the Board believes that the impact of the final rule on small entities will vary significantly depending on the small entity's operations and processing arrangements. In particular, the Board distinguishes between three classes of small entities subject to the final rule (that is, small issuers that process card-not-present transactions): (i) small entities that are already compliant with the final rule because they have already enabled at least two unaffiliated networks to process card-not-present transactions; (ii) small entities that have enabled only one network (or only multiple affiliated networks) to process card-not-present transactions, but that already contract with an unaffiliated network that is capable of processing card-not-present transactions; and (iii) small entities that have enabled only one network (or only multiple affiliated networks) to process card-not-present transactions, and that do not already contract with an unaffiliated network that is capable of processing card-not-present transactions.[44]

Issuers in the first class of small entities subject to the final rule—small entities that are already complaint with the final rule because they have already enabled at least two unaffiliated networks to process card-not-present transactions—would not need to take any additional steps to comply with the final rule and thus should not bear any compliance costs associated with the rule. The Board is unable to estimate the number of small entities in this first class of small entities.[45] However, in response to the proposal, the Board received multiple comment letters representing the interests of both merchants and issuers—including a comment letter from a major trade association representing community banks—that indicated that most community bank issuers are already compliant with the prohibition on network exclusivity for card-not-present transactions.[46] For this reason, the Board believes that it is likely that there is already widespread compliance with the final rule among small entities subject to the final rule.

Issuers in the second class of small entities subject to the final rule—small entities that have enabled only one

[41] 13 CFR 121.201 (sector 522210). Although this size standard applies to credit card-issuing institutions, the Board believes that the same size standard should apply to debit card-issuing institutions. Consistent with the General Principles of Affiliation in 13 CFR 121.103, the Board counts the assets of all domestic and foreign affiliates when determining whether to classify an institution as a small entity.

[42] The Board considered using other, more specific line items in the Call Reports as the basis for its estimate. However, the Board recognizes that different reporting practices among depository institutions may affect the accuracy and consistency of information for those more specific line items. For this reason, the Board determined that it would be more appropriate to use the line items that aggregate several types of income, including debit card interchange fee income.

[43] At this time, the Board is not aware of any debit card issuers that are not depository institutions.

[44] As stated previously, an issuer may need to consult with its payment processor to determine whether card-not-present transactions performed with its debit cards can already be processed on at least two unaffiliated networks.

[45] Pursuant to its authority in section 235.8(b) of Regulation II, the Board collects data on an annual or biennial basis only from payment card networks and ''covered issuers'' with consolidated assets exceeding $10 billion. Thus, the Board does not collect data from small entities subject to the final rule.

[46] The Board notes that these comment letters were likely not describing the extent of compliance among small entities as defined for RFA purposes (that is, issuers with average assets of less than $750 million over the preceding year), but rather were likely describing the extent of compliance among issuers exempt from Regulation II's interchange fee standards (that is, issuers with consolidated assets of less than $10 billion).

network (or only multiple affiliated networks) to process card-not-present transactions, but that already contract with an unaffiliated network that is capable of processing card-not-present transactions—may comply with the final rule by enabling one or more of its their existing networks to process card-not-present transactions. The Board has considered feedback provided by debit card industry participants, along with the Board's general understanding of the technical aspects of the debit card industry. Accordingly, the Board believes that while there are compliance costs associated with enabling an existing network to process card-not-present transactions, these costs are generally not significant.[47]

Issuers in the third class of small entities subject to the final rule—small entities that have enabled only one network (or only multiple affiliated networks) to process card-not-present transactions, and that do not already contract with an unaffiliated network that is capable of processing card-not-present transactions—will need to enable a new unaffiliated network to process card-not-present transactions to comply with the final rule. The Board has considered feedback provided by debit card industry participants, along with the Board's general understanding of the technical aspects of the debit card industry. Accordingly, the Board believes that the compliance costs associated with this category of small entities could be significant and will likely vary substantially depending on a small entity's particular facts and circumstances. However, these small entities should be able to choose among alternative compliance arrangements to reduce compliance costs.[48]

For the reasons described above, the Board also is unable to estimate the number of small entities in the second and third classes of small entities. However, based on the comments received in response to the proposal as noted above, the Board believes that there are significantly fewer small entities in the second and third classes of small entities compared with the first class of small entities.

6. Steps Taken To Minimize the Significant Economic Impact on Small Entities and Alternatives Considered

As stated in the Summary of Public Comments, *supra* section II, EFTA section 920(b)(1)(A) directs the Board to prescribe regulations providing that an issuer or network shall not directly or indirectly restrict the number of networks on which an electronic debit transaction may be processed to fewer than two unaffiliated networks. The statute does not exempt, and does not authorize the Board to exempt, small issuers from the two-network requirement. For this reason, the Board could not consider an alternative rule that would have allowed small entities subject to the final rule not to enable at least two unaffiliated networks to process card-not-present transactions.

Although the Board lacks the legal authority to exempt small entities from the final rule, the Board, partly in response to comments received in connection with the proposal, took other steps to minimize the economic impact of the final rule on issuers of all sizes, including small entities. First, as described in the Final Rule and Section-by-Section Analysis, *supra* section III, the final rule permits issuers to use more combinations of networks to satisfy the prohibition on network exclusivity than are permitted under current § 235.7(a)(2). The Board believes that allowing issuers to use more combinations of networks to satisfy the final rule will help issuers minimize compliance costs associated with the final rule because issuers can choose the lowest-cost combination of networks to comply with the final rule. Second, as described in the Final Rule and Section-by-Section Analysis, *supra* section III, the Board is adopting a final rule that preserves an issuer's ability to rely on network rules or policies in determining whether a network may be used to satisfy the prohibition on network exclusivity. The Board believes that allowing issuers to continue to rely on network rules or policies in determining whether a network may be used to satisfy the prohibition on network exclusivity (as is permitted under current § 235.7(a)(2)) will make it much easier for issuers to know when they have complied with the final rule and to demonstrate such compliance, as compared with the proposal. Finally, as described in the Final Rule and Section-by-Section Analysis, *supra* section III, the Board is giving small entities approximately nine months to comply with the final rule—which is the same amount of time the Board gave issuers to comply when § 235.7(a) was originally adopted in 2011. The Board believes that, as when § 235.7(a) was originally adopted, nine months is a sufficient amount of time for issuers to comply with the final rule.

E. Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires the federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board has sought to present the final rule in a simple and straightforward manner.

List of Subjects in 12 CFR Part 235

Banks, banking, Debit card routing, Electronic debit transactions, Interchange transaction fees.

Authority and Issuance

For the reasons set forth in the preamble, the Board is amending 12 CFR part 235 (Regulation II) as follows:

PART 235—DEBIT CARD INTERCHANGE FEES AND ROUTING (REGULATION II)

■ 1. The authority citation for part 235 continues to read as follows:

Authority: 15 U.S.C. 1693o–2.

■ 2. Section 235.7 is amended by revising paragraph (a)(2) to read as follows:

§ 235.7 Limitations on payment card restrictions.

(a) * * *

(2) *Permitted arrangements.* An issuer satisfies the requirements of paragraph (a)(1) of this section only if the issuer enables at least two unaffiliated payment card networks to process an electronic debit transaction—

(i) Where such networks in combination do not, by their respective rules or policies or by contract with or other restriction imposed by the issuer, result in the operation of only one network or only multiple affiliated networks for a geographic area, specific merchant, particular type of merchant, or particular type of transaction, and

(ii) Where each of these networks has taken steps reasonably designed to be able to process the electronic debit transactions that it would reasonably

[47] For example, an issuer that begins to accept card-not-present transactions routed over an existing network may need to update its internal systems to ensure that the issuer can accept payment messages associated with card-not-present transactions and may need to update its fraud-prevention processes to account for this new type of transaction. However, such an issuer should not need to take much more costly steps, such as adding or changing networks or reissuing its debit cards.

[48] For example, an issuer that enables a new network to process card-not-present transactions by directly connecting with the new network would likely need to make significant updates to its internal systems in order to accept transactions routed over the new network and may need to reissue its debit cards to comply with the new network's technical and branding requirements. Alternatively, the issuer may be able to reduce compliance costs by enabling a new network to process card-not-present transactions by indirectly connecting to such network through one of its existing networks, which may not require card reissuance.

expect will be routed to it, based on expected transaction volume.

* * * * *

■ 3. Appendix A to part 235 is amended under ''Section 235.7 Limitations on Payment Card Restrictions'' by revising paragraphs 7(a), 7(b)1 and 2, and 7(b)5 to read as follows:

Appendix A to Part 235—Official Board Commentary on Regulation II

* * * * *

Section 235.7 Limitations on Payment Card Restrictions

* * * * *

7(a) Prohibition on Network Exclusivity

1. *Scope of restriction.* Section 235.7(a) requires an issuer to configure each of its debit cards so that each electronic debit transaction performed with such card can be processed on at least two unaffiliated payment card networks. In particular, § 235.7(a) requires this condition to be satisfied for each geographic area, specific merchant, particular type of merchant, and particular type of transaction for which the issuer's debit card can be used to perform an electronic debit transaction. As long as the condition is satisfied for each such case, § 235.7(a) does not require the condition to be satisfied for each method of cardholder authentication (*e.g.,* signature, PIN, biometrics, any other method of cardholder authentication that may be developed in the future, or the lack of a method of cardholder authentication). For example, it is sufficient for an issuer to issue a debit card that can perform signature-authenticated transactions only over one payment card network and PIN-authenticated transactions only over another payment card network, as long as the two payment card networks are not affiliated and each network can be used to process electronic debit transactions for every geographic area, specific merchant, particular type of merchant, and particular type of transaction for which the issuer's debit card can be used to perform an electronic debit transaction.

2. *Issuer's role.* Section 235.7(a) does not require an issuer to ensure that two or more unaffiliated payment card networks will actually be available to the merchant to process every electronic debit transaction. To comply with the requirement in § 235.7(a), it is sufficient for an issuer to configure each of its debit cards so that each electronic debit transaction performed with such card can be processed on at least two unaffiliated payment card networks, even if the networks that are actually available to the merchant for a particular transaction are limited by, for example, the card acceptance technologies that a merchant adopts, or the networks that the merchant accepts.

3. *Permitted networks.*

i. *Network volume capabilities.* A payment card network could be used to satisfy the requirement that an issuer enable two unaffiliated payment card networks for each electronic debit transaction if the network was either (a) capable of processing the volume of electronic debit transactions that it would reasonably expect to be routed to it or (b) willing to expand its capabilities to meet such expected transaction volume. If, however, the network's policy or practice is to limit such expansion, it would not qualify as one of the two unaffiliated payment card networks.

ii. *Reasonable volume expectations.* One of the steps a payment card network can take to form a reasonable expectation of its transaction volume is to consider factors such as the number of cards expected to be issued that are enabled by an issuer on the network and expected card usage patterns.

iii. *Examples of permitted arrangements.* For each geographic area (*e.g.,* New York State), specific merchant (*e.g.,* a specific fast food restaurant chain), particular type of merchant (*e.g.,* fast food restaurants), and particular type of transaction (*e.g.,* card-not-present transaction) for which the issuer's debit card can be used to perform an electronic debit transaction, an issuer must enable at least two unaffiliated payment card networks, but those payment card networks do not necessarily have to be the same two payment card networks for every transaction.

A. *Geographic area:* An issuer complies with the rule only if, for each geographic area in which the issuer's debit card can be used to perform an electronic debit transaction, the issuer enables at least two unaffiliated payment card networks. For example, an issuer could comply with the rule by enabling two unaffiliated payment card networks that can each process transactions in all 50 U.S. states. Alternatively, the issuer could comply with the rule by enabling three unaffiliated payment card networks, A, B, and C, where network A can process transactions in all 50 U.S. states, network B can process transactions in the 48 contiguous United States, and network C can process transactions in Alaska and Hawaii.

B. *Particular type of transaction:* An issuer complies with the rule only if, for each particular type of transaction for which the issuer's debit card can be used to perform an electronic debit transaction, the issuer enables at least two unaffiliated payment card networks. For example, an issuer could comply with the rule by enabling two unaffiliated payment card networks that can each process both card-present and card-not-present transactions. Alternatively, the issuer could comply with the rule by enabling three unaffiliated payment card networks, A, B, and C, where network A can process both card-present and card-not-present transactions, network B can process card-present transactions, and network C can process card-not-present transactions.

4. *Examples of prohibited network restrictions on an issuer's ability to contract with other payment card networks.* The following are examples of prohibited network restrictions on an issuer's ability to contract with other payment card networks:

i. Network rules or contract provisions limiting or otherwise restricting the other payment card networks that an issuer may enable on a particular debit card, or network rules or contract provisions that specify the other networks that an issuer may enable on a particular debit card.

ii. Network rules or guidelines that allow only that payment card network's (or its affiliated networks') brand, mark, or logo to be displayed on a particular debit card, or that otherwise limit the ability of brands, marks, or logos of other payment card networks to appear on the debit card.

5. *Network logos or symbols on card not required.* Section 235.7(a) does not require that a debit card display the brand, mark, or logo of each payment card network over which an electronic debit transaction may be processed. For example, the rule does not require a debit card that an issuer enables on two or more unaffiliated payment card networks to bear the brand, mark, or logo of each such payment card network.

6. *Voluntary exclusivity arrangements prohibited.* Section 235.7(a) requires that an issuer enable at least two unaffiliated payment card networks to process an electronic debit transaction, even if the issuer is not subject to any rule of, or contract or other agreement with, a payment card network requiring that all or a specified minimum percentage of electronic debit transactions be processed on the network or its affiliated networks.

7. *Affiliated payment card networks.* Section 235.7(a) does not prohibit an issuer from enabling two affiliated payment card networks among the networks on a particular debit card, as long as at least two of the networks that can be used to process each electronic debit transaction are unaffiliated.

8. *Application of rule regardless of form.* The network exclusivity provisions in § 235.7(a) apply to electronic debit transactions performed with any debit card as defined in § 235.2, regardless of the form of such debit card. For example, the requirement applies to electronic debit transactions performed using a plastic card, a supplemental device such as a fob, information stored inside an e-wallet on a mobile phone or other device, or any other form of debit card, as defined in § 235.2, that may be developed in the future.

7(b) Prohibition on Routing Restrictions

1. *Relationship to the network exclusivity restrictions.* An issuer or payment card network is prohibited from inhibiting a merchant's ability to direct the routing of an electronic debit transaction over any of the payment card networks that the issuer has enabled to process electronic debit transactions performed with a particular debit card. The rule does not require that an issuer allow a merchant to route a transaction over a payment card network that the issuer did not enable to process transactions performed with that debit card.

2. *Examples of prohibited merchant restrictions.* The following are examples of issuer or network practices that would inhibit a merchant's ability to direct the routing of an electronic debit transaction and that are therefore prohibited under § 235.7(b):

i. Prohibiting a merchant from encouraging or discouraging a cardholder's use of a particular method of cardholder authentication, for example prohibiting merchants from favoring a cardholder's use of one cardholder authentication method over another, or from discouraging the cardholder's use of any given cardholder authentication method, as further described in comment 7(a)–1.

ii. Establishing network rules or designating issuer priorities directing the processing of an electronic debit transaction on a specified payment card network or its affiliated networks, or directing the processing of the transaction away from a specified payment card network or its affiliates, except as:

(A) A default rule in the event the merchant, or its acquirer or processor, does not designate a routing preference; or

(B) If required by state law.

iii. Requiring a specific payment card network to be used based on the form of debit card presented by the cardholder to the merchant (*e.g.,* plastic card, payment code, or any other form of debit card as defined in § 235.2).

* * * * *

5. *No effect on network rules governing the routing of subsequent transactions.* Section 235.7 does not supersede a payment card network rule that requires a chargeback or return of an electronic debit transaction to be processed on the same network that processed the original transaction.

* * * * *

By order of the Board of Governors of the Federal Reserve System.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2022–21838 Filed 10–7–22; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 11 and 13

[Docket No.: FAA–2018–1051; Amdt. No.: 13–40A]

RIN 2120–AK85

Update to Investigative and Enforcement Procedures and General Rulemaking Procedures; Technical Amendments

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

ACTION: Final rule; technical amendments.

SUMMARY: The FAA is making technical amendments to the Update to Investigative and Enforcement Procedures final rule, which was published on October 1, 2021. The final rule document inadvertently removed a delegation of authority from the Administrator for certificate actions. Also, the FAA is adding the Office of Management and Budget (OMB) control number for an information collection in the final rule.

DATES: Effective October 11, 2022.

FOR FURTHER INFORMATION CONTACT: Cole R. Milliard, Office of the Chief Counsel, AGC–300, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–3452; email *Cole.Milliard@faa.gov,* or Jessica E. Kabaz-Gomez, Office of the Chief Counsel, AGC–300, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–7395; email *Jessica.Kabaz-Gomez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

A copy of the Update to Investigative and Enforcement Procedures notice of proposed rulemaking (NPRM) (84 FR 3614, February 12, 2019), comments received, and final rule may be viewed online at *https://www.regulations.gov* using the docket number listed above. A copy of these technical amendments will be placed in the same docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *https://www.federalregister.gov* and the Government Publishing Office's website at *https://www.govinfo.gov.* A copy may also be found at the FAA's Regulations and Policies website at *https://www.faa.gov/regulations_policies.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9677. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing these technical amendments, including economic analyses and technical reports, may be accessed in the electronic docket for this rulemaking.

Good Cause for Adoption Without Prior Notice

Section 553(b)(3)(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.'' Section 553(d)(3) of the APA requires that agencies publish a rule not less than 30 days before its effective date, except as otherwise provided by the agency for good cause found and published with the rule.

This action makes technical amendments that will not impose any additional substantive restrictions or requirements on any persons affected by the regulations. Therefore, the FAA finds that notice and public comment under 5 U.S.C. 553(b)(3)(B) is unnecessary and that good cause exists under 5 U.S.C. 553(d) for making this rule effective in less than 30 days.

Background

On October 1, 2021, the Update to Investigative and Enforcement Procedures final rule (RIN 2120–AL00) was published in the **Federal Register** at 86 FR 54514. After the rule was published, the FAA discovered that a delegation of the Administrator's authority under 49 U.S.C. 44709 and 5121 previously codified in 14 CFR 13.19(b) was inadvertently deleted. On March 17, 2022, the Administrator issued a Delegation of Authority that authorized the Chief Counsel, the Deputy Chief Counsel, and the Assistant Chief Counsel for Enforcement to exercise his authority under 49 U.S.C. 44709 and 5121 to issue orders, including emergency orders, and also ratified all orders issued under these statutes between publication of the final rule and March 17, 2022.

This technical amendment restores the delegation of the Administrator's authority under 49 U.S.C. 44709(b)(1)(A), (b)(2), and 5121 to part 13 by inserting it in §§ 13.19(a)(2) and 13.70. This places part of the prior delegation that pertained to the Administrator's authority to take certain certificate actions, as currently codified in 49 U.S.C. 44709(b)(1)(A) and (b)(2), in § 13.19 because this section pertains to certificate actions. The other part of the prior delegation that addressed the Administrator's authority under the Hazardous Materials Transportation Act, as currently codified in 49 U.S.C. 5121, is being placed in § 13.70 of subpart E because it pertains to hazardous material actions. It is necessary to restore this delegation to the text of these regulations because it was inadvertently deleted, and to ensure consistency throughout part 13, which contains other codified delegations of the Administrator's authority.

This same final rule included an information collection subject to the Paperwork Reduction Act: formal complaints, codified at 14 CFR 13.5. Since the publication of the final rule, OMB has approved the formal complaint information collection. The FAA is therefore adding the formal complaint control number to the list of OMB control numbers for FAA information collections at 14 CFR 11.201.

List of Subjects

14 CFR Part 11

Administrative practice and procedure, Reporting and recordkeeping requirements.

14 CFR Part 13

Administrative practice and procedure, Air transportation, Aviation safety, Hazardous materials transportation, Investigations, Law enforcement, Penalties.

The Amendments

Accordingly, the FAA amends 14 CFR parts 11 and 13 as set forth below:

PART 11—GENERAL RULEMAKING PROCEDURES

■ 1. The authority citation for part 11 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40101, 40103, 40105, 40109, 40113, 44110, 44502, 44701–44702, 44711, 46102, and 51 U.S.C. 50901–50923.

■ 2. Amend the table in paragraph (b) of § 11.201 by adding an entry for ''13.5'' before the entry ''Part 14'' to read as follows:

§ 11.201 Office of Management and Budget (OMB) control numbers assigned under the Paperwork Reduction Act.

* * * * *

(b) * * *

14 CFR part or section identified and described	Current OMB control number
13.5	2120–0795
* * * * *	

PART 13—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

■ 3. The authority citation for part 13 is revised to read as follows:

Authority: 18 U.S.C. 6002; 28 U.S.C. 2461 (note); 49 U.S.C. 106(g), 5121–5124, 5127, 40113–40114, 44103–44106, 44701–44704, 44709–44710, 44713, 44725, 44742, 44802 (note), 46101–46111, 46301, 46302 (for a violation of 49 U.S.C. 46504), 46304–46316, 46318, 46501–46502, 46504–46507, 47106, 47107, 47111, 47122, 47306, 47531–47532; 49 CFR 1.83.

■ 4. Revise paragraph (a) of § 13.19 to read as follows:

§ 13.19 Certificate actions appealable to the National Transportation Safety Board.

(a) This section applies to certificate actions by the Administrator that are appealable to the National Transportation Safety Board.

(1) Under 49 U.S.C. 44709(b) the Administrator may issue an order amending, modifying, suspending, or revoking all or part of any type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate, or air agency certificate if as a result of a reinspection, reexamination, or other investigation, the Administrator determines that the public interest and safety in air commerce requires it, if a certificate holder has violated an aircraft noise or sonic boom standard or regulation prescribed under 49 U.S.C. 44715(a), or if the holder of the certificate is convicted of violating 16 U.S.C. 742j–1(a).

(2) The authority of the Administrator to issue orders under 49 U.S.C. 44709(b)(1)(A) and (b)(2) is delegated to the Chief Counsel, each Deputy Chief Counsel, and the Assistant Chief Counsel for Enforcement.

* * * * *

■ 5. Add § 13.70 to subpart E to read as follows:

§ 13.70 Delegation of authority.

The authority of the Administrator under 49 U.S.C. 5121(a) and (d) is delegated to the Chief Counsel, each Deputy Chief Counsel, and the Assistant Chief Counsel for Enforcement.

Issued in Washington, DC, under the authority provided by 49 U.S.C. 106(f), 40101 note and 44807.

Brandon Roberts,

Executive Director, Office of Rulemaking.

[FR Doc. 2022–21354 Filed 10–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0888; Project Identifier MCAI–2021–01211–R; Amendment 39–22191; AD 2022–20–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2021–10–10 for all Airbus Helicopters Model SA330J helicopters. AD 2021–10–10 required repetitively inspecting the main gearbox (MGB) particle detector and the MGB bottom housing (oil sump) for metal particles, analyzing any metal particles that are found, and replacing the MGB if necessary. Since the FAA issued AD 2021–10–10, additional review concluded that installing an improved planet gear assembly is necessary. This AD continues to require repetitively inspecting the MGB particle detector and the MGB bottom housing (oil sump) for metal particles, and analyzing any metal particles that are found, and also requires replacing the planet gear assembly and repetitively inspecting and establishing an airworthiness limitation for that assembly as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 15, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 15, 2022.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–0888; 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 address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For EASA material that is incorporated by reference (IBR) in this final rule, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* internet: *easa.europa.eu.* You may find the EASA material on the EASA website at *ad.easa.europa.eu.*
- You may view this this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2022–0888.

FOR FURTHER INFORMATION CONTACT: Mahmood G. Shah, Aviation Safety Engineer, Fort Worth ACO Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; phone: 817–222–5538; email: *mahmood.g.shah@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2021–10–10, Amendment 39–21543 (86 FR 27271, May 20, 2021) (AD 2021–10–10). AD 2021–10–10 applied to all Airbus Helicopters Model SA330J helicopters. AD 2021–10–10 required repetitively inspecting the MGB particle detector and the MGB bottom housing (oil sump) for metal particles, analyzing any metal particles that are found, and replacement of the MGB if necessary. AD 2021–10–10 was prompted by EASA AD 2018–0272, dated December 13, 2018 (EASA AD 2018–0272), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for all Airbus Helicopters Model SA 330 J helicopters. The FAA issued AD 2021–10–10 to address failure of an MGB second stage planet gear, which could result in failure of the MGB and subsequent loss of control of the helicopter.

The NPRM published in the **Federal Register** on July 21, 2022 (87 FR 43453). The NPRM was prompted by EASA AD 2021–0239, dated November 5, 2021 (EASA AD 2021–0239). EASA AD 2021–0239 supersedes EASA AD 2018–0272 and continues to require repetitively inspecting the MGB particle detector and the MGB bottom housing (oil sump) for metal particles, and analyzing any metal particles that are found. EASA AD 2021–0239 also requires installing an MGB equipped with a new second-stage planet gear assembly part number (P/N) 330A32–9861–02 (mod 0751091) or modifying an affected MGB by having the second stage planet gear assembly replaced by an Airbus Helicopters qualified technician; and extends the compliance time for the repetitive MGB bottom housing (oil sump) inspections and establishes a life limit for post-mod 0751091 helicopters.

You may examine EASA AD 2021–0239 in the AD docket at *regulations.gov* under Docket No. FAA–2022–0888.

In the NPRM, the FAA proposed to require accomplishing the actions specified in EASA AD 2021–0239, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under ''Differences Between this AD and the EASA AD.''

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

These products have been approved by the aviation authority of another country and are 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 its AD referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed EASA AD 2021–0239, which supersedes EASA AD 2018–0272 and continues to require repetitively inspecting the MGB particle detector and the MGB bottom housing (oil sump) for metal particles, and analyzing any metal particles that are found. EASA AD 2021–0239 also requires installing an MGB equipped with a new second-stage planet gear assembly P/N 330A32–9861–02 (mod 0751091) or modifying an affected MGB by having the second stage planet gear assembly replaced by an Airbus Helicopters qualified technician; and extends the compliance time for the repetitive MGB bottom housing (oil sump) inspections and establishes a life limit for post-mod 0751091 helicopters.

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

Other Related Service Information

The FAA reviewed Airbus Helicopters Alert Service Bulletin (ASB) No. SA330–05.103, Revision 3, dated October 4, 2021. This service information specifies procedures for checking (inspecting) the MGB particle detector and the bottom housing (oil sump) to ensure that there are no particles, and for particle analysis.

The FAA also reviewed Airbus Helicopters ASB No. SA330–65.139, Revision 0, dated October 4, 2021 (ASB SA330–65.139). This service information specifies procedures for installing an MGB equipped with a new second-stage planet gear assembly P/N 330A32–9861–02 (mod 0751091) and the alternate action of having the second stage planet gear assembly replaced by an Airbus Helicopters qualified technician. The new second stage planet gear assembly has improved stress and fatigue characteristics. ASB SA330–65.139 also establishes an airworthiness limitation of 2,750 flight hours for all post-mod 0751091 planet gear assemblies.

Differences Between This AD and the EASA AD

EASA AD 2021–0239 requires certain actions be done after the last flight of the day or ''ALF,'' whereas this AD requires doing those actions before the first flight of the day. EASA AD 2021–0239 requires contacting the manufacturer if unsure about the characterization of the particles collected, whereas this AD does not. If there are any 16NCD13 particles, EASA AD 2021–0239 requires contacting the manufacturer and sending a 1-liter sample of oil to the manufacturer, whereas this AD does not. EASA AD 2021–0239 requires returning certain parts to the manufacturer, whereas this AD does not. EASA AD 2021–0239 allows the option of modifying an affected MGB by having the second stage planet gear assembly replaced by an Airbus Helicopters qualified technician, whereas this AD allows that modification with certain approvals instead. EASA AD 2021–0239 allows different methods to accomplish the oil sump inspection, whereas this AD requires a certain method. EASA AD 2021–0239 requires discarding certain parts, whereas this AD requires removing those parts from service instead.

Costs of Compliance

The FAA estimates that this AD affects 15 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Inspecting the MGB particle detector takes about 0.25 work-hour for an estimated cost of $21 per helicopter and $315 for the U.S. fleet, per inspection cycle. Inspecting the MGB bottom housing (oil sump) takes up to about 4 work-hours for an estimated cost of $340 per helicopter and $5,100 for the U.S. fleet, per inspection cycle.

Replacing a second stage planet gear assembly takes about 100 work-hours and parts cost about $121,140 for an estimated cost of $129,640 per helicopter and $1,944,600 for the U.S. fleet, per replacement cycle.

Alternatively, replacing an MGB takes about 100 work-hours and parts cost about $600,000 (overhauled) for an estimated cost of $608,500 per helicopter.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2021–10–10, Amendment 39–21543 (86 FR 27271, May 20, 2021); and

■ b. Adding the following new airworthiness directive:

2022–20–07 Airbus Helicopters: Amendment 39–22191; Docket No. FAA–2022–0888; Project Identifier MCAI–2021–01211–R.

(a) Effective Date

This airworthiness directive (AD) is effective November 15, 2022.

(b) Affected ADs

This AD replaces AD 2021–10–10, Amendment 39–21543 (86 FR 27271, May 20, 2021).

(c) Applicability

This AD applies to all Airbus Helicopters Model SA330 J helicopters, certificated in any category.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6320, Main Rotor Gearbox.

(e) Unsafe Condition

This AD was prompted by a failure of a second stage planet gear installed in the main gearbox (MGB). The FAA is issuing this AD to address failure of an MGB second stage planet gear, which could result in failure of the MGB and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0239, dated November 5, 2021 (EASA AD 2021–0239).

(h) Exceptions to EASA AD 2021–0239

(1) Where EASA AD 2021–0239 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2021–0239 refers to March 30, 2018 (the effective date of EASA AD 2018–0065, dated March 23, 2018), this AD requires using the effective date of this AD.

(3) Where EASA AD 2021–0239 refers to December 27, 2018 (the effective date of EASA AD 2018–0272, dated December 13, 2018), this AD requires using the effective date of this AD.

(4) Where EASA AD 2021–0239 refers to flight hours (FH), this AD requires using hours time-in-service (TIS).

(5) Where EASA AD 2021–0239 specifies actions be done after the last flight of the day or ''ALF,'' this AD requires doing those actions before the first flight of the day.

(6) Where paragraph (1) of EASA AD 2021–0239 specifies to inspect the MGB particle detector ''in accordance with the instructions of Section 3 of the inspection ASB'' for this AD replace that phrase with ''by following the Accomplishment Instructions, paragraph 3.B.2.a., of the inspection ASB.''

(7) Where paragraph (2) of EASA AD 2021–0239 specifies to inspect the MGB bottom housing (oil sump) ''in accordance with the instructions of Section 3 of the inspection ASB'' for this AD replace that phrase with ''by following the Accomplishment Instructions, paragraph 3.B.2.b. of the inspection ASB.''

(8) Where the service information referenced in EASA AD 2021–0239 specifies to perform a metallurgical analysis and contact the manufacturer if unsure about the characterization of the particles collected, this AD does not require contacting the manufacturer to determine the characterization of the particles collected.

(9) Although the service information referenced in EASA AD 2021–0239 specifies that if any 16NCD13 particles are found to contact the manufacturer and send a 1-liter sample of oil to the manufacturer, this AD does not require that action.

(10) Although the service information referenced in EASA AD 2021–0239 specifies returning certain parts to the manufacturer, this AD does not require that action.

(11) Where paragraph (5) of EASA AD 2021–0239 allows modifying an affected MGB by having the second stage planet gear assembly replaced by an Airbus Helicopters qualified technician, this AD does not allow that action; instead of that action, this AD allows modifying an affected MGB in accordance with a method approved by the Manager, General Aviation & Rotorcraft Section, International Validation Branch, FAA; or EASA; or Airbus Helicopters EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(12) Although the service information referenced in EASA AD 2021–0239 specifies discarding certain parts, this AD requires removing the parts from service.

(13) The ''Remarks'' section of EASA AD 2021–0239 does not apply to this AD.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2021–0239 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the helicopter can be modified, provided that the helicopter is operated during the day, under visual flight rules, and with no passengers onboard.

(k) Alternative Methods of Compliance (AMOCs)

(1) 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 local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (l) of this AD. Information may be emailed to: *9-AVS-AIR-730-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.

(l) Related Information

For more information about this AD, contact Mahmood G. Shah, Aviation Safety Engineer, Fort Worth ACO Branch, FAA, 10101 Hillwood Pkwy, Fort Worth, TX 76177; phone: 817–222–5538; email: *mahmood.g.shah@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0239, dated November 5, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0239, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *easa.europa.eu.* You may find the EASA material on the EASA website at *ad.easa.europa.eu.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–0888.

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

Issued on September 16, 2022.

Christina Underwood,

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

[FR Doc. 2022–21949 Filed 10–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0977; Project Identifier AD–2022–00419–E; Amendment 39–22205; AD 2022–21–06]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain General Electric Company (GE) CF34–8C and CF34–8E model turbofan engines. This AD was prompted by a report of a crack found on the low-pressure turbine (LPT) stage 5 disk at the forward arm area. This AD requires the removal of the affected LPT stage 5 disk and replacement with a part eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 15, 2022.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–0977; 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 address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Scott Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7132; email: *Scott.M.Stevenson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain GE CF34–8C1, CF34–8C5, CF34–8C5A1, CF34–8C5A2, CF34–8C5A3, CF34–8C5B1, CF34–8E2, CF34–8E2A1, CF34–8E5, CF34–8E5A1, CF34–8E5A2, CF34–8E6, and CF34–8E6A1 model turbofan engines. The NPRM published in the **Federal Register** on August 1, 2022 (87 FR 46906). The NPRM was prompted by a report of a crack found on the LPT stage 5 disk at the forward arm area. In the NPRM, the FAA proposed to require the removal of the affected LPT stage 5 disk and replacement with a part eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received one comment from Air Line Pilots Association, International (ALPA). ALPA supported the NPRM without change.

Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting the AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. This AD is adopted as proposed in the NPRM.

Related Service Information

The FAA reviewed GE CF34–8C Service Bulletin (SB) 72–0352 R00, dated September 20, 2021, and GE CF34–8E SB 72–0240 R00, dated September 20, 2021. These SBs, differentiated by engine model, describe procedures for removing and replacing the affected LPT stage 5 disk, part number (P/N) 4117T14P02, with a new LPT stage 5 disk, P/N 4117T14P03.

Costs of Compliance

The FAA estimates that this AD affects 112 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
Remove and replace the LPT stage 5 disk.	2 work-hours × $85 per hour = $170.	$30,500 (pro-rated)	$30,670	$3,435,040

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–21–06 General Electric Company: Amendment 39–22205; Docket No. FAA–2022–0977; Project Identifier AD–2022–00419–E.

(a) Effective Date

This airworthiness directive (AD) is effective November 15, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company CF34–8C1, CF34–8C5, CF34–8C5A1, CF34–8C5A2, CF34–8C5A3, CF34–8C5B1, CF34–8E2, CF34–8E2A1, CF34–8E5, CF34–8E5A1, CF34–8E5A2, CF34–8E6, and CF34–8E6A1 model turbofan engines with an installed low-pressure turbine (LPT) stage 5 disk, part number (P/N) 4117T14P02.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by a report of a crack found on the LPT stage 5 disk at the forward arm area. The FAA is issuing this AD to prevent failure of the LPT stage 5 disk. The unsafe condition, if not addressed, could result in loss of engine thrust control and reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

During the next piece-part exposure after the affected LPT stage 5 disk accumulates 8,000 cycles since new (CSN), remove the affected LPT stage 5 disk and replace with a part eligible for installation.

(h) Installation Prohibition

Do not install an affected LPT stage 5 disk with 8,000 CSN or more into the LPT module of the engine.

(i) Definitions

(1) For the purpose of this AD, a ''part eligible for installation'' is an LPT stage 5 disk, P/N 4117T14P03, or later approved P/N.

(2) For the purpose of this AD, ''piece-part exposure'' is when the LPT module is separated from the engine and the LPT stage 5 blades are removed from the LPT stage 5 disk.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO 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 the certification office, send it to the attention of the person identified in paragraph (k) of this AD and email to: *ANE-AD-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.

(k) Related Information

For more information about this AD, contact Scott Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7132; email: *Scott.M.Stevenson@faa.gov*.

(l) Material Incorporated by Reference

None.

Issued on October 3, 2022.

Christina Underwood,

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

[FR Doc. 2022–21861 Filed 10–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0169; Airspace Docket No. 21–ASO–3]

RIN 2120–AA66

Amendment Class D and Class E Airspace; South Florida; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: The Federal Aviation Administration (FAA) is correcting a final rule that appeared in the **Federal Register** on September 8, 2021, amending airspace for several airports in the south Florida area. This action corrects the dividing line between Pompano Beach Airpark and Fort Lauderdale Executive Airport, by updating the geographic coordinates that define the line. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Effective 0901 UTC, November 3, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** for Docket No. FAA

2021–0169 (86 FR 50245, September 8, 2021), amending Class D and Class E airspace for eight airports in the south Florida area. Subsequent to publication, the FAA found that the dividing line between Pompano Beach Airpark and Fort Lauderdale Executive Airport had moved due to the geographic coordinates of these airports being updated. This action corrects this error by amending the dividing line to mirror the previous line. Also, the effective date to amend Class D and Class E airspace for North Perry Airport, Miami-Opa Locka Executive Airport, Fort Lauderdale Executive Airport, Pompano Beach Airpark, and Boca Raton Airport was updated three times so as to coincide with the Class B and Class C actions, which were also delayed.

Good Cause for No Notice and Comment

Section 553(b) (3) (B) of Title 5, United States Code, (the Administrative Procedure Act) 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 seeking comment prior to the rulemaking. The FAA finds that prior notice and public comment to this final rule is unnecessary due to the fact that there is no substantive change to the rule.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and became effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic routes, and reporting points.

Correction to Final Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by correcting the dividing line between Pompano Beach Airpark and Fort Lauderdale Executive Airport in the final rule of Amendment Class D and Class E Airspace; South Florida.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of 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 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 Federal Aviation Administration Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO FL D Pompano Beach, FL [Amended]

Pompano Beach, Airpark, FL
(Lat. 26°14′51″ N, long. 80°06′40″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of Pompano Beach Airpark; excluding that portion southwest of a line between lat. 26°15′48″ N; long. 80°10′59″ W; and lat. 26°13′05″ N; long. 80°08′36″ W and that portion south of a line between 26°13′05″ N; long. 80°08′36″ W and 26°13′41″ N; long. 80°02′25″ W. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Air Missions. The effective days and times will thereafter be continuously published in the Chart Supplement.

ASO FL D Fort Lauderdale Executive Airport, FL [Amended]

Fort Lauderdale Executive Airport, FL
(Lat. 26°11′50″ N, long. 80°10′15″ W)
Fort Lauderdale-Hollywood International Airport, FL
(Lat. 26°04′18″ N, long. 80°08′59″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of Fort Lauderdale Executive Airport; excluding that portion within the Fort Lauderdale-Hollywood International Airport, FL, Class C airspace area and that portion northeast of a line between lat. 26°15′48″ N; long. 80°10′59″ W; and lat. 26°13′05″ N; long. 80°08′36″ W and that portion north of a line between 26°13′05″ N; long. 80°08′36″ W and 26°13′20″ N; long. 80°06′07″ W, thence to 26°13′41″ N; long. 80°02′25″ W. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Air Missions. The effective days and times will thereafter be continuously published in the Chart Supplement.

Issued in College Park, Georgia, on September 26, 2022.

Andreese C. Davis,

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

[FR Doc. 2022–21387 Filed 10–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 192

[Docket No. FHWA–2020–0015]

RIN 2125–AF93

Drug Offender's Driver's License Suspension

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

ACTION: Final rule.

SUMMARY: FHWA amends its regulation governing each State's certification of whether they choose to enact and enforce drug offender's driver's license requirements or choose to oppose enacting or enforcing the drug offender's driver's license requirement. The regulation applies to each State and specifies the steps that States must take

to avoid the withholding of Federal-aid highway funds for noncompliance with the certification requirements. Highway Safety is the top priority of both DOT and FHWA. The changes that FHWA is making to the regulation will not negatively impact safety, efforts to combat substance abuse, or the substantive protections provided by the State certification requirements. Rather, they update the regulation to align with the wording of the relevant statute, increase clarity, and reduce administrative burden on States. Reducing fatalities and serious injuries will continue to be a top priority of the Department and FHWA.

DATES: This rule is effective November 10, 2022.

ADDRESSES: This document, the Notice of Proposed Rulemaking (NPRM), the supporting economic analysis, and the public comments received may be viewed online through the Federal eRulemaking portal at: *www.regulations.gov.* An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *www.federalregister.gov* and the Government Publishing Office's website at *www.GovInfo.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Sarah Pascual, Office of Safety, (HSA), (202) 366–0087, or via email at *sarah.pascual@dot.gov,* or Ms. Dawn Horan, Office of the Chief Counsel (HCC–30), (202) 366–9615, or via email at *dawn.m.horan@dot.gov.* Office hours are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

FHWA is required to withhold an amount equal to 8 percent of the amount of Federal-aid highway funds required to be apportioned to any State under 23 U.S.C. 104(b)(1) and (2), the National Highway Performance Program and the Surface Transportation Block Grant Program, respectively, on the first day of each fiscal year if the State fails to meet the requirements in 23 U.S.C. 159 associated with the revocation or suspension of driver's licenses of individuals convicted of drug offenses. The statute (23 U.S.C. 159) provides for two ways the States can satisfy this requirement: (1) the State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception, the revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted of any violation of the Controlled Substances Act [1] or any drug offense; [2] or (2) the State submits a written certification stating that the Governor is opposed to the enactment or enforcement of a law involving the revocation, suspension, issuance, or reinstatement of driver's licenses to convicted drug offenders and submits written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law.

The regulation that implements this law first took effect in 1992. The current regulatory language references several administrative and fiscal provisions that were only applicable the first year the regulation was promulgated. This rulemaking updates the administrative and fiscal language to what is currently required of the State. The current regulatory language also requires each State to annually certify their compliance with 23 U.S.C. 159, which has proved burdensome and inefficient for the States. This rulemaking eliminates the annual certification and requires re-certification only when there is a change to a State law affecting the State's method of compliance and allows for a designee of the Governor to sign the certification on behalf of the State.

Legal Authority and Statement of the Issue

FHWA is required to withhold an amount equal to 8 percent of the amount required to be apportioned to any State under 23 U.S.C. 104(b)(1) and (2) on the first day of each fiscal year if the State fails to meet the requirements in 23 U.S.C. 159 associated with the revocation or suspension of driver's licenses of individuals convicted of drug offenses. The regulation implementing this law in 23 CFR part 192 references administrative and fiscal provisions that were only applicable the first year the regulation was promulgated and requires annual certifications from States. FHWA is revising its regulation governing the certification requirements in 23 CFR part 192 that implement the 23 U.S.C. 159 requirements to update the regulatory language and streamline the certification process for States.

[1] The Controlled Substances Act, Public Law 91–513, tit. II, 84 Stat. 1242 (1970), as amended, is codified at 21 U.S.C. 801 *et seq.*

[2] A ''drug offense'' is defined as ''any criminal offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act; or the operation of a motor vehicle under the influence of such a substance.'' 23 U.S.C. 159(c)(2).

FHWA published its NPRM on February 18, 2022 (87 FR 9297), seeking public comment on proposed revisions to its regulation governing the suspension of driver's licenses for drug offenders. FHWA received nine public comment submissions. Commenters included agencies from two States with the remaining being individuals. After carefully considering the comments received in response to the NPRM in light of the statutory requirements, FHWA is promulgating the final regulation adopting the changes set forth in the NPRM as proposed.

Overview of the Final Rule

Consistent with a change made to 23 U.S.C. 159 in the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141) (MAP–21), FHWA is revising § 192.4 to update the amount of penalty withholding from 10 to 8 percent and updating what apportioned funds the withholding applies to by changing reference to 23 U.S.C. 104(b)(1), 104(b)(3), and 104(b)(5) to 23 U.S.C. 104(b)(1) and (b)(2). The updated § 192.4 now also allows a designee of the Governor of the State to submit a written certification through its respective FHWA Division Administrator. This provision will result in reduced administrative burdens for Governors of the State, including time to obtain written signatures on certifications.

In § 192.5, FHWA sets new requirements for when certifications compliant with 23 U.S.C. 159 are required. FHWA requires all States to certify to the Secretary of Transportation, through their respective FHWA Division Administrator, by January 1, 2023, that it meets the requirements of 23 U.S.C. 159. This certification will establish a baseline from which compliance can be determined for all States. FHWA is now requiring in § 192.5 that a State certify to the Secretary of Transportation, through its FHWA Division Administrator, that it meets the requirements of 23 U.S.C. 159 only when there is a change to the State law, regulation, or binding policy relating to the suspension, revocation, issuance, or reinstatement of driver's licenses of drug offenders within 90 days of the effective date of a such a change affecting State compliance with 23 U.S.C. 159. FHWA believes that States do not often have changes in State laws, regulations, and binding policies affecting compliance with 23 U.S.C. 159, and that annual certification is redundant and unnecessary. FHWA expects that States will continue to monitor State laws, regulations, and

policies relating to the suspension, revocation, issuance, or reinstatement of driver's licenses of drug offenders and continue to notify their respective FHWA Division Administrator accordingly. FHWA also amends § 192.5 to update the wording of the certification to be consistent with allowing the Governor of the State or the Governor's designee to provide certification signatures. Lastly, FHWA also allows submission of electronic copies of signed certifications to the FHWA Division Administrator. These changes increase efficiency by decreasing the number of submissions of original signed certifications.

FHWA clarifies in § 192.6, in accordance with the statute, that funds withheld under § 192.4 from apportionment to any State will not be available for apportionment to the State and will lapse immediately.

FHWA revises § 192.7 with respect to the procedures affecting States that are in noncompliance with 23 U.S.C. 159. FHWA will require that States that fail to notify FHWA within 90 days of the effective date of a change to State law, regulation, or policy that affects State compliance with 23 U.S.C. 159, or are found to be in noncompliance based on the status of the State's certification, will be advised of the funds expected to be withheld under § 192.4 approximately 90 days before the beginning of the fiscal year for which the penalty withholding will be applied. The revisions to § 192.7 also allow for a State to submit documentation demonstrating compliance. This provision gives a State an opportunity to rectify noncompliance prior to funds being withheld.

As stated, FHWA expects that States do not often change State laws, regulations, and binding policies affecting compliance with 23 U.S.C. 159, and would notify their respective FHWA Division Administrators in the event of such changes. Furthermore, the regulation continues to allow FHWA to withhold Federal-aid funding, consistent with 23 U.S.C. 159, from a non-compliant State in the event the State either (1) does not notify FHWA in these circumstances or (2) does not provide certification in compliance with 23 U.S.C. 159. Consequently, the changes reduce neither safety nor the substantive protections provided by 23 U.S.C. 159.

Finally, FHWA is making minor technical and conforming changes in part 192 to align the rule's language with the wording of relevant statutes and to promote overall clarity of the rule.

FHWA presents the economic analysis in a supporting statement and a spreadsheet found in the rulemaking docket (FHWA–2020–0015) and summarizes the analysis under ''Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Rulemaking Policies and Procedures'' heading of this preamble.

Response to Comments Received

FHWA received nine public comment submissions in response to the NPRM. Commenters included the Department of Transportation and the Bureau of Motor Vehicles from one State in a combined comment, one State Motor Vehicles Division, and seven individuals. Six of the nine comments made specific statements of support for the changes in the regulation as outlined in the NPRM. One of the State commenters stated they were highly supportive of the changes.

Four comments directly referenced the reduced administrative burden on States if the NPRM was to be implemented and agreed with that statement. One of the State commenters indicated that the changes ''will greatly reduce the administrative obligation mandated within the current certification requirements.'' Two commenters agreed that this action would not compromise safety on our Nation's roads.

Several commenters provided their view of the statute. Since this rule is the implementation of the statute, FHWA cannot respond to statements of support or disagreement regarding the statute itself.

There were no comments submitted that expressed any disagreement with any of the proposed changes in this regulation as described in the NPRM. As a result, FHWA adopts the changes set forth in the NPRM as proposed.

Rulemaking Analyses and Notices

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

The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) has determined that this rulemaking is not a significant regulatory action under section 3(f) of Executive Order (E.O.) 12866. Accordingly, OMB has not reviewed it under that E.O. This action complies with E.O. 12866 and 13563 to improve regulation. FHWA anticipates that the rule would not adversely affect, in a material way, any sector of the economy. In addition, these changes would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. The rule also does not raise any novel legal or policy issues.

FHWA has determined that this action could generate cost savings, measured in 2020 dollars and discounted at 7 percent, expected to total $181,812 over 10 years. The present value annualized total is $25,886 per year.

The quantified cost savings resulting from this action are generated from reducing administrative burdens. The rule will reduce the burden on States and FHWA by significantly reducing the number of compliance certifications required annually, without compromising the intent of the statute.

Currently, States must certify their compliance with 23 U.S.C. 159 annually. The rule requires States only notify FHWA of a change in the type of compliance, instead of recertifying compliance every year. Furthermore, the rule will result in additional cost savings by allowing the State Governors to appoint a designee to certify compliance, instead of requiring the Governor's signature on the certification. This change will result in a lower-level of staff time needed to complete the certification. Under the rule, the States must certify compliance in the first year after the rule takes effect to establish a baseline. This will be an administrative cost to all 52 States.[3] However, this certification may be made using the new rule, allowing the Governor of the State to appoint a designee. Therefore, the costs to the States in the first year will still be lower under the rule.

The rule is not expected to affect the number of States in compliance with 23 U.S.C. 159. FHWA reports no States out of compliance in the last 3 years. Furthermore, in recent years, only one State has failed to certify, and this failure is not considered a typical occurrence. Based on this current trend, there is no expectation that any States will be out of compliance in the future due to the rule or otherwise. Therefore, FHWA believes there will be no negative social consequences or disbenefits from the rule.

The rule does not change the current requirement that State legislatures must pass a resolution in order to enact a change in type of compliance.

[3] 50 States as well as Washington, DC, and Puerto Rico.

Therefore, there will be no change in cost for the State legislature due to the rule.

The method for estimating the cost savings from the rule is as follows. The analysis uses a base year of 2020 and a 10-year analysis period. Estimated wage rates for FHWA employees at division offices, who currently process the State certifications, are based on 2020 General Schedule (GS) Locality Pay Tables.[4] Estimated wage rates for FHWA Headquarters (HQ) staff, who compile and analyze the certifications nationwide, were obtained from the same source using the Washington, District of Columbia, locality table. Estimated wages for State government employees were obtained from the Bureau of Labor Statistics occupational employment statistics for State government employees. Lower wages were used in the rule scenario, compared to the current regulation, in order to account for the ability of the Governor of the State to appoint a designee.[5] To account for the cost of employer provided benefits, all wage rates were multiplied by a factor of 1.61.[6] Wage rates were adjusted using this factor to generate a total cost of labor per hour, as seen in Table 1.

TABLE 1—HOURLY WAGE RATES

Position	Base wage per hour	Total wage per hour
FHWA Division Office Staff (GS–12)	$38.09	$61.33
FHWA Office of Safety Staff (GS–13)	49.19	79.20
FHWA Office of the Chief Counsel Staff (GS–14)	58.13	93.59
State Government Top Executives (11–1000)	45.85	75.74
State Government Business Operations Specialists (13–1198)	33.89	55.98

For State department of transportation administrative cost savings, under current regulation, all 50 States plus the District of Columbia and Puerto Rico must submit proof of compliance each year. Under the rule, after the first year, only States which change compliance type must submit a certification. The estimated time burden on the States per certification is 5 hours in both the current and new rule scenarios. Given that FHWA historically receives 1–4 changes per year from States, going forward, the analysis assumed two compliance changes per year to be processed, after the first year of analysis. These changes were assumed to be medium to high level of administrative burden for processing by FHWA Division Office employees and HQ staff.

Under current regulation, the certification of compliance must be signed by the Governor of each State, while under the new rule, the Governor may appoint a designee. Based on current trends, FHWA assumes two States will make a change and submit for certification each year, under the new rule, with 5 hours of burden per State. Furthermore, the estimated wage rate was reduced to account for the appointment of a designee by the Governor under the new rule. Under the rule, all 52 States will spend 5 hours certifying compliance in the first year, 2021, at a lower administrative cost due to the rule, as seen in Table 2. For all years after the initial certification, rather than 52 States spending 5 hours per year submitting a certification with the Governor's signature, only 2 States will spend 5 hours per year submitting a certification with a designee's signature. This resulted in a yearly undiscounted cost savings of $19,132 for the States, beginning in 2022, as shown in Table 2.

TABLE 2—ESTIMATED CHANGE IN ADMINISTRATIVE BURDEN ON THE STATES

Year	State administrative cost, current	State administrative cost, new rule	Total administrative cost savings
2021	$19,692	$14,555	$5,137
2022	19,692	560	19,132
2023	19,692	560	19,132
2024	19,692	560	19,132
2025	19,692	560	19,132
2026	19,692	560	19,132
2027	19,692	560	19,132
2028	19,692	560	19,132
2029	19,692	560	19,132
2030	19,692	560	19,132
Total	196,918	19,594	177,325

[4] 2020 GS Locality Pay Tables. An average GS–12, Step 1 wage was calculated using wages for all localities in which there is a FHWA Division Office: *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2020/general-schedule/.*

[5] BLS May 2019 National Industry-Specific Occupational Employment and Wage Estimates NAICS 999200—State Government, excluding schools and hospitals (OES Designation). The employees expected to work on the certification under the current regulation are Top Executives (11–1000). The employees expected to work on the certification under the rule are Business Operations Specialists (13–1198): *https://www.bls.gov/oes/current/naics4_999200.htm.* Wage rates were adjusted to 2020 dollars using a 2.6% adjustment for inflation, which is the 2020 Federal cost of living adjustment: *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/GS.pdf.*

[6] BLS Employer Costs for Employee Compensation, June 2020, Table 3 (page 5) State and local government, State and local government Workers: *https://www.bls.gov/news.release/ecec.t03.htm.* For this group, 62.2 percent of employee compensation is wages and the remainder is the cost of benefits, which suggests factoring wages by 1.61 (100 percent/62.2 percent) to estimate the total cost of compensation.

For FHWA administrative cost savings, under current regulation, FHWA receives 52 certifications annually which are processed by both the division offices and HQ. FHWA estimates that approximately 38 of these certifications are a low administrative burden (30-minute processing time at the district office), 12 are a moderate administrative burden (2.5 hour processing time at the district office), and 2 are high administrative burden (20 hour processing time at the district office). Calculations assume a GS–12 wage for FHWA Division Office employees. In addition, under the current regulation, each of the 52 certifications is processed for an additional 2 hours at HQ at the GS–13 and GS–14 levels.

Under the rule, two certifications per year were assumed, at a moderate and high administrative burden, respectively. Wage rates were assumed to be the same across the current and new rule scenarios for FHWA. This will result in a yearly undiscounted administrative cost savings of $9,939 for FHWA, beginning in 2022, as shown in Table 3.

TABLE 3—ESTIMATED CHANGE IN ADMINISTRATIVE BURDEN ON FHWA

Year	FHWA administrative cost, current	FHWA administrative cost, new rule	Total administrative cost savings
2021	$12,168	$12,168	$0
2022	12,168	2,229	9,939
2023	12,168	2,229	9,939
2024	12,168	2,229	9,939
2025	12,168	2,229	9,939
2026	12,168	2,229	9,939
2027	12,168	2,229	9,939
2028	12,168	2,229	9,939
2029	12,168	2,229	9,939
2030	12,168	2,229	9,939
Total	121,680	32,233	89,448

Total cost savings were calculated by adding the State and FHWA administrative cost savings and discounting at 7 percent and 3 percent, as seen in Table 4. Overall, the total undiscounted administrative cost savings per year are $5,137 in 2021 and $29,071 after 2021. The total administrative cost savings over 10 years are $181,812, discounted at 7 percent and $224,741, discounted at 3 percent.

TABLE 4—ESTIMATED ADMINISTRATIVE COST SAVINGS FROM THE RULE

Year	Total administrative cost savings	Total administrative cost savings, discounted at 7%	Total administrative cost savings, discounted at 3%
2021	$5,137	$4,801	$4,987
2022	29,071	25,391	27,402
2023	29,071	23,730	26,604
2024	29,071	22,178	25,829
2025	29,071	20,727	25,077
2026	29,071	19,371	24,346
2027	29,071	18,104	23,637
2028	29,071	16,919	22,949
2029	29,071	15,812	22,280
2030	29,071	14,778	21,631
Total	266,772	181,812	224,741

Overall, the rule will result in a reduced administrative burden to both the States and FHWA and lead to cost savings of $181,812 over 10 years, discounted at 7 percent. As noted above the rule is non-significant and is not expected to generate any other costs or benefits aside from the administrative cost savings.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), FHWA has evaluated the effects of this rule on small entities, such as local governments and businesses, and anticipates that this action would not have a significant economic impact on a substantial number of small entities. The rule affects State governments and State governments do not meet the definition of a small entity. Therefore, FHWA certifies that the action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

FHWA has determined that this rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). The actions in this rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $155 million or more in any one year (when adjusted for inflation) for either State, local, and Tribal governments in the aggregate, or by the private sector. In addition, the definition of ''Federal Mandate'' in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or Tribal

governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal Government. The Federal-aid highway program permits this type of flexibility.

Executive Order 13132 (Federalism Assessment)

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

Executive Order 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information they conduct, sponsor, or require through regulations. The OMB has renewed their approval for information collection entitled ''Drug Offender's Driver's License Suspension Certification'' (OMB Control No. 2125–0579).

National Environmental Policy Act

The Agency has analyzed this rulemaking action pursuant to the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded under 23 CFR 771.117(c)(20), which applies to the promulgation of regulations, and that no unusual circumstances are present under 23 CFR 771.117(b). Categorically excluded actions meet the criteria for categorical exclusions under the Council on Environmental Quality regulations and under 23 CFR 771.117(a) and normally do not require any further NEPA approvals by FHWA.

Executive Order 13175 (Tribal Consultation)

FHWA has analyzed this rule under E.O. 13175 and believes that it will not have substantial direct effects on one or more Indian Tribes, does not impose substantial direct compliance costs on Indian Tribal governments, and does not preempt Tribal law. This rule does not impose any direct compliance requirements on Indian Tribal governments nor does it have any economic or other impacts on the viability of Indian Tribes. Therefore, a Tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

FHWA has analyzed this rule under E.O. 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. FHWA has determined that this action is not a significant energy action under the E.O. and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

Executive Order 12898 (Environmental Justice)

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

Regulation Identification Number (RIN)

A RIN is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 192

Administrative practice and procedure, Drug abuse, Grant programs-transportation, Highway safety, Reporting and recordkeeping requirements.

Issued under authority delegated in 49 CFR 1.81 and 1.85.

Stephanie Pollack,

Acting Administrator, Federal Highway Administration.

■ In consideration of the foregoing, FHWA revises part 192 of Title 23 of the CFR as follows:

PART 192—DRUG OFFENDER'S DRIVER'S LICENSE SUSPENSION

Sec.

Authority: 23 U.S.C. 159, 315.

§ 192.1 Scope.

This part prescribes the requirements necessary to implement 23 U.S.C. 159, which encourages States to enact and enforce drug offender's driver's license suspensions.

§ 192.2 Purpose.

The purpose of this part is to specify the steps that States must take to avoid the withholding of Federal-aid highway funds for noncompliance with 23 U.S.C. 159.

§ 192.3 Definitions.

As used in this part:

(a) *Convicted* includes adjudicated under juvenile proceedings.

(b) *Driver's license* means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

(c) *Drug offense* means:

(1) The possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act, or

(2) The operation of a motor vehicle under the influence of such a substance.

(d) *Substance the possession of which is prohibited under the Controlled Substances Act* or *substance* means a controlled or counterfeit substance, as those terms are defined in subsections 102 (6) and (7) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802 (6) and (7) and listed in 21 CFR 1308.11-.15.

§ 192.4 Adoption of drug offender's driver's license suspension.

(a) The Secretary shall withhold 8 percent of the amount required to be apportioned to any State under each of sections 104(b)(1) and (b)(2) of title 23 of the U.S.C. on the first day of the next fiscal year if the State does not meet the requirements of this section.

(b) A State meets the requirements of this section if:

(1) The State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception:

(i) The revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of

(A) Any violation of the Controlled Substances Act, or

(B) Any drug offense, and

(ii) A delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual otherwise would have been eligible to have a driver's license issued or reinstated if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted, or

(2) The Governor of the State or their designee:

(i) Submits to the Secretary through its respective FHWA Division Administrator a written certification stating that the Governor is opposed to the enactment or enforcement in the State of a law described in paragraph (b)(1) of this section relating to the revocation, suspension, issuance, or reinstatement of driver's licenses to convicted drug offenders; and

(ii) Submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in paragraph (b)(1) of this section.

(c) A State that makes exceptions for compelling circumstances must do so in accordance with a State law, regulation, binding policy directive or statewide published guidelines establishing the conditions for making such exceptions and in exceptional circumstances specific to the offender.

§ 192.5 Certification requirements.

(a) Each State shall certify to the Secretary by January 1, 2023, that it meets the requirements of 23 U.S.C. 159 and this regulation. Subsequently, each State shall certify to the Secretary through its respective FHWA Division Administrator that it meets the requirements of 23 U.S.C. 159 and this regulation when there is a change to the State law, regulation, or binding policy relating to the suspension, revocation, issuance, or reinstatement or driver's licenses of drug offenders within 90 days of the effective date of a State legislative change that affects State compliance with this section.

(b) If the State believes it meets the requirements of 23 U.S.C. 159 and this regulation on the basis that it has enacted and is enforcing a law that suspends or revokes the driver's licenses of drug offenders, the certification shall contain a statement by the Governor of the State, or their designee, that the State has enacted and is enforcing a Drug Offender's Driver's License Suspension law that conforms to 23 U.S.C. 159(a)(3)(A). The certifying statement may be worded as follows: I, (Name of Governor or designee), (ADD TITLE on behalf of the) Governor of the (State or Commonwealth) of ____, do hereby certify that the (State or Commonwealth) of ____, has enacted and is enforcing a Drug Offender's Driver's License Suspension law that conforms to section 23 U.S.C. 159(a)(3)(A).

(c) If the State believes it meets the requirements of 23 U.S.C. 159(a)(3)(B) on the basis that it opposes a law that requires the suspension, revocation, or delay in issuance or reinstatement of the driver's licenses of drug offenders that conforms to 23 U.S.C. 159(a)(3)(A), the certification shall contain:

(1) A statement by the Governor of the State or their designee that the Governor is opposed to the enactment or enforcement of a law that conforms to 23 U.S.C. 159(a)(3)(A) and that the State legislature has adopted a resolution expressing its opposition to such a law. The certifying statement may be worded as follows: I, (Name of Governor or designee), (ADD TITLE on behalf of the) Governor of the (State or Commonwealth of ____, do hereby certify that I am opposed to the enactment or enforcement of a law that conforms to 23 U.S.C. 159(a)(3)(A) and that the legislature of the (State or Commonwealth) of ____, has adopted a resolution expressing its opposition to such a law.

(2) Until a State has been determined to be in compliance with the requirements of 23 U.S.C. 159(a)(3)(B) and this regulation, the certification shall include a copy of the resolution.

(d) The Governor or their designee shall submit an electronic copy of the certification to its respective FHWA Division Administrator. The FHWA Division Administrator shall retain an electronic copy and forward an electronic copy to both the FHWA Office of Safety and the FHWA Office of the Chief Counsel.

(e) Any changes to the certification or supplemental information necessitated by the review of the certifications as they are forwarded, State legislative changes that affects State compliance of this section, or changes in State enforcement activity shall be submitted within 90 days of the change being effective.

§ 192.6 Period of availability of withheld funds.

Funds withheld under § 192.4 from apportionment to any State will not be available for apportionment to the State and shall lapse immediately.

§ 192.7 Procedures affecting States in noncompliance.

(a) If FHWA determines that the State is not in compliance with 23 U.S.C. 159(a)(3), the State will be advised of the funds expected to be withheld under § 192.4 from apportionment, as part of the advance notice of apportionments required under 23 U.S.C. 104(e). This notification will normally occur not later than 90 days before the beginning of the fiscal year for which the sums to be apportioned are authorized. The State may, within 30 days of its receipt of the advance notice of apportionments, submit documentation demonstrating its compliance. Documentation shall be submitted electronically to the FHWA Division Administrator for that State. The FHWA Division Administrator shall retain an electronic copy and forward an electronic copy to both the FHWA Office of Safety and the FHWA Office of the Chief Counsel.

(b) Each fiscal year, each State determined not to be in compliance with 23 U.S.C. 159(a)(3), based on FHWA's final determination, will receive notice of the funds being withheld under § 192.4 from apportionment, as part of the certification of apportionments required under 23 U.S.C. 104(e), which normally occurs on October 1 of each fiscal year.

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 6

[Docket No. PTO–T–2022–0022]

RIN 0651–AD61

International Trademark Classification Changes

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (USPTO) issues this final rule to incorporate classification changes adopted by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Agreement). These changes are listed in the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification), which is published by the World Intellectual

Property Organization (WIPO), and will become effective on January 1, 2023.

DATES: This rule is effective on January 1, 2023.

FOR FURTHER INFORMATION CONTACT: Catherine Cain, Office of the Deputy Commissioner for Trademark Examination Policy, at 571–272–8946 or *TMPolicy@uspto.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: As noted above, this final rule incorporates classification changes adopted by the Nice Agreement that will become effective on January 1, 2023. Specifically, this rule adds new services to, or deletes existing services from, two class headings to further define the types of services appropriate to the classes.

Summary of Major Provisions: The USPTO is revising § 6.1 of 37 CFR part 6 to incorporate classification changes and modifications, as listed in the Nice Classification (12th ed., ver. 2023), published by WIPO, that will become effective on January 1, 2023.

The Nice Agreement is a multilateral treaty, administered by WIPO, that establishes the international classification of goods and services for the purposes of registering trademarks and service marks. As of September 1, 1973, this international classification system is the controlling system used by the United States, and it applies, for all statutory purposes, to all applications filed on or after September 1, 1973, and their resulting registrations. *See* 37 CFR 2.85(a). Every signatory to the Nice Agreement must use the international classification system.

Each state party to the Nice Agreement is represented in the Committee of Experts of the Nice Union (Committee of Experts), which meets annually to vote on proposed changes to the Nice Classification. Any state that is a party to the Nice Agreement may submit proposals for consideration by the other members of the Committee of Experts, in accordance with agreed-upon rules of procedure. Proposals are currently submitted annually to an electronic forum on the WIPO website, where they are commented on, modified, and compiled for further discussion and voting at the annual Committee of Experts meeting.

In 2013, the Committee of Experts began annual revisions to the Nice Classification. The annual revisions, which are published electronically and enter into force on January 1 each year, are referred to as versions and identified by an edition number and the year of the effective date (*e.g.,* ''Nice Classification, 10th edition, version 2013'' or ''NCL 10–2013''). Each annual version includes all changes adopted by the Committee of Experts since the adoption of the previous version. The changes consist of: (1) The addition of new goods and services to, and deletion of goods and services from, the Alphabetical List; and (2) any modifications to the wording in the Alphabetical List, the class headings, and the explanatory notes that do not involve the transfer of goods or services from one class to another.

Beginning on January 1, 2023, new editions of the Nice Classification will be published electronically every three years. They will include all changes adopted since the previous edition, as well as goods or services transferred from one class to another and new classes that have been created since the previous edition.

Due to the worldwide impact of COVID–19, the International Bureau (IB) at WIPO announced on February 25, 2022, that the 32nd session of the Committee of Experts would be held in a hybrid format, with WIPO participating at the WIPO headquarters in Geneva and member states participating via an online platform or in person. The annual revisions contained in this final rule consist of modifications to the class headings that were incorporated into the Nice Agreement through e-voting during the 32nd session of the Committee of Experts, which took place from April 25–29, 2022. Under the Nice Classification, there are 34 classes of goods and 11 classes of services, each with a class heading. Class headings generally indicate the fields to which goods and services belong. Specifically, this rule adds new services to, or deletes existing services from, two class headings, as set forth in the discussion of regulatory changes below. The changes to the class headings further define the types of services appropriate to the class. As a signatory to the Nice Agreement, the United States adopts these revisions pursuant to article 1.

Discussion of Regulatory Changes

The USPTO is revising § 6.1 as follows:

In Class 36, the wording ''affairs'' is amended to ''services.''

In Class 45, the wording ''personal and social services rendered by others to meet the needs of individuals'' after ''security services for the physical protection of tangible property and individuals;'' is replaced with the wording ''dating services, online social networking services; funerary services; babysitting.''

Rulemaking Requirements

A. Administrative Procedure Act: The changes in this rulemaking involve rules of agency practice and procedure or interpretive rules. *See Perez* v. *Mortg. Bankers Ass'n,* 575 U.S. 92, 97 (2015) (interpretive rules ''advise the public of the agency's construction of the statutes and rules which it administers'') (citation and internal quotation marks omitted); *Nat'l Org. of Veterans' Advocates* v. *Sec'y of Veterans Affairs,* 260 F.3d 1365, 1375 (Fed. Cir. 2001) (rule that clarifies interpretation of a statute is interpretive); *Bachow Commc'ns Inc.* v. *FCC,* 237 F.3d 683, 690 (D.C. Cir. 2001) (rules governing an application process are procedural under the Administrative Procedure Act); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (rules for handling appeals were procedural where they did not change the substantive standard for reviewing claims).

Accordingly, prior notice and opportunity for public comment for the changes in this rulemaking are not required pursuant to 5 U.S.C. 553(b) or (c), or any other law. *See Perez,* 575 U.S. at 101 (notice-and-comment procedures are required neither when an agency ''issue[s] an initial interpretive rule'' nor ''when it amends or repeals that interpretive rule''); *Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), do not require notice-and-comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'') (quoting 5 U.S.C. 553(b)(A)).

B. Regulatory Flexibility Act: As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 or any other law, neither a Regulatory Flexibility Act analysis nor a certification under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is required. *See* 5 U.S.C. 603.

C. Executive Order 12866 (Regulatory Planning and Review): This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The USPTO has complied with Executive Order 13563 (Jan. 18, 2011). Specifically, the USPTO has, to the extent feasible and applicable: (1) made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that

maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole, and provided online access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. Executive Order 13132 (Federalism): This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

F. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) have substantial direct effects on one or more Indian tribes, (2) impose substantial direct compliance costs on Indian tribal governments, or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

G. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

H. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

I. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

J. Executive Order 12630 (Taking of Private Property): This rulemaking will not affect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

K. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), the USPTO will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this rulemaking are not expected to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this rulemaking is not expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

L. Unfunded Mandates Reform Act of 1995: The changes set forth in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by state, local, and tribal governments, in the aggregate, of $100 million (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of $100 million (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

M. National Environmental Policy Act of 1969: This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

N. National Technology Transfer and Advancement Act of 1995: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions that involve the use of technical standards.

O. Paperwork Reduction Act of 1995: This final rule does not involve information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information has a currently valid OMB control number.

P. E-Government Act Compliance: The USPTO is committed to compliance 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.

List of Subjects in 37 CFR Part 6

Administrative practice and procedure, Courts, Lawyers, Trademarks.

For the reasons given in the preamble and under the authority contained in 15 U.S.C. 1112 and 1123 and 35 U.S.C. 2, as amended, the USPTO is amending 37 CFR part 6 as follows:

PART 6—CLASSIFICATION OF GOODS AND SERVICES UNDER THE TRADEMARK ACT

■ 1. The authority citation for part 6 continues to read as follows:

Authority: Secs. 30, 41, 60 Stat. 436, 440; 15 U.S.C. 1112, 1123; 35 U.S.C. 2, unless otherwise noted.

■ 2. Revise § 6.1 to read as follows:

§ 6.1 International schedule of classes of goods and services.

Goods

1. Chemicals for use in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; fire extinguishing and fire prevention compositions; tempering and soldering preparations; substances for tanning animal skins and hides; adhesives for use in industry; putties and other paste fillers; compost, manures, fertilizers; biological preparations for use in industry and science.

2. Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants, dyes; inks for printing, marking and engraving; raw natural resins; metals in foil and powder form for use in painting, decorating, printing and art.

3. Non-medicated cosmetics and toiletry preparations; non-medicated dentifrices; perfumery, essential oils; bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations.

4. Industrial oils and greases, wax; lubricants; dust absorbing, wetting and binding compositions; fuels and illuminants; candles and wicks for lighting.

5. Pharmaceuticals, medical and veterinary preparations; sanitary

preparations for medical purposes; dietetic food and substances adapted for medical or veterinary use, food for babies; dietary supplements for human beings and animals; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

6. Common metals and their alloys, ores; metal materials for building and construction; transportable buildings of metal; non-electric cables and wires of common metal; small items of metal hardware; metal containers for storage or transport; safes.

7. Machines, machine tools, power-operated tools; motors and engines, except for land vehicles; machine coupling and transmission components, except for land vehicles; agricultural implements, other than hand-operated hand tools; incubators for eggs; automatic vending machines.

8. Hand tools and implements, hand-operated; cutlery; side arms, except firearms; razors.

9. Scientific, research, navigation, surveying, photographic, cinematographic, audiovisual, optical, weighing, measuring, signalling, detecting, testing, inspecting, life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling the distribution or use of electricity; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; recorded and downloadable media, computer software, blank digital or analogue recording and storage media; mechanisms for coin-operated apparatus; cash registers, calculating devices; computers and computer peripheral devices; diving suits, divers' masks, ear plugs for divers, nose clips for divers and swimmers, gloves for divers, breathing apparatus for underwater swimming; fire-extinguishing apparatus.

10. Surgical, medical, dental and veterinary apparatus and instruments; artificial limbs, eyes and teeth; orthopaedic articles; suture materials; therapeutic and assistive devices adapted for persons with disabilities; massage apparatus; apparatus, devices and articles for nursing infants; sexual activity apparatus, devices and articles.

11. Apparatus and installations for lighting, heating, cooling, steam generating, cooking, drying, ventilating, water supply and sanitary purposes.

12. Vehicles; apparatus for locomotion by land, air or water.

13. Firearms; ammunition and projectiles; explosives; fireworks.

14. Precious metals and their alloys; jewellery, precious and semi-precious stones; horological and chronometric instruments.

15. Musical instruments; music stands and stands for musical instruments; conductors' batons.

16. Paper and cardboard; printed matter; bookbinding material; photographs; stationery and office requisites, except furniture; adhesives for stationery or household purposes; drawing materials and materials for artists; paintbrushes; instructional and teaching materials; plastic sheets, films and bags for wrapping and packaging; printers' type, printing blocks.

17. Unprocessed and semi-processed rubber, gutta-percha, gum, asbestos, mica and substitutes for all these materials; plastics and resins in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, tubes and hoses, not of metal.

18. Leather and imitations of leather; animal skins and hides; luggage and carrying bags; umbrellas and parasols; walking sticks; whips, harness and saddlery; collars, leashes and clothing for animals.

19. Materials, not of metal, for building and construction; rigid pipes, not of metal, for building; asphalt, pitch, tar and bitumen; transportable buildings, not of metal; monuments, not of metal.

20. Furniture, mirrors, picture frames; containers, not of metal, for storage or transport; unworked or semi-worked bone, horn, whalebone or mother-of-pearl; shells; meerschaum; yellow amber.

21. Household or kitchen utensils and containers; cookware and tableware, except forks, knives and spoons; combs and sponges; brushes, except paintbrushes; brush-making materials; articles for cleaning purposes; unworked or semi-worked glass, except building glass; glassware, porcelain and earthenware.

22. Ropes and string; nets; tents and tarpaulins; awnings of textile or synthetic materials; sails; sacks for the transport and storage of materials in bulk; padding, cushioning and stuffing materials, except of paper, cardboard, rubber or plastics; raw fibrous textile materials and substitutes therefor.

23. Yarns and threads for textile use.

24. Textiles and substitutes for textiles; household linen; curtains of textile or plastic.

25. Clothing, footwear, headwear.

26. Lace, braid and embroidery, and haberdashery ribbons and bows; buttons, hooks and eyes, pins and needles; artificial flowers; hair decorations; false hair.

27. Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings, not of textile.

28. Games, toys and playthings; video game apparatus; gymnastic and sporting articles; decorations for Christmas trees.

29. Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs; milk, cheese, butter, yogurt and other milk products; oils and fats for food.

30. Coffee, tea, cocoa and substitutes therefor; rice, pasta and noodles; tapioca and sago; flour and preparations made from cereals; bread, pastries and confectionery; chocolate; ice cream, sorbets and other edible ices; sugar, honey, treacle; yeast, baking-powder; salt, seasonings, spices, preserved herbs; vinegar, sauces and other condiments; ice (frozen water).

31. Raw and unprocessed agricultural, aquacultural, horticultural and forestry products; raw and unprocessed grains and seeds; fresh fruits and vegetables, fresh herbs; natural plants and flowers; bulbs, seedlings and seeds for planting; live animals; foodstuffs and beverages for animals; malt.

32. Beers; non-alcoholic beverages; mineral and aerated waters; fruit beverages and fruit juices; syrups and other preparations for making non-alcoholic beverages.

33. Alcoholic beverages, except beers; alcoholic preparations for making beverages.

34. Tobacco and tobacco substitutes; cigarettes and cigars; electronic cigarettes and oral vaporizers for smokers; smokers' articles; matches.

Services

35. Advertising; business management, organization and administration; office functions.

36. Financial, monetary and banking services; insurance services; real estate services.

37. Construction services; installation and repair services; mining extraction, oil and gas drilling.

38. Telecommunications services.

39. Transport; packaging and storage of goods; travel arrangement.

40. Treatment of materials; recycling of waste and trash; air purification and treatment of water; printing services; food and drink preservation.

41. Education; providing of training; entertainment; sporting and cultural activities.

42. Scientific and technological services and research and design relating thereto; industrial analysis,

industrial research and industrial design services; quality control and authentication services; design and development of computer hardware and software.

43. Services for providing food and drink; temporary accommodation.

44. Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, aquaculture, horticulture and forestry services.

45. Legal services; security services for the physical protection of tangible property and individuals; dating services, online social networking services; funerary services; babysitting.

Katherine K. Vidal,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2022–22065 Filed 10–7–22; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AO19

Schedule for Rating Disabilities: The Hematologic and Lymphatic Systems; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Correcting amendments.

SUMMARY: On October 29, 2018, the Department of Veterans Affairs (VA) published in the **Federal Register** a final rule that amended the portion of the VA Schedule for Rating Disabilities (''VASRD'' or ''rating schedule'') that addresses the hematologic and lymphatic systems. This correction addresses two typographical errors in the text of a 100-percent disability evaluation language under diagnostic code (DC) 7718, Essential Thrombocythemia and Primary Myelofibrosis, and Note (2) under DC 7718 in the published final rule.

DATES: This correction is effective October 11, 2022. The correction is applicable as of December 9, 2018.

FOR FURTHER INFORMATION CONTACT: Leah Carey, Regulations Analyst, VASRD Program Management Office (218A), Compensation Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–9700. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: VA is correcting its regulations published on October 29, 2018, in the **Federal Register** at 83 FR 54250 in the final rule ''RIN 2900–AO19, Schedule for Rating Disabilities: The Hematologic and Lymphatic Systems''. The first error is within the text of the 100 percent evaluation for diagnostic code (DC) 7718 Essential Thrombocythemia and Primary Myelofibrosis. Within the preamble of the proposed rule, VA proposed a 100-percent evaluation in cases requiring either continuous myelosuppressive therapy or, for six months following hospital admission, any of the following treatments: peripheral blood or bone marrow stem cell transplant, or chemotherapy, or radioactive phosphorus. (See 80 FR 46888 published August 6, 2015.) Within the final rule, VA replaced radioactive phosphorus with interferon treatment because radioactive phosphorus is an outdated treatment and interferon alpha treatment is in line with current clinical practice. (See 83 FR 54253 published October 29, 2018.) However, VA omitted ''any of the following treatments:'' in the regulatory text of its proposed and final rules. VA corrects this error by adding the phrase ''for any of the following treatments:'' after the words ''hospital admission'' of the 100-percent disability evaluation criteria under DC 7718.

The second error is within the text of Note (2) under DC 7718. VA excluded interferon treatment from its discussion regarding the assignment of 100 percent evaluations and mandatory VA examinations following hospital admission. To promote clarity and the consistency of application of its rating schedule, VA adds interferon treatment to the list of treatments to the text on Note (2). This change is editorial in nature and does not result in any substantive changes to the rating criteria.

List of Subjects in 38 CFR Part 4

Disability benefits, Pensions, Veterans.

For the reasons set out in the preamble, 38 CFR part 4 is corrected by making the following correcting amendment:

PART 4—SCHEDULE FOR RATING DISABILITIES

■ 1. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155, unless otherwise noted.

■ 2. Amend § 4.117 by revising the entry for diagnostic code 7718 to read as follows:

§ 4.117 Schedule of ratings—hematologic and lymphatic systems.

* * * * *

	Rating
* * * * * * *	
7718 Essential thrombocythemia and primary myelofibrosis:	
Requiring either continuous myelosuppressive therapy, or, for six months following hospital admission for any of the following treatments: peripheral blood or bone marrow stem cell transplant, or chemotherapy, or interferon treatment	100
Requiring continuous or intermittent myelosuppressive therapy, or chemotherapy, or interferon treatment to maintain platelet count $<500 \times 10^9$/L	70
Requiring continuous or intermittent myelosuppressive therapy, or chemotherapy, or interferon treatment to maintain platelet count of 200,000–400,000, or white blood cell (WBC) count of 4,000–10,000	30
Asymptomatic	0
Note (1): If the condition undergoes leukemic transformation, evaluate as leukemia under diagnostic code 7703.	
Note (2): A 100 percent evaluation shall be assigned as of the date of hospital admission for peripheral blood or bone marrow stem cell transplant; or during the period of treatment with chemotherapy (including myelosuppressants) or interferon treatment. Six months following hospital discharge or, in the case of chemotherapy treatment, six months after completion of treatment, the appropriate disability rating shall be determined by mandatory VA examination. Any reduction in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter.	
* * * * * * *	

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2022–21995 Filed 10–7–22; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2019–0140; EPA–HQ–OAR–2021–0663; FRL–9782–02–R8]

Air Plan Approval; Colorado; Addressing Remanded Portions of the Previously Approved Infrastructure Requirements for the 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On January 5, 2021, the United States Court of Appeals for the Tenth Circuit granted the Environmental Protection Agency's (EPA) motion for a voluntary remand without vacatur of two parts of an EPA 2020 final rule approving Colorado's infrastructure state implementation plan (SIP) submission for the 2015 8-hour ozone national ambient air quality standards (NAAQS) (2020 final rule). In this document, EPA is taking final action to approve those two remanded parts of the 2020 final rule. First, EPA is finalizing our conclusion that Colorado's infrastructure SIP submission meets the State's good neighbor obligations under Clean Air Act (CAA) section 110(a)(2)(D)(i)(I). Lastly, EPA is also finalizing our conclusion that Colorado's infrastructure SIP submission provided ''necessary assurances'' of the State's authority to regulate agricultural sources under CAA section 110(a)(2)(E)(i). EPA is taking this action pursuant to the CAA.

DATES: This rule is effective on November 10, 2022.

ADDRESSES: EPA has established two dockets for this action. The regional docket, Docket ID No. EPA–R08–OAR–2019–0140 contains information specific to Colorado, including this final rule document, and the notice of proposed rulemaking. Docket ID No. EPA–HQ–OAR–2021–0663 contains additional modeling files, emissions inventory files, technical support documents, and other relevant supporting documentation regarding interstate transport of emissions for the 2015 8-hour ozone NAAQS which were used to support EPA's proposed approval. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the docket, some information may not be publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Amrita Singh, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado, 80202–1129, telephone number: (303) 312–6103, email address: *singh.amrita@epa.gov;* or Ellen Schmitt, telephone number: (303) 312–6728, email address: *schmitt.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' means EPA.

I. Background

On May 6, 2022 (88 FR 27050), EPA published a document in the **Federal Register** proposing approval of the two remanded parts of EPA's 2020 final rule.[1] EPA's May 2022 proposed approval addressed (1) the adequacy of Colorado's infrastructure submission for the 2015 8-hour ozone NAAQS under the CAA's ''good neighbor provision,''[2] which generally requires SIPs to contain adequate provisions to prohibit in-state emissions from significantly contributing to nonattainment or interfering with the maintenance in another state, and (2) the adequacy of Colorado's infrastructure submission for the 2015 8-hour ozone NAAQS under CAA section 110(a)(2)(E)(i), particularly with respect to Colorado's authority to regulate agricultural sources.[3] The rationale for EPA's proposed action is included in the May 6, 2022 proposal and will not be repeated here.

II. Response to Comments

EPA received comments on the proposed rule from an individual citizen and the Center for Biological Diversity (the Center). We summarize and respond to the comments below.

Individual Citizen

Comment: The commenter initially states that ''concerns regarding the 2015 Ozone NAAQS infrastructure requirements highlight potential problems regarding both the 'Good Neighbor Provision' CAA section 110(a)(2)(D)(i)(I), as well as the adequate implementation of [the] SIP regarding CAA section 110(a)(2)(E)(i).'' The commenter believes that EPA's use of the 4-step interstate transport framework is an effective method to address the previously mentioned concerns, but that there needs to be adequate implementation and ''more stringent regulations reinforced regarding step 3 and step 4, of the 4-step interstate transport framework.'' The commenter recommends two ''strategies'' in order to make the 4-step framework more stringent. For Step 3, the commenter suggests re-evaluating Prevention of Significant Deterioration (PSD) regulations, with a focus on ''improving standards'' related to Best Available Control Technology (BACT). Regarding Step 4, the commenter recommends that EPA adopt measures to reduce carbon via a cap-and-trade system.

Response: These comments are not relevant to the action EPA proposed. In the proposed rule, EPA applied the well-established 4-step framework for assessing interstate ozone transport to determine whether Colorado's infrastructure SIP meets the requirements of CAA section 110(a)(2)(D)(i)(I). We invited comment on our conclusions with respect to Colorado's infrastructure SIP, but did not invite comment on the integrity and process of the 4-step framework itself.[4] Further, we determined that Colorado's emissions do not contribute at or above the threshold of 1 percent of the 2015 8-hour ozone NAAQS (0.70 parts per billion (ppb)) to any downwind nonattainment or maintenance receptor at Step 2 of the 4-step interstate transport framework, and thus did not reach the steps of the 4-step framework discussed in this comment, *i.e.,* analysis of potential emissions controls at Step 3 or permanent and federally enforceable control strategies to achieve emissions reductions at Step 4.[5] [6] Thus, the

[1] 2020 final rule. Approval and Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2015 Ozone National Ambient Air Quality Standards; Colorado and North Dakota, 85 FR 20169 (April 10, 2020).

[2] 42 U.S.C. 7410(a)(2)(D)(i)(I).

[3] 42 U.S.C. 7410(a)(2)(E)(i).

[4] 87 FR 27054.

[5] 87 FR at 27056–58.

[6] EPA's determination not to further evaluate Colorado's contributions at Steps 3 or 4 of the interstate transport framework was additionally supported by the analysis provided in the Uinta Basin technical support document (TSD) of this

Continued

commenter's recommended strategies for Steps 3 and 4 are not relevant to EPA's determination that Colorado does not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state, and that therefore Colorado's infrastructure SIP submission satisfies CAA section 110(a)(2)(D)(i)(I).

Additionally, the commenter states that ''concerns regarding the 2015 Ozone NAAQS infrastructure requirements highlight potential problems regarding both the 'Good Neighbor Provision' CAA section 110(a)(2)(D)(i)(I), as well as the adequate implementation of SIP regarding CAA section 110(a)(2)(E)(i),'' but the commenter does not explain what these concerns or potential problems are. Without knowing the specific concerns to which the commenter is referring, EPA cannot respond to this part of the comment.

The Center for Biological Diversity

Comment: The Center asserts that EPA should have used an analytic year of 2020 instead of 2023 and that EPA made a ''post hoc justification'' for using a 2023 analytic year. The Center states that EPA is incorrect that most areas downwind of Colorado have an attainment date of August 3, 2024, which is the attainment date for 2015 ozone moderate nonattainment areas. The Center asserts that EPA has delayed ''bumping up'' downwind areas (or determining that these areas have failed to attain the 2015 ozone NAAQS by the attainment date) and that these areas should be designated moderate instead of marginal. The Center also states that Congress' intent under the CAA is for EPA to act on SIPs before the marginal attainment date.[7] The Center claims that EPA is not justified in doing an analysis based on acting on Colorado's SIP submission after the marginal attainment date and also claims that using a 2023 analytic year is inconsistent with recent EPA actions related to designations. Additionally, the Center asserts that using an analytic year of 2020 would ''allow'' EPA to use monitored data in determining downwind nonattainment and maintenance monitors. The Center suggests that if EPA were to use a 2020 analytic year, the Agency would determine that Colorado needs to reduce the State's emissions, and that such a conclusion would benefit several downwind areas such as Amador County, California; Dallas-Fort Worth, Texas; Houston, Texas; the Northern Wasatch Front, Utah; Phoenix, Arizona; San Antonio, Texas; the Uinta Basin, and others.

Response: The Center supports its preferred analytic year of 2020 by arguing that if EPA had used an analytic year of 2020, we would have concluded that Colorado has good neighbor obligations that, if met, would benefit downwind areas including Amador County, California; Dallas-Fort Worth, Texas; Houston, Texas; Northern Wasatch Front, Utah; Phoenix, Arizona; San Antonio, Texas; and Uinta Basin, Utah. We do not agree that the Center's assertions regarding Colorado's transport linkages in 2020 are correct. However, it is not necessary to evaluate the technical basis for these claims because the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) previously rejected a similar argument regarding sole reliance on conditions that are wholly in the past to assess good neighbor obligations and upheld EPA's reasonable interpretation of the good neighbor provision as forward-looking.[8] In that case, Delaware argued that EPA should have used data from the year SIP submissions for the 2008 ozone NAAQS were due (2011) instead of the future analytic year that EPA used (2017) on the theory that EPA would have concluded in that circumstance that upwind states had good neighbor obligations with respect to Delaware.[9] The court held that Delaware's argument could not ''be reconciled with the text of the Good Neighbor Provision, which prohibits upwind States from emitting in amounts 'which will' contribute to downwind nonattainment.'' The court concluded that ''[g]iven the use of the future tense, it would be anomalous for EPA to subject upwind States to good neighbor obligations in 2017 by considering which downwind States were once in nonattainment in 2011.'' [10] Likewise, in the present circumstance, it would be anomalous for EPA now in 2022 to consider upwind states' obligations under the good neighbor provision based solely on data from years that have already passed.

For more than two decades, EPA has taken a forward-looking approach in evaluating good neighbor obligations; using an analytic year that is wholly in the past, as the Center urges, would be inconsistent with the Agency's past practice.[11] Furthermore, even prior to *Wisconsin,* the D.C. Circuit upheld EPA's interpretation of ''will'' in CAA section 110(a)(2)(D)(i)(I) as being both future-tense and conveying a sense of certainty.[12] EPA's use of forward-looking projections in assessing good neighbor obligations here continues to give meaning to both senses of the term.[13] EPA's rationale for the selection of 2023 as the appropriate future analytic year for assessing whether Colorado has any good neighbor obligations for the 2015 ozone NAAQS was presented in the proposed rule in section II.A.2 and was not a ''post hoc'' justification as the Center asserts. Further, 2023 continues to be the key analytic year that EPA is using in multiple other actions to address other states' good neighbor obligations under the 2015 ozone NAAQS.[14]

Despite the Center's argument to the contrary, using a forward-looking analysis to inform EPA's evaluation of good neighbor SIP submissions pursuant to the requirements of CAA section 110(a)(2)(D)(i)(I) is not incompatible with EPA using existing record information to revise certain designations under CAA section 107(d)(1) on remand. When EPA revised some initial area designations for the 2015 ozone NAAQS on remand after *Clean Wisconsin* v. *EPA,*[15] EPA found it appropriate in that specific circumstance to use data available to the agency at the time of the initial designations in revising the boundaries of some nonattainment areas to avoid introducing inconsistencies within and across nonattainment areas, some of which were unaffected by the court's remand.[16] The overall goal of the

action at proposal, evaluating Colorado's emissions contributions in the Uinta Basin during wintertime inversion episodes that produce high ozone conditions.

[7] In accordance with CAA section 181(a)(1), an area designated as nonattainment for a revised ozone NAAQS must be classified, at the time of designation, as marginal, moderate, serious, severe or extreme, depending on the severity of the ozone air quality problem in that nonattainment area. Each classification threshold has an associated attainment date, as well as other NAAQS implementation-related provisions.

[8] See *Wisconsin* v. *EPA,* 938 F.3d 303 (D.C. Cir. 2019).

[9] Id. at 322.

[10] Id. at 369.

[11] See 63 FR 57356, 57375, 57377, 57386 (October 27, 1998) (NO_X SIP Call); 70 FR 25162, 25241 (May 12, 2005) (Clean Air Interstate Rule (CAIR); 76 FR 48208, 48211 (August 8, 2011) (Cross-State Air Pollution Rule (CSAPR); 81 FR 74505, 74526 (October 26, 2016) (CSAPR Update); 86 FR 23054, 23074 (April 30, 2021) (Revised CSAPR Update).

[12] *North Carolina* v. *EPA,* 531 F.3d 896, 914 (July 11, 2008).

[13] See 86 FR at 23074.

[14] *See, e.g.,* 87 FR 20036, 20042 (April 6, 2022) (proposing good neighbor federal implementation plans (FIPs) for 26 states using a 2023 analytic year).

[15] 964 F.3d 1145 (D.C. Cir. 2020).

[16] 86 FR 67864, 67868–67869 (November 30, 2021); see also EPA, Responses to Significant Comments Received on EPA's Revised Response to State and Tribal Recommendations for the 2015

Agency's analytical approach to the action revising initial area designations—to avoid introducing inconsistencies across areas—is entirely consonant with EPA's approach to addressing good neighbor obligations using a consistent analytic year for the entire country, which, at the time of this action, is 2023.

Part of the Center's argument appears to be a suggestion for an alternative approach to identifying receptors at Step 1 of the 4-step framework for the purpose of assessing whether a state has obligations under CAA section 110(a)(2)(D)(i)(I). The Center suggests that if EPA were to use an analytic year of 2020, then EPA would identify downwind air quality issues using only measured values from 2020. But this ignores that EPA's methodology for identifying receptors already gives consideration to recent measured values, including in 2020, while also using forward-looking modeling projections. Using only measured values to identify receptors would introduce several problems into EPA's methodology.

EPA explained how the Agency identifies nonattainment and maintenance receptors at Step 1 of the 4-step framework for the 2015 ozone NAAQS in the proposed rule in section II.A.3 and provided more detail in our ''Air Quality Modeling Technical Support Document: 2015 Ozone National Ambient Air Quality Standards Transport SIP Proposed Actions.'' [17] EPA's approach gives independent consideration to both the ''contribute significantly to nonattainment'' and the ''interfere with maintenance'' prongs of CAA section 110(a)(2)(D)(i)(I), consistent with the D.C. Circuit's direction in *North Carolina* v. *EPA*.[18]

- Monitoring sites with future year average design values that exceed the NAAQS and that are currently measuring nonattainment are considered nonattainment receptors.[19]
- Monitoring sites with projected average design values or maximum design values that exceed the NAAQS are projected to be maintenance receptors.[20]

EPA's methodology for defining maintenance and nonattainment receptors uses projected air quality modeling to capture variability such that monitors that may be attaining based on current data may still be deemed a ''maintenance receptor.'' Under the Center's idea of using only actual monitoring data, it is unclear how EPA would distinguish between those monitors which should be maintenance receptors and those which are not receptors at all. Additionally, if EPA were to use only recorded monitoring data for 2020 in order to define receptors and not use modeling, there would be no way to measure upwind state contributions to downwind receptors at Step 2 of the 4-step framework. EPA's analysis uses modeling in order to obtain information for both components of the key questions at Steps 1 and 2—indicating where there are anticipated air quality problems and which states are contributing to those problems. Moreover, as discussed above, using only past measured data to identify receptors would not align with the forward-looking nature of the good neighbor provision.

In response to the comment arguing that using a 2020 analytic year would ''allow'' EPA to use actual monitor data, EPA points out that, in fact, the identification of receptors at Step 1 of the 4-step framework already considers measured ozone design values from 2020, as explained in section 3.1 of the Air Quality Modeling TSD. In other words, while EPA uses a future analytic year to define good neighbor obligations, our assessment of likely air quality conditions in that future year is informed by, among other things, recent and historical ambient air quality monitoring data.

EPA acknowledges that, at the time the Agency originally acted on Colorado's infrastructure SIP in the 2020 final rule, good neighbor obligations for the 2015 ozone NAAQS should have been met no later than the marginal attainment date of August 3, 2021.[21] But, as explained above, the D.C. Circuit has agreed that it is reasonable for EPA to look to a future year in evaluating transport obligations, even if the Agency would have been able to evaluate an earlier year had they acted sooner. Indeed, in EPA's Revised CSAPR Update rule, on remand from the D.C. Circuit's decision in *Wisconsin,* EPA did not continue to assess obligations based on a 2017 analytic year (as had been used in the 2016 CSAPR Update) but instead used 2021, associated with the serious area attainment date for the 2008 ozone NAAQS.[22] Similarly, here, EPA's choice of a 2023 analytic year is based on the fact that 2023 air quality will impact whether areas attain by the relevant moderate attainment date of August 3, 2024.

The Center's contention that EPA should not look to the moderate area attainment date because EPA has not yet finalized the Agency's action making those areas downwind of Colorado moderate is incorrect. EPA has issued a proposed finding, and signed a final finding, that a number of marginal areas failed to attain by the 2021 attainment date, and per the statute, now that EPA has finalized this determination, these areas will be reclassified to moderate by operation of law on the effective date of the final rule (30 days after publication in the **Federal Register**).[23] However, the timing of that action does not affect when the moderate attainment date would be. EPA is not permitted under the statute to adjust the attainment dates for areas under a given classification; that is, no matter when EPA finalizes the determination that an area failed to attain by its attainment date and reclassifies that area, the attainment date remains fixed, based on the number of years from the area's initial designation.[24] To illustrate this point, the attainment date for moderate areas that were designated on August 3, 2018 under the 2015 ozone NAAQS is August 3, 2024, regardless of when EPA finalizes the action that will reclassify areas to moderate. August 3, 2024 is also the attainment date for any area that was initially designated moderate under the 2015 ozone NAAQS on August 3, 2018. Thus, based on *Wisconsin* and *Maryland,* good neighbor obligations for the 2015 ozone NAAQS should be met ''as expeditiously as practicable but not later than'' the next applicable attainment date. For this NAAQS, the next attainment date is the moderate attainment date of August 3, 2024.[25]

For all of these reasons, EPA rejects the Center's contention that we should have used a 2020 analytic year to evaluate Colorado's good neighbor

Ozone National Ambient Air Quality Standards (NAAQS) Addressing El Paso County, Texas and Weld County, Colorado at 43–44 (November 2021), available in Docket No. EPA–HQ–OAR–2017–0548 (responding to commenters arguing EPA should be using the most current information available to the Agency in revising designations).

[17] Available in Docket No. EPA–HQ–OAR–2021–0663 (hereinafter ''Air Quality Modeling TSD'').

[18] 531 F.3d 896, 910–11 (D.C. Cir. 2008).

[19] 87 FR 27054; Air Quality Modeling TSD at 9.

[20] Id.

[21] See *Wisconsin,* 938 F.3d at 313, 319; *Maryland* v. *EPA,* 958 F.3d 1185, 1203–04 (D.C. Cir. 2020); see also CAA section 181(a); 40 CFR 51.1303; 83 FR 25776 (June 4, 2018, effective August 3, 2018).

[22] See 86 FR 23054, 23057 n.16 (April 30, 2021) (noting that 2020 was also not appropriate to use since that year too was wholly in the past).

[23] Proposed Rule, Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Areas Classified as Marginal for the 2015 Ozone National Ambient Air Quality Standards, 87 FR 21842 (April 13, 2022). Final Rule signed on September 15, 2022.

[24] See CAA section 181(a)(1); 40 CFR 51.1303; 83 FR 25776 (June 4, 2018, effective August 3, 2018).

[25] The San Antonio, Texas nonattainment area has a different moderate attainment date.

obligations in this action and maintains that selecting 2023 as the analytic year is appropriate.

Comment: As part of their comment that EPA must disapprove Colorado's infrastructure SIP submission under CAA section 110(a)(2)(D)(i)(I), the Center criticizes EPA's modeling for failing to properly account for emissions related to EPA's withdrawal of California Clean Car Rules Waiver. The Center states that the ''repeal of [the withdrawal of] California's waiver to have more stringent emissions limits for on-road mobile sources has not yet been finalized'' and points to EPA's normal practice of including only emissions changes resulting from final regulatory actions in our modeling. The Center says that since the repeal of the withdrawal of California's waiver has not been finalized, EPA's emissions inventory should be based on the on-road mobile sources from states like California and Colorado as if they are not complying with their respective state's clean car rule requirements, such as the zero emissions vehicle (ZEV) requirements and low-emissions vehicle (LEV) requirements. The Center believes it is arbitrary for EPA to base their emissions inventories on these states having emissions limits for on-road mobile sources which are not permitted without a preemption waiver.

Response: The Center is correct that it is the Agency's general practice to include only emissions reductions from finalized legal and regulatory requirements in our ozone transport modeling. EPA's 2023 modeling using the 2016v2 platform reflects an updated assessment of the emissions inventory nationwide based on changes in federal and state rules and other relevant changes in the emissions inventory.

We disagree with the Center that the Agency did not appropriately consider emissions changes related to the repeal of the CAA waiver for California's Advanced Clean Car program in our emissions inventory and subsequent interstate transport modeling. EPA finalized the decision to withdraw a 2013 CAA waiver previously provided to California for the State's greenhouse gas (GHG) and ZEV programs under section 209 of the CAA on September 27, 2019.[26] However, EPA then reconsidered that decision and finalized a repeal of the withdrawal of the CAA waiver of preemption for California's GHG and ZEV sale mandate on March 14, 2022.[27] Whether it was appropriate to include these emissions changes in our 2023 modeling at the time we conducted the modeling is effectively moot, since EPA did in fact repeal the withdrawal of the waiver by March of this year.

EPA's projected emissions for the updated 2023 modeling used in this action use, in relevant part, mobile source emissions inventories provided by the California Air Resources Board (specifically, EMFAC2017), which incorporate emissions reductions from California's GHG emissions standards and ZEV sale mandate, while for the remaining states the inventories are based on MOVES3.[28] MOVES3 reflects the impacts of the Tier 3 Motor Vehicle Emission and Fuel Standards rule which harmonized the California LEV and federal requirements for low emissions vehicles.[29] ZEV populations in the modeling were based on actual registration data for the modeling base year and were grown to future years according to Annual Energy Outlook forecasts.[30] Thus, EPA's updated 2023 modeling appropriately included emissions changes regarding California's GHG and ZEV sale mandate waiver, as well as LEV emissions standards nationwide by virtue of EPA's inclusion of the Tier 3 program in our modeling. Additionally, the September 27, 2019 rulemaking did not affect California's low emissions vehicle III (LEV III emission standards.)

Overall, while the Center is correct that it is the Agency's general practice to include only emissions reductions from final rules in our modeling, there is no merit to the remainder of this comment, because EPA has in fact repealed the withdrawal of the waiver as to California's GHG and ZEV rules and thus they were appropriately incorporated into the modeling.

Comment: The Center further asserts that EPA wrongly ignored receptor values above the level of the NAAQS. The Center points to Step 2 of the 4-step interstate transport framework, as described in the proposed rule for this action,[31] where the contribution metric is defined as the average impact from each state to each receptor on the days with the highest ozone concentrations at the receptor based on the 2023 modeling. The Center states that by using this protocol, ''EPA is ignoring impacts from upwind states on days with high ozone concentrations, including concentrations above the level of the NAAQS, but which aren't necessarily the highest ozone concentration. This is ignoring an important aspect of the problem; that is days above the level of the NAAQS but still not the highest days.'' The Center states that EPA criticized Colorado for using the same calculations when the State submitted its designations recommendations for the 2015 ozone NAAQS, ''not because those areas violated the NAAQS but rather because they contributed to violations.'' [32] The Center concludes that there is no difference between intra-state contribution and inter-state contribution and that it is arbitrary for EPA to ignore the above-the-NAAQS level days because failure to address them means downwind areas will continue to struggle to reach attainment.

Response: Through the development and implementation of the CSAPR rulemakings as well as prior regional rulemakings pursuant to the interstate transport provision, EPA, working in partnership with states, developed the 4-step interstate transport framework to evaluate states' obligations to eliminate interstate transport emissions under the good neighbor provision for the ozone NAAQS. This includes Step 2 of the 4-step framework which identifies states that impact air quality problem (nonattainment or maintenance) receptors in downwind states sufficiently such that the states are considered ''linked'' and therefore warrant further review and analysis of their air quality impacts. As the Center notes in their comment, EPA evaluated Colorado's contribution (as we did every other state's) based on the average relative downwind impact calculated over multiple days. The number of days used in calculating the average contribution metric has historically been determined in a manner that is generally consistent with EPA's recommendations for projecting future year ozone design values.[33] Our ozone attainment demonstration modeling guidance at the time CSAPR was originally promulgated recommended using all model-predicted days above

[26] 84 FR 51310.

[27] 87 FR 14332.

[28] EPA, Latest Version of MOter Vehicle Emission Simulator (MOVES), available at *https://www.epa.gov/moves/latest-version-motor-vehicle-emission-simulator-moves* (last visited September 19, 2022).

[29] 81 FR 23414, at 23450. As indicated in the Final Rule for Control of Air Pollution from Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards, ''The Tier 3 program is identical to LEV III in most major respects for light-duty vehicles (and heavy-duty vehicles . . .)''.

[30] See Technical Support Document (TSD) Preparation of Emissions Inventories for the 2016v2 North American Emissions Modeling Platform, section 4.3.2, in particular Table 4–43. Dated: February 2022. (2016v2 TSD). Included under Docket ID No. EPA–HQ–OAR–2021–0663.

[31] 87 FR 27055.

[33] The Center's comment is only relevant to EPA's summertime ozone analysis since the Agency's wintertime ozone analysis for the Uinta Basin does not use model predicted design values.

the NAAQS to calculate future year design values.[34] In 2014, EPA issued draft revised guidance that changed the recommended number of days to the top-10 model predicted days.[35] For the CSAPR Update, promulgated in 2016, EPA transitioned to calculating design values based on this draft revised approach. The revised modeling guidance was finalized in 2018.[36] Since that time EPA has consistently calculated both the ozone design values and the contributions based on the top-10 day approach. As this guidance is finalized, we will continue to base our average contribution metric in accordance with the top-10 day approach. Thus, EPA disagrees with the Center's claim that EPA's current modeling approach for identifying contributing upwind states is arbitrary and contrary to law or that the Agency must disapprove Colorado's good neighbor SIP revision for the 2015 ozone NAAQS. Further, the Center has not supplied any information establishing that, had EPA used a larger set of days with high ozone concentrations at identified out of state nonattainment or maintenance receptors to calculate contribution values at Step 2, Colorado's contribution would then be found to exceed the 1 percent of NAAQS threshold at any of these receptors.

Additionally, EPA disagrees with the Center's statement that EPA ''criticized'' Colorado for using the same calculations when the State submitted its designations recommendations for the 2015 ozone NAAQS. The Center refers to page 28 of EPA's final designation technical support document (designation TSD) [37] supporting Colorado's designations for the 2015 ozone NAAQS, and we believe the Center is referring to EPA's assessment of the Denver nonattainment area's meteorology.

As an initial matter, the technical analysis and process for designations falls under a separate set of guidance and policies than the modeling guidance that EPA follows for purposes of interstate transport.[38] Thus, we do not agree that EPA's designation TSD methodology should be considered relevant or even analogous to EPA's Step 2 analysis in this action. Nonetheless, during the process of designating nonattainment areas, the evaluation of meteorological data helps to assess the fate and transport of emissions contributing to ozone concentrations and to identify areas potentially contributing to the monitored violations. During a designation review for a new NAAQS, the results of meteorological data analysis may inform the determination of nonattainment area boundaries. At the time of the 2015 ozone NAAQS designations, to determine how meteorological conditions, including, but not limited to, weather, transport patterns, and stagnation conditions, could affect the fate and transport of ozone and precursor emissions from sources in the area, EPA evaluated 2014–2016 HYSPLIT (Hybrid Single-Particle Lagrangian Integrated Trajectory) trajectories at 100, 500, and 1000 meters above ground level that illustrate the three-dimensional paths traveled by air parcels to a violating monitor. In EPA's 2015 ozone NAAQS designation TSD for Colorado, the Agency provided figures of the 24-hour HYSPLIT back trajectories for each exceedance day for the violating monitors in 2013–2015, while the State of Colorado focused on the four highest exceedance days in each of those three years in its own designation TSD. EPA concluded that even though EPA's total number of trajectories differ from those conducted by the State of Colorado, the geographic distribution of trajectory hours was the same between the two analyses.[39] EPA did not criticize Colorado's methodology per se in the designations TSD but simply identified a difference in approach while noting that it produced the same result. However, this was in the context of EPA's comparison of HYSPLIT back trajectory data for purposes of evaluating the designation of a nonattainment area, which is entirely separate from the use of photochemical grid modeling projections for purposes of assessing contribution at Step 2 of the 4-step interstate transport framework. Therefore, the Center's statement not only misinterprets the content and purpose of EPA's 2015 ozone NAAQS designation TSD for Colorado, but also mischaracterizes its significance to this action.[40]

Comment: The Center claims that ''EPA's failure to analyze Colorado's contribution to wintertime ozone levels is arbitrary and capricious'' and therefore the Agency must disapprove the State's good neighbor SIP. The Center states that wintertime ozone is an issue in basins in the Western United States where oil and gas extraction occurs, not just in the Uinta Basin area. The Center asserts that EPA arbitrarily treated the Uinta Basin as unique. The Center points to the Upper Green River Basin area in Wyoming, which was designated as nonattainment for the 2008 ozone NAAQS due to wintertime ozone.[41]

Additionally, the Center notes that some areas, though not designated as nonattainment for wintertime ozone, will have a difficult time coming into attainment without addressing wintertime ozone. The Center cites the Denver Metro/North Front Range (DMNFR) nonattainment area as an example and provides March 2021 monitor values at various Colorado monitors in support. The Center further states that the DMNFR monitor values cannot be explained by stratospheric intrusion or wildfire. While the Center notes that they do not expect EPA to analyze Colorado's ''interstate'' contribution to Colorado, the Center states that DMNFR values demonstrate that EPA is wrong to claim that the Uinta Basin's wintertime ozone problem is unique. The Center asserts that EPA must ''do an analysis, using the same methodology as summertime ozone, for other Western areas with significant oil and gas production and winter weather to determine if Colorado is significantly contributing to them.'' Additionally, the Center claims that ''while EPA uses a

[34] EPA, ''Guidance on the Use of Models and Other Analyses for Demonstrating Attainment of Air Quality Goals for Ozone, $PM_{2.5}$, and Regional Haze,'' 2007, available at *https://www.epa.gov/sites/default/files/2020-10/documents/final-03-pm-rh-guidance.pdf.*

[35] EPA, ''Draft Modeling Guidance for Demonstrating Attainment of Air Quality Goals for Ozone, $PM_{2.5}$, and Regional Haze,'' 2014, available at *https://www.epa.gov/sites/default/files/2020-10/documents/draft-o3-pm-rh-modeling_guidance-2014.pdf.*

[36] EPA, ''Modeling Guidance for Demonstrating Air Quality Goals for Ozone, $PM_{2.5}$ and Regional Haze,'' 2018, available at *https://www.epa.gov/sites/default/files/2020-10/documents/o3-pm-rh-modeling_guidance-2018.pdf.*

[37] EPA, ''Colorado: Denver Metro/North Front Range Nonattainment Area Final Area Designations for the 2015 Ozone National Ambient Air Quality Standards Technical Support Document (TSD).'' Docket No. EPA–R08–OAR–2019–0140.

[38] See EPA, ''EPA Guidance on the Area Designations for the 2015 Ozone NAAQS,'' available at *https://www.epa.gov/ozone-designations/ozone-designations-guidance-and-data#A.*

[39] EPA, ''Colorado: Denver Metro/North Front Range Nonattainment Area Final Area Designations for the 2015 Ozone National Ambient Air Quality Standards Technical Support Document (TSD).'' Docket No. EPA–R08–OAR–2019–0140.

[40] The Center also fails to recognize that focusing on the top-10 days of ozone concentrations, as EPA does for purposes of evaluating contribution at Step 2, can sometimes utilize days that are *lower* than the level of the NAAQS if not all 10 days used for these calculations exceed the NAAQS. The Center's assumption that using only the top-10 days necessarily excludes other days that exceed the NAAQS is not correct. As EPA explained in our 2018 modeling guidance, using the top-10 highest days yields an analytically robust result, can be applied even as NAAQS are revised, and yields better estimates than the previous guidance approach. See ''Modeling Guidance for Demonstrating Air Quality Goals for Ozone, $PM_{2.5}$ and Regional Haze,'' 2018 at 105.

[41] 77 FR 30088 (May 21, 2012).

1% threshold for determining if there is significant contribution to summertime ozone, EPA appears to be using a 50% or more, that is upwind states would have to be the main cause, threshold for significant contribution for wintertime ozone.'' The Center also insists that ''EPA must do an analysis to determine which states contribute more than 1% to wintertime ozone in the Uinta Basin, the Denver Metro/North Front Range, and other areas with areas with wintertime ozone problems and then come up with emission reduction requirements for those upwind contributors.'' Finally, the Center states that EPA previously redefined the ozone season for Colorado and many other Western States to be year-round and that the Agency ''is acting like the ozone season for Colorado and other Western States is only the summertime but EPA cannot undo its previous rulemaking to create year round ozone seasons via the preamble to this proposed rule.''

Response: EPA agrees with the Center that the occurrence of high levels of ozone in the wintertime, in the presence of snow cover and emissions from oil and gas operations, is not limited to the Unita Basin. EPA used the word ''unique'' in two separate instances in the proposed rule and in the accompanying Uinta Basin Technical Support Document,[42] but did not mean to suggest that the Uinta Basin is unique in experiencing wintertime ozone events. Instead, in both the proposal and the Uinta Basin TSD, EPA referred to the Uinta Basin's unique topography.[43] Also, in the proposal, EPA referred to the unique analytical challenges in assessing whether there is interstate transport of ozone and its precursors from Colorado during wintertime episodes in Utah.[44]

However, we do not agree that we did not conduct an analysis of the potential for transport of ozone under these circumstances. We performed a separate analysis for the Uinta Basin because, as explained in the Uinta Basin TSD, we acknowledged that the modeling we would otherwise use is not reliable for projecting high ozone levels associated with wintertime inversions in that area. Additionally, the Uinta Basin is the only wintertime ozone area that is currently designated as nonattainment or maintenance for the 2015 ozone NAAQS and is the only area with high wintertime ozone that is immediately adjacent to the Colorado border. As explained in the Uinta Basin TSD, high ozone levels during the winter in the Uinta Basin area are associated with stagnant meteorological conditions that result in the build-up of local ozone precursor emissions and snow cover which enhances the reflectivity of solar radiation which, in turn, accelerates photochemical reactions of the trapped precursors to form locally high ozone concentrations. Because of the stagnant conditions, transport of precursor emissions from outside the immediate area are likely to be minimal, at most. In any case, the Center has not provided any information to support its notion that Colorado significantly contributes to nonattainment or interferes with maintenance in the Uinta Basin, much less in other areas farther from Colorado experiencing high wintertime ozone levels.

The Center cites the Upper Green River Basin area as another area that periodically experiences wintertime ozone. EPA designated this area as nonattainment for the 2008 ozone NAAQS for wintertime ozone.[45] We are aware that one of the monitors in this nonattainment area is violating the 2015 ozone NAAQS according to the 2021 design value; however, as discussed below, we do not believe emissions from Colorado contribute to this design value.[46]

The Upper Green River Basin is located in western Wyoming, about half-way between the southern and northern borders of the State. The southernmost border of the nonattainment area is at least 80 miles from the closest Colorado border. In EPA's technical support document that supported the Agency's designation for the Upper Green River Basin 2008 ozone NAAQS nonattainment area, we stated that ''ozone exceedances almost always occur when winds are low indicating that there is little to no transport of ozone or precursors from distant sources outside the proposed nonattainment area.'' [47] The Agency also indicated that the wind field trajectory analyses led to the conclusion that regional transport for the area is insignificant, and local-scale precursor emissions transport is the dominant means of precursor transport during high ozone periods.[48] Additionally, during a high fidelity trajectory analysis conducted by Wyoming in support of its recommendation for the southern boundary of the Upper Green River Basin nonattainment area, emissions from sources south of the nonattainment boundary were consistently transported east and out of the region without entering the area with violating monitors.[49] Furthermore, multiple research studies have found that wintertime ozone is a local phenomenon that is not affected by long range transport.[50] Based on this information, EPA finds that it is reasonable to conclude that Colorado does not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS (or the 2008 ozone NAAQS) in the Upper Green River Basin area. Additionally, as we stated previously, the Center has not provided any information to support their notion that Colorado significantly contributes to nonattainment or interferes with maintenance during wintertime ozone events in the Upper Green River Basin, or any other western area experiencing wintertime ozone events.

As the Center acknowledges, their comments about the DMNFR nonattainment area are not relevant to this rulemaking because the issue EPA is addressing under CAA section 110(a)(2)(D)(i)(I) is whether Colorado contributes significantly to nonattainment or interferes with maintenance in other states, not Colorado's own nonattainment and maintenance problems.

EPA disagrees with the Center's assertion that EPA should conduct the same analysis for wintertime ozone transport as the Agency does for summertime ozone transport. As EPA explained in our proposed approval and the Uinta Basin TSD, there are no reliable models that accurately predict wintertime ozone levels and contributions.[51] In addition, currently

[42] EPA, Technical Support Document (TSD) Ozone Transport Analysis: Colorado and the Uinta Basin Nonattainment Area, April 2022 (Uinta Basin TSD).

[43] 87 FR at 27057; Uinta Basin TSD at 5.

[44] 87 FR at 27057.

[45] 77 FR 30088 (May 21, 2012). Then, on May 4, 2016 (86 FR 26697), EPA published a determination that the Upper Green River Basin Area attained the 2008 ozone NAAQS based on 2012 to 2014 ambient air quality data.

[46] Monitor 560350099 in Sublette, Wyoming is measuring 74 ppb according to EPA's current quality-assured monitor design value data. *https://www.epa.gov/air-trends/air-quality-design-values#dvtool.*

[47] EPA, Wyoming Area Designations for the 2008 Ozone National Ambient Air Quality Standards TSD at 46–48, located in Docket No. EPA–R08–OAR–2019–0140.

[48] Id.

[49] Id.

[50] See generally Oltmans, Samuel et al., ''O3, CH4, CO2, CO, NO2 and NMHC aircraft measurements in the Uinta Basin oil and gas region under low and high ozone conditions in winter 2012 and 2013,'' Elementa: Science of the Anthropocene, 4, 000132, (2016).; ENVIRON, ''Final Report: 2014 Uinta Basin Winter Ozone Study,'' February 2015, available at *https://documents.deq.utah.gov/air-quality/planning/air-quality-policy/DAQ-2015-021002.pdf* (last visited September 19, 2022) (''ENVIRON Final Report'').

[51] 87 FR at 27057; Uinta Basin TSD at 8 (''Current state-of-the-science national scale modeling tools and inventories are not designed to characterize

available emissions inventories are not sufficiently refined to accurately estimate emissions from oil and gas production during transient wintertime events. Therefore, in this action, EPA relied on other methods of analysis as opposed to computer-based modeling when reviewing wintertime ozone areas.[52]

The Center is incorrect to claim that the Agency appears to be using 50 percent or more of the NAAQS as a threshold for significant contribution for wintertime ozone for the Uinta Basin. EPA has reviewed our proposal and the Uinta Basin TSD for this action and cannot find what the commenter is referencing, nor has commenter provided a citation. The Center seems to think EPA is using a higher contribution threshold for wintertime ozone than we do for a Step 2 analysis for summertime ozone. This is incorrect. For summertime ozone, EPA is able to use current state-of-the science photochemical modeling for Step 1 and Step 2 and this allows us to set and use a contribution threshold of 1 percent for the purpose of evaluating a state's contribution to nonattainment or maintenance of the 2015 8-hour ozone NAAQS (*i.e.,* 0.70 ppb) at downwind receptors. As explained previously, since our current photochemical modeling does not fully capture wintertime ozone events, we cannot rely on modeling to assess a state's contribution in wintertime ozone areas. However, knowing that the Uinta Basin has nonattainment monitors, EPA performed an extensive analysis, as documented in the Uinta Basin TSD for this action. The results of the in-depth analysis conducted in the Uinta Basin TSD support EPA's conclusion that interstate transport of air pollution from Colorado does not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in the Utah portion of the Uinta Basin.

In regard to the Center's argument about year-round ozone, the Center does not provide a cite where EPA ''redefined the ozone season'' so we are unable to address that assertion specifically. With respect to the Center's statement that ''EPA is acting like the ozone season for Colorado and other Western States is only the summertime,'' EPA disagrees. By the Center's own admission, EPA designated the Upper Green River Basin area in Wyoming as nonattainment for the 2008 ozone NAAQS based on wintertime ozone. Additionally, in the Uinta Basin TSD for this very action, EPA provided an in-depth analysis on whether Colorado significantly contributed interstate transport air pollution to a 2015 ozone nonattainment area for wintertime ozone, the Uinta Basin. Thus, EPA acknowledges that ozone nonattainment can be a wintertime problem and thoroughly addressed whether emissions from Colorado significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in those areas in the proposed rule, the Uinta Basin TSD for this action, and in this final action.

In summary, EPA disagrees with the Center's claims that EPA failed to properly analyze Colorado's contribution to wintertime ozone nonattainment and maintenance of the 2015 ozone NAAQS and that we must disapprove the State's good neighbor SIP provisions for the 2015 ozone NAAQS.

Comment: The Center challenges the emissions inventory on which EPA's 2023 modeling is based, asserting that EPA ignored increased emissions from the construction and operation of the Uinta Basin Railway in our emissions inventory platform and modeling. The Center notes that the U.S. Surface Transportation Board (STB) recently approved the construction and operation of the Uinta Basin Railway, ''a planned 88-mile long railway that would transport crude oil from Myton and Leland Bench, Utah to Kyune, Utah.'' According to the Center, by approving a cheaper means of transporting crude oil to the Gulf Coast than the trucking industry, the oil railway is intended to quadruple oil production in the Uinta Basin from roughly 90,000 barrels per day to 350,000 barrels per day. The Center indicates that in order to meet that increased oil demand, up to 3,330 new wells would need to be drilled in the Uinta Basin over the next 15 years, also increasing the number of trucking miles to support the oil fields. The Center also points to a Uinta Basin Railway final environmental impact statement (EIS) conducted by STB that estimates that after 15 years, and under a high oil production scenario,[53] the annual emissions associated with oil and gas development, including trucking, for carbon monoxide (CO), nitrogen oxides (NO_X), and volatile organic compounds (VOC) would be 4,454 tons per year (tpy), 3,146 tpy, and 5,558 tpy, respectively. The Center believes these emissions are underestimated. The Center further cites EIS estimates of annual emissions associated with rail operations along the 88-mile long rail line, excluding downline emissions in Utah and Colorado, for CO, NO_X, and VOCs of 405 tpy, 1,056 tpy, and 40 tpy, respectively. The Center also includes a table of estimated downline emissions of criteria pollutants from the increase in trains traveling in Colorado per day, and states that NO_X and VOC emissions along downline segments (excluding emissions in attainment areas) would total 5,771.05 tpy and 205.33 tpy, respectively, and CO emissions would total 2,076.41 tpy. The Center concludes that ''EPA must revise its analysis to consider these increased emissions caused by the U.S. Government's final approval of the Uinta Basin Railway.'' The Center states that the approval by the STB ''is a final action by the federal government itself'' and ''EPA cannot justify ignoring it based on a claim that EPA does not consider future actions which are not final actions.''

Response: The STB, which provided the notice of approval as well as the EIS to which the Center refers to in their comment, is an independent federal agency that is charged with the economic regulation of various modes of transportation, primarily freight rail. The STB's Office of Environmental Assessment (OEA) prepared an EIS pursuant to the National Environmental Policy Act (NEPA). The NEPA process is intended to assist the STB and the public in identifying and assessing the potential environmental consequences of a proposed action before a decision on a proposed action. In a December 21, 2021 document the STB authorized construction and operation of the proposed rail line and, among three build alternatives, specifically authorized the Whitmore Park Alternative because it would avoid and

these conditions in a manner that would provide confidence in quantifying interstate contributions.'') and Figure 3 (showing how the model ''understate measured data by an extremely large amount'' for wintertime ozone).

[52] See ''Utah: Northern Wasatch Front, Southern Wasatch Front, and Uinta Basin Final Area Designations for the 2015 Ozone National Ambient Air Quality Standards Technical Support Document (TSD)'' and the Uinta Basin TSD specific for this action.

[53] For the EIS, the STB created two potential scenarios for future oil development in the Uinta Basin, a low oil production scenario and a high oil production scenario. These scenarios corresponded to estimated ranges of rail traffic. Under the low oil production scenario, total oil production in the Uinta Basin would increase by an average of 130,000 barrels per day compared to historical production levels. Under the high oil production scenario, total oil production in the Uinta Basin would increase by an average of 350,000 barrels per day. In the EIS, STB's Office of Environmental Analysis (OEA) notes that some of the assumptions made here are conservative and therefore may overstate the total future oil production in the Basin and the potential impacts. Surface Transportation Board, Final Environmental Impact Statement, August 6, 2021 (Final EIS), at 3.15–4.

minimize major environmental impacts. EPA is aware of the STB's EIS and final decision; in fact, as part of the comment process for the EIS, EPA filed comments on September 2, 2021, recommending certain changes to an air emissions dispersion model that the OEA ran as part of the environmental review process.[54]

The Center's comments suggest that since the STB issued a final EIS and authorized the Railway construction and operation, then the emissions predicted in the EIS (and particularly the high oil production scenario) should be considered final as well and should have been incorporated into EPA's modeling for purposes of assessing Colorado's contribution to nonattainment and interference with maintenance for the 2015 ozone NAAQS in other states.

Our 2016v2 modeling of 2023 did not include projected increases in emissions from the Uinta Basin Railway project or from the associated projected increase in emissions of ozone precursor emissions from expanded oil and gas operations that are associated with the Uinta Basin Railway. However, we disagree with the Center that this potential increase in emissions would change our analysis for Colorado for several reasons.

First, any potential increase in emissions in Utah associated with the Railway is not relevant to assessing *Colorado's* good neighbor obligations. The Center does not explain how projected emissions increases due to the construction and operation of the Uinta Basin Railway as a whole are relevant to whether emissions from Colorado contribute significantly to nonattainment or interfere with maintenance for the 2015 ozone NAAQS in other states. The selected Whitmore Park Alternative extends approximately 88 miles from terminus points in the Uinta Basin from around Myton, Utah, and Leland Bench, Utah, to an existing rail line near Kyune, Utah. The EIS does not specify if the possible new well drilling and trucking could occur from wells outside the State of Utah as well as inside the State. However, the final EIS indicated that OEA assumed that future oil and gas development, including well drilling and operation along with construction and operation of related facilities, such as pipelines, would occur throughout the Uinta Basin in the fields shown in Figure 3.15–1 of the EIS.[55] None of these fields within the cumulative impacts analysis study area—which extends approximately 18 miles into the Yampa Intrastate Air Quality Control Region in Colorado—are located within Colorado.[56]

We also note that in the EIS, OEA identified 27 reasonably foreseeable future actions within the area of the cumulative impacts study that could have cumulative impacts in addition to estimated additional exploration and drilling of oil wells. We again note that none of these activities were estimated to take place within Colorado.[57]

Therefore, while we do not know for certain where or in which state drilling would occur, estimations indicate that most, if not all, of the expanded production and exploration (and its associated foreseeable future actions) would occur within Utah. It is not possible to determine with much certainty what emissions may be released in Colorado based on the information supplied by the Center or in the EIS, or when, or in what quantity these emissions would occur.

Further, the STB approval for construction and operation of the Railway does not in itself equate to approval of any new oil and gas development or drilling in the small portion of the Uinta Basin area located in Colorado. We do not know how many of the high oil production scenario's estimated 3,330 wells will be drilled and operating and by what year (*e.g.,* the total amount of wells is not expected until after 15 years), nor do we know what controls or limits they will be operating under. We also do not know if wells in the Uinta Basin will be operating at the high oil production scenario (3,330 wells), the low oil production scenario (1,245 wells), or some other production level. Thus, the emissions associated with increased well development because of the Uinta Basin Railway—to the extent any such development may occur in the small portion of the Uinta Basin that is located in Colorado—are too speculative to assume they would impact our analysis of potential ozone transport from Colorado.

The Center points to the downline segment analysis of railroad emissions that extended to Denver, Colorado.[58] The EIS states that the total NO_X and VOC emissions at any particular downline location/segment will vary depending on total train traffic, local background concentrations, and local topographic and meteorological conditions.[59] Further, the EIS states ''that increases in concentrations measured at air quality monitoring sites, if any, are expected to be negligible'' and that ''[t]he increased downline rail traffic associated with the proposed rail line would not lead to a violation of the NAAQS for counties that are in attainment, and would not increase the severity of conditions in counties that are not in attainment.'' [60] Nonetheless, assuming there may be some increase in railroad emissions in Colorado associated with the Uinta Basin Railway project, these emissions increases are too small when viewed in comparison with the total amount of ozone-precursor emissions from Colorado to reasonably be expected to alter the results of our modeling at Step 1 and Step 2. Even an increase in NO_X emissions of 5,771.06 tpy and in VOC emissions of 205.33 tpy would be a very small change in the total statewide emissions of these pollutants from Colorado, which are projected in 2023 to be 145,621 tpy NO_X and 555,631 tpy VOC.[61] Considering that our current 2023 modeling indicates that the largest impact Colorado makes at any downwind receptor is only 0.20 ppb in 2023 (Denton County, Texas, Site ID 481210034), this very small change in statewide emissions cannot reasonably be anticipated to change our modeling results.[62] [63]

[54] EPA expressed concern that OEA's use of a ''flagpole height'' (*i.e.,* the height above the ground for which the model predicts the concentration of a pollutant) for one of the modeling scenarios described in the final EIS might under-predict air pollutant concentrations for that modeling scenario. In response to EPA's letter, OEA reran the model scenario without using a flagpole height and found the new results to be identical to the results reported in the final EIS.

[55] Final EIS, Section 3.15.4.

[56] Final EIS, Section 3.25–3, Figure 3.15–1.

[57] Final EIS, Section 3.15–2.

[58] See Final EIS, Section 3.7.

[59] Final EIS at 3.7–17.

[60] Id.

[61] Annual State and County Summaries of Emissions Used in Air Quality Modeling, US Inventory State SCC 2016v2 20 aug2021, Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Primary Ozone National Ambient Air Quality Standard, Docket Id. EPA–HQ–OAR–2021–0668–0100_attachment_3.

[62] In addition, as evident from our analysis in the Uinta Basin TSD, these downline railroad emissions in Colorado would only be relevant to assessing transport into the Uinta Basin to the extent those emissions are occurring within the Colorado portion of the Uinta Basin itself. This is because our analysis in the TSD shows that emissions from outside the Uinta Basin do not transport into the Basin during wintertime inversion conditions. The emissions from trains passing through the Colorado portion of the Uinta Basin during a wintertime inversion episode would be only a very small fraction of the total railroad emissions increase projected in Colorado in the EIS, as presented in the table on page 8 of the Center's comments. Such a small emission increase would not be enough to change our conclusion in the Uinta Basin TSD that emissions from Colorado do not significantly contribute to the ozone issues in the Utah portion of the Uinta Basin.

[63] Design values and contributions at individual monitoring sites nationwide are provided in the file ''2016v2_DVs_state_contributions.xlsx,'' which is included in Docket No. EPA–HQ–OAR–2021–0663.

The estimations of emissions included in the information provided by the Center and in the EIS are largely influenced by what eventual production levels will occur in the Uinta Basin following the completion of the Uinta Basin Railway project. The production rates and resulting changes to emissions in the Uinta Basin and any downline emissions stemming from the project can be influenced by a multitude of factors, including how long it takes to complete the project, as well as various market condition factors such as general domestic and global economic conditions, commodity pricing, and the strategic and capital investment decisions of oil producers and their customers.[64] In OEA's analysis in the EIS, conservative assumptions were generally made when evaluating air quality impacts (*i.e.,* modeling air quality impacts using a production value of 5,750 wells, well above the estimated 3,330 wells under the high oil production scenario).[65] [66] However, without increased certainty on when this project will be completed (and how that relates to air quality conditions at that time), how quickly production in the Uinta Basin will change as a result of the construction, or how much production will change, it is not appropriate nor is it feasible, at this time, for EPA to consider the inclusion or consideration of any changes in emissions as a result of the Uinta Basin Railway project in this action. Additionally, there are other factors that could counterbalance any projected increase in emissions in Colorado once the Uinta Basin Railway is in operation, including possible emissions reductions that might occur from avoided crude oil truck trips into or through Colorado. This degree of uncertainty makes it too difficult for EPA to determine what the actual impacts may be from this project at this time, though we recognize the potential need to assess the air quality impacts of this project in the future (particularly as related to an increase in emissions from Utah); however, EPA is confident that the emissions change in *Colorado* that could result from this project would not be sufficient to change our conclusions in this action.

In summary, EPA disagrees with the Center's comments that EPA's current modeling and analysis fails to appropriately consider predicted direct or indirect emissions from the construction and operation of the Uinta Basin Railway. Based on our review of the available information, any potential increase in emissions in Colorado from this project are too small and too speculative to reasonably be anticipated to change the results either of our 2023 modeling analysis at Steps 1 and 2, or our assessment of the potential for transport from Colorado within the Uinta Basin.

Comment: The Center asserts that EPA must disapprove Colorado's infrastructure SIP submission under CAA section 110(a)(2)(E) (adequate resources and authority) because the State of Colorado lacks adequate legal authority to regulate emissions from agriculture sources. The Center quotes Colorado Revised Statutes (C.R.S.) 25–7–109(8)(a) and argues that the provision prohibits Colorado from regulating agriculture sources other than those that are major sources. The Center states that Colorado cannot apply RACT or protect visibility or air quality related values for Class I areas from agriculture facilities.

Furthermore, the Center asserts that EPA must also disapprove the SIP under CAA section 110(a)(2)(D) (interstate transport prong 4) and 110(a)(2)(J) (consultation with government officials, public notification, and PSD and visibility protection) because agriculture emissions can cause visibility impartment. Additionally, the Center argues that EPA must disapprove the SIP submission under section 110(a)(2)(A) (emissions limits and other control measures) because, according to the Center, Colorado cannot assure that it will maintain the NAAQS because the State lacks the legal authority to regulate emissions from agriculture and pesticides.

The Center asserts that on remand, EPA wasted the Tenth Circuit's and the Center's time because, according to the Center, EPA says the same thing on remand that they said before remand. The Center acknowledges a letter from Colorado but argues that Colorado's statement that it regulates agricultural sources through minor source permitting is not true because Colorado has never issued a minor source air permit for a farm or concentrated animal feeding operations (CAFO) and that EPA has not provided evidence to the contrary. The Center further argues that C.R.S. 25–7–109(8)(a) does not mention minor source permitting as an exception and that minor sources are not title V, PSD, or non-attainment new source review (NSR) sources. Furthermore, the Center points out that there are no New Source Performance Standards for CAFOs.

The Center further asserts that fugitive emissions are not included in determining if most sources are major. The Center states that pesticides are a major contributor to ozone formation and animal waste is a major contributor to visibility impairment and interference with air quality related values. The Center argues that Colorado cannot regulate fugitive emissions based on the plain language of C.R.S. 25–7–109(8)(a).

The Center also challenges EPA's interpretation of C.R.S. 25–7–109(8)(a) that if it is necessary to regulate agricultural sources beyond those that are major sources in order to attain or maintain the NAAQS, then the State has authority to do so. The Center states that Part C, Part D, and title V do not say that states must independently attain and maintain the NAAQS. The Center concludes by saying that Colorado has failed to attain the ozone NAAQS five times and that EPA cannot promise to address the State's lack of authority to regulate non-major agriculture sources tomorrow, during review of the State's nonattainment SIP, when it is required to address the issue today.

Response: EPA disagrees with this comment. First, EPA did not waste the Tenth Circuit's or the Center's time, nor did EPA say the exact same thing on remand as EPA said before remand, as the Center contends. Rather, when EPA sought voluntary remand, the Agency specifically said that ''EPA intends to review its analysis of the State Authority Element and may provide additional explanation of its reading of Colorado's agriculture provision.'' [67] On remand, EPA has done exactly that—because of concerns raised about the State's authority, EPA reevaluated C.R.S. 25–7–109(8)(a) (''agriculture provision'') and verified our reading of that provision with Colorado. By letter, Colorado explained the State's authority under the agriculture provision, which confirmed EPA's earlier interpretation of the provision. By verifying our interpretation with Colorado, EPA received adequate necessary assurances from the State concerning Colorado's legal authority, as required by CAA section 110(a)(2)(E)(i).

Second, the Center's interpretation of the agriculture provision is wrong. A plain reading of the provision, supported by Colorado's letter,

[64] Final EIS, Section 3.15–3.

[65] Final EIS, Section 3.15–32.

[66] Based on Bureau of Land Management (BLM), ''Bureau of Land Management Monument Butte Oil and Gas Development Project Environmental Impact Statement,'' 2016. Final Environmental Impact Statement for Newfield Exploration Corporation Monument Butte Oil and Gas Development Project in Uintah and Duchesne Counties, Utah.

[67] *Center for Biological Diversity* v. *EPA,* No. 20–9560 (Tenth Cir.), EPA's Motion for Voluntary Remand at 10.

demonstrates that Colorado does have authority to:

—Apply reasonably available control technology (RACT) to agricultural facilities;
—Regulate agricultural facility emissions to protect visibility;
—Regulate agricultural, horticultural, or floricultural production sources, even if they are not major sources; and
—Regulate minor sources like pesticides, farms, CAFOs, and fugitive emissions *if required by Part C, Part D, or title V of the CAA*.[68]

Part C, Part D, and title V of the CAA do not prescribe specific measures that states must adopt. Rather, ''the CAA supplies the goals and basic requirements of state implementation plans, but the states have broad authority to determine the methods and particular control strategies they will use to achieve the statutory requirements.'' [69] Part C requires that states submit to EPA SIP submissions that contain ''emission limitations and such other measures as may be necessary . . . to prevent significant deterioration of air quality in each region (or portion thereof) designated . . . as attainment or unclassifiable;'' [70] and SIP submissions that contain ''emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress toward meeting the national [visibility] goal.'' [71] Further, Part D of the CAA requires that SIPs ''provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in this area as may be obtained through the adoption, at a minimum of reasonably available control technology) and shall provide for attainment of the national primary ambient air quality standards;'' [72] ''additional measures, if any, as may be necessary to ensure [ ] maintenance'' of the NAAQS once a nonattainment area has been redesignated to attainment; [73] ''[RACT] corrections'' for areas deemed Marginal nonattainment [74] and further SIP revisions for areas deemed Moderate, Serious, Severe, and Extreme nonattainment.[75] While some of the SIP requirements apply only to major sources, other provisions require states to evaluate additional area sources of emissions.[76]

Thus, if Colorado needs to regulate agricultural sources (regardless of size) in order to attain and maintain the NAAQS or to protect visibility as required by federal law in the CAA, Colorado has the authority under state law to include such measures in its SIP submissions under Part C and Part D of the CAA. Further, EPA separately evaluates the sufficiency of each of these submissions under the relevant statutory and regulatory provisions.[77] If EPA deems such SIP submissions inadequate to prevent significant deterioration, protect visibility, or attain and maintain the NAAQS, Colorado may be required by Part C or Part D of the CAA to regulate agricultural sources (regardless of size) and is not prohibited by C.R.S. 25–7–109(8)(a) from doing so. EPA interprets C.R.S. 25–7–109(8)(a) to authorize such regulation if required for these purposes, and the State has confirmed this reading of state law. Moreover, each time the State develops a SIP submission and EPA proposes action on a SIP submission, the Center has an opportunity to comment on the SIP submission during both the state and federal public comment periods.[78] Those are the appropriate opportunities for the Center to make their arguments regarding the need for better regulation of agricultural sources. For example, to the extent that the Center advocates for control of pesticide emissions as VOC precursors to ozone formation in a given nonattainment area, a proper place for such advocacy is during the State's development of a nonattainment SIP submission and EPA's evaluation of it. Here, in the context of EPA's evaluation of Colorado's infrastructure SIP submission, the question is whether Colorado has provided necessary assurances of the State's authority to do so in order to implement its SIP.

Third, the Center takes issue with part of Colorado's letter, asserting that Colorado states that it regulates agricultural sources through minor source permitting, and asserting that Colorado has never issued a minor source air permit for a farm or CAFO and that EPA has not provided evidence to the contrary. The Center misconstrues the letter. Colorado does not state that the State regulates all agricultural sources through minor source permitting; rather, Colorado states that it regulates ''agricultural sources that are subject to [a New Source Performance Standard (NSPS)]'' through the minor source permitting program, the PSD and NSR permitting programs, and the title V permitting program.[79] Additionally, in reviewing Colorado's infrastructure SIP submission under CAA section 110(a)(2)(E)(i), the question is not whether Colorado has regulated or does regulate agricultural sources; the question is whether Colorado has the authority to do so if necessary.[80]

The fact that the agriculture provision does not specifically mention minor source permitting does not mean that Colorado lacks the authority to regulate minor agricultural sources. Like all states, Colorado is required to include in its SIP a minor source NSR program governed by Parts C and D of the CAA.[81] Colorado's minor source NSR program is contained in Colorado's ''Regulation 3.'' [82] Colorado may amend Regulation 3 as necessary to assure NAAQS are achieved as required by Parts C and D of the CAA. Thus, Colorado has authority to regulate minor agricultural sources as necessary under Parts C and D of the CAA.

[68] C.R.S. 25–7–109(8)(a).

[69] *BCCA Appeal Group* v. *EPA,* 355 F.3d 817, 822 (5th Cir. 2003) (citing *Union Elec. Co.* v. *EPA,* 427 U.S. 246, 266 (1976)).

[70] 42 U.S.C. 7471.

[71] 42 U.S.C. 7491(b)(2).

[72] 42 U.S.C. 7502(c)(1); see also 7511a(2)(A) (requiring RACT corrections for marginal areas).

[73] 42 U.S.C. 7505(a).

[74] 42 U.S.C. 7511a(a)(2).

[75] 42 U.S.C. 7511a(b), (c), (d), and (e).

[76] Compare, *e.g.,* 42 U.S.C. 7502(c)(5) with 7502(c)(6). See also 40 CFR 51.308(f)(2)(i) (instructing the states to ''consider evaluating major and minor stationary sources or groups of sources, mobile sources, and area sources'' as part of their long term strategies for addressing visibility impairment).

[77] See, *e.g.,* 42 U.S.C. 7410(k)(3); 7502(d). See also Letter to Deb Thomas, Regional Administrator (Acting) and Deputy Regional Administrator, U.S. Environmental Protection Agency, Region 8, from Garrison Kaufman, Director, Air Pollution Control Division, July 29, 2021 ([T]he DMFR ozone area is a nonattainment area and, therefore, the AQCC has the authority to regulate emissions from agricultural production to the extent that such regulations are required by Part D of the federal Clean Air Act due to the DMNFR ozone area's nonattainment status.''); 84 FR 36516, 36518 (July 29, 2019) (explaining that Colorado's infrastructure SIP submission met the ''basic infrastructure requirements'' of CAA section 110(a)(2)(A) but that whether the State's measures meet the requirements of CAA part D is a separate determination that EPA would make in an action reviewing the measures under part D.).

[78] See, *e.g.,* 84 FR 34083 (July 17, 2019) (proposing to Colorado's visibility progress report for the first regional haze implementation period); 86 FR 11129 (February 24, 2021).

[79] Letter to Deb Thomas, Regional Administrator (Acting) and Deputy Regional Administrator, U.S. Environmental Protection Agency, Region 8, from Garrison Kaufman, Director, Air Pollution Control Division, July 29, 2021.

[80] 42 U.S.C. 7410(a)(2)(E)(i); 40 CFR 51.230–231; Stephen D. Page, EPA Office of Air Quality Planning and Standards, Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2), 41 (2013).

[81] See 42 U.S.C. 7410(a)(2)(C) (requiring SIPs to contain a program for ''regulation of the modification and construction of any stationary source within areas covered by the plan as necessary to assure that [NAAQS] are achieved, including a permit program as required by parts C and D of this subchapter''); 40 CFR 51.160 (requirements for permit programs in SIPs generally) (both implicitly including minor sources).

[82] C.R.S. 25–7–114 to 25–7–114.7.

Fourth, with respect to the Center's assertion that there is no NSPS for CAFOs, that does not mean that Colorado cannot regulate CAFO emissions under the CAA. As explained above, Colorado could include measures in its nonattainment and visibility SIP submissions designed to reduce emissions from CAFOs. The agriculture provision does not bar the State from doing so if necessary, under the CAA.

Finally, the Center raises issues that are outside the scope of this rulemaking. EPA sought, and the Tenth Circuit granted, remand of only two portions of EPA's approval of Colorado's infrastructure SIP submission for the 2015 ozone standards—EPA's conclusions under CAA section 110(a)(2)(D)(i)(I) and (E)(i) with respect to the agriculture provision. EPA proposed action on these two portions only and stated that the Agency was not reopening for comment any other portions of the 2020 final rule.[83] Accordingly, the Center's assertion that EPA has not acted on a petition to promulgate an NSPS for CAFOs is outside the scope of this action. Similarly, the Center's assertions that EPA must disapprove Colorado's infrastructure SIP under CAA section 110(a)(2)(A), 110(a)(2)(D)(i)(II) (prong 4), and 110(a)(2)(J) are also outside the scope of this action.[84]

EPA notes that ''Congress has left to the Administrator's sound discretion determination of what assurances are 'necessary' '' under CAA section 110(a)(2)(E)(i).[85] For the foregoing reasons, and for the reasons stated in our proposal, we conclude that Colorado's infrastructure SIP submission, supported by Colorado's letter regarding the agriculture provision, provides the necessary assurances of the State's authority to carry out Colorado's SIP for the 2015 ozone NAAQS as required by CAA section 110(a)(2)(E)(i).

III. Final Action

EPA is confirming our approval that the good neighbor portion of Colorado's infrastructure SIP satisfies the interstate transport provision of the CAA, section 110(a)(2)(D)(i)(I), for the 2015 ozone NAAQS, and that the State has provided the necessary assurances of the State's authority to regulate all agricultural sources as may be required by the CAA under section 110(a)(2)(E)(i).

IV. Statutory and Executive Order Reviews

Under the CAA, 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, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 12, 2022. 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, Carbon monoxide, Greenhouse gases, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 2, 2022.

KC Becker,

Regional Administrator, Region 8.

[FR Doc. 2022–21815 Filed 10–7–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2020–0336; FRL–9525–01–OCSPP]

Methoxyfenozide; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

[83] 87 FR 27054.

[84] See 85 FR 20165, 20171 (April 10, 2020) (explaining EPA's basis for approving Colorado's infrastructure SIP submission under CAA section 110(a)(2)(D)(i)(II) (prong 4) and 110(a)(2)(J)); 85 FR 36518 (explaining EPA's basis for proposing to approve Colorado's infrastructure SIP submission under CAA section 110(a)(2)(A)).

[85] *NRDC* v. *EPA,* 478 F.2d 875, 884 (1st Cir. 1973); *see also BCCA,* 355 F.3d at 844–847.

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of methoxyfenozide in or on multiple crops detailed later in this document. The Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective October 11, 2022. Objections and requests for hearings must be received on or before December 12, 2022, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2020–0336, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg, Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and the OPP Docket is (202) 566–1744. For the latest status information on EPA/DC services and access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Acting Director, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1030; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov/current/title-40.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2020–0336 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before December 12, 2022. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2020–0336, by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/where-send-comments-epa-dockets.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of September 30, 2020 (85 FR 61681) (FRL–10014–74) EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 0E8833) by IR–4, North Carolina State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606. The petition requested that 40 CFR 180.544 be amended by establishing tolerances for residues of the insecticide, methoxyfenozide, including its metabolites and degradates. Compliance with the tolerance levels is to be determined by measuring only methoxyfenozide (3-methoxy-2-methylbenzoic acid 2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide) in or on multiple commodities that are listed out in the petition and in the regulatory text. That document referenced a summary of the petition submitted by IR–4, the petitioner, which is available in the docket, *https://www.regulations.gov.* A comment was received in response to the notice of filing; however, it was unrelated to methoxyfenozide specifically or to pesticides in general.

Based upon review of the data supporting the petition, EPA is establishing some tolerances at different levels than petitioned for and many of the commodity definitions have been modified as well. A discussion of these modifications can be found in section IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified therein, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of, and to make a determination on, aggregate exposure for methoxyfenozide, including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with methoxyfenozide follows.

In an effort to streamline its publications in the **Federal Register**, EPA is not reprinting sections that repeat what has been previously published for tolerance rulemaking of the same pesticide chemical. Where scientific information concerning a particular chemical remains unchanged, the content of those sections would not vary between tolerance rulemaking, and EPA considers referral back to those sections as sufficient to provide an explanation of the information EPA considered in making its safety determination for the new rulemaking.

EPA has previously published a tolerance rulemaking for methoxyfenozide in which EPA concluded, based on the available information, that there is a reasonable certainty that no harm would result from aggregate exposure to methoxyfenozide and established tolerances for residues of that chemical. EPA is incorporating previously published sections from that rulemaking as described further in this rulemaking, as they remain unchanged.

Toxicological profile. For a discussion of the Toxicological Profile of methoxyfenozide, see Unit III.A. of the methoxyfenozide tolerance rulemaking published in the **Federal Register** of March 12, 2019 (84 FR 8820) (FRL–9985–06).

Toxicological points of departure/Levels of concern. For a summary of the Toxicological Points of Departure/Levels of Concern for methoxyfenozide used for human risk assessment, please reference Unit III.B. of the March 12, 2019, rulemaking.

Exposure assessment. The exposure assessment has been updated to include the new regional use on rice and the crop group expansions and conversions but uses the same previous assumptions of tolerance level residues and 100 percent crop treated (PCT). For a description of the previous approach to and assumptions for the exposure assessment, please reference Unit III.C. of the March 12, 2019, rulemaking.

Drinking water exposure. EPA has revised the methoxyfenozide drinking water assessment since the March 12, 2019, rulemaking to reflect the new regional use on rice. Based on the Tier 1 Rice Model, the new estimated drinking water concentration for the chronic dietary assessment is 232 ppb.

Non-occupational exposure. Lastly, the residential assessment has also been updated to reflect current Agency policy. In the March 12, 2019, rulemaking, a residential assessment was conducted. However, the Agency now assumes that when labels require specific clothing and/or personal protective equipment (PPE) such products are not for residential use. The methoxyfenozide label requires specific clothing and/or PPE; therefore, the Agency has made the assumption that the registered methoxyfenozide labels are not intended for use by residential handlers and a quantitative residential handler assessment has not been conducted. The approach to assessing post-application exposure is the same as described in Unit III.C.3 of the March 12, 2019, rulemaking.

Cumulative Effects from Substances with a Common Mechanism of Toxicity. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' In 2016, EPA's Office of Pesticide Programs released a guidance document entitled Pesticide Cumulative Risk Assessment: Framework for Screening Analysis (*https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/pesticide-cumulative-risk-assessment-framework*). This document provides guidance on how to screen groups of pesticides for cumulative evaluation using a two-step approach beginning with the evaluation of available toxicological information and if necessary, followed by a risk-based screening approach. This framework supplements the existing guidance documents for establishing common mechanism groups (CMGs) and conducting cumulative risk assessments (CRA).

The Agency used this framework for methoxyfenozide and determined that the diazylhydrazine class of insecticides (methoxyfenozide, halofenozide and tebufenozide) form a candidate CMG. This group of pesticides is considered a candidate CMG because there is sufficient toxicological data to suggest a common mechanism of toxicity. Following this determination, the Agency conducted a screening-level cumulative risk assessment consistent with the 2016 guidance document. This assessment included only methoxyfenozide and tebufenozide since there are no registered uses for halofenozide. The Agency has updated the cumulative dietary and residential aggregate exposure estimates for methoxyfenozide and tebufenozide to take into account the new regional use on rice and crop group expansions and conversions for methoxyfenozide. The updated assessment indicates that cumulative dietary and aggregate exposures for methoxyfenozide and tebufenozide are not of concern. For more information see Appendix F of the document titled ''Methoxyfenozide. Human Health Risk Assessment for the Petition to Establish Permanent Tolerances, and Associated Section 3 Registration, for Residues Resulting from Use of the Insecticide on Rice, and Crop Group Conversions and Expansions'' in docket ID number EPA–HQ–OPP–2020–0336.

Safety factor for infants and children. EPA continues to conclude that there are reliable data to support the reduction of the Food Quality Protection Act (FQPA) safety factor from 10X to 1X. See Unit III.D. of the March 12, 2019, rulemaking for a discussion of the Agency's rationale for that determination.

Aggregate risks and determination of safety. EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate points of departure to ensure that an adequate margin of exposure (MOE) exists. For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure.

An acute dietary risk assessment was not needed for methoxyfenozide since no toxic effects attributable to a single dose were identified in the toxicity database. Chronic dietary risks are below the Agency's level of concern of 100% of the cPAD; they are 80% of the cPAD for children 1 to 2 years old, the group with the highest exposure. There are currently no residential handler uses for methoxyfenozide, and none are pending before the Agency. Therefore short- and intermediate-term exposure to methoxyfenozide is not expected and the short- and intermediate-term risk is equivalent to the chronic dietary risk, which is not of concern. Methoxyfenozide is classified as ''Not Likely to Be Carcinogenic to Humans'';

therefore, EPA does not expect methoxyfenozide exposures to pose an aggregate cancer risk.

Determination of safety. Therefore, based on the risk assessments and information described above, EPA concludes there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to methoxyfenozide residues. More detailed information on this action can be found in the document titled ''Methoxyfenozide. Human Health Risk Assessment for the Petition to Establish Permanent Tolerances, and Associated Section 3 Registration, for Residues Resulting from Use of the Insecticide on Rice, and Crop Group Conversions and Expansions'' in docket ID EPA–HQ–OPP–2020–0336.

IV. Other Considerations

A. Analytical Enforcement Methodology

For a discussion of the available analytical enforcement method, see Unit IV.A. of the March 12, 2019, rulemaking.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4).

The tolerance for Cottonseed subgroup 20C is set at 7 ppm to harmonize with the Codex MRL. In addition, although EPA has not yet implemented the new subgroups to replace the established subgroups 6A, 6B, and 6C, the tolerances for each of the individual commodities that will fall under the future subgroups 6–22A, 6–22B, 6–22C, 6–22D, 6–22E, and 6–22F, are harmonized with Codex, except for ''pea, black-eyed, seed'' and ''pea, southern, seed,'' which have existing, higher MRLs that are not being modified. Tolerances for commodities that will be in future subgroups 6–22A and 6–22B are set at 2 ppm, and those in future subgroups 6–22C and 6–22D are set at 0.3 ppm to harmonize with Codex. The Agency is not harmonizing with Codex by setting higher tolerances for Field pea (Codex-5 ppm) and Cowpea (Codex-3 ppm) as the increase would be too great and is not supported by previously submitted data.

There are additional commodities covered by this rule that are not harmonized with Codex. The explanation for the deviations can be found in Appendix E of the document titled ''Methoxyfenozide. Human Health Risk Assessment for the Petition to Establish Permanent Tolerances, and Associated Section 3 Registration, for Residues Resulting from Use of the Insecticide on Rice, and Crop Group Conversions and Expansions'' in docket ID number EPA–HQ–OPP–2020–0336.

C. Revisions to Petitioned-For Tolerances

FFDCA section 408(d)(4)(A)(i) permits the Agency to finalize a tolerance that varies from that sought by the petition. The proposed tolerance on Rice, straw is not being established because the Agency no longer considers it a significant livestock feed item. EPA is establishing some tolerances at different levels than petitioned-for to be consistent with Organization for Economic Co-operation and Development (OECD) rounding practice. EPA is not establishing a tolerance for edible podded pea, edible podded because it is not a distinct commodity requiring a tolerance.

Many of the proposed commodity definitions have been revised to be consistent with Agency nomenclature.

V. Conclusion

Therefore, tolerances are established for residues of methoxyfenozide in or on Bean, adzuki, dry seed at 0.5 ppm; Bean, American potato, dry seed at 0.5 ppm; Bean, asparagus, edible podded at 2 ppm; Bean, asparagus, dry seed at 0.5 ppm; Bean, black, dry seed at 0.5 ppm; Bean, broad, dry seed at 0.5 ppm; Bean, broad, succulent shelled at 0.3 ppm; Bean, catjang, edible podded at 2 ppm; Bean, catjang, dry seed at 0.5 ppm; Bean, catjang, succulent shelled at 0.3 ppm; Bean, cranberry, dry seed at 0.5 ppm; Bean, dry, dry seed at 0.5 ppm; Bean, field, dry seed at 0.5 ppm; Bean, French, dry seed 0.5 ppm; Bean, French, edible podded at 2 p.m.; Bean, garden, dry seed at 0.5 ppm; Bean, garden, edible podded at 2 ppm; Bean, goa, dry seed at 0.5 ppm; Bean, goa, edible podded at 2 ppm; Bean, goa, succulent shelled at 0.3 ppm; Bean, great northern, dry seed at 0.5 ppm; Bean, green, dry seed at 0.5 ppm; Bean, green, edible podded at 2 ppm; Bean, guar, dry seed at 0.5 ppm; Bean, guar, edible podded at 2 ppm; Bean, kidney, dry seed at 0.5 ppm; Bean, kidney, edible podded at 2 ppm; Bean, lablab, dry seed at 0.5 ppm; Bean, lablab, edible podded at 2 ppm; Bean, lablab, succulent shelled at 0.3 ppm; Bean, lima, dry seed at 0.5 ppm; Bean, lima, succulent shelled at 0.3 ppm; Bean, morama, dry seed at 0.5 ppm; Bean, moth, dry seed at 0.5 ppm; Bean, moth, edible podded at 2 ppm; Bean, moth, succulent shelled at 0.3 ppm; Bean, mung, dry seed at 0.5 ppm; Bean, mung, edible podded at 2 ppm; Bean, navy, dry seed 0.5 ppm; Bean, navy, edible podded at 2 ppm; Bean, pink, dry seed at 0.5 ppm; Bean, pinto, dry seed at 0.5 ppm; Bean, red, dry seed at 0.5 ppm; Bean, rice, dry seed at 0.5 ppm; Bean, rice, edible podded at 2 ppm; Bean, scarlet runner, dry seed at 0.5 ppm; Bean, scarlet runner, edible podded at 2 ppm; Bean, scarlet runner, succulent shelled at 0.3 ppm; Bean, snap, edible podded at 2 ppm; Bean, sword, dry seed at 0.5 ppm; Bean, sword, edible podded at 2 ppm; Bean, tepary, dry seed at 0.5 ppm; Bean, urd, dry seed at 0.5 ppm; Bean, urd, edible podded at 2 ppm; Bean, wax, edible podded at 2 ppm; Bean, wax, succulent shelled at 0.3 ppm; Bean, yardlong, dry seed at 0.5 ppm; Bean, yardlong, edible podded at 2 ppm; Bean, yellow, dry seed at 0.5 ppm; Celtuce at 25 ppm; Chickpea, dry seed at 0.5 ppm; Chickpea, edible podded at 2 ppm; Chickpea, succulent shelled at 0.3 ppm; Cottonseed subgroup 20C at 7 ppm; Cowpea, dry seed at 0.5 ppm; Cowpea, edible podded at 2 ppm; Cowpea, succulent shelled at 0.3 ppm; Fennel, Florence, fresh leaves and stalk at 25 ppm; Gram, horse, dry seed at 0.5 ppm; Grass pea, dry seed at 0.5 ppm; Grass pea, edible podded at 2 ppm; Jackbean, dry seed at 0.5 ppm; Jackbean, edible podded at 2 ppm; Jackbean, succulent shelled at 0.3 ppm; Kohlrabi at 7 ppm; Leaf petiole vegetable subgroup 22B at 25 ppm; Lentil, dry seed at 0.5 ppm; Lentil, edible podded at 2 ppm; Lentil, succulent shelled at 0.3 ppm; Longbean, Chinese, dry seed at 0.5 ppm; Longbean, Chinese, edible podded at 2 ppm; Lupin, Andean, dry seed at 0.5 ppm; Lupin, Andean, succulent shelled at 0.3 ppm; Lupin, blue, dry seed at 0.5 ppm; Lupin, blue, succulent shelled at 0.3 ppm; Lupin, grain, dry seed at 0.5 ppm; Lupin, grain, succulent shelled at 0.3 ppm; Lupin, sweet white, dry seed at 0.5 ppm; Lupin, sweet white, succulent shelled at 0.3 ppm; Lupin, sweet, dry seed at 0.5 ppm; Lupin, sweet, succulent shelled at 0.3 ppm; Lupin, white, dry seed at 0.5 ppm; Lupin, white, succulent shelled at 0.3 ppm; Lupin, yellow, dry seed at 0.5 ppm; Lupin, yellow, succulent shelled at 0.3 ppm; Pea, blackeyed, succulent shelled at 0.3 ppm; Pea, crowder, dry seed at 0.5 ppm; Pea, crowder, succulent shelled at 0.3 ppm; Pea, dry, dry seed at 0.5 ppm; Pea, dwarf, edible podded at 2 ppm; Pea, English, succulent shelled at 0.3 ppm; Pea, field, dry seed at 0.5 ppm; Pea, garden, dry seed at 0.5 ppm; Pea,

garden, succulent shelled at 0.3 ppm; Pea, green, dry seed at 0.5 ppm; Pea, green, edible podded at 2 ppm; Pea, green, succulent shelled at 0.3 ppm; Pea, pigeon, dry seed at 0.5 ppm; Pea, pigeon, edible podded at 2 ppm; Pea, pigeon, succulent shelled at 0.3 ppm; Pea, snap, edible podded at 2 ppm; Pea, snow, edible podded at 2 ppm; Pea, southern, succulent shelled at 0.3 ppm; Pea, sugar snap, edible podded at 2 ppm; Pea, winged, dry seed at 0.5 ppm; Pea, winged, edible podded at 2 ppm; Soybean, vegetable, dry seed at 0.5 ppm; Soybean, vegetable, edible podded at 2 ppm; Soybean, vegetable, succulent shelled at 0.3 ppm; Tropical and subtropical, palm fruit, edible peel, subgroup 23C at 8 ppm; Tropical and subtropical, small fruit, inedible peel, subgroup 24A at 2 ppm; Vegetable, brassica, head and stem, group 5–16 at 7 ppm; Vegetable, leafy, group 4–16 at 30 ppm; Velvetbean, dry seed at 0.5 ppm; Velvetbean, edible podded at 2 ppm; Velvetbean, succulent shelled at 0.3 ppm; and Yam bean, African, dry seed at 0.5 ppm.

Also, tolerances for regional registration are established for Rice, grain at 30 ppm; and Rice, hulls at 55 ppm.

The following tolerances are removed as unnecessary due to the establishment of the above tolerances: Brassica, head and stem, subgroup 5A; Brassica, leafy greens, subgroup 5B; Cotton, undelinted seed; Date; Leaf petioles subgroup 4B; Leafy greens subgroup 4A; Longan; Lychee; Pea and bean, dried shelled, except soybean, subgroup 6C, except pea, blackeyed, seed and pea, southern, seed; Pea and bean, succulent shelled, subgroup 6B; Spanish lime; Turnip greens; and Vegetable, legume, edible podded, subgroup 6A. In addition, the Section 18 emergency exemption time-limited tolerances for Rice, bran and Rice, grain are removed as unnecessary due to the establishment of the tolerances for regional registration.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), or to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides, and pests, Reporting and recordkeeping requirements.

Dated: September 29, 2022.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter 1 as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Amend § 180.544:

■ a. In paragraph (a)(1) by:

■ i. Adding a table heading.

■ ii. Adding in alphabetical order entries for ''Bean, adzuki, dry seed''; ''Bean, American potato, dry seed''; ''Bean, asparagus, edible podded''; ''Bean, asparagus, dry seed''; ''Bean, black, dry seed''; ''Bean, broad, dry seed''; ''Bean, broad, succulent shelled''; ''Bean, catjang, edible podded''; ''Bean, catjang, dry seed''; ''Bean, catjang, succulent shelled''; ''Bean, cranberry, dry seed''; ''Bean, dry, dry seed''; ''Bean, field, dry seed''; ''Bean, French, dry seed''; ''Bean, French, edible podded''; ''Bean, garden, dry seed''; ''Bean, garden, edible podded''; ''Bean, goa, dry seed''; ''Bean, goa, edible podded''; ''Bean, goa, succulent shelled''; ''Bean, great northern, dry seed''; ''Bean, green, dry seed''; ''Bean, green, edible podded''; ''Bean, guar, dry seed''; ''Bean, guar, edible podded''; ''Bean, kidney, dry seed''; ''Bean, kidney, edible podded''; ''Bean, lablab, dry seed''; ''Bean, lablab, edible podded''; ''Bean, lablab, succulent shelled''; ''Bean, lima, dry seed''; ''Bean, lima, succulent shelled''; ''Bean, morama, dry seed''; ''Bean, moth, dry seed''; ''Bean, moth, edible podded''; ''Bean, moth, succulent shelled''; ''Bean, mung, edible podded''; ''Bean, navy, dry seed''; ''Bean, navy, edible podded''; ''Bean, pink, dry seed''; ''Bean, pinto, dry seed''; ''Bean, red, dry seed''; ''Bean, rice, dry seed''; ''Bean, rice, edible podded''; ''Bean, scarlet runner, dry seed''; ''Bean, scarlet runner, edible podded''; ''Bean, scarlet runner, succulent shelled''; ''Bean, snap,

edible podded''; ''Bean, sword, dry seed''; ''Bean, sword, edible podded''; ''Bean, tepary, dry seed''; ''Bean, urd, dry seed''; ''Bean, urd, edible podded''; ''Bean, wax, edible podded''; ''Bean, wax, succulent shelled''; ''Bean, yardlong, dry seed''; ''Bean, yardlong, edible podded''; and ''Bean, yellow, dry seed''.

■ iii. Removing the entries for ''*Brassica,* head and stem, subgroup 5A'' and ''*Brassica,* leafy greens, subgroup 5B''.

■ iv. Adding in alphabetical order entries for ''Celtuce''; ''Chickpea, dry seed''; ''Chickpea, edible podded''; and ''Chickpea, succulent shelled''.

■ v. Removing the entry for ''Cotton, undelinted seed''.

■ vi. Adding in alphabetical order entries for ''Cottonseed subgroup 20C''; ''Cowpea, dry seed''; ''Cowpea, edible podded''; and ''Cowpea, succulent shelled''.

■ vii. Removing the entry for ''Date''.

■ viii. Adding in alphabetical order entries for ''Fennel, Florence, fresh leaves and stalk''; ''Gram, horse, dry seed''; ''Grass pea, dry seed''; ''Grass pea, edible podded''; ''Jackbean, dry seed''; ''Jackbean, edible podded''; ''Jackbean, succulent shelled''; and ''Kohlrabi''.

■ ix. Removing the entry for ''Leaf petioles subgroup 4B''.

■ x. Adding in alphabetical order an entry for ''Leaf petiole vegetable subgroup 22B''.

■ xi. Removing the entry for ''Leafy greens subgroup 4A''.

■ xii. Adding in alphabetical order entries for ''Lentil, dry seed''; ''Lentil, edible podded''; and ''Lentil, succulent shelled''.

■ xiii. Removing the entry for ''Longan''.

■ xiv. Adding in alphabetical order entries for ''Longbean, Chinese, dry seed''; ''Longbean, Chinese, edible podded''; ''Lupin, Andean, dry seed''; ''Lupin, Andean, succulent shelled''; ''Lupin, blue, dry seed''; ''Lupin, blue, succulent shelled''; ''Lupin, grain, dry seed''; ''Lupin, grain, succulent shelled''; ''Lupin, sweet white, dry seed''; ''Lupin, sweet white, succulent shelled''; ''Lupin, sweet, dry seed''; ''Lupin, sweet, succulent shelled''; ''Lupin, white, dry seed''; ''Lupin, white, succulent shelled''; ''Lupin, yellow, dry seed''; and ''Lupin, yellow, succulent shelled''.

■ xv. Removing the entries for ''Lychee''; ''Pea and bean, dried shelled, except soybean, subgroup 6C, except pea, blackeyed, seed and pea, southern, seed''; and ''Pea and bean, succulent shelled, subgroup 6B''.

■ xvi. Adding in alphabetical order entries for ''Pea, blackeyed, succulent shelled''; ''Pea, crowder, dry seed''; ''Pea, crowder, succulent shelled''; ''Pea, dry, dry seed''; ''Pea, dwarf, edible podded''; ''Pea, English, succulent shelled''; ''Pea, field, dry seed''; ''Pea, garden, dry seed''; ''Pea, garden, succulent shelled''; ''Pea, green, dry seed''; ''Pea, green, edible podded''; ''Pea, green, succulent shelled''; ''Pea, pigeon, dry seed''; ''Pea, pigeon, edible podded''; ''Pea, pigeon, succulent shelled''; ''Pea, snap, edible podded''; ''Pea, snow, edible podded''; ''Pea, southern, succulent shelled''; ''Pea, sugar snap, edible podded''; ''Pea, winged, dry seed''; ''Pea, winged, edible podded''; ''Soybean, vegetable, dry seed''; ''Soybean, vegetable, edible podded''; and ''Soybean, vegetable, succulent shelled''.

■ xvii. Removing the entry for ''Spanish lime''.

■ xviii. Adding in alphabetical order entries for ''Tropical and subtropical, palm fruit, edible peel, subgroup 23C''; and ''Tropical and subtropical, small fruit, inedible peel, subgroup 24A''.

■ xix. Removing the entry for ''Turnip greens''.

■ xx. Adding in alphabetical order entries for ''Vegetable, *brassica,* head and stem, group 5–16''; and ''Vegetable, leafy, group 4–16''.

■ xxi. Removing the entry for ''Vegetable, legume, edible podded, subgroup 6A''.

■ xxii. Adding in alphabetical order entries for ''Velvetbean, dry seed''; ''Velvetbean, edible podded''; ''Velvetbean, succulent shelled''; and ''Yam bean, African, dry seed''.

■ b. By adding a heading to the table in paragraph (a)(2).

■ c. By removing and reserving paragraph (b).

■ d. By revising paragraph (c).

The additions and revision read as follows:

§ 180.544 Methoxyfenozide; tolerances for residues.

(a) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (a)(1)

Commodity	Parts per million
* * * * * * *	
Bean, adzuki, dry seed	0.5
Bean, American potato, dry seed	0.5
Bean, asparagus, edible podded	2
Bean, asparagus, dry seed	0.5
Bean, black, dry seed	0.5
Bean, broad, dry seed	0.5
Bean, broad, succulent shelled	0.3
Bean, catjang, edible podded	2
Bean, catjang, dry seed	0.5
Bean, catjang, succulent shelled	0.3
Bean, cranberry, dry seed	0.5
Bean, dry, dry seed	0.5
Bean, field, dry seed	0.5
Bean, French, dry seed	0.5
Bean, French, edible podded	2
Bean, garden, dry seed	0.5
Bean, garden, edible podded	2
Bean, goa, dry seed	0.5
Bean, goa, edible podded	2
Bean, goa, succulent shelled	0.3
Bean, great northern, dry seed	0.5
Bean, green, dry seed	0.5
Bean, green, edible podded	2

TABLE 1 TO PARAGRAPH (a)(1)—Continued

Commodity	Parts per million
Bean, guar, dry seed	0.5
Bean, guar, edible podded	2
Bean, kidney, dry seed	0.5
Bean, kidney, edible podded	2
Bean, lablab, dry seed	0.5
Bean, lablab, edible podded	2
Bean, lablab, succulent shelled	0.3
Bean, lima, dry seed	0.5
Bean, lima, succulent shelled	0.3
Bean, morama, dry seed	0.5
Bean, moth, dry seed	0.5
Bean, moth, edible podded	2
Bean, moth, succulent shelled	0.3
Bean, mung, dry seed	0.5
Bean, mung, edible podded	2
Bean, navy, dry seed	0.5
Bean, navy, edible podded	2
Bean, pink, dry seed	0.5
Bean, pinto, dry seed	0.5
Bean, red, dry seed	0.5
Bean, rice, dry seed	0.5
Bean, rice, edible podded	2
Bean, scarlet runner, dry seed	0.5
Bean, scarlet runner, edible podded	2
Bean, scarlet runner, succulent shelled	0.3
Bean, snap, edible podded	2
Bean, sword, dry seed	0.5
Bean, sword, edible podded	2
Bean, tepary, dry seed	0.5
Bean, urd, dry seed	0.5
Bean, urd, edible podded	2
Bean, wax, edible podded	2
Bean, wax, succulent shelled	0.3
Bean, yardlong, dry seed	0.5
Bean, yardlong, edible podded	2
Bean, yellow, dry seed	0.5
* * * * * * *	
Celtuce	25
* * * * * * *	
Chickpea, dry seed	0.5
Chickpea, edible podded	2
Chickpea, succulent shelled	0.3
* * * * * * *	
Cottonseed subgroup 20C	7
Cowpea, dry seed	0.5
Cowpea, edible podded	2
Cowpea, succulent shelled	0.3
* * * * * * *	
Fennel, Florence, fresh leaves and stalk	25
* * * * * * *	
Gram, horse, dry seed	0.5
* * * * * * *	
Grass pea, dry seed	0.5
Grass pea, edible podded	2
* * * * * * *	
Jackbean, dry seed	0.5
Jackbean, edible podded	2
Jackbean, succulent shelled	0.3
Kohlrabi	7
Leaf petiole vegetable subgroup 22B	25
Lentil, dry seed	0.5
Lentil, edible podded	2
Lentil, succulent shelled	0.3
Longbean, Chinese, dry seed	0.5

TABLE 1 TO PARAGRAPH (a)(1)—Continued

Commodity	Parts per million
Longbean, Chinese, edible podded	2
Lupin, Andean, dry seed	0.5
Lupin, Andean, succulent shelled	0.3
Lupin, blue, dry seed	0.5
Lupin, blue, succulent shelled	0.3
Lupin, grain, dry seed	0.5
Lupin, grain, succulent shelled	0.3
Lupin, sweet white, dry seed	0.5
Lupin, sweet white, succulent shelled	0.3
Lupin, sweet, dry seed	0.5
Lupin, sweet, succulent shelled	0.3
Lupin, white, dry seed	0.5
Lupin, white, succulent shelled	0.3
Lupin, yellow, dry seed	0.5
Lupin, yellow, succulent shelled	0.3
* * * * * * *	
Pea, blackeyed, succulent shelled	0.3
Pea, crowder, dry seed	0.5
Pea, crowder, succulent shelled	0.3
Pea, dry, dry seed	0.5
Pea, dwarf, edible podded	2
Pea, English, succulent shelled	0.3
Pea, field, dry seed	0.5
Pea, garden, dry seed	0.5
Pea, garden, succulent shelled	0.3
Pea, green, dry seed	0.5
Pea, green, edible podded	2
Pea, green, succulent shelled	0.3
Pea, pigeon, dry seed	0.5
Pea, pigeon, edible podded	2
Pea, pigeon, succulent shelled	0.3
Pea, snap, edible podded	2
Pea, snow, edible podded	2
Pea, southern, succulent shelled	0.3
Pea, sugar snap, edible podded	2
Pea, winged, dry seed	0.5
Pea, winged, edible podded	2
* * * * * * *	
Soybean, vegetable, dry seed	0.5
Soybean, vegetable, edible podded	2
Soybean, vegetable, succulent shelled	0.3
* * * * * * *	
Tropical and subtropical, palm fruit, edible peel, subgroup 23C	8
Tropical and subtropical, small fruit, inedible peel, subgroup 24A	2
Vegetable, *brassica,* head and stem, group 5–16	7
* * * * * * *	
Vegetable, leafy, group 4–16	30
* * * * * * *	
Velvetbean, dry seed	0.5
Velvetbean, edible podded	2
Velvetbean, succulent shelled	0.3
* * * * * * *	
Yam bean, African, dry seed	0.5

[1] There are no U.S. registrations as of March 12, 2019, for use on tea.

(2) * * *

Table 2 to Paragraph (a)(2)

* * * * *

(c) *Tolerances with regional registrations.* Tolerances for regional registration are established for the insecticide methoxyfenozide, including its metabolites and degradates, in or on the raw agricultural commodities in the following table. Compliance with the tolerance levels specified in the following table is to be determined by measuring only methoxyfenozide [3-methoxy-2-methylbenzoic acid 2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide].

TABLE 3 TO PARAGRAPH (c)

Commodity	Parts per million
Rice, grain	30
Rice, hulls	55

* * * * *

[FR Doc. 2022–21719 Filed 10–7–22; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 87, No. 195
Tuesday, October 11, 2022

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 Part 205

[Doc. No. AMS–NOP–21–0073]

RIN 0581–AE06

National Organic Program; Organic Livestock and Poultry Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; extension of public comment period.

SUMMARY: On August 9, 2022, the Agricultural Marketing Service (AMS) published proposed amendments to the United States Department of Agriculture (USDA) organic regulations, with a 60-day comment period ending on October 11, 2022. The proposed rule would amend organic livestock and poultry production requirements. In response to multiple requests, AMS is announcing an extension of the public comment period by an additional 30 calendar days.

DATES: The deadline for receipt of comments on the proposed rule published on August 9, 2022, at 87 FR 48562, is extended until November 10, 2022.

ADDRESSES: Interested persons may comment on this proposed rule using one of the following methods:

- *Federal eRulemaking Portal:* You may submit comments on the proposed rule, identified by AMS–NOP–21–0073, by electronic submission. Go to *https://www.regulations.gov* and enter AMS–NOP–21–0073 in the Search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* AMS strongly prefers comments be submitted electronically. However, written comments may be submitted (*i.e.,* postmarked) via mail to Erin Healy, Standards Division, National Organic Program, USDA–AMS–NOP, Room 2646–So., Ag Stop 0268, 1400 Independence Ave. SW, Washington, DC 20250–0268. Mailed comments must be postmarked by November 10, 2022.

All comments received are a part of the public record and will generally be posted 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 will be publicly accessible (enter ''N/A'' in the required fields if you wish to remain anonymous).

Docket: To access the docket, including the Draft Regulatory Impact Analysis/Initial Regulatory Flexibility Analysis, other background documents, and comments, go to *https://www.regulations.gov* (search for docket ''AMS–NOP–21–0073'').

FOR FURTHER INFORMATION CONTACT: Erin Healy, Standards Division, National Organic Program, USDA–AMS–NOP, Room 2646–So., Ag Stop 0268, 1400 Independence Ave. SW, Washington, DC 20250–0268; Telephone: (202) 617–4942. Email: *erin.healy@usda.gov.*

SUPPLEMENTARY INFORMATION: On August 9, 2022, AMS published proposed changes to the USDA organic regulations for organic livestock and poultry production (87 FR 48562). The proposed changes would address a range of topics related to the care of organic livestock, including:

- *Livestock health care practices*—the proposed rule would specify which physical alteration procedures are prohibited or restricted for use on organic livestock. The proposed livestock health care practice standards include requirements for euthanasia to reduce suffering of any sick or disabled livestock;
- *Living conditions*—the proposed rule would set separate standards for mammalian and avian livestock living conditions to better reflect the needs and behaviors of the different species, as well as related consumer expectations. The proposed mammalian livestock standards would cover both ruminants and swine. The proposed avian livestock living standards would set maximum indoor and outdoor stocking densities to ensure the birds have sufficient space to engage in natural behaviors;
- *Transport of animals*—the proposed rule would add new requirements on the transport of organic livestock to sale or slaughter;
- *Slaughter*—the proposed rule would add a new section to clarify how organic slaughter facility practices and USDA Food Safety and Inspection Service (FSIS) regulations work together to support animal welfare.

During the comment period, AMS received multiple requests for additional time to prepare and submit comments. Having considered the requests, AMS is extending the comment period for an additional 30 days to provide further opportunity for public comment. This extension provides a total of 90 days for public input. We encourage members of the public to submit comments on the proposed amendments, implementation options, and AMS's analysis of the proposed rule (see 87 FR 48564).

Erin Morris,
Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2022–22011 Filed 10–7–22; 8:45 am]
BILLING CODE P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Doc. No. AMS–NOP–21–0008]

RIN 0581–AE02

Inert Ingredients in Pesticides for Organic Production

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: The Agricultural Marketing Service (AMS) is providing additional time for the public to submit comments and information about how to update the United States Department of Agriculture (USDA) organic regulations on inert ingredients in pesticides used in organic production. AMS seeks comments on alternatives to its existing regulations that would align with the Organic Foods Production Act of 1990 (OFPA) and the U.S. Environmental Protection Agency's (EPA) regulatory framework for inert ingredients.

Information from public comments would inform AMS's approach to this topic, including any proposed revisions of the USDA organic regulations.

DATES: The comment period for the notice originally published on September 2, 2022, at 87 FR 54173, is extended. Comments must be submitted on or before December 31, 2022.

ADDRESSES: To submit comments on the ANPR, use any of the following procedures:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. You can access this ANPR and instructions for submitting public comments by searching for document number, AMS–NOP–21–0008.
- *Mail:* Jared Clark, Standards Division, National Organic Program, USDA–AMS–NOP, 1400 Independence Ave. SW, Room 2642–S., Ag Stop 0268, Washington, DC 20250–0268.

All submissions received must include the docket number AMS–NOP–21–0008, NOP–21–01, and/or Regulatory Information Number (RIN) 0581–AE02 for this notice. AMS seeks information and feedback on specific topics listed in this notice. Commenters are also invited to provide information and perspectives on inert ingredients for topics not requested by AMS in this notice. Specific and relevant information and data to support your comments is encouraged, including, scientific, environmental, manufacturing, industry, or impact information. Comments received will be posted to *https://www.regulations.gov.*

To access the document, related documents, and comments received, go to *https://www.regulations.gov* (search for Docket ID AMS–NOP–21–0008).

FOR FURTHER INFORMATION CONTACT: Jared Clark, Standards Division, National Organic Program, 1400 Independence Ave. SW, Room 2642–S., Ag Stop 0268, Washington, DC 20250–0268; Telephone: (202) 720–3252; Email: *jared.clark@usda.gov.*

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** on September 2, 2022 (87 FR 54173), requested comments and information from the public about how to update the United States Department of Agriculture (USDA) organic regulations on inert ingredients in pesticides used in organic production. This advance notice of proposed rulemaking (ANPR) established a 60-day comment period, ending November 1, 2022. During this comment period, AMS received requests from two industry organizations asking for additional time to submit comments, citing the complexity of the questions and topic. Further, one organization notes that this comment period overlaps with two other National Organic Program (NOP) comment periods: Organic Livestock and Poultry Standards (87 FR 48562), closing October 11, 2022, and the National Organic Standards Board Meeting (87 FR 37495), closing September 29, 2022.

AMS is extending the comment period by 60 days to encourage constructive input on the topics raised by the ANPR. The September 2, 2022, ANPR includes numerous specific alternatives and questions for commenter consideration. Included for reference in this docket (AMS–NOP–21–0008) are several documents to aid consideration and evaluation of these questions, including: NOSB recommendations; copies of EPA List 3, List 4A, and List 4B; National List petition procedures; and a 2015 spreadsheet identifying inert ingredients used in organic production (based on a 2011 survey by the Organic Materials Review Institute).

Comments received would inform AMS's approach on this topic regarding the allowance of inert ingredients in organic production. We ask that commenters please fully explain all views and alternative solutions or suggestions and supply examples, data, or other information to support those views. Substantive, well-reasoned, and constructive comments will assist AMS in identifying challenges and evaluating alternatives as we move forward with rulemaking.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2022–22012 Filed 10–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 20

[REG–130975–08]

RIN 1545–BI11

Guidance Under Section 2053 Regarding Deduction for Interest Expense and Amounts Paid Under a Personal Guarantee, Certain Substantiation Requirements, and Applicability of Present Value Concepts; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of a notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed regulations providing guidance on the proper use of present-value principles in determining the amount deductible by an estate for funeral expenses, administration expenses, and certain claims against the estate.

DATES: The public hearing originally scheduled for October 12, 2022, at 10 a.m. EST is cancelled.

FOR FURTHER INFORMATION CONTACT: Vivian Hayes of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration) at (202) 317–6901 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and a notice of public hearing that appeared in the **Federal Register** on June 28, 2022 (87 FR 38331) announced that a public hearing being held by teleconference was scheduled for October 12, 2022, at 10 a.m. EST. The subject of the public hearing is under section 2053 of the Internal Revenue Code.

The public comment period for these regulations expired on September 26, 2022. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to testify and an outline of the topics to be addressed. We received one request to testify at the public hearing. As of October 4, 2022, the requestors have withdrawn their request to testify at the public hearing. Therefore, the public hearing scheduled for October 12, 2022, at 10 a.m. EST is cancelled.

Oluwafunmilayo A. Taylor,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2022–22039 Filed 10–7–22; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[EPA–HQ–OW–2022–0801; FRL–10287–01–OW]

Notice of Public Meeting: Environmental Justice Considerations for the Development of the Proposed Lead and Copper Rule Improvements (LCRI)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The Environmental Protection Agency (EPA) is hosting two identical

public meetings to discuss and solicit input on environmental justice considerations related to the development of the proposed Lead and Copper Rule Improvements (LCRI) national primary drinking water regulation (NPDWR) under the Safe Drinking Water Act (SDWA). In the context of developing this proposed regulation, environmental justice considerations include 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 with a particular focus on unique challenges faced by communities disproportionately burdened by environmental harms and risks. EPA is holding these meetings to share information and provide an opportunity for communities to offer input on environmental justice considerations for the development of the proposed LCRI. Information on how to register and request to speak during one of the meetings is detailed in the **SUPPLEMENTARY INFORMATION** section of this announcement.

DATES: Comments must be received on or before November 15, 2022. The two identical public meetings will be held on October 25, 2022 (1 p.m. to 4 p.m., eastern time) and November 1, 2022 (5 p.m. to 8 p.m., eastern time). The public meetings will be held in an online-only format.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OW–2022–0801, to the Federal eRulemaking Portal: *https://www.regulations.gov/*. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. EPA–HQ–OW–2022–0801 for this action. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this announcement.

FOR FURTHER INFORMATION CONTACT: Zaineb Alattar, Standards and Risk Management Division, Office of Ground Water and Drinking Water, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–9458; email address: *LCRI@epa.gov.* For more information about the proposed LCRI NPDWR, visit: *https://www.epa.gov/ground-water-and-drinking-water/lead-and-copper-rule-improvements.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

These online meetings will be open to the public and EPA encourages input and will provide opportunities for public engagement on environmental justice related to development of the proposed LCRI.

A. Written Comments

Submit your comments, identified by Docket ID No, EPA–HQ–OW–2022–0801 at *https://www.regulations.gov;* see instructions identified in the **ADDRESSES** section of this announcement. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

B. Participation in Public Meeting

Registration: Individuals planning to participate in either of the online public meetings must register at *https://www.epa.gov/ground-water-and-drinking-water/lead-and-copper-rule-improvements* no later than October 24, 2022, for the October 25, 2022, meeting and October 31, 2022, for the November 1, 2022, meeting. Individuals are also invited to speak about environmental justice considerations for the proposed LCRI during the meetings. Those interested in speaking can sign-up to make brief verbal remarks as a part of their registration. EPA will do its best to include all those interested in attending and requesting verbal input but may have to limit attendance due to web conferencing size or limit verbal remarks due to meeting time limitations; therefore, EPA urges people to register early. Meeting information and web conferencing meeting details, including telephone call-in information, will be emailed to registered participants in advance of each of the meetings. If you have any questions about registering for the public meeting or need help joining, please email *LCRIMeetingSupport@cadmusgroup.com.* If you have additional questions or comments about the meeting, please email *LCRI@epa.gov.*

Special Accommodations: For information on electronic access or accommodations for individuals with disabilities or other requested assistance (*e.g.,* language translation), please contact Zaineb Alattar at (202) 564–9458 or by email at *LCRI@epa.gov.* Please allow at least five business days prior to each of the meetings to give EPA time to process your request.

II. The Proposed LCRI National Primary Drinking Water Regulation

Under SDWA, EPA sets public health goals and enforceable standards for drinking water quality. EPA initially addressed lead in drinking water through the original Lead and Copper Rule (LCR), an NPDWR promulgated in 1991 under SDWA. In January 2021, EPA issued the Lead and Copper Rule Revisions (LCRR) and subsequently reviewed those revisions to further evaluate the LCRR's protection of families and communities, particularly those that have been disproportionately impacted by lead in drinking water. In the LCRR Review, EPA identified the following priority areas for improvement: proactive and equitable lead service line replacement, strengthening compliance tap sampling to better identify communities most at risk of lead in drinking water and to compel lead reduction actions, and reducing the complexity of the regulation through improvement of the action and trigger level construct. On December 16, 2021, EPA announced it would propose a rulemaking (the LCRI) to address these improvements. For more information about the LCRR Review and the agency's decision to develop a proposed LCRI NPDWR, see ''Review of the National Primary Drinking Water Regulation: Lead and Copper Rule Revisions (LCRR)'' (86 FR 71574) (December 17, 2021). EPA intends to propose for public comment a new rule to revise the LCRR to advance the goals described above while balancing stakeholder interests and incorporating required economic, environmental justice, and other analyses. The agency intends to propose

the LCRI in 2023 and take final action by October 16, 2024.

Jennifer L. McLain,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 2022–21857 Filed 10–7–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 64

[CG Docket No. 21–402; FCC 22–72; FR ID 108336]

Targeting and Eliminating Unlawful Text Messages

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) proposes to require mobile wireless providers to block texts, at the network level, that purport to be from invalid, unallocated, or unused numbers, and numbers on a Do-Not-Originate (DNO) list. The document also seeks comment on the extent to which spoofing is a problem with regard to text messaging and whether there are measures the Commission can take to encourage providers to identify and block texts that appear to come from spoofed numbers. In addition, the document seeks comment on applying caller ID authentication standards to text messaging.

DATES: Comments are due on or before November 10, 2022 and reply comments are due on or before November 25, 2022.

ADDRESSES: You may submit comments, identified by CG Docket No. 21–402, by any of the following methods:

- Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), *https://www.fcc.gov/ecfs/*.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. *See* FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020), *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*
- In the event that the Commission announces the lifting of COVID–19 restrictions, a filing window will be opened at the Commission's office located at 9050 Junction Drive, Annapolis, MD 20701.
- *People with Disabilities.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice).

FOR FURTHER INFORMATION CONTACT: Mika Savir of the Consumer Policy Division, Consumer and Governmental Affairs Bureau, at *mika.savir@fcc.gov* or (202) 418–0384.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 22–72, CG Docket No. 21–402, adopted on September 23, 2022, and released on September 27, 2022. The full text of this document is available online at *https://www.fcc.gov/document/fcc-proposes-blocking-illegal-text-messages.*

This matter shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. 47 CFR 1.1200 *et seq.* Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. *See* 47 CFR 1.1206(b). Other rules pertaining to oral and written ex parte presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

Initial Paperwork Reduction Act of 1995 Analysis

This document does not propose new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not propose any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Synopsis

1. In this notice of proposed rulemaking (*NPRM*), the Commission proposes to require mobile wireless providers to block text messages at the network level (*i.e.,* without consumer opt in or opt out) that purport to be from invalid, unallocated, or unused numbers, and numbers on the Do-Not-Originate (DNO) list. These texts are highly likely to be illegal. The Commission seeks comment on this proposal, including whether these text messages represent a material fraction of unwanted text messages. The Commission seeks comment on whether providers are blocking these types of messages today and, if so, how that blocking may inform the proposal. The Commission seeks comment on additional types of text blocking providers are currently doing, (*e.g.,* blocking based on reasonable analytics). The Commission seeks comment on whether requiring mobile providers to block text messages at the network level is necessary or whether the Commission should simply continue to allow for such network level blocking. The Commission also seeks comment on whether numbers placed on the DNO list are used for illegal texts.

2. Spoofing is where the caller disguises its number and instead shows the number of a neighbor or reputable source in the caller ID field in order to trick the recipient into thinking the call is trustworthy. The Commission seeks comment on the extent to which spoofing is a problem with regard to text messaging. The Commission also seek comment on whether there are additional measures the Commission can take to encourage mobile wireless providers to block texts that appear to come from spoofed numbers.

3. The Commission seeks comment on the need for mandatory blocking. The Commission seeks comment on whether increases in illegal texts may be a result of blocking unwanted calls and if the Commission should bring text blocking more in line with call blocking by requiring blocking from invalid, unallocated, or unused numbers, and numbers that otherwise appear to be spoofed, and therefore reduce the incentive for scammers to migrate to texting.

4. The Commission seeks comment on the voluntary text blocking that providers are currently doing to protect their subscribers. The Commission also seeks comment on the effectiveness of device-level or application-based text blocking to reduce illegal texts and the prevalence of application-based (*i.e.,* over the top, or OTT) text messaging and whether there are more or fewer illegal text messages sent on OTT services as opposed to through mobile wireless providers. The Commission seeks comment on how OTT messages differ in transmission characteristics from SMS and MMS texts, including their relationship to wireless telephone numbers and how likely the proposed regulations will mitigate the problem of illegal texts.

5. The Commission seeks comment on whether the definition of text message

in the current rules would apply to OTT messages sent to wireless telephone numbers, but not to OTT messages sent to other users within the same application. The current definition of text message, in the Truth in Caller ID rules, includes SMS messages but ''does not include . . . a message sent over an IP-enabled messaging service to another user of the same messaging service.''

6. The Commission also proposes that all tools that service providers use to determine whether a text is highly likely to be illegal be applied in a non-discriminatory, competitively- and content-neutral manner. For example, blocking by a provider must not be based solely or in part on the identity of other providers in the text's transmission path. Nor may blocking be based on unfavored content. The Commission seeks comment on adopting the same ''highly likely to be illegal'' criteria adopted for call blocking and on additional standards for blocking that may prevent blocking of legal, legitimate (and wanted) texts, particularly in the case of one-to-many text messages.

7. The Commission seeks comment on whether and how to protect consumers from erroneous blocking of emergency text messages. Commission rules require Commercial Mobile Radio Service (CMRS) and certain other text messaging providers to send 911 text messages to Public Safety Answering Points (PSAPs) that are capable of receiving them. Where the PSAP is not capable of receiving 911 texts, these providers must deliver an automatic bounce-back text message to any consumer attempting to text 911 stating that text-to-911 service is unavailable. The Commission states that it is improbable that text messages to 911 will be erroneously blocked and seeks comment on the risk of erroneous blocking of texts to 911 and on any mechanisms or standards the Commission should adopt to mitigate such risks.

8. The Commission also seeks comment on whether illegal texting to 911 poses a problem for PSAPs and, as a result, a threat to public safety. In addition, some text-capable PSAPs routinely send outbound text messages in response to hang-up calls or erroneously-dialed calls to 911. The Commission seeks comment on the risk of erroneous blocking of outbound texts from PSAPs and 911 call centers and whether there other types of non-911 health and safety text communications, such as public health notices, text-based public safety alerts, or texts to suicide prevention services such as the National Suicide Prevention Lifeline that are at risk of being erroneously blocked.

9. The Commission has acknowledged that call blocking comes with a risk that consumers could miss wanted calls, and recognizes the same concerns exist with the text blocking. The Commission states that because the proposal is that text messages deemed highly likely to be illegal would be subject to blocking, the risk of erroneous blocking would be minimal. The Commission seeks comment on whether to apply safeguards to any text blocking requirements. For example, should the Commission require that each terminating provider that blocks texts provide a single point of contact, readily available on the terminating provider's public-facing website, for receiving text blocking error complaints and verifying the authenticity of the texts of a texting party that is adversely affected by information provided by caller ID authentication? If so, should the Commission require that the terminating provider resolve disputes pertaining to caller ID authentication information within a reasonable time and, at a minimum, provide a status update within 24 hours? When a texter makes a credible claim of erroneous blocking and the terminating provider determines that the texts should not have been blocked, or the text delivery decision is not appropriate, should the terminating provider be required to promptly cease the text treatment for that number unless circumstances change? The Commission seeks comment on these issues, any alternative ways of addressing disputed or erroneous blocking, and on whether the Commission should adopt legal safe harbors for service providers.

10. The Commission seeks comment on whether to require providers to implement caller ID authentication for text messages. Industry technologists developed caller ID authentication-specifically, the STIR/SHAKEN framework for IP networks-to combat spoofing of voice calls. SHAKEN, or Signature-based Handling of Asserted information using toKENS, and STIR, or Secure Telephony Identity Revisited, uses public key cryptography to provide assurances that certain information about the transmitted caller ID is accurate. The Commission seeks comment on the progress of efforts to extend caller ID authentication to text messages. A working group of the internet Engineering Task Force (IETF) is currently considering a draft standard regarding application of some components of the STIR/SHAKEN framework to text messages. The Commission seeks comment on any additional work that needs to be done on the draft standard currently under consideration and on how long might it take to complete such work. Beyond that document, what, if any, additional standards work is necessary before authentication for text messages is operational?

11. The Commission seeks comment on whether the current STIR/SHAKEN governance system is able to accommodate authentication for text messages, or would it need to be modified or a new governance system established. Once standards work is sufficiently complete, what steps must providers take to implement authentication for text messages in their network? Can existing network upgrades to meet the June 30, 2021, STIR/SHAKEN implementation mandate for voice calls be used in whole or in part to support authentication for text messages? Or would authentication for text messages require more comprehensive technological network upgrades? If so, what is the estimated amount of time it would take to install the technology and what would be the projected costs?

12. The Commission tentatively concludes that providers should implement caller ID authentication for text messages and that such a requirement would spur standards groups to complete development of standards promptly. The Commission seeks comment on the timeline for implementation that accounts for the time needed both to finish standards and for providers to perform any necessary network upgrades. Would two years be sufficient time to complete standards development and implement necessary technology? Should the Commission instead require providers to implement caller ID for text messages when technically feasible, without setting a time-certain deadline? If so, how should the Commission define technically feasible? Alternatively, is an implementation requirement premature at this stage of standards development? If so, should the Commission instead require providers to work to develop text caller ID authentication standards, similar to the approach to non-IP caller ID authentication? Would this alternative approach sufficiently incentivize completion of new standards and deliver the benefits of those standards to Americans?

13. When it adopted the STIR/SHAKEN mandate, the Commission determined the expected benefits of implementing STIR/SHAKEN would far exceed estimated costs. How can the Commission quantify the benefit of protecting American consumers from spoofed texts through an

implementation mandate for authentication for text messages? Are there any other benefits such a requirement would offer-for example, could authentication for text messages protect against malicious conduct toward text-to-911 services? What would be the costs of an implementation mandate? Will small mobile service providers face particular challenges in authenticating text messages? How might the Commission accommodate or mitigate such challenges?

14. The Commission seeks comment on the scope of any implementation mandate for authentication for text messages. Could the Commission apply the requirement to providers of voice service who are subject to the STIR/SHAKEN implementation mandate that also provide text message services, on the basis that entities that both provide text messaging service and voice services are capable of implementing STIR/SHAKEN? Or should the Commission define a new class of providers subject to a mandate for authentication for text messages and how would the Commission define that class?

15. What is the Commission's legal authority to create such a class and to regulate the members of any proposed class? Should the Commission instead follow the definition of text messaging service from the Truth in Caller ID Act and apply this obligation to providers of such service? Does this definition-which includes SMS messages but ''does not include . . . a message sent over an IP-enabled messaging service to another user of the same messaging service''—adequately capture the scope of services Americans understand as ''text message service'' and through which bad actors defraud Americans using illegal and illegally spoofed robotexts? Should the Commission extend the scope of any implementation mandate to include some or all OTT applications delivered over IP-based mobile data networks? Rather than apply a mandate on a generally-defined class of text message service providers, are there any unique types of providers the Commission should focus on in particular? Should the Commission include interconnected OTT text messaging service providers?

16. Is there a reason to apply any requirements to intermediate text message providers or aggregators, as in the STIR/SHAKEN context for voice calls? If the Commission applies requirements to intermediate providers, should the requirement apply to intermediate providers who are subject to the existing STIR/SHAKEN rules and support text messages, or use a new definition? If the Commission adopts a new definition for intermediate text message provider, what should that definition be?

17. Should the Commission subject voice service providers and intermediate providers (or the equivalent groups established for purposes of a rule) to substantially the same obligations as under the STIR/SHAKEN rules? Or should the Commission create new obligations specific to the text message context? If so, what obligations?

18. The Commission also seeks comment on other implementation issues. For instance, should the Commission allow for extensions of the deadline for certain providers or classes of providers, or types of text messages? If so, should the Commission simply grant the same categorical extensions as the Commission did for the STIR/SHAKEN implementation mandate, or are there differences between text message service providers and voice service providers that require different categories of providers to receive extensions? Alternatively, should the Commission follow the undue hardship standard or some other standard to evaluate requested extensions?

19. Should the Commission require providers with non-IP network technology to work to develop a non-IP solution to enable the authentication for text messages on non-IP networks, or is there a different approach to address non-IP network technology? Should the Commission prohibit providers from imposing additional line-item charges for authentication for text messages? Should the Commission establish rules regarding the display on subscriber devices of any information produced by authentication for text messages, or continue to take a hands-off approach to display?

20. The Commission seeks comment on other actions to address illegal text messages. How can consumer education help to address the problem? Are there ways the Commission could encourage consumers to file complaints about illegal text messages in order to inform and potentially enhance enforcement efforts?

21. Are there ways the Commission can enhance its spam text message consumer education outreach and content? Are there roles advisory committees such as the Commission's Consumer Advisory Committee and the North American Numbering Council (NANC) could play in further educating consumers? The Commission seeks comment on whether text messages are more likely to be trusted than a call; if so, are there practices consumers and companies can adopt to maintain trust in text messages and to ensure they remain an effective tool for communication? The Commission seeks comment on how the Commission can educate consumers with regard to these practices.

22. Finally, 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. Specifically, the Commission seeks comment on how these proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority.

23. The Commission seeks comment on the authority to adopt the measures described in this *NPRM.* Does the Commission have authority under section 251(e) of the Act, which provides ''exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States?'' The Commission found authority to implement STIR/SHAKEN for voice service providers under section 251(e) of the Act in order to prevent the fraudulent exploitation of numbering resources. Does that section grant authority to mandate implementation of authentication for text messages as well, or does it not apply to text messages? Similarly, the Commission has relied on section 251(e) of the Act to support call blocking. The Commission seeks comment on whether that authority extends to text messages. Would exercise of ancillary authority, which the Commission relied on in part to apply an obligation on providers of interconnected text messaging services when it adopted text-to-911 requirements, be necessary or appropriate to support the proposed implementation mandate? Is there another relevant statute under which the Commission has authority to mandate that providers implement authentication for text messages? For example, might the TRACED Act or the TCPA provide authority for the proposals? Should the Commission seek additional authority from Congress? The Commission seeks comment on the impact of the scope of texts subject to the TCPA following the *Facebook, Inc.* v. *Duguid* decision.

24. The Commission seeks comment on the authority under the Truth in

Caller ID Act and whether the Truth in Caller ID Act provides authority for any implementation mandate adopted pertaining to spoofing. That Act makes unlawful the spoofing of caller ID information ''in connection with any telecommunications service or IP-enabled voice service or text messaging service . . . with the intent to defraud, cause harm, or wrongfully obtain anything of value.'' The Truth in Caller ID Act directed the Commission to adopt rules to implement that section. The Commission found authority under this provision to mandate STIR/SHAKEN implementation, explaining that it was ''necessary to enable voice service providers to help prevent these unlawful acts and to protect voice service subscribers from scammers and bad actors.'' The Commission seeks comment on whether that same reasoning applies here.

25. The Commission seeks comment on the scope of authority under Title III of the Act to undertake the measures described above. Several provisions of Title III of the Act provide the Commission authority to establish license conditions in the public interest. For example, section 301 of the Act provides the Commission with authority to regulate ''radio communications'' and ''transmission of energy by radio.'' Under section 303 of the Act, the Commission has the authority to establish operational obligations for licensees that further the goals and requirements of the Act if the obligations are in the ''public convenience, interest, or necessity'' and not inconsistent with other provisions of law. Section 303 of the Act also authorizes the Commission, subject to what the ''public interest, convenience, or necessity requires,'' to ''[p]rescribe the nature of the service to be rendered by each class of licensed stations and each station within any class.'' Section 307(a) of the Act likewise authorizes the issuance of licenses ''if public convenience, interest, or necessity will be served thereby.'' Section 316 of the Act provides a similar test for new conditions on existing licenses, authorizing such modifications if ''in the judgment of the Commission such action will promote the public interest, convenience, and necessity.'' Would any of these provisions, or other provisions in Title III of the Act, furnish the Commission with authority to adopt the text blocking proposals? What other authority-related issues should the Commission consider? Does the public interest benefit of combating illegally spoofed robocalls fall within the ''comprehensive mandate'' to manage spectrum ''in the public interest''?

26. The Commission anticipates that the blocking of illegal texts would achieve an annual benefit floor of $6.3 billion. RoboKiller estimates that Americans are on track to receive more than 86 billion spam texts in 2021, a 55% increase from 2020. Assuming a nuisance harm of five cents per spam text, the Commission estimates total nuisance harm to be $4.3 billion (*i.e.,* 5 cents × 86 billion spam texts). The Commission estimates that an additional $2 billion of harm occurs annually due to fraud. American citizens lose approximately $10.5 billion annually in fraudulent robocall offers. Assuming that the corresponding loss through fraudulent texts is only 20% of that amount, the fraud loss from texts is $2 billion annually. The Commission seeks comment on these benefit estimates, whether the underlying assumptions are reasonable, and if not, what might be a better estimate of consumer harm.

27. As the Commission concluded in the *STIR/SHAKEN Order* with respect to the long-term cost of blocking illegal robocalls, the Commission anticipates that the text blocking requirement would result in an overall reduction of costs to text service providers due to this expected reduction in network congestion costs. Although the Commission will not obtain any detailed cost data until comments are received, the Commission tentatively concludes the $6.3 billion annual benefit floor expected from such a blocking requirement would far exceed the costs imposed on text service providers. The Commission seeks comment on this tentative conclusion.

Initial Regulatory Flexibility Analysis

28. The Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *NPRM.* 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 on the *NPRM.* The Commission will send a copy of the *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

29. *Need for, and Objectives of, the Proposed Rules.* The *NPRM* seeks comment on requiring mobile wireless providers to protect consumers from illegal text messages by blocking at the network level text messages that are highly likely to be illegal because they purport to be from invalid, unallocated, or unused numbers and numbers on a Do-Not-Originate (DNO) list.

30. *Legal Basis.* This action is authorized under sections (4)(i) and (j), 159, and 303(r) of the Communications Act of 1934, as amended.

31. *Description and Estimate of the Number of Small Entities to which the Proposed Rules Will Apply:* 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 rules and policies, 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.

32. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, 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 28.8 million businesses.

33. 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.'' Nationwide, as of August 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

34. 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 2012 Census of Governments indicate that there were 90,056 local governmental jurisdictions, consisting of general purpose governments and special purpose

governments, in the United States. Of this number, there were 37,132 General purpose governments (county, municipal, and town or township) with populations of less than 50,000, and 12,184 special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category show that the majority of these governments have populations of less than 50,000. Based on this data the Commission estimates that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

35. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more. Thus, under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

36. *All Other Telecommunications.* ''All Other Telecommunications'' is defined as follows: ''This U.S. industry is comprised of establishments that are 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. Establishments providing internet services or Voice over internet Protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.'' The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with gross annual receipts of $32.5 million or less. For this category, census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million. Thus, a majority of ''All Other Telecommunications'' firms potentially affected by the proposals in the *NPRM* can be considered small.

37. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* This *NPRM* does not propose any changes to the Commission's current information collection, reporting, recordkeeping, or compliance requirements.

38. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that it has considered in reaching its 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 or reporting requirements under the rule for 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 small entities.

39. The *NPRM* seeks comment on requiring mobile wireless providers to block text messages that are highly likely to be illegal. The *NPRM* does not propose any exemptions for small entities. As service providers may already block landline and wireless calls that are highly likely to be illegal, the Commission does not anticipate that blocking such text messages will be burdensome for service providers.

40. *Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules.* None.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2022–22049 Filed 10–7–22; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 87, No. 195
Tuesday, October 11, 2022

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 November 10, 2022 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 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 and Nutrition Service

Title: Generic Clearance for the Development of Nutrition Education Messages and Products for the General Public.

OMB Control Number: 0584–0523.

Summary of Collection: The Food and Nutrition Consumer Service, Center for Nutrition Policy and Promotion (CNPP) of the U.S. Department of Agriculture conducts consumer research to identify key issues of concern related to understanding and use of the *Dietary Guidelines for Americans 2020–2025* (DGA), as well as the tools and resources used to implement the Dietary Guidelines—previously known as the *MyPyramid* food guidance system. The *Dietary Guidelines,* a primary source of dietary health information, are issued jointly by the USDA and Health and Human Services and serve as the cornerstone of Federal nutrition policy and form the basis for nutrition education efforts of these agencies. After the release of the 2020 DGA a new communication initiative built around USDA's new *MyPlate* icon, including the resources at *ChooseMyPlate.gov*, was launched. *MyPlate* is a visual cue supported by Dietary Guidelines messages to help consumer make better food choices.

Need and Use of the Information: CNPP will collect information to develop practical and meaningful nutrition and physical activity guidance for Americans to help improve their health. The collected information will also be used to expand the knowledge base concerning how the *Dietary Guidelines for Americans* recommendations and messages supporting *MyPlate* are understood and how they can be used by consumers to improve balance of their food intake with physical energy expenditure for good health. If this information is not collected, USDA's ability to incorporate messages and materials that are practical, meaningful, and relevant for the intended audience in any proposed update of the Dietary Guidelines for Americans or related resources at *Choosemyplate.gov* will be impaired.

Description of Respondents: Individuals or households.

Number of Respondents: 173,100.

Frequency of Responses: Reporting: Other (as desired).

Total Burden Hours: 37,065.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–22063 Filed 10–7–22; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Office of Partnerships and Public Engagement

Notice of Request for an Extension of a Currently Approved Information Collection

AGENCY: Office of Partnerships and Public Engagement, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the Office of Partnerships and Public Engagement intention to request an extension for a currently approved information collection for the United States Department of Agriculture (USDA) 1994 Tribal Scholars Program.

DATES: Comments on this notice must be received by December 12, 2022 to be assured of consideration.

ADDRESSES: Office of Partnerships and Public Engagement invites interested persons to submit comments on this notice. Comments may be submitted by one of the following methods:

☐ *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the online instructions on that site for submitting comments.

☐ *Mail, including CD–ROMs, etc.:* Send to USDA 1994 Tribal Scholars Program, U.S. Department of Agriculture, ATTN: Office of Partnerships and Public Engagement, 1400 Independence Avenue SW, Mailstop 0601, Room 524–A, Jaime L. Whitten Building, Washington, DC 20250–3700.

☐ *Hand or courier delivered submittals:* 1400 Independence Avenue SW, Room 524–A, Jaime L. Whitten Building, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the organization's name: Office of Partnerships and Public Engagement.

Comments received in response to this notice will be made available to the public for inspection and posted without change, including the name and location (if available) of the submitter to *http://www.regulations.gov.* In accordance with the Privacy Act, no other personally identifiable information will be posted.

For access to background documents or comments received, go to the Office of Partnerships and Public Engagement at 1400 Independence Avenue SW, Room 524–A, Jaime L. Whitten Building, Washington, DC 20250–3700, between the hours of 8:00 a.m. and 4:30 p.m. EST, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lawrence A. Shorty, USDA 1994 Tribal Scholars Program, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250; or call (202) 720–6350 or fax (202) 720–7704; or Email: *Lawrence.Shorty@usda.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice announces the intention of the Office of Partnerships and Public Engagement to request an extension of a currently approved information collection for the USDA 1994 Tribal Scholars Program.

Title: USDA 1994 Tribal Scholars Program.

OMB Number: 0503–0016.

Expiration Date of Approval: Three years from approval date.

Type of Request: Extension of a currently approved information collection.

Abstract: The USDA 1994 Tribal Scholars Program is a joint human capital initiative between the U.S. Department of Agriculture (USDA) and Tribal Colleges and Universities. Through the USDA 1994 Tribal Scholars Program, the USDA offers college scholarships to high school and college students who are seeking an associate's or a bachelor's degree in the fields of agriculture, food, science, or natural resource sciences and related disciplines at one of the 1994 Institutions. The USDA 1994 Tribal Scholars Program includes a paid work experience with a USDA sponsoring agency. Students will fill term Excepted Service positions, receive mentoring, and be provided developmental assignments. The program is conducted in accordance with a planned schedule and a working agreement between USDA agencies and the student.

The USDA 1994 Tribal Scholars Program will offer scholarships and paid training internships to U.S. citizens for a period of up to 4 years. The eligibility standards are:

1. Must be at least 16 years old.
2. Must be able to complete required occupation-related work experience (640 hours) prior to or concurrently with the completion of course requirements for the degree.
3. Must be a United States citizen or national (resident of American Samoa or Swains Island).

If you are not a citizen, you may participate if you are legally admitted to the United States as a permanent resident and are able to meet United States citizenship requirements prior to completion of your degree.

4. Must be in good academic standing.

High School College and College applicants will apply by:

(1) Writing an essay describing educational and career goals;

(2) Submitting a high school and/or a college transcript;

(3) Submitting a resume, and;

(4) Submitting two letters of recommendation. These letters of recommendation may be from high school teachers, college professors, and college officials.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.3 hours per response.

Respondents: High School or College applicants; High School Teachers and Guidance Counselors, College Professor(s), and College Officials.

Estimated Number of Respondents: 170 applications will generate 510 responses.

Estimated Number of Responses per Respondent: Each application will generate three responses.

Estimated Total Annual Burden on Respondents: 663 hours.

Comments are invited on: (1) 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) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Lawrence A. Shorty.

All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record.

Lisa Ramírez,

Director, Office of Partnerships and Public Engagement.

[FR Doc. 2022–21682 Filed 10–7–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Guam Advisory Committee; Correction

AGENCY: Commission on Civil Rights.

ACTION: Notice; correction to meeting date.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** on Tuesday, September 27, 2022, concerning a meeting of the Guam Advisory Committee. The meeting date has since changed.

FOR FURTHER INFORMATION CONTACT: Kayla Fajota, *kfajota@usccr.gov,* or (312) 358–8311.

Correction: In the **Federal Register** on Tuesday, September 27, 2022, in FR Document Number 2022–20909, on page 58482, first column, correct the meeting date to: Tuesday, November 1, 2022 ChST (Monday, October 31, 2022 ET).

Dated: October 5, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–22057 Filed 10–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–25–2022]

Foreign-Trade Zone (FTZ) 281—Miami-Dade County, Florida; Authorization of Production Activity; EUSA Global LLC (Medical Equipment); Medley, Florida

On June 7, 2022, EUSA Global LLC submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 281, in Medley, 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 (87 FR 36104, June 15, 2022). On October 5, 2022, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification

was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: October 5, 2022.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2022–22003 Filed 10–7–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–24–2022]

Foreign-Trade Zone (FTZ) 61—San Juan, Puerto Rico Authorization of Production Activity Boehringer Ingelheim Animal Health Puerto Rico LLC (Pharmaceutical Products/Canine) Barceloneta, Puerto Rico

On June 7, 2022, Boehringer Ingelheim Animal Health Puerto Rico LLC submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 61, in Barceloneta, Puerto Rico.

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 (87 FR 36103, June 15, 2022). On October 5, 2022, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: October 5, 2022.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2022–22002 Filed 10–7–22; 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 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 October 11, 2022.

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.

Notice of No Sales

With respect to antidumping administrative reviews, if a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *https://access.trade.gov,* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

Respondent Selection

In the event 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 on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 35 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after the placement of the CBP 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 Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of 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 antidumping duty 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 Quantity and Value (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.

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

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

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.[2] 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 antidumping duty 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. 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[3] 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,[4] 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 respondent selection. 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, 2023.

[2] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[3] 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.

[4] 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	
GERMANY: Seamless Line and Pressure Pipe, A–428–820	8/1/21–7/31/22
Bauer Spezialtiefbau GmbH.	
Benteler Steel Tube GmbH.	
Mannesmannroehreh-Werk GmbH.	
Mts Perforator GmbH.	
Poppe Potthoff.	
Thyssenkrupp Schulte GmbH.	
TPS-Technitube Rohrenwerke GmbH.	
Vallourec Deutschland GmbH.	
INDIA: Finished Carbon Steel Flanges, A–533–871	8/1/21–7/31/22
Adinath International.	
Allena Group.	
Alloyed Steel.	
Balkrishna Steel Forge Pvt. Ltd.	
Bansidhar Chiranjilal.	
Bebitz Flanges Works Private Limited.	
BFN Forgings Private Limited[5].	
C.D. Industries.	
Cetus Engineering Private Limited.	
CHW Forge.	
CHW Forge Pvt. Ltd.	
Citizen Metal Depot.	
Corum Flange.	
DN Forge Industries.	
Echjay Forgings Limited.	
Falcon Valves and Flanges Private Limited.	
Heubach International.	
Hindon Forge Pvt. Ltd.	
Jai Auto Private Limited.	
Kinnari Steel Corporation.	
M F Rings and Bearing Races Ltd.	
Mascot Metal Manufactures[6].	
Munish Forge Private Limited.	
Norma (India) Limited.	
OM Exports.	
Punjab Steel Works (PSW)[7].	
R. D. Forge.	
R. N. Gupta & Company Limited[8].	
Raaj Sagar Steel[9]ROW≤.	
Ravi Ratan Metal Industries.	
Rolex Fittings India Pvt. Ltd.	
Rollwell Forge Engineering Components and Flanges.	
Rollwell Forge Pvt. Ltd.	
SHM (ShinHeung Machinery).	
Siddhagiri Metal & Tubes.	
Sizer India.	
Steel Shape India.	
Sudhir Forgings Pvt. Ltd.	
Tirupati Forge[10].	
Uma Shanker Khandelwal & Co.[11].	
Umashanker Khandelwal Forging Limited.	
USK Exports Private Limited[12].	
INDIA: Quartz Surface Products,[13] A–533–889	6/1/21–5/31/22
Antique Granito Shareholders Trust.	
Evetis Stone India Pvt. Ltd.	
INDONESIA: Utility Scale Wind Towers, A–560–833	8/1/21–7/31/22
GE Indonesia.	
GE Renewable Energy.	
General Electric Indonesia.	
Korindo Wind.	
Nordex SE.	
PT. Kenertec Power System.	
PT. Siemens Gamesa Renewable Energy.	
Siemens Gamesa Renewable Energy.	
JAPAN: Tin Mill Products, A–588–854	8/1/21–7/31/22
JFE Shoji Trade Corporation.	
Kanematsu Corporation.	
Mitsui and Co., Steel Ltd.	
Nippon Steel Trading Corporation.	
Sumitomo Corporation Global Metals.	
MALAYSIA: Polyethylene Retail Carrier Bags, A–557–813	8/1/21–7/31/22
Euro SME Sdn. Bhd.	
MALAYSIA: Silicon Metal, A–557–820	2/1/21–7/31/22

	Period to be reviewed
PMB Silicon Sdn. Bhd.	
MEXICO: Light-Walled Rectangular Pipe and Tube, A–201–836	8/1/21–7/31/22
Aceros Cuatro Caminos S.A. de C.V.	
Arco 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.	
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.	
Regiomontana de Perfiles y Tubos S.A. de C.V.	
Regiomontana de Perfiles y Tubos S. de R.L. de C.V.	
Talleres Acero Rey S.A. de C.V.	
Ternium Mexico S.A. de C.V.	
Tuberias Aspe S.A de C.V.	
Tuberia Laguna, S.A. de C.V.	
Tuberias y Derivados S.A. de C.V.	
Tecnicas de Fluidos S.A. de C.V.	
REPUBLIC OF KOREA: Dioctyl Terephthalate, A–580–889	8/1/21–7/31/22
Aekyung Petrochemical.	
Hanwha Chemical Corporation.	
LG Chem, Ltd.	
REPUBLIC OF KOREA: Large Power Transformers, A–580–867	8/1/21–7/31/22
Hyosung Heavy Industries Corporation.	
Hyundai Electric & Energy Systems Co., Ltd.	
ILJIN.	
LSIS Co., Ltd.	
REPUBLIC OF KOREA: Low Melt Polyester Staple Fiber, A–580–895	8/1/21–7/31/22
Toray Advanced Materials Korea, Inc.	
REPUBLIC OF KOREA: Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe, A–580–909	2/10/21–7/31/22
ILJIN Steel Corporation.	
REPUBLIC OF KOREA: Utility Scale Wind Towers, A–580–902	8/1/21–7/31/22
CS Wind China Co., Ltd.	
CS Wind Corporation.	
CS Wind Malaysia Sdn. Bhd.	
CS Wind Taiwan Ltd.	
CS Wind Turkey Kule İmalatı A.Ş.	
CS Wind UK Limited.	
CS Wind Vietnam Co., Ltd.	
Dongkuk S&C Co., Ltd.	
Enercon Korea Inc.	
GE Renewable Energy.	
Hyosung Heavy Industries.	
Nordex SE.	
Siemens Gamesa Renewable Energy Limited.	
Vestas Korea.	
Vestas Korea Wind Technology Ltd.	
SOCIALIST REPUBLIC OF VIETNAM: Certain Frozen Fish Fillets, A–552–801	8/1/21–7/31/22
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.	
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.).	

	Period to be reviewed
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 Garment Joint Stock Co.	
Binh Dinh Import Export Company (also known as Binh Dinh Import Export Joint Stock Company, or Binh Dinh).	
C.P. Vietnam Corporation (also known as C.P. Vietnam Corp.).	
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 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.).	
Dai Thanh Seafoods Company Limited (also known as DATHACO, Dai Thanh Seafoods or Dai Thanh Seafoods Co., Ltd.).	
Dai Tien Vinh Co., Ltd.	
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.	
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.	
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.).	
Hong Ngoc Seafood Co., Ltd.	
Hung Phuc Thinh Food Jsc.	
Hung Vuong.	
Hung Vuong Corporation [14].	
Hung Vuong—Mien Tay Aquaculture Corporation (HVMT or Hung Vuong Mien Tay Aquaculture Joint Stock Company).	
Hung Vuong Seafood Joint Stock Company.	
Hungca Co., Ltd.	
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).	

	Period to be reviewed
Indian Ocean One Member Company Limited (also known as Indian Ocean Co., Ltd. or Indian Ocean One Member Co., Ltd.).	
Jk Fish Jsc.	
Lian Heng Investment Co. Ltd. (also known as Lian Heng or Lian Heng Investment).	
Lian Heng Trading Co. Ltd. (also known as Lian Heng or Lian Heng Trading).	
Loc Kim Chi Seafood Joint Stock Company (also known as Loc Kim Chi).	
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.	
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).	
Phu Thanh Co., Ltd.	
Phu Thanh Hai Co. Ltd. (also known as PTH Seafood).	
Phuc Tam Loi Fisheries Imp.	
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.[15].	
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).	
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 Binh Dong Thap One Member Company Limited (also known as Thanh Binh Dong Thap or Thanh Binh Dong Thap Ltd.).	
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).	
Trang Thuy Seafood Co., Ltd.	
Trinity Vietnam Co., Ltd.	
Trong Nhan Seafood Co., Ltd.	
Truong Phat Seafood Jsc.	
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.	

	Period to be reviewed
Viet Phu Foods and Fish Corporation (also known as Vietphu, Viet Phu, Viet Phu Food and Fish Corporation, Viet Phu Foods & Fish Co., Ltd., or Viet Phu Food & Fish Corporation).	
Vietnam Seaproducts Joint Stock Company (also known as Seaprodex or Vietnam Seafood Corporation—Joint Stock Company).	
Vif Seafood Factory.	
Vinh Hoan Corporation [16].	
Vinh Long Import-Export Company (also known as Vinh Long, Imex Cuu Long, Vinh Long Import/Export Company).	
Vinh Phuoc Food Company Limited (also known as Vinh Phuoc or VP Food).	
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.	
SPAIN: Ripe Olives, A–469–817	8/1/21–7/31/22
Aceitunas Guadalquivir, S.L.	
Aceitunera del Norte de Cáceres, S.Coop.Ltda. de 2º Grado.	
Agro Sevilla Aceitunas, S.Coop.And.	
Alimentary Group DCOOP, S.Coop.And.	
Angel Camacho Alimentación, S.L.	
Internacional Olivarera, S.A.	
Plasoliva, S.L.	
SPAIN: Utility Scale Wind Towers, A–469–823	4/2/21–7/31/22
Acciona Energia.	
Acciona Windpower S.A.	
Industrial Barranquesa S.A.	
Gamesa Energy Transmission S.A.	
GE Renewable Energy.	
GRI Renewable Industries S.L.	
Haizea Wind Group.	
Iberdrola, S.A.	
Iberdrola Renovables Energia S.A.	
Nordex SE.	
Nordex Energy Spain S.A.	
Vestas Eolica S.A.U.	
Vestas Eolica, S.A.	
Vestas Manufacturing Spain S.L.U.	
Vestas Control Systems Spain S.L.U.	
Vestas Wind Systems A/S.	
Windar Renovables, S.A.	
SOCIALIST REPUBLIC OF VIETNAM: Seamless Refined Copper Pipe and Tube, A–552–831	2/1/21–7/31/22
Hailiang (Vietnam) Copper Manufacturing Company Limited.	
Toan Phat Copper Joint Stock Company.	
SOCIALIST REPUBLIC OF VIETNAM: Utility Scale Wind Towers, A–552–825	8/1/21–7/31/22
CS Wind America Inc.	
CS Wind Corporation [17].	
CS Wind China Co., Ltd.	
CS Wind Malaysia Sdn. Bhd.	
CS Wind Taiwan Ltd.	
CS Wind Turkey Kule İmalatı A.Ş.	
CS Wind UK Limited.	
CS Wind Vietnam Co., Ltd.[18].	
GE Renewable Energy.	
GE Renewables North America LLC.	
GE Wind Energy LLC.	
Nordex SE.	
Nordex USA.	
Nordex USA, Inc.	
Siemens Gamesa Renewable Energy USA Inc.	
Vestas American Wind Technology, Inc.	
THAILAND: Steel Propane Cylinders, A–549–839	8/1/21–7/31/22
Sahamitr Pressure Container Public Company Limited.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Metal Lockers and Parts Thereof, A–570–133	2/11/21–7/31/22
Hangzhou Evernew Machinery & Equipment Company Limited.	
Hangzhou Zhuoxu Trading Co., Ltd.	
Kunshan Dongchu Precision Machinery Co., Ltd.	
Tianjin Jia Mei Metal Furniture Ltd.	
Xingyi Metalworking Technology (Zhejiang) Co., Ltd.	
Zhejiang Focus-On Import & Export Co., Ltd.	
Zhejiang Xingyi Metal Products Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Passenger Vehicles and Light Truck Tires, A–570–016	8/1/21–7/31/22
Anhui Jichi Tire Co., Ltd.	
Aeolus Tyre Co., Ltd.	
Crown International Corporation.	
Double Coin Tire, Ltd.	

	Period to be reviewed
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.; Giti Tire (Yinchuan) Company, Ltd.	
Hankook Tire China Co., Ltd.	
Hongtyre Group Co.	
Jiangsu Hankook Tire Co., Ltd.	
Koryo International Industrial Limited.	
Mayrun Tyre (Hong Kong) Limited.	
Nankang (Zhangjiagang Free Trade Zone) Rubber Industrial Co., Ltd.	
Prinx Chengshan (Shandong) Tire Co., Ltd.	
Qingdao Crowntyre Industries Co., Ltd.	
Qingdao Fullrun Tyre Corp., Ltd.	
Qingdao Keter International Co., Ltd.	
Qingdao Lakesea Tyre Co., Ltd.	
Qingdao Nama Industrial Co., Ltd.	
Qingdao Sentury Tire Co., Ltd.; Sentury (Hong Kong) Trading Co., Limited.	
Qingdao Sunfulcess Tyre Co., Ltd.	
Roadclaw Tyre (Hong Kong) Limited.	
Shandong Changfeng Tyres Co., Ltd.	
Shandong Duratti Rubber Corporation Co., Ltd.	
Shandong Habilead Rubber Co., Ltd.	
Shandong Haohua Tire Co., Ltd.	
Shandong Hengfeng Rubber & Plastic Co., Ltd.	
Shandong Hengyu Science & Technology Co., Ltd.	
Shandong Linglong Tyre Co., Ltd.	
Shandong Longyue Rubber Co., Ltd. (aka ZODO Tire Co., Ltd.).	
Shandong New Continent Tire Co., Ltd.	
Shandong Province Sanli Tire Manufactured Co., Ltd.	
Shandong Transtone Tyre Co., Ltd.	
Shandong Yongfeng Tyres Co., Ltd.	
Shandong Yongsheng Rubber Group Co., Ltd.	
Shanghai Tire & Rubber (Group) Ltd.	
Shouguang Firemax Tyre Co., Ltd.	
Sumitomo Rubber (Changshu) Co., Ltd.; Sumitomo Rubber (Hunan) Co., Ltd.; Sumitomo Rubber Industries Ltd.	
Tianijin Wanda Tyre Group Company, Ltd.	
Triangle Tyre Co., Ltd.	
Tyrechamp Group Co., Limited.	
Wendeng Sanfeng Tyre Co., Ltd.	
Winrun Tyre Co., Ltd.	
Zhaoqing Junhong Co., Ltd.	
Zhongce Rubber Group Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Hydrofluorocarbon Blends and Components Thereof, A–570–028	8/1/21–7/31/22
Changzhou Vista Chemical Co., Ltd.	
Daikin Fluorochemicals (China) Co., Ltd.	
Dongyang Weihua Refrigerants Co., Ltd.	
Hangzhou Icetop Refrigeration Co., Ltd.	
Jiangsu Sanmei Chemicals Co., Ltd.	
Oasis Chemical Co., Limited.	
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 Lantian Environmental Protection Fluoro Material Co. Ltd.	
Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd.	
Zhejiang Sanmei Chemical Ind. 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: Light-Walled Rectangular Pipe and Tube, A–570–914	8/1/21–7/31/22
Hangzhou Ailong Metal Product Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Polyethylene Retail Carrier Bags, A–570–886	8/1/21–7/31/22
Crown Polyethylene Products (International) Ltd.	
Dongguan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd. (collectively Nozawa).	
THE PEOPLE'S REPUBLIC OF CHINA: Steel Nails, A–570–909	8/1/21–7/31/22
Dezhou Hualude Hardware Products Co., Ltd.	
Hebei Minmetals Co., Ltd.	
Nanjing Caiqing Hardware Co., Ltd.	
Nanjing Yuechang Hardware Co., Ltd.	
Shandong Qingyun Hongyi Hardware Products Co., Ltd.	
Shanghai Yueda Nails Co., Ltd.	
Shanghai Yueda Nails Industry Co., Ltd.	
Shanxi Hairui Trade Co., Ltd.	

	Period to be reviewed
S-Mart (Tianjin) Technology Development Co., Ltd.	
Suntec Industries Co., Ltd.	
Tianjin Jinchi Metal Products Co., Ltd.	
Xi'an Metals and Minerals Import & Export Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Steel Propane Cylinders, A–570–086	8/1/21–7/31/22
Yi Jun Hong Kong Limited.	
Hong Kong GSBF Company Limited.	
UKRAINE: Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe, A–823–819	2/10/21–7/31/22
Interpipe Ukraine LLC/PJSC Interpipe Niznedneprovksy Tube Rolling Plant/.	
LLC Interpipe Niko Tube.	
Interpipe Europe S.A.	
INDIA: Finished Carbon Steel Flanges, C–533–872	1/1/21–12/31/21
Adinath International.	
Allena Group.	
Alloyed Steel.	
Balkrishna Steel Forge Pvt. Ltd.	
Bansidhar Chiranjilal.	
Bebitz Flanges Works Private Limited.	
C.D. Industries.	
Cetus Engineering Private Limited.	
CHW Forge.	
CHW Forge Pvt. Ltd.	
Citizen Metal Depot.	
Corum Flange.	
DN Forge Industries.	
Echjay Forgings Limited.	
Falcon Valves and Flanges Private Limited.	
Heubach International.	
Hindon Forge Pvt. Ltd.	
Jai Auto Pvt. Ltd.	
Kinnari Steel Corporation.	
M F Rings and Bearing Races Ltd.	
Mascot Metal Manufactures [19].	
Munish Forge Private Limited.	
Norma (India) Limited.	
OM Exports.	
Punjab Steel Works (PSW) [20].	
R.D. Forge.	
R.N. Gupta & Company Limited [21].	
Raaj Sagar Steel [22].	
Ravi Ratan Metal Industries.	
Rolex Fittings India Pvt. Ltd.	
Rollwell Forge Engineering Components and Flanges.	
Rollwell Forge Pvt. Ltd.	
SHM (ShinHeung Machinery).	
Siddhagiri Metal & Tubes.	
Sizer India.	
Steel Shape India.	
Sudhir Forgings Pvt. Ltd.	
Tirupati Forge [23].	
Uma Shanker Khandelwal & Co.[24].	
Umashanker Khandelwal Forging Limited.	
USK Exports Private Limited [25].	
MALAYSIA: Utility Scale Wind Towers, C–557–822	3/25/21–12/31/21
CS Wind Corporation.	
CS Wind China Co., Ltd.	
CS Wind Malaysia Sdn. Bhd.	
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.	
REPUBLIC OF KOREA: Corrosion-Resistant Steel Products,[26] C–580–879	1/1/21–12/31/21
Hyundai Steel Company.	
REPUBLIC OF KOREA: Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe, C–580–910	12/11/20–12/31/21
ILJIN Steel Corporation.	
REPUBLIC OF KOREA: Stainless Steel Sheet and Strip in Coils, C–580–835	1/1/21–12/31/21
Dai Yang Metal Co., Ltd.	
Inchon Iron & Steel Co., Ltd.	
Taihan Electric Wire Co., Ltd.	
Sammi Stel Co., Ltd.	

	Period to be reviewed
SOCIALIST REPUBLIC OF VIETNAM: Utility Scale Wind Towers, C–552–826	1/1/21–12/31/21
CS Wind America Inc.	
CS Wind Corporation.	
CS Wind China Co., Ltd.	
CS Wind Malaysia Sdn. Bhd.	
CS Wind Taiwan Ltd.	
CS Wind Turkey Kule İmalatı A.Ş.	
CS Wind UK Limited.	
CS Wind Vietnam Co., Ltd.	
GE Renewable Energy.	
GE Renewables North America LLC.	
GE Wind Energy LLC.	
Nordex SE.	
Nordex USA.	
Nordex USA, Inc.	
Siemens Gamesa Renewable Energy USA Inc.	
Vestas American Wind Technology, Inc.	
SPAIN: Ripe Olives, C–469–818	1/1/21–12/31/21
Aceitunas Guadalquivir, S.L.	
Aceitunera del Norte de Cáceres, S.Coop.Ltda. de 2 º Grado.	
Agro Sevilla Aceitunas S.COOP Andalusia.	
Angel Camacho Alimentacion S.L.	
Alimentary Group Dcoop S.Coop. And.	
Internacional Olivarera, S.A.	
Plasoliva, S.L.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Metal Lockers and Parts Thereof, C–570–134	12/14/20–12/31/21
Hangzhou Evernew Machinery & Equipment Company Limited.	
Hangzhou Xline Machinery & Equipment Co., Ltd.	
Hangzhou Zhuoxu Trading Co., Ltd.	
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	1/1/21–12/31/21
Giti Tire Global Trading Pte. Ltd.	
Giti Radial Tire (Anhui) Company Ltd.	
Giti Tire (Fujian) Company Ltd.	
Hankook Tire China Co., Ltd.	
Jiangsu Hankook Tire Co., Ltd.	
Mayrun Tyre (Hong Kong) Limited.	
Qingdao Fullrun Tyre Corp., Ltd.	
Qingdao Keter International Co., Limited.	
Qingdao Lakesea Tyre Co., Ltd.	
Roadclaw Tyre (Hong Kong) Limited.	
Shandong Changfeng Tyres Co., Ltd.	
Shandong Duratti Rubber Corporation Co., Ltd.	
Shandong Haohua Tire Co., Ltd.	
Shandong Province Sanli Tire Manufactured Co., Ltd.	
Shandong Transtone Tyre Co., Ltd.	
Sumitomo Rubber (Changshu) Co., Ltd.	
Sumitomo Rubber (Hunan) Co., Ltd.	
Sumitomo Rubber Industries, Ltd.	
Winrun Tyre Co., Ltd.	
Zhaoqing Junhong Co., Ltd.	
Zhongce Rubber Group Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Steel Propane Cylinders, C–570–087	1/1/21–12/31/21
Hong Kong GSBF Company Limited.	
Yi Jun Hong Kong Limited.	

Suspension Agreements

None.

[5] On July 26, 2022, Commerce published the **Federal Register** notice regarding the final results of a changed circumstances review in which it determined that BFN Forgings Private Limited is the successor-in-interest to Bebitz Flanges Works Private Limited. *See Finished Carbon Steel Flanges from India: Final Results of Changed Circumstances Review,* 87 FR 44337 (July 26, 2022).

[6] Weldbend Corporation (Weldbend), a domestic producer of finished carbon steel flanges, initially requested a review for ''Mascot Metal Manufacturers.'' Weldbend clarified that it intended to request a review for ''Mascot Metal Manufactures.'' *See* Memorandum, ''Phone Conversation with an Interested Party,'' dated September 21, 2022 (Weldbend AD Phone Memo).

[7] Weldbend submitted a letter clarifying that the correct name for the company which it requested for review is ''Punjab Steel Works (PSW),'' not the originally requested name, ''Punjab Steel Works.'' *See* Weldbend's Letter, ''Finished Carbon Steel Flanges from India: Clarifying Company Names in Request for Administrative Review,'' dated September 14, 2022 (Weldbend AD Clarification Letter).

[8] R.N. Gupta & Company Limited (RNG), a foreign exporter of finished carbon steel flanges, clarified that ''R. N. Gupta & Company Limited'' is the same company as ''R.N. Gupta & Co., Ltd.'' *See* RNG's Letter, ''Finished Carbon Steel Flanges from India: Clarifying Name in Request for Administrative Review,'' dated September 21, 2022.

Continued

[9] Weldbend submitted a letter clarifying that the correct name for the company which it requested for review is ''Raaj Sagar Steel,'' not the originally requested name, ''Raaj Sagar Steels.'' *See* Weldbend AD Clarification Letter.

[10] Weldbend submitted a letter clarifying that the correct name for the company which it requested for review is ''Tirupati Forge,'' not the originally requested name, ''Tirupati Forge Pvt. Ltd.'' *See* Weldbend AD Clarification Letter.

[11] Norma (India) Limited (Norma), a foreign exporter of finished carbon steel flanges, filed a letter clarifying that the correct name of the company for which it intended to request a review is ''Uma Shanker Khandelwal & Co.,'' not the originally requested name, ''Umashanker Khandelwal and Co.'' *See* Norma's Letter, ''Finished Carbon Steel Flanges from India: Clarification for name in request for review in {antidumping duty} review request,'' dated September 21, 2022 (Norma AD Clarification Letter).

[12] Weldbend initially requested a review for ''USK Export Private Limited.'' Weldbend clarified that it intended to request a review for ''USK Exports Private Limited.'' *See* Weldbend AD Phone Memo. Additionally, Norma filed a letter clarifying that the correct name of the company for which it intended to request a review is ''USK Exports Private Limited,'' not the originally requested name, ''USK Export Private Limited.'' *See* Norma AD Clarification Letter.

[13] The companies listed below were inadvertently omitted from the initiation notice that published on August 9, 2022 (87 FR 48459).

[14] Hung Vuong Corporation (also known as Hung Vuong Joint Stock Company, HVC or HV Corp.) is part of a single entity with the following companies: (1) 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); (2) Asia Pangasius Company Limited (also known as ASIA); (3) Europe Joint Stock Company (also known as Europe, Europe JSC or EJS CO.); (4) Hung Vuong Ben Tre Seafood Processing Company Limited (also known as Ben Tre, HVBT, or HVBT Seafood Processing); (5) Hung Vuong Mascato Company Limited (also known as Mascato); (6) Hung Vuong—Sa Dec Co., Ltd. (also known as Sa Dec or Hung Vuong Sa Dec Company Limited); and (7) Hung Vuong—Vinh Long Co., Ltd. (also known as Vinh Long or Hung Vuong Vinh Long Company Limited).

[15] QVD Food Co., Ltd. is part of a single entity with: (1) QVD Dong Thap Food Co., Ltd. (also known as Dong Thap or QVD DT); and (2) Thuan Hung Co., Ltd. (also known as THUFICO).

[16] Vinh Hoan Corporation is part of a single entity with: (1) Van Duc Food Export Joint Stock Company (also known as Van Duc); (2) Van Duc Tien Giang Food Export Company (also known as VDTG or Van Duc Tien Giang Food Exp. Co.); (3) Thanh Binh Dong Thap One Member Company Limited (also known as Thanh Binh Dong Thap or Thanh Binh Dong Thap Ltd.); and (4) Vinh Phuoc Food Company Limited (also known as Vinh Phuoc or VP Food).

[17] In a previous segment of this proceeding, Commerce determined that CS Wind Vietnam Co., Ltd., CS Wind Tower Co., Ltd., and CS Wind Corporation should be treated as the same entity. Therefore, we are also initiating this review on CS Wind Tower Co., Ltd. *See Utility Scale Wind Towers from the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances,* 85 FR 40226, 40228 (July 6, 2020).

[18] In a previous segment of this proceeding, Commerce determined that CS Wind Vietnam Co., Ltd., CS Wind Tower Co., Ltd., and CS Wind Corporation should be treated as the same entity. Therefore, we are also initiating this review on CS Wind Tower Co., Ltd. *See Utility Scale Wind Towers from the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances,* 85 FR 40226, 40228 (July 6, 2020).

[19] Weldbend initially requested a review for ''Mascot Metal Manufacturers.'' Weldbend clarified that it intended to request a review for ''Mascot Metal Manufactures.'' *See* Memorandum, ''Phone Conversation with an Interested Party,'' dated September 21, 2022 (Weldbend CVD Phone Memo).

[20] Weldbend submitted a letter clarifying that the correct name for the company which it requested for review is ''Punjab Steel Works (PSW),'' not the originally requested name, ''Punjab Steel Works.'' *See* Weldbend's Letter, ''Finished Carbon Steel Flanges from India: Clarifying Names in Request for Administrative Review,'' dated September 14, 2022 (Weldbend CVD Clarification Letter).

[21] R.N. Gupta & Company Limited, a foreign exporter of finished carbon steel flanges, clarified that ''R.N. Gupta & Company Limited'' is the same company as ''R.N. Gupta & Co., Ltd.'' *See* RNG's Letter, ''Finished Carbon Steel Flanges from India: Clarifying Name in Request for Administrative Review,'' dated September 21, 2022.

[22] Weldbend submitted a letter clarifying that the correct name for the company which it requested for review is ''Raaj Sagar Steel,'' not the originally requested name, ''Raaj Sagar Steels.'' *See* Weldbend CVD Clarification Letter.

[23] Weldbend submitted a letter clarifying that the correct name for the company which it requested for review is ''Tirupati Forge,'' not the originally requested name, ''Tirupati Forge Pvt. Ltd.'' *See* Weldbend CVD Clarification Letter.

[24] Norma filed a letter clarifying that the correct name of the company for which it intended to request a review is ''Uma Shanker Khandelwal & Co.,'' not the originally requested name, ''Umashanker Khandelwal and Co.'' *See* Norma's Letter, ''Finished Carbon Steel Flanges from India: Clarification for name in request for review in {countervailing} duty review request,'' dated September 21, 2022 (Norma CVD Clarification Letter).

[25] Weldbend initially requested a review for ''USK Export Private Limited.'' Weldbend clarified that it intended to request a review for ''USK Exports Private Limited.'' *See* Weldbend CVD Phone Memo. Additionally, Norma filed a letter clarifying that the correct name of the company for which it intended to request a review is ''USK Exports Private Limited,'' not the originally requested name, ''USK Export Private Limited.'' *See* Norma CVD Clarification Letter.

[26] The company listed below was inadvertently omitted from the initiation notice that published on September 6, 2022 (87 FR 54463).

[27] *See Certification of Factual Information To Import Administration During Antidumping and*

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 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 AD duties 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,*[27] available

at *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 temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[28]

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.*[29] 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.[30] 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, stand-alone 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 30, 2022.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2022–21999 Filed 10–7–22; 8:45 am]

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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.*

[28] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 41363 (July 10, 2020).

[29] *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.*

[30] *See* 19 CFR 351.302.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–038, C–570–039]

Certain Amorphous Silica Fabric From the People's Republic of China: Continuation of Antidumping and Countervailing Duty Orders

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

SUMMARY: As a result of the determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) that revocation of the antidumping duty (AD) and countervailing duty (CVD) orders on certain amorphous silica fabric (silica fabric) from the People's Republic of China (China) would likely lead to continuation or recurrence of dumping, net countervailable subsidies, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of the AD and CVD orders.

DATES: October 11, 2022.

FOR FURTHER INFORMATION CONTACT: Erin Kearney (AD) or Natasia Harrison (CVD), AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0167 or (202) 482–1240, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 17, 2017, Commerce published in the **Federal Register** the AD and CVD orders on silica fabric from China.[1] On February 1, 2022, Commerce published the notice of initiation of the first sunset review of the *Orders,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2]

As a result of its reviews, Commerce determined that revocation of the *AD Order* would likely lead to continuation or recurrence of dumping and that revocation of the *CVD Order* would likely lead to the continuation or recurrence of countervailable subsidies. Therefore, Commerce notified the ITC of the magnitude of the dumping margins and countervailable subsidy rates likely to prevail should the *Orders* be revoked.[3] On September 28, 2022, the ITC published its determinations, pursuant to section 751(c) and 752(a) of the Act, that revocation of the *Orders* would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[4]

Scope of the Orders

The product covered by the *Orders* is woven (whether from yarns or rovings) industrial grade amorphous silica fabric, which contains a minimum of 90 percent silica (SiO_2) by nominal weight, and a nominal width in excess of 8 inches. The *Orders* cover industrial grade amorphous silica fabric regardless of other materials contained in the fabric, regardless of whether in roll form or cut-to-length, regardless of weight, width (except as noted above), or length. The *Orders* cover industrial grade amorphous silica fabric regardless of whether the product is approved by a standards testing body (such as being Factory Mutual (FM) Approved), or regardless of whether it meets any governmental specification.

Industrial grade amorphous silica fabric may be produced in various colors. The *Orders* cover industrial grade amorphous silica fabric regardless of whether the fabric is colored.

[1] *See Certain Amorphous Silica Fabric from the People's Republic of China: Antidumping Duty Order,* 82 FR 14314 (*AD Order*); and *Certain Amorphous Silica Fabric from the People's Republic of China: Countervailing Duty Order,* 82 FR 14316 (March 17, 2017) (*CVD Order*) (collectively, the *Orders*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 87 FR 5467 (February 1, 2022).

[3] *See Certain Amorphous Silica Fabric from the People's Republic of China: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order,* 87 FR 34641 (June 7, 2022), and accompanying Issues and Decision Memorandum (IDM); *see also Certain Amorphous Silica Fabric from the People's Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order,* 87 FR 34845 (June 8, 2022), and accompanying IDM.

[4] *See Certain Amorphous Silica Fabric from China; Determinations,* 87 FR 58821 (September 28, 2022).

Industrial grade amorphous silica fabric may be coated or treated with materials that include, but are not limited to, oils, vermiculite, acrylic latex compound, silicone, aluminized polyester (Mylar®) film, pressure-sensitive adhesive, or other coatings and treatments. The *Orders* cover industrial grade amorphous silica fabric regardless of whether the fabric is coated or treated, and regardless of coating or treatment weight as a percentage of total product weight. Industrial grade amorphous silica fabric may be heat-cleaned. The *Orders* cover industrial grade amorphous silica fabric regardless of whether the fabric is heat-cleaned.

Industrial grade amorphous silica fabric may be imported in rolls or may be cut-to-length and then further fabricated to make welding curtains, welding blankets, welding pads, fire blankets, fire pads, or fire screens. Regardless of the name, all industrial grade amorphous silica fabric that has been further cut-to-length or cut-to-width or further finished by finishing the edges and/or adding grommets, is included within the scope of these *Orders.*

Subject merchandise also includes (1) any industrial grade amorphous silica fabric that has been converted into industrial grade amorphous silica fabric in China from fiberglass cloth produced in a third country; and (2) any industrial grade amorphous silica fabric that has been further processed in a third country prior to export to the United States, including but not limited to treating, coating, slitting, cutting to length, cutting to width, finishing the edges, adding grommets, or any other processing that would not otherwise remove the merchandise from the scope of the *Orders* if performed in the country of manufacture of the in-scope industrial grade amorphous silica fabric.

Excluded from the scope of the *Orders* is amorphous silica fabric that is subjected to controlled shrinkage, which is also called ''pre-shrunk'' or ''aerospace grade'' amorphous silica fabric. In order to be excluded as a pre-shrunk or aerospace grade amorphous silica fabric, the amorphous silica fabric must meet the following exclusion criteria: (1) the amorphous silica fabric must contain a minimum of 98 percent silica (SiO_2) by nominal weight; (2) the amorphous silica fabric must have an areal shrinkage of 4 percent or less; (3) the amorphous silica fabric must contain no coatings or treatments; and (4) the amorphous silica fabric must be white in color. For purposes of this scope, ''areal shrinkage'' refers to the extent to which a specimen of amorphous silica fabric shrinks while subjected to heating at 1800 degrees F for 30 minutes.[5]

Also excluded from the scope are amorphous silica fabric rope and tubing (or sleeving). Amorphous silica fabric rope is a knitted or braided product made from amorphous silica yarns. Silica tubing (or sleeving) is braided into a hollow sleeve from amorphous silica yarns.

The subject imports are normally classified in subheadings 7019.59.4021, 7019.59.4096, 7019.59.9021, and 7019.59.9096 of the Harmonized Tariff Schedule of the United States (HTSUS), but may also enter under HTSUS subheadings 7019.40.4030, 7019.40.4060, 7019.40.9030, 7019.40.9060, 7019.51.9010, 7019.51.9090, 7019.52.9010, 7019.52.9021, 7019.52.9096 and 7019.90.1000. HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of these *Orders* is dispositive.

Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to a continuation or a recurrence of dumping, countervailable subsidies, and of material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce hereby orders the continuation of the *Orders.* U.S. Customs and Border Protection will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Orders* will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, Commerce intends to initiate the next five-year review of the *Orders* no later than 30 days prior to the fifth anniversary of the effective date of continuation.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply is a violation of the APO which may be subject to sanctions.

Notification to Interested Parties

This five-year (sunset) reviews and this notice are in accordance with sections 751(c) and 751(d)(2) of the Act and published in accordance with section 777(i) of the Act, and 19 CFR 351.218(f)(4).

Dated: October 3, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2022–22000 Filed 10–7–22; 8:45 am]

BILLING CODE 3510–DS–P

[5] Areal shrinkage is expressed as the following percentage: (*Fired Area, cm² – Initial Area, cm²*) × 100 = Areal Shrinkage, % Initial Area, cm².

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–858]

Certain Softwood Lumber Products From Canada: Notice of Amended Final Results of Countervailing Duty Administrative Review; 2020

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

SUMMARY: The U.S. Department of Commerce (Commerce) is amending its notice of final results for the 2020 administrative review of the countervailing duty (CVD) order on certain softwood lumber products (softwood lumber) from Canada.

DATES: Applicable October 11, 2022.

FOR FURTHER INFORMATION CONTACT: John Hoffner, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3315.

SUPPLEMENTARY INFORMATION:

Background

On March 4, 2021, Commerce published its *Initiation Notice* for the administrative review of the CVD order on softwood lumber from Canada covering the period January 1, 2020, through December 31, 2020.[1] In the *Initiation Notice,* Commerce inadvertently omitted the following companies, for which we had received timely requests for an administrative review: Coast Clear Wood Ltd.; Coulson Manufacturing Ltd.; Halo Sawmill, a division of Delta Cedar Specialties Ltd.; Mainland Sawmill, a division of Terminal Forest Products Ltd.; and Pine

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 12599 (March 4, 2021) (*Initiation Notice*).

Ideas Ltd.[2] Additionally, in the *Final Results Notice* of the CVD administrative review covering the 2020 period of review, Commerce omitted those same companies from Appendix II as being among the firms subject to the review that received the subsidy rate applicable to companies not selected for individual examination.[3] With the issuance of this amended notice, we confirm that Coast Clear Wood Ltd., Coulson Manufacturing Ltd., Halo Sawmill, a division of Delta Cedar Specialties Ltd., Mainland Sawmill, a division of Terminal Forest Products Ltd., and Pine Ideas Ltd. are included among the firms subject to the CVD administrative review covering the 2020 period of review and are among the non-selected companies subject to a subsidy rate of 3.38 percent, effective August 9, 2022.[4]

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, CVDs on all appropriate entries of subject merchandise covered by this review. However, currently we have instructed CBP to suspend all entries subject to this review, pursuant to suspension of liquidation requests filed in accordance with 19 CFR 356.8 and 19 U.S.C. 516A(g)(5)(C). Consistent with the requests concerning these five companies, we also intend to issue suspension instructions for these companies consistent with those requests and in accordance with 19 CFR 356.8 and 19 U.S.C. 516A(g)(5)(C).

Cash Deposit Requirements

In accordance with section 751(a)(2)(C) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated CVDs in the amounts shown for the companies subject to this review, effective August 9, 2022, the date of publication of the *Final Results Notice* in the **Federal Register**. Therefore, Commerce will instruct CBP to collect cash deposits for Coast Clear Wood Ltd., Coulson Manufacturing Ltd., Halo Sawmill, a division of Delta Cedar Specialties Ltd., Mainland Sawmill, a division of Terminal Forest Products Ltd., and Pine Ideas Ltd. as included among the firms subject to the CVD administrative review covering the 2020 period of review and as among the non-selected companies subject to a subsidy rate of 3.38 percent. These cash deposits, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i) of the Tariff Act of 1930, as amended.

Dated: October 4, 2022.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations.

[FR Doc. 2022–22001 Filed 10–7–22; 8:45 am]

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[2] *Id.,* 86 FR at 12609; *see also* Patrick Lumber Company's Letter, ''Certain Softwood Lumber Products from Canada (C–122–858) Patrick Lumber Company Request for Administrative Review (1/1/2020–12/31/2020),'' dated January 29, 2021; and Pine Ideas Ltd.'s Letter, ''Request for Administrative Review,'' dated January 19, 2021.

[3] *See Certain Softwood Lumber Products from Canada: Final Results and Final Rescission, in Part, of the Countervailing Duty Administrative Review, 2020,* 87 FR 48455, 48458–59 (August 9, 2022) (*Final Results Notice*).

[4] *Id.,* 87 FR at 48456.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–890]

Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; Rescission, in Part; and Preliminary Determination of No Shipments; 2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that of the 33 companies/company groupings under review, nine of the companies/company groupings have not established their entitlement to a separate rate and are part of the People's Republic of China (China)-wide entity; seven companies/company groupings had no reviewable sales of wooden bedroom furniture (WBF) during the period of review (POR) January 1, 2021, through December 31, 2021; and all requests to review the remaining 17 companies/company groupings were timely withdrawn (thus, Commerce is rescinding this review with respect to these entities). We invite interested parties to comment on these preliminary results of review.

DATES: Applicable October 11, 2022.

FOR FURTHER INFORMATION CONTACT: Krisha Hill, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4037.

SUPPLEMENTARY INFORMATION:

Background

On January 11, 2022, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty (AD) order on WBF from China.[1] After receiving review requests,[2] Commerce initiated this review.[3] In March and April 2022, seven companies/company groupings submitted no shipment certifications.[4] Also in April 2022, various companies filed separate rate applications or certifications, along with a response to Commerce's quantity and value

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List,* 87 FR 1396 (January 11, 2022).

[2] *See* American Furniture Manufacturers Committee for Legal Trade and Vaughan-Bassett Furniture Company, Inc.'s (the petitioners) Letter, ''Wooden Bedroom Furniture from the People's Republic of China: Request For Initiation Of Administrative Review,'' dated January 31, 2022; *see also* Guangzhou Maria Yee Furnishings Ltd., Pyla HK Limited, and Maria Yee, Inc's (collectively, Maria Yee) Letter, ''Wooden Bedroom Furniture from the People's Republic of China; Request for Administrative Review and Request for Voluntary Respondent Treatment,'' dated January 26, 2022.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 13252 (March 9, 2022) (*Initiation Notice*).

[4] *See* Eurosa's Letter, ''Eurosa (Kunshan) Co., Ltd. And Eurosa Furniture Co., (PTE) Ltd.'s Statement of No Shipments during the POR 2021, Wooden Bedroom Furniture from the People's Republic of China,'' dated March 22, 2022; *see also* Zhangzhou Guohui's Letter, ''Wooden Bedroom Furniture from the People's Republic of China: No Shipment Certification and Response to Quantity and Value Questionnaire,'' dated April 1, 2022; Shenyang Shining's Letter, ''Wooden Bedroom Furniture from the People's Republic of China: No Shipment Letter and Response to Quantity and Value Questionnaire Response,'' dated April 6, 2022; Nanhai Jiantai and Fortune Glory's Letter, ''Seventeenth Administrative Review of the Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China—No Shipment Certification of Nanhai Jiantai Woodwork Co., Ltd. and Fortune Glory Industrial Ltd. (H.K. Ltd.),'' dated April 7, 2022; Yeh Brothers's Letter, ''No Shipment Letter and Quantity and Value Questionnaire Response for Yeh Brothers World Trade, Inc. in the Seventeenth Administrative Review of Wooden Bedroom Furniture from People's Republic of China, Case No. A–570–890,'' dated April 8, 2022; Kinwai International's Letter, ''No Shipment Letter for Jiangmen Kinwai International Furniture Co., Ltd., 2021 Administrative Review of Wooden Bedroom Furniture from People's Republic of China,'' dated April 8, 2022; and Kinwai Furniture's Letter, ''No Shipment Letter for Jiangmen Kinwai Furniture Decoration Co., Ltd., 2021 Administrative Review of Wooden Bedroom Furniture from People's Republic of China,'' dated April 8, 2022. Kinwai International and Kinwai Furniture also filed no shipment certifications on March 28, 2022. *See* Kinwai International's Letter, '' No Shipment Letter for Jiangmen Kinwai International Furniture Co., Ltd., ''2021 Administrative Review of Wooden Bedroom Furniture from People's Republic of China,'' dated March 28, 2022; and Kinwai Furniture's Letter, ''No Shipment Letter for Jiangmen Kinwai Furniture Decoration Co., Ltd., 2021 Administrative Review of Wooden Bedroom Furniture from People's Republic of China'' dated March 28, 2022.

questionnaire and certain additional information requested in a document package on Commerce's website. In June 2022, interested parties timely withdrew all review requests for 17 companies/company groupings under review.[5]

Scope of the Order

The product covered by the *Order* is WBF, subject to certain exceptions.[6] Imports of subject merchandise are classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 9403.50.9042, 9403.50.9045, 9403.50.9080, 9403.90.7005, 9403.90.7080, 9403.50.9041, 9403.60.8081, 9403.20.0018, 9403.90.8041, 7009.92.1000 or 7009.92.5000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the *Order* is dispositive.[7]

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213.

Preliminary Determination of No Shipments

In March and April 2022, the following seven companies/company groupings timely filed certifications that they did not export or sell subject merchandise during the POR: (1) Eurosa (Kunshan) Co., Ltd. and Eurosa Furniture Co., (PTE) Ltd. (Eurosa); (2) Jiangmen Kinwai Furniture Decoration Co., Ltd. (Kinwai Furniture); (3) Jiangmen Kinwai International Furniture Co., Ltd. (Kinwai International); (4) Nanhai Jiantai Woodwork Co. Ltd. (Nanhai Jiantai) and Fortune Glory Industrial, Ltd. (HK Ltd.) (Fortune Glory); (5) Shenyang Shining Dongxing Furniture Co., Ltd. (Shenyang Shining); (6) Yeh Brothers World Trade Inc. (Yeh Brothers); and (7) Zhangzhou Guohui Industrial & Trade Co., Ltd. (Zhangzhou Guohui)[8] Based on our analysis of information that we obtained from U.S. Customs and Border Protection (CBP), and the companies' certifications, we have preliminarily determined that the seven companies/company groupings listed above did not export or sell subject merchandise during the POR.[9]

Consistent with Commerce's practice in non-market economy (NME) cases, we are not rescinding this administrative review with respect to these seven companies/company groupings, but intend to complete the review with respect to these entities and issue appropriate instructions to CBP based on the final results of the review.[10]

Separate Rates

In the *Initiation Notice,* we informed parties that all firms for which a NME review was initiated that wished to qualify for separate rate status must complete, as appropriate, either a separate rate application or a separate rate certification.[11] The following nine companies/company groupings for which a review was requested, failed to provide a separate rate application or certification: (1) Dongguan Sunrise Furniture Co., Taicang Sunrise Wood Industry, Co., Ltd., Shanghai Sunrise Furniture Co., Ltd., Fairmont Designs; (2) Dongguan Sunrise Furniture Co., Ltd., Taicang Sunrise Wood Industry Co., Ltd., Taicang Fairmont Designs Furniture Co., Ltd., Meizhou Sunrise Furniture Co., Ltd.; (3) Hang Hai Woodcraft's Art Factory; (4) Shenzhen Forest Furniture Co., Ltd.; (5) Sunforce Furniture (Hui-Yang) Co., Ltd., Sun Fung Wooden Factory, Sun Fung Co., Shin Feng Furniture Co., Ltd., Stupendous International Co., Ltd.; (6) Superwood Co. Ltd., Lianjiang Zongyu Art Products Co., Ltd.; (7) Xiamen Yongquan Sci-Tech Development Co., Ltd.; (8) Yihua Timber Industry Co., Ltd. (a.k.a. Guangdong Yihua Timber Industry Co., Ltd.); and (9) Yihua Lifestyle Technology Co., Ltd. Therefore, Commerce preliminarily determines that these nine companies/company groupings failed to demonstrate that they qualify for separate rate status and are part of the China-wide entity.

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.[12] Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity, the entity is not under review and the weighted-average dumping margin assigned to the China-wide entity is not subject to change as a result of this administrative review.

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if a party that requested a review, withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review in the **Federal Register**. Interested parties timely withdrew all review requests for 17 companies/company groupings. Therefore, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding this review of the AD order on WBF from China with respect to all of the companies/company groupings listed in the appendix to this notice.

Public Comment

Interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of these preliminary results of review in the **Federal Register**.[13] Rebuttal briefs may be filed with Commerce no later than seven days after case briefs are due and may respond only to arguments raised in the case briefs.[14] A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to Commerce. The summary should be limited to five pages total, including footnotes.[15]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice in the **Federal Register**. Requests for a hearing should contain: (1) the requesting party's name, address, and telephone number; (2) the number of individuals

[5] *See* Petitioner's Letter, ''Wooden Bedroom Furniture from the People's Republic of China: Partial Withdrawal Of Request For Administrative Review,'' dated June 3, 2022; *see also* Maria Yee's Letter, ''Wooden Bedroom Furniture from the People's Republic of China: Maria Yee's Withdrawal of Request for Review,'' dated June 3, 2022.

[6] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture from the People's Republic of China,* 70 FR 329 (January 4, 2005) (*Order*).

[7] For a complete description of the scope of the *Order, see Wooden Bedroom Furniture from the People's Republic of China: Continuation of Antidumping Duty Order,* 87 FR 56397 (September 14, 2022).

[8] *See* ''Background'' section, *supra.*

[9] *See* Memorandum, ''Release of U.S. Customs and Border Protection Information Relating to No Shipment Claims,'' dated September 23, 2022.

[10] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011); and the ''Assessment Rates'' section, *infra.*

[11] *See Initiation Notice,* 87 FR at 13253–54.

[12] *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).

[13] *See* 19 CFR 351.309(c)(1)(ii).

[14] *See* 19 CFR 351.309(d).

[15] *See* 19 CFR 351.309(c)(2) and (d)(2).

associated with the requesting party that will attend the hearing and whether any of those individuals is a foreign national; and (3) a list of the issues the party intends to discuss at the hearing. Oral arguments at the hearing will be limited to issues raised in the case and rebuttal briefs. If a request for a hearing is made, Commerce will announce the date and time of the hearing. Parties should confirm by telephone the date and time of the hearing two days before the scheduled hearing date.

All submissions to Commerce, with limited exceptions, must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time on the due date.[16] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.[17]

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this review no later than 120 days after the date these preliminary results of review are published in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and CBP shall assess, ADs on all appropriate entries of subject merchandise covered by this review. Commerce intends to issue assessment instructions to CBP for the companies still under review, no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. Commerce intends to issue assessment instructions to CBP for the companies for which it rescinded this review, no earlier than 35 days after the date of publication of this notice 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).

If we do not alter these preliminary results of review, we intend to instruct CBP to liquidate entries of subject merchandise exported by the companies/company groupings that failed to qualify for a separate rate, and any suspended entries of subject merchandise during the POR under the case numbers of companies that claimed no shipments, at the China-wide entity rate. We intend to instruct CBP to liquidate entries of subject merchandise exported by the companies/company groupings for which we rescinded the review, at the cash deposit rate required at the time of entry.

Cash Deposit Requirements

The following cash deposit requirements will be in effect for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on, or after, the date of publication of the notice of the final results of this administrative review in the **Federal Register**, as provided for by section 751(a)(2)(C) of the Act: (1) for any previously investigated or reviewed China or non-China exporter that has a separate rate, the cash deposit rate will continue to be the exporter's existing cash deposit rate; (2) for all China exporters of subject merchandise that do not have a separate rate, including those exporters who failed to establish their separate rate eligibility in this proceeding, the cash deposit rate will be equal to the dumping margin assigned to the China-wide entity, which is 216.01 percent; and (3) for all non-China exporters of subject merchandise that do not have a separate rate, the cash deposit rate will be equal to the dumping margin applicable to the China exporter(s) that supplied that non-China exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double ADs.

Notification to Interested Parties

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213 and 351.221(b)(4).

Dated: October 3, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

Companies/Company Groupings for Which the Administrative Review Is Being Rescinded

1. Dongguan Chengcheng Group Co., Ltd.
2. Golden Well International (HK), Ltd./ Producer: Zhangzhou XYM Furniture Product Co., Ltd.
3. Guangzhou Maria Yee Furnishings Ltd., Pyla HK Ltd., Maria Yee, Inc.
4. Jiangsu Xiangsheng Bedtime Furniture Co., Ltd.
5. Jiangsu Yuexing Furniture Group Co., Ltd.
6. Perfect Line Furniture Co., Ltd.
7. PuTian JingGong Furniture Co., Ltd.
8. Shenzhen Jiafa High Grade Furniture Co., Ltd., Golden Lion International Trading Ltd.
9. Shenzhen New Fudu Furniture Co., Ltd.
10. Shenzhen Wonderful Furniture Co., Ltd.
11. Tradewinds Furniture Ltd. (successor-in-interest to Nanhai Jiantai Woodwork Co.), Fortune Glory Industrial Ltd. (H.K. Ltd.)
12. Wuxi Yushea Furniture Co., Ltd.
13. Zhangjiagang Daye Hotel Furniture Co. Ltd.
14. Zhejiang Tianyi Scientific & Educational Equipment Co., Ltd.
15. Zhongshan Fookyik Furniture Co., Ltd.
16. Zhongshan Golden King Furniture Industrial Co., Ltd.
17. Zhoushan For-Strong Wood Co., Ltd.

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[16] *See* 19 CFR 351.303 (for general filing requirements); *Antidumping and Countervailing Duty Proceedings:* Electronic Filing Procedures; Administrative Protective Order Procedures, 76 FR 39263 (July 6, 2011).

[17] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

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; Atlantic Highly Migratory Species (HMS) Recreational Landings and Bluefin Tuna Catch Reports

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 July 19, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic & Atmospheric Administration (NOAA), Commerce.

Title: Atlantic Highly Migratory Species (HMS) Recreational Landings and Bluefin Tuna Catch Reports

OMB Control Number: 0648–0328.

Form Number(s): None.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 13,798.

Average Hours Per Response: 5 minutes for an initial call-in, internet, or smartphone app report; 5 minutes for a confirmation call; 10 minutes for a landing card; 1 hour for a weekly state report; and 4 hours for an annual state report.

Total Annual Burden Hours: 1,677.

Needs and Uses: Catch reporting from recreational and commercial handgear fisheries provides important data used to monitor catches of Atlantic highly migratory species (HMS) and supplements other existing data collection programs. Data collected through this program are used for both domestic and international fisheries management and stock assessment purposes.

Atlantic bluefin tuna (BFT) catch reporting provides real-time catch information used to monitor the BFT fishery. Under the Atlantic Tunas Convention Act of 1975 (ATCA, 16 U.S.C. 971), the United States is required to adopt regulations, as necessary and appropriate, to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), including recommendations on a specified BFT quota. BFT catch reporting helps the United States monitor this quota and supports scientific research consistent with ATCA and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*). Recreational anglers and commercial handgear fishermen are required to report specific information regarding their catch of BFT.

Atlantic billfish and swordfish are managed internationally by ICCAT and nationally under ATCA and the Magnuson-Stevens Act. This collection provides information needed to monitor the recreational catch of Atlantic blue marlin, white marlin, and roundscale spearfish, which is applied to the recreational limit established by ICCAT, and the recreational catch of North Atlantic swordfish, which is applied to the U.S. quota established by ICCAT. This collection also provides information on recreational landings of West Atlantic sailfish, which is unavailable from other established monitoring programs.

Affected Public: Businesses or other for-profit organizations; individuals or households; and State, Local, or Tribal government.

Frequency: Irregular as the reporting requirement is triggered by landing a bluefin tuna, billfish, or swordfish. Most permit holders will only need to report once or twice a year. The state of Maryland and North Carolina will submit weekly or biweekly reports on their catch card programs, plus an annual summary report.

Respondent's Obligation: HMS Angling, Charter/Headboat, and Atlantic Tunas General category permit holders are required to report landings of billfish and swordfish and bluefin tuna catch (*i.e.,* landings and dead discards) within 24 hours. Permit holders in the state of Maryland and North Carolina are required to submit state landings report (catch card) and obtain a fish tag from a state reporting station before leaving the dock.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 *et seq.*).

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 0648–0328.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–21957 Filed 10–7–22; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Supervisory Highlights, Issue 27, Fall 2022

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Supervisory highlights.

SUMMARY: The Consumer Financial Protection Bureau (CFPB or Bureau) is issuing its twenty-seventh edition of Supervisory Highlights.

DATES: The Bureau released this edition of the Supervisory Highlights on its website on September 29, 2022. The findings included in this report cover examinations of student loan servicers.

FOR FURTHER INFORMATION CONTACT: Austin Hinkle, Senior Counsel, Office of Supervision Policy, at (202) 435–9506 or Pax Tirrell, Counsel, Office of Supervision Policy at (202) 435–7097. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

1. Introduction

The student loan servicing market has shifted significantly over the past two and a half years. The COVID–19 pandemic led to financial and operational disruptions at servicers. At the same time, the Federal loan payment suspension brought meaningful relief to borrowers. Recently, several Federal contractors left the market, and, as a result, nine million Federal student loan accounts transferred from one servicer to another. Additionally, the Department of Education (ED) introduced specific programs to broaden access to public service loan forgiveness and forgiveness through income-driven repayment. Post-secondary schools, such as for-profit colleges, continued to offer institutional loans that pose particular risks to consumers. During this period, the CFPB engaged in vigorous oversight of the consumer protections set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Consumer Financial Protection Act), in coordination with ED and State regulators.

In light of these developments, this *Supervisory Highlights Special Edition* focuses on three sets of significant supervisory findings. First, Supervision initiated work at certain institutional lenders and found that blanket policies to withhold transcripts in connection with an extension of credit are abusive under the Consumer Financial Protection Act. Second, Supervision engaged in oversight of major Federal loan transfers and identified certain

consumer risks related to those transfers. Third, Supervision identified a considerable number of violations of Federal consumer financial law by student loan servicers in administering Public Service Loan Forgiveness (PSLF), Income-Driven Repayment (IDR), and Teacher Loan Forgiveness (TLF).

Supervision found that servicers regularly provide inaccurate information and deny payment relief to which borrowers are entitled. ED is addressing some of these risks through program changes like the PSLF and IDR program waivers, as well as improved vendor oversight. The extensions to the COVID–19 payment pause for federally owned loans also has given ED some breathing room to implement these changes. However, the findings documented in this report impact servicers' entire portfolios, including commercially owned Federal Family Education Loan Program (FFELP) loans, and CFPB encourages servicers to address the issues across their portfolios.

1.1 Private Student Loans

Private student loans are extensions of credit made to students or parents to fund undergraduate, graduate, and other forms of postsecondary education that are not made by ED pursuant to title IV of the Higher Education Act (title IV). Banks, non-profits, nonbanks, credit unions, state-affiliated organizations, institutions of higher education, and other private entities hold an estimated $128 billion in these student loans, as reported to the national consumer reporting companies. Private student loans include traditional in-school loans, tuition payment plans, income share agreements, and loans used to refinance existing Federal or private student loans.[1]

The private student loan market is highly concentrated—the five largest private education loan providers make up over half of outstanding volume. For the most recent academic year, consumers took out $12.2 billion in-school private education loans, which reflects a 15 percent year over year reduction from 2019–20, driven by recent enrollment declines. Additionally, industry sources estimate refinancing activity in calendar year 2021 at $18 billion; demand for private refinancing appears to have declined significantly because of the pause in Federal student loan repayment and the recent rise in interest rates.[2]

Postsecondary institutions sometimes provide loans directly to their students; this practice is known as institutional lending.[3] Aggregate data on institutional lending are limited. Underwriting requirements and pricing of institutional loans vary widely, ranging from low-interest rate, subsidized loans that do not require co-signers to unsubsidized loans that accrue interest during and after the student's enrollment and do require borrowers to meet underwriting standards or obtain qualified co-signers. At the same time, many institutions also extend credit for postsecondary education through products like deferred tuition or tuition payment plans. Student loans and tuition billing plans may be managed by the institutions themselves or by a third-party service provider that specializes in institutional lending and financial management. Supervisory observations suggest that some institutional credit programs have delinquency rates greater than 50 percent.

Additionally, students may withdraw from their classes before completing 60 percent of the term, triggering the return of a prorated share of title IV funds to Federal Student Aid (FSA), known as ''return requirements.'' Institutions of higher education often charge tuition even where students do not complete 60 percent of the term. When a student withdraws from classes without completing 60 percent of the term, the institution often refunds the title IV funds directly to FSA and, in turn, bills students for some or all of the amount refunded to FSA, since the school is maintaining its tuition charge for the classes. Institutions handle these debts in a variety of ways, but many offer payment plans and other forms of credit to facilitate repayment. In aggregate, these debts, called ''Title IV returns,'' can total millions of dollars. Supervisory observations indicate that some of these repayment plans can include terms requiring repayment for more than four years.

1.2 Federal Student Loans

ED dominates the student loan market, owning $1.48 trillion in debt comprising 84.5 percent of the total market, and it guarantees an additional $143 billion of FFELP and Perkins loans. All told, loans authorized by title IV of the Higher Education Act account for 93 percent of outstanding student loan balances.[4]

The Federal student loan portfolio has more than tripled in size since 2007, reflecting rising higher education costs, increased annual and aggregate borrowing limits, and increased use of Parent and Grad PLUS loans. Annual Grad PLUS origination volume has more than quadrupled in that time, expanding from $2.1 billion to an estimated $11.6 billion during the 2020–21 academic year.[5] Before the COVID–19 pandemic, Parent PLUS volume peaked at $12.8 billion (in current dollars) in loans originated in the 2018–2019 academic year. Combined, these products accounted for 26 percent of all title IV originations in the most recent academic year.

Federal student loans suffer high default rates. As of March 2022, approximately $171 billion in outstanding title IV loans were in default. This represents nearly 11 percent of outstanding balances but 19 percent of Federal student loan borrowers—a figure that would surely be higher but for the federally owned loan payment suspension. Federal ownership and management of more than four-fifths of outstanding student loans enabled the government, at the outset of the pandemic in March 2020, to directly assist more than 40 million borrowers through the CARES Act and a series of executive orders.

Servicers are responsible for processing a range of different payment relief applications or requests including PSLF, TLF, and IDR, as well as payment pauses including deferment and forbearance. The volume of these applications changes significantly over time based on servicer account volume and external events such as the expected return to repayment following COVID–19 related forbearance. To illustrate these trends, Figure 1 shows the total incoming IDR applications and processed applications from October 2021 through July 2022 at one servicer.[6]

[1] Recently, institutions and other private actors started offering new private student loan products branded as ''income share agreements'' (ISAs). At least several dozen postsecondary institutions directly offer income share agreements (ISAs), which require consumers to pledge a given percentage of their incomes over a specified period. The repayment process for ISAs may result in consumers realizing very large APRs or prepayment penalties that may be illegal under the Truth In Lending Act or State usury caps.

[2] Navient, July 2022 investor presentation, *https://navient.com/Images/SFVegas-2022-Investor-Presentation_tcm5-25984.pdf,* at 7.

[3] This category does not include Perkins loans, which were issued by schools but largely funded by title IV Federal funds distributed to schools.

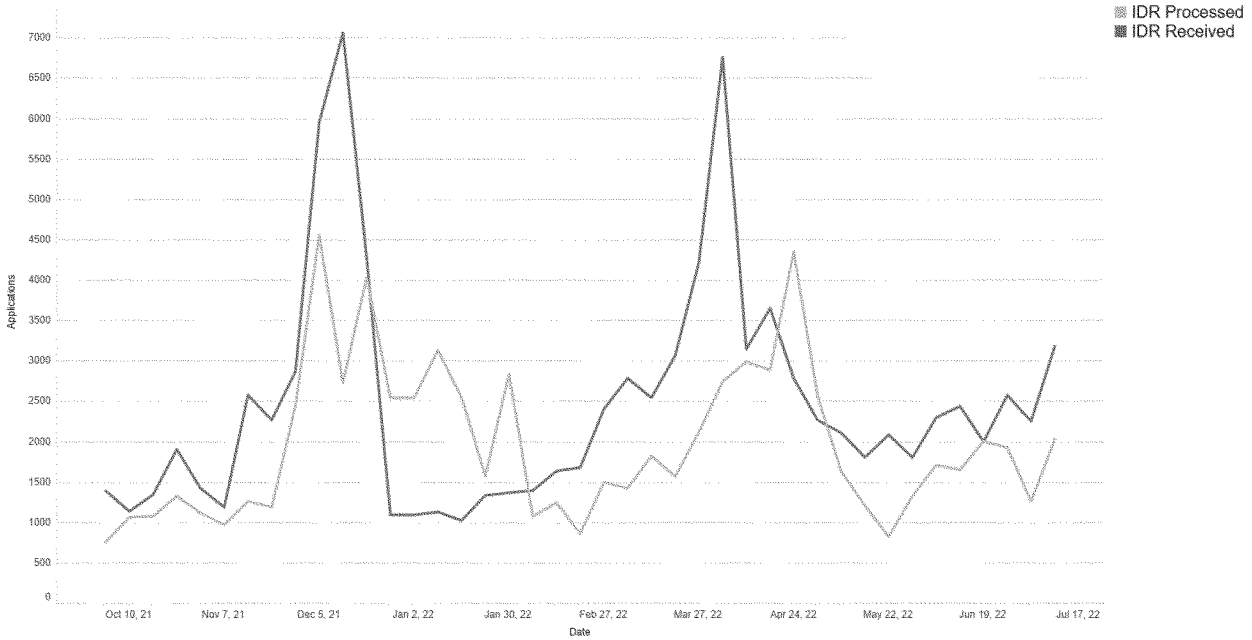
[4] *See https://www.newyorkfed.org/microeconomics/hhdc/background.html,* and *https://www.newyorkfed.org/microeconomics/topics/student-debt.*

[5] In comparison, annual student borrowing under the subsidized and unsubsidized Stafford loan program rose from $49.4B in 2006–07 to a peak of $87.8B in AY2010–11 before beginning a downward trend that tracked with falling undergraduate enrollment that was exacerbated by the COVID pandemic. Stafford originations in AY2020–21 totaled $62.1B, down more than 29 percent from AY2010–11.

[6] Examiners collected these data in 2021 and 2022.

For example, in December 2021, many borrowers expected to start repaying their loans imminently and thus submitted IDR applications. In light of the intermittent increases in application volume, servicers frequently did not respond timely to borrowers' applications. Additionally, at any given time, servicers may have a meaningful number of unprocessed applications because they wait to process the recertifications until closer in time to the recertification due date.

Figure 1: Receiving Servicer IDR Applications - Processed and Received



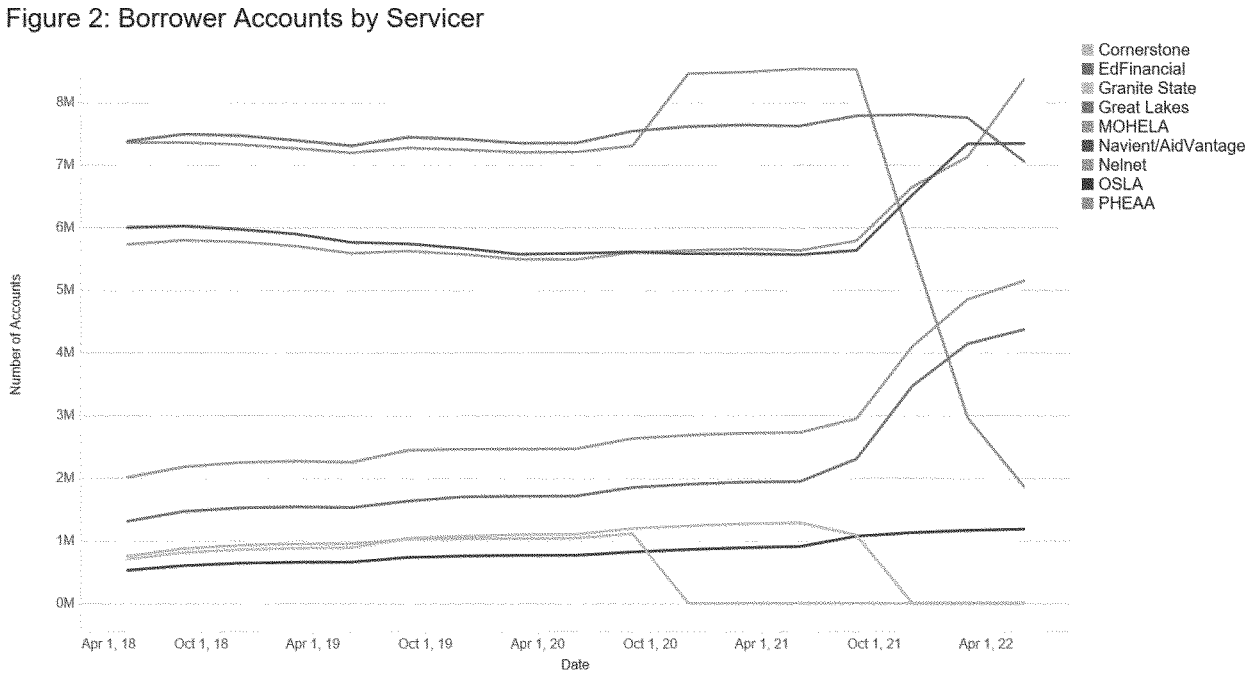
ED contracts with several companies to service Direct and ED-owned FFELP loans. When one of these companies decides to stop servicing loans, the accounts are transferred to another contractor. As shown in Figure 2, the recent departures of Granite State and PHEAA/FedLoan Servicing resulted in the transfer of millions of borrower accounts among the remaining Federal loan servicers.[7]

Where a borrower's data has become lost or corrupted as a result of poor data management by a particular servicer, subsequent transfers may result in servicers sending inaccurate periodic statements, borrowers losing progress toward forgiveness, and borrowers having difficulty in rectifying past billing errors.[8] To prepare consumers for the transfers, the CFPB published specific information for consumers, including advising them to remain vigilant toward potential scams at a time when they are particularly vulnerable.[9]

[7] FSA provided these data and authorized publication here.

[8] *See generally Conduent Education Services, LLC* (consent order), Administrative Proceeding (File No. 2019–BCFP–0005), Bureau of Consumer Financial Protection.

[9] *https://www.consumerfinance.gov/about-us/blog/student-loans-transferring-to-new-servicer-learn-what-this-means-for-you/.*



2. Institutional Lending

Earlier this year, the CFPB announced it would begin examining the operations of institutional lenders, such as for-profit colleges, that extend private loans directly to students.[10] The lenders have not historically been subject to the same servicing and origination oversight as traditional lenders. Considering these risks, the Bureau is examining these entities for compliance with federal consumer financial laws.

2.1 Examination Process

Simultaneously with issuing this edition of *Supervisory Highlights,* the Bureau has updated its *Education Loan Examination Procedures.* The Consumer Financial Protection Act provides the Bureau with authority to supervise nonbanks that offer or provide private education loans, including institutions of higher education.[11] To determine which institutions are subject to this authority, the Consumer Financial Protection Act specifies that the Bureau may examine entities that offer or provide private education loans, as defined in section 140 of the Truth in Lending Act (TILA), 15 U.S.C. 1650. Notably, this definition is different than the definition used in Regulation Z. However, a previous version of the Bureau's *Education Loan Examination Procedures* referenced the Regulation Z definition. The new version has now been updated to tell examiners that the Bureau will use TILA's statutory definition of private education loan for the purposes of exercising the Consumer Financial Protection Act's grant of supervisory authority.[12] The new exam manual thus instructs examiners that the Bureau may exercise its supervisory authority over an institution that extends credit expressly for postsecondary educational expenses so long as that credit is not made, insured, or guaranteed under title IV of the Higher Education Act of 1965, and is not an open-ended consumer credit plan, or secured by real property or a dwelling.[13]

Compliance Tip: Schools should evaluate the financial services they offer or provide and ensure they comply with all appropriate consumer financial laws.

The *Education Loan Examination Procedures* guides examiners when reviewing institutional loans by identifying a range of important topics including the relationship between loan servicing or collections and transcript withholding.

Where higher education institutions extend credit, the dual role of lender and educator provides institutions with a range of available collection tactics that leverage their unique relationship with students. For example, some postsecondary institutions withhold official transcripts as a collection tactic. Institutions often withhold transcripts from their students who are delinquent on debt owed to the institution, while also requiring new students to provide official transcripts from schools they previously attended. Collectively, this industry practice creates a circumstance in which a formal official transcript is necessary for students to move from one school to another, creating a powerful mechanism to enforce payment demands even when consumers seek to attend a competitor school. Consumers who cannot obtain an official transcript could be locked out of future higher education and certain job opportunities.

2.2 Transcript Withholding Findings

Examiners found that institutions engaged in abusive acts or practices by withholding official transcripts as a blanket policy in conjunction with the extension of credit. These schools did not release official transcripts to consumers that were delinquent or in default on their debts to the school that arose from extensions of credit. For borrowers in default, one institution refused to release official transcripts even after consumers entered new payment agreements; rather, the institution waited until consumers paid their entire balances in full. In some cases, the institution collected payments

[10] Consumer Financial Protection Bureau to Examine Colleges' In-House Lending Practices, *https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-to-examine-colleges-in-house-lending-practices/.*

[11] 12 U.S.C. 5514 (a)(1)(D).

[12] *https://www.consumerfinance.gov/compliance/supervision-examinations/education-loan-examination-procedures/.*

[13] This definition does not include Regulation Z's exceptions for tuition payment plans or very short-term credit. Thus, institutions may offer private education loans that make them subject to the Bureau's supervisory authority even if Regulation Z exempts them from disclosure requirements.

for transcripts but did not deliver those transcripts if the consumer was delinquent on a debt.

An act or practice is abusive if it, among other things, takes unreasonable advantage of the inability of a consumer to protect the interests of the consumer in selecting or using a consumer financial product or service. Examiners found that institutions took unreasonable advantage of the critical importance of official transcripts and institutions' relationship with consumers. Since many students will need official transcripts at some point to pursue employment or future higher education opportunities, the consequences of withheld transcripts are often disproportionate to the underlying debt amount. Additionally, faced with the choice between paying a specific debt and the unknown loss associated with long-term career opportunities of a new job or further education, consumers may be coerced into making payments on debts that are inaccurately calculated, improperly assessed, or otherwise problematic.

This heightened pressure to produce transcripts leaves consumers with little-to-no bargaining power while academic achievement and professional advancements depend on the actions of a single academic institution. Other consumers might simply abandon their future higher education plans when faced with a transcript hold. At the same time, the institution does not receive any intrinsic value from withholding transcripts. Unlike traditional collateral, transcripts cannot be resold or auctioned to other buyers if the original debtor defaults.

Consumers do not have a reasonable opportunity to protect themselves in these circumstances. Since most institutional debt is incurred after consumers have already selected their schools, they may be practically limited to a single credit source. After consumers select their schools, those schools have a monopoly over the access to an official transcript. At the point where consumers need a transcript, they cannot simply select a different school to provide it. For these reasons, Supervision determined that blanket policies to withhold transcripts in connection with an extension of credit are abusive under the Consumer Financial Protection Act and directed institutional lenders to cease this practice.

3. Supervision of Federal Student Loan Transfers

In July of 2021, PHEAA and Granite State announced they were ending their contracts with FSA for student loan servicing, triggering the transfer of more than nine million borrower accounts.[14] The Bureau reviewed the transfers of one or more transferee and transferor servicers, with a focus on assessing risks and communicating these risks to supervised entities promptly so that they could address the risks and prevent consumer harm. The Bureau coordinated closely with FSA and State partners as they also conducted close oversight of the loan transfers.

3.1 Supervisory Approach

The Bureau's supervisory approach included three components: pre-transfer monitoring and engagement, real-time transaction testing during the transfers, and post-transfer review and analysis. Throughout this process the Bureau worked closely with ED's primary office handling student loans, Federal Student Aid (FSA), and State supervisors including the California Department of Financial Protection and Innovation, Colorado Attorney General's Office, Connecticut Department of Banking, Illinois Department of Financial and Professional Regulation, Washington Department of Financial Institutions, and Massachusetts Division of Banks. This coordination significantly improved oversight.

Pre-transfer monitoring and engagement included an evaluation of transfer-related policies and procedures in accordance with the *Education Loan Examination Procedures,* coordination between the Bureau and FSA in issue and risk identification, and direct engagement between Supervision leadership and specific servicers.

A significant aspect of the oversight involved transaction testing sampled accounts on both ends of the transfer. Within these samples, examiners identified discrepancies between relevant servicers' data and requested clarification to determine whether they represented transfer errors or other consumer risks. Subsequently, the Bureau reviewed these data to identify systemic risks to consumers from the transfers and root causes of the identified discrepancies. Through this process, the Bureau provided rapid feedback to servicers and is closely coordinating with FSA to improve consumer outcomes and drive toward timely solutions to any errors.

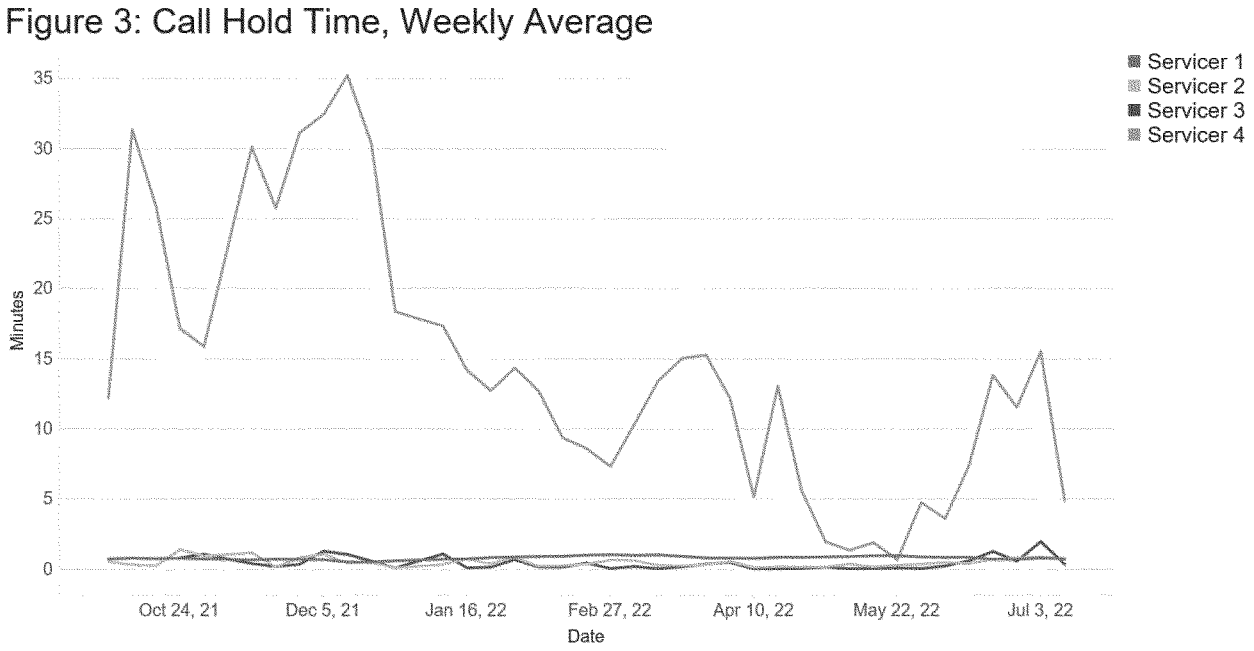
Overall, the near real-time supervision of a portfolio transfer alongside FSA and State regulators was a novel approach. Many of the findings detailed below were resolved, and the corrections help to prevent the type of long-term consumer harm seen in prior transfers.

3.2 Findings

Based on the work described above, examiners issued interim supervisory communications to certain entities documenting consumer risks and directing them to take action to address those risks. Notable findings include:

- Many servicers reported that the initial set of information they received during the transfer was insufficient to accurately service loans. In some cases, important account information was missing or provided in an unusable format. For example, examiners identified inaccurate information about certain consumers' monthly payment amounts, due dates, and payment plans. The root cause of many of these discrepancies was one servicer's failure to include current repayment schedules—data showing future expected monthly payments based on consumers' repayment plans—for many accounts in the transfer. This error occurred for hundreds of thousands of accounts.
- Transferee and transferor servicers reported different numbers of total payments that count toward IDR forgiveness for some consumers.
- One servicer sent statements to more than 500,000 consumers that presented inaccurate information about the borrower's next due date and, separately, the date Federal student loans were set to return to repayment.
- One servicer placed certain accounts into transfer-related forbearances following the transfer, instead of the more advantageous CARES Act forbearances.
- Multiple servicers experienced significant operational challenges in managing the transfers at the same time they were implementing major program changes. The payment pauses and extensions, PSLF waiver, and transfers drove increased call volume and applications for payment relief. Some servicers were inadequately staffed, making them unable to effectively manage this volume. As shown in Figure 3, call wait times and average processing time for payment relief increased significantly.

[14] *https://www.pheaa.org/documents/press-releases/ph/070721.pdf; https://nhheaf.org/pdfs/press/2021/NHHEAF_Network_Public_Announcement_07-19-21.pdf.* The total volume of transfers between entities is 14 million borrower accounts, but the transfer from Navient to Maximus of five million accounts did not involve borrower accounts moving to a new servicing platform.



- Some accounts transferred with inaccurate capitalization or paid ahead status. These errors caused the transferee servicer to misrepresent consumers' payment amounts or due dates.

Critically, the ongoing payment pause provides servicers and FSA with more time to correct transfer-related errors by making manual account adjustments, transferring supplemental account information, and correcting previous inaccurate or misleading statements.

Compliance Tip: Prior to a transfer, institutions should engage in robust data mapping exercises that include test transfers to minimize errors.

Supervision issued Matters Requiring Attention (MRAs) across student loan servicers in a series of interim supervisory communications directing them to act before the transfers concluded to correct many of the issues discussed above.[15] Servicers are currently working to resolve these issues. Supervision issued MRAs directing servicers to:

- Update their systems with accurate repayment schedules and other missing information;
- Correct misrepresentations on their websites and provide disclaimers where they did not have complete and accurate account details;
- Correct the type of forbearance applied to transferred accounts, ensuring that CARES Act forbearances are applied rather than less-advantageous transfer-related forbearances for the relevant period;
- Correct credit reporting errors;
- Improve their own internal due diligence through additional audits focused on critical date elements;
- Improve transfer-related training for call center representatives; and
- Develop and implement staffing plans to address operational challenges.

In addition, supervisory personnel coordinated closely with Federal Student Aid to ensure that both agencies benefit from the Bureau's work. The Bureau worked to verify compliance with these MRAs while FSA directed complementary corrective action and tracked progress towards the resolution of systematic errors such as the failure of one servicer to provide repayment schedules in its initial data transfer. In some cases, FSA's programmatic and contractual tools were brought to bear on complex issues that did not originate with the transfers. For example, the discrepancies revealed in IDR payment counting were not caused by the transfer itself. Rather, oversight of the transfer process revealed a range of operational differences and data weaknesses that predated the transfer. The recently announced IDR waiver may address many of these issues by standardizing the way periods of eligibility are counted and expanding the repayment, forbearance, and deferment periods considered as eligible payments toward IDR forgiveness. In this way, FSA aims to ensure that all consumers receive the full benefits to which they are entitled, regardless of the servicer or transfer status. It will also provide remediation to address certain prior misrepresentations through broadened eligibility.

4. Recent Exam Findings

The Bureau has supervised student loan servicers, including servicers responsible for handling Direct and other ED-owned loans, since it finalized the student loan servicing larger participant rule in 2014.[16] In many instances, examiners have identified servicers that have failed to provide access to payment relief programs to which students are entitled. Examiners identified these issues in both the Direct Loan and Commercial FFELP portfolios; in most cases the conduct constitutes the same unfair, deceptive, or abusive act or practice regardless of what entity holds the loan. The Bureau shared these findings with FSA at the time of the examinations, and in many cases FSA's subsequent programmatic changes including the PSLF and IDR waivers provide meaningful remediation to injured consumers.

4.1 Teacher Loan Forgiveness

Certain Federal student loan consumers are eligible for TLF after teaching full-time for five consecutive academic years in an elementary school, secondary school, or educational service agency that serves low-income families. Consumers apply by submitting their

[15] Supervision issues MRAs to supervised entities that direct the entities to take certain steps to address violations or compliance weaknesses and provide written updates on their progress to the Bureau.

[16] For a period of time beginning in 2017, servicers did not provide information to the CFPB at ED's direction. Recently, coordination with ED/FSA increased significantly, including entering into appropriate confidentiality agreements. The findings documented below come from the first three exams completed after the Bureau resumed unrestricted oversight of federally owned student loans in 2020.

TLF applications to their servicers. These applications can be time consuming as they require consumers to solicit their schools' chief administrative officers to complete and sign a portion of the application. Servicers are responsible for processing these applications and sending applications that meet the eligibility criteria to FSA or the loan guarantor for final approval. In that process, servicers are responsible for, among other things, ensuring applications are complete, determining whether the consumer worked for the required period, and verifying that borrowers' employers are qualifying schools by cross matching the name of the employer provided against the Teacher Cancellation Low Income (TCLI) Directory.

4.1.1 Unfair and Abusive Practices in Connection With Teacher Loan Forgiveness Application Denials

Examiners found that servicers engaged in unfair acts or practices when they wrongfully denied TLF applications in three circumstances: (1) where consumers had already completed five years of teaching, (2) where the school was a qualifying school on the TCLI list, or (3) when the consumer formatted specific dates as MM–DD–YY instead of MM–DD–YYYY, despite meeting all other eligibility requirements.[17]

These wrongful denials resulted in substantial injury to consumers because they either lost their loan forgiveness or had their loan forgiveness delayed. Consumers who are wrongfully denied may understand that they are not eligible for TLF and refrain from resubmitting their TLF applications. Consumers could not reasonably avoid the injury because the servicer controlled the application process. Finally, the injury was not outweighed by countervailing benefits to consumers or competition.

An act or practice is abusive when a covered person takes unreasonable advantage of reasonable reliance by the consumer on a covered person to act in the interests of the consumer. A servicer also engaged in an abusive act or practice by denying TLF applications where consumers used a MM–DD–YY format for their employment dates, particularly where FSA had previously identified one such denial, directed the servicer to reconsider the application, and suggested the servicer refrain from date format denials going forward. The denial of forgiveness was detrimental to consumers, as described above. And the servicer may benefit from the conduct because servicers are paid monthly and denying forgiveness may prolong the life of the loan, generating additional revenue for the servicer.

Consumers reasonably rely on servicers to act in their interests, and this servicer encouraged consumers to consult with their representatives to assist in managing their accounts, including on its websites where it provided information about TLF. Further, it was reasonable for consumers who are applying for TLF to rely on their servicer to act in the consumers' best interests because processing forgiveness applications is a core function for student loan servicers, and they are entirely in control of their evaluation policies and procedures.

In response to these violations, examiners directed the servicer to review all TLF applications denied since 2014 to identify improperly denied applications and remediate harmed consumers to ensure they receive the full benefit to which they were entitled, including any refunds for excess payments or accrued interest.

Compliance Tip: Servicers should routinely approve applications for payment relief when they have all the required information to make decisions, even if that information is provided in a nonstandard format or across multiple communications.

4.2 Public Service Loan Forgiveness

The PSLF program allows borrowers with eligible Direct Loans who (i) work for qualifying employers in government or public service fields, (ii) make 120 on-time monthly qualifying payments, (iii) while in a qualified repayment plan, to have the remainder of their loans forgiven. Congress recognized in 2007 that the ''staggering debt burdens'' of higher education were driving students away from public service.[18]

By 2018, Congress came to understand that many consumers working in public service would never receive PSLF benefits due the complexities of higher education finance and eligibility requirements. At that time, the PSLF program had discharged loans for only 338 consumers despite receiving 65,500 applications.[19] At a minimum, many applicants had a fundamental misunderstanding about the program terms. In response, Congress authorized additional funding to extend the PSLF benefits to Direct Loan borrowers who would be eligible but for repaying under a non-qualifying repayment plan like the Extended or Graduated repayment plans. The Temporary Expanded PSLF (TEPSLF) allowed these consumers that meet certain additional requirements in their last year of repayment to have the balance of their loans forgiven.

Over the following three years, PSLF and TEPSLF canceled debts for 10,354 and 3,480 consumers, respectively.[20] However, these successful applications continued to be the exception, as more than half a million applications were rejected, including 409,000 from borrowers who had not been in repayment on a Direct Loan for 120 months. These data are explained in part by material misrepresentations by FFELP servicers about critical PSLF terms and application processes.[21]

In an effort to make the PSLF program ''live up to its promise,'' ED announced a PSLF waiver in October 2021.[22] The waiver significantly changed what periods of repayment were considered eligible and opened a pathway for FFELP borrowers to receive credit toward forgiveness for the first time, if those borrowers consolidate into Direct Loans by October 31, 2022, providing the potential for cancelation for nearly 165,000 borrowers with a total balance of $10.0 billion. In an effort to help identify and address servicing errors, ED announced that it would also review denied PSLF applications for errors and give borrowers the ability to have their PSLF determinations reconsidered.

[17] If a supervisory matter is referred to the Office of Enforcement, Enforcement may cite additional violations based on these facts or uncover additional information that could impact the conclusion as to what violations may exist.

[18] *E.g.,* 153 Cong. Rec. S9595 (daily ed. July 19, 2007) (statement of Senator Leahy) (''Because tuition has increased well beyond the rate of student assistance, students today are graduating with staggering debt burdens. With the weight of this debt on their backs, recent college graduates understandably gravitate toward higher paying jobs that allow them to pay back their loans. Unfortunately, all too often these jobs are not in the arena of public service or areas that serve the vital public interests of our communities and of our country. We need to be doing more to support graduates who want to enter public service, be it as a childcare provider, a doctor or nurse in the public health field, or a police officer or other type of first responder.'').

[19] FSA Public Service Loan Forgiveness Data, *https://studentaid.gov/data-center/student/loan-forgiveness/pslf-data.*

[20] *See* FSA November 2021 Public Service Loan Forgiveness Data, *https://studentaid.gov/data-center/student/loan-forgiveness/pslf-data.*

[21] *Supervisory Highlights,* Issue 24, Summer 2021. Consent Order, *EdFinancial Services, LLC,* 2022–CFPB–0001 (Consumer Financial Protection Bureau March 30, 2022).

[22] Press release, *U.S. Department of Education Announces Transformational Changes to the Public Service Loan Forgiveness Program, Will Put Over 550,000 Public Service Workers Closer to Loan Forgiveness* (October 6, 2021), *https://www.ed.gov/news/press-releases/us-department-education-announces-transformational-changes-public-service-loan-forgiveness-program-will-put-over-550000-public-service-workers-closer-loan-forgiveness.*

Starting in March 2020, the CARES Act provided additional relief for consumers. During the CARES Act payment suspension and subsequent extensions, consumers are not required to make any payments and can request a refund for any payments they did make. These protections were included in subsequent extensions of the repayment pause. Importantly, regardless of whether a consumers paid anything, all months during this time will count toward PSLF and other forgiveness programs.

During the periods covered by this report, borrowers submitted two kinds of PSLF forms: Employer Certification Forms (ECFs) and PSLF applications. ECFs certify that borrowers worked for qualifying employers for a specified period, while PSLF applications document their current qualifying employment and request forgiveness of the loans when they have reached 120 qualifying payments. A combined PSLF form was made available in November 2020 for both PSLF applications and ECFs.[23]

4.2.1 Unfair Practice of Providing Erroneous Initial PSLF Eligibility Determinations, Qualified Payment Counts, and Estimated Eligibility Dates

Results of ECFs and PSLF applications are communicated to consumers through letters telling consumers whether the form was approved or denied and including counts of consumers' total qualifying payments (QPs) and estimated eligibility dates (EEDs) for reaching the 120 payments required for forgiveness. Examiners identified both wrongful denials and approvals of applications or ECFs. In many cases, the servicer corrected these errors months later, after the consumer complained or the servicer identified the issue. In the sample reviewed, examiners found that the servicer wrongfully approved ECFs where the borrowers had ineligible employment or had loans that were otherwise ineligible. This representation could lead consumers to falsely believe they are accruing credit toward forgiveness and delay taking steps like loan consolidation that could actually make them eligible. Other ECFs were wrongfully denied when representatives erroneously determined the forms had invalid employment dates, were missing an employer EIN, or were otherwise incomplete—when in fact they were not.

Examiners also found that a servicer engaged in an unfair act or practice by miscalculating consumers' total QPs or EEDs and then communicating that erroneous information to consumers pursuing PSLF. Examiners' sample suggests these errors were common with many consumers receiving multiple incorrect QP or EED determinations across multiple ECF submissions.

Wrongful approvals and denials and incorrect PSLF eligibility information resulted in a substantial injury because the availability of PSLF can substantially impact borrowers' careers, financial situation, and life choices. Depending on the circumstances, consumers may have committed to additional work with their employers for these months, instead of pursuing other opportunities; made other major financial decisions, such as financing the purchase of a residence or automobile; or delayed consolidation of their FFELP loans. The injury is not reasonably avoidable because borrowers have no choice among student loan servicers, no way to ensure the servicer properly processed these forms and were often not aware of the processing errors. Finally, the injury was not outweighed by countervailing benefits to consumers or competition because there is no direct benefit to consumers or competition created by improper approvals or denials.

4.2.2 Deceptive Practice of Misleading Borrowers About Student Loan Covid–19 Payment Suspension Refunds and PSLF Forgiveness

Despite the PSLF-related benefits of the CARES Act payment suspension, some consumers seeking PSLF continued to make payments on their student loans during the suspension. Examiners found that at least one servicer engaged in a deceptive act or practice by implicitly representing to these consumers that they must make payments during the COVID–19 payment suspension for those months to be eligible for PSLF. During the suspension, consumers received standard PSLF communications including denials that informed them that qualifying payments are ones made under specific repayment programs—known as REPAYE, PAYE, IBR, and ICR. Other letters informed consumers that the estimated eligibility date is based on making ''on-time, qualifying payments every month'' when in fact no monthly payments were required for the period of the payment suspension. Taken together, these communications created the implicit representation that consumers' payments made between March 2020 and the effective date of forgiveness were necessary for PSLF when in fact they were not.

Hundreds of consumers faced this situation, and in the first year of the payment suspension approximately eight percent of all consumers that earned PSLF forgiveness had made payments during the payment suspension but did not receive a refund of those payments upon achieving forgiveness. Consumers rely on servicers to provide accurate information about forgiveness programs, so they reasonably believed that those payments were necessary. These representations were material because if consumers knew these payments were refundable, they likely would have requested a refund as those payments were unnecessary for achieving PSLF.

4.2.3 Unfair Practice of Excessive Delays in Processing PSLF Forms

Examiners found that at least one servicer engaged in an unfair act or practice when it excessively delayed processing PSLF forms. In some cases, these delays lasted nearly a year. These delays could change borrowers' decisions about consolidation, repayment plan enrollment, or even employment opportunities. For example, when FFELP loan borrowers apply for PSLF, they are denied because those loans are ineligible, but they are told that a consolidation could make the loan eligible. Therefore, a delay in processing the PSLF form could cause consumers to delay consolidation and delay their ultimate forgiveness date.[24] In addition, examiners observed that some borrowers spent unnecessary time contacting their servicers to expedite the process or receive status updates when these forms were delayed. Consumers plan around their debt obligations, and excessive delays can alter consumers' major financial decisions and cause substantial injury that is not reasonably avoidable and not outweighed by countervailing benefits to consumers or competition.

Compliance Tip: Servicers should regularly monitor both the average time for application review and outlier experiences. Delays in processing forms can be unfair even where they affect a subset of the portfolio.

[23] *See https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2020-10-28/changes-public-service-loan-forgiveness-pslf-program-and-new-single-pslf-form.https://www.pheaa.org/documents/press-releases/ph/070721.pdf.*

[24] The PSLF waiver will provide meaningful remediation to this population by automatically counting periods of FFELP repayment as eligible if the borrower consolidates their loan by the deadline and submits the PSLF form for the relevant time period.

4.2.4 Deceptive Practice of Misrepresenting PSLF Eligibility to Borrowers Who May Qualify for TEPSLF

Before ED announced the PSLF waiver, examiners found that certain servicers engaged in deceptive acts or practices when they explicitly or implicitly misrepresented that borrowers were only eligible for PSLF if they made payments under an IDR plan, when in fact those borrowers may be eligible for TEPSLF. One servicer's training materials specifically advised representatives not to initiate a conversation regarding TEPSLF. Examiners identified calls where representatives told borrowers that there was nothing they could do to make years of payments under graduated or extended payment plans eligible for PSLF. In response to a direct question from a consumer about her nearly 12 years of payments, one representative explained that they ''count for paying down your loan, but it doesn't count for PSLF.''

This false information that borrowers could only obtain PSLF through qualifying payments under an IDR plan, when TEPSLF was available, was likely to mislead borrowers. Based on this false information, consumers considered other options besides PSLF like paying their loans down with lump sum payments. These misrepresentations also caused certain consumers to refrain from applying for IDR because they understood that they had not made any eligible payments while enrolled in graduated or extended plans.

4.2.5 Remediation for PSLF-Related UDAAPs

Broadly, the PSLF violations identified relate to erroneous ECF and PSLF application determinations or servicers deceiving borrowers by providing incomplete or inaccurate information to consumers about the program terms. At present, the PSLF waiver can address many of the most significant consumer injuries by crediting certain past periods that were previously ineligible, assuming that consumers receive the benefits of the waiver as designed. In addition, Supervision directed the servicer to complete reviews of PSLF determinations and to identify consumers impacted by the violations. The servicer will audit the work and report on the remediation-related findings to the Bureau. Where consumers continue to face financial injuries from these violations, the servicer will provide monetary remediation. In addition, the servicer will notify consumers who were not otherwise updated on the status of their PSLF applications that certain information they received was incorrect, and it will provide those consumers with updated information.

Compliance Tip: Entities should review Bulletin 2022–03, *Servicer Responsibilities in Public Service Loan Forgiveness Communications,* which details compliance expectations in light of the PSLF waiver. As explained in the Bulletin, ''After the PSLF Waiver closes, direct payments to borrowers may be the primary means of remediating relevant UDAAPs.''

4.3 Income-Driven Repayment

Federal student loan borrowers are eligible for a number of repayment plans that base monthly payments on their income and family size. Over the years, the number of IDR programs has expanded, and today several types of IDR plans are available depending on loan type and student loan history. Most recently, ED implemented the Revised Pay As You Earn (REPAYE) for certain Direct student loan borrowers. For most eligible borrowers, REPAYE results in the lowest monthly payment of any available IDR plan.[25] By the end of 2020, more than 12 percent of all Direct Loan borrowers in repayment were enrolled in REPAYE.[26]

Enrollment in these plans requires consumers to initially apply and then recertify annually to ensure payments continue to reflect consumers' current income and family size. Consumers supply their adjusted gross income (AGI) by providing their tax returns or alternative documentation of income (ADOI). ADOI requires consumers to submit paper forms and specified documentation (such as paystubs) for each source of taxable income. The servicer then uses this information to calculate the consumer's AGI and resulting IDR payment. When computing the IDR payment, servicers must also consider consumers' spouses' Federal student loan debt.[27]

Consumers might not timely recertify their IDR plans for various reasons including, but not limited to, they may not have understood that recertification was necessary, or they may have encountered barriers in the recertification process. Likewise, some borrowers may have experienced a boost in income making the standard repayment amounts manageable. Regardless, many consumers who fall out of an IDR plan seek to reenroll at some point in the future. This creates a gap period between IDR enrollments. Unlike other IDR plans, REPAYE requires consumers to submit documentation to demonstrate their income during the gap period before they can be approved to return. Servicers use this documentation to determine whether consumers paid less during the gap period than they would have under REPAYE. If so, servicers calculate catch-up payment amounts that get added to consumers' monthly income-derived payments.

During the COVID–19 payment suspension, ED did not require consumers to recertify their incomes. Consumers' payment amounts and duration of IDR enrollments were essentially paused in March of 2020. Recently, ED authorized servicers to accept consumers' oral representation of their incomes over the phone for the purposes of calculating an IDR payment amount. ED will not require consumers that provide their incomes this way to provide any further documentation demonstrating the accuracy of that amount.

In April 2022, ED announced it was taking steps to bring more borrowers closer to IDR forgiveness.[28] ED is conducting a one-time payment count adjustment to count certain periods in non-IDR repayment plans and long-term forbearance.[29] This waiver can help address past calculation inaccuracies, forbearance steering, and misrepresentations about the program terms. While the revision will be applied automatically for all Direct Loans and ED-held FFELP loans, Commercial FFELP loan borrowers can

[25] Under the program's terms, consumers are generally entitled to make monthly payments equal to 10 percent of their discretionary income. After repaying for 20 years (on undergraduate loans) or 25 years (for borrowers who received any Federal loans to finance graduate school), any remaining balance on the loans are forgiven.

[26] An additional 5 percent of consumers were enrolled in the Alternative repayment plan—the plan in which borrowers are placed in if they do not recertify their income or enroll in another repayment plan. *https://studentaid.gov/data-center/student/portfolio.*

[27] *See https://www.studentaid.gov/sa/repay-loans/understand/plans/income-driven#apply* (''If you do not meet the conditions for documenting your income using AGI—you have not filed a Federal income tax return in the past two years, or the income on your most recent Federal income tax return is significantly different from your current income—you must provide alternative documentation of income.'').

[28] *https://www.ed.gov/news/press-releases/department-education-announces-actions-fix-longstanding-failures-student-loan-programs.*

[29] ED also announced that it was issuing new guidance to student loan servicers to ensure accurate and uniform payment counting, that it would track payments on a modernized data system, and that it would seek to display IDR payment counts on StudentAid.gov that borrowers could access on their own. *See https://studentaid.gov/announcements-events/idr-account-adjustment.*

only become eligible if they apply to consolidate their Commercial FFELP loans into a Direct Consolidation Loan within the waiver timeframe. FSA estimates the changes will result in immediate debt cancellation for more than 40,000 borrowers, and more than 3.6 million borrowers will receive at least three years of credit toward IDR forgiveness.[30] The pool of borrowers who may potentially benefit from IDR forgiveness is large. As of March 2022, one third of Direct Loan borrowers in repayment were enrolled in an IDR plan.[31]

4.3.1 Unfair Act or Practice of Improper Processing of Income-Driven Repayment Requests

Examiners found that servicers engaged in unfair acts or practices when they improperly processed consumers' IDR requests resulting in erroneous denials or inflated IDR payment amounts. Servicers made a variety of errors in the processing of applications: (1) erroneously concluding that the ADOI documentation was not sufficient,[32] resulting in denials; (2) improperly considering spousal income that should have been excluded, resulting in denials; (3) improperly calculating AGI by including bonuses as part of consumers' biweekly income, resulting in higher IDR payments; (4) failing to consider consumers' spouses' student loan debt, resulting in higher IDR payments; and (5) failing to process an application because it would not result in a reduction in IDR payments, when in fact it would. These practices caused or likely caused substantial injury in the form of financial loss through higher student loan payments and the time and resources consumers spent addressing servicer errors. Consumers could not reasonably avoid the injury because they cannot ensure that their servicers are properly administering the IDR program and would reasonably expect the servicer to properly handle routine IDR recertification requests. The injury was not outweighed by countervailing benefits to consumers or competition resulting from the practice, as servicers should be able to process IDR requests in accordance with ED guidelines.

4.3.2 Unfair Practice of Failing to Sufficiently Inform Consumers About the Need To Provide Certain Income Documentation When Reentering the REPAYE Payment Plan

Consumers enroll in REPAYE by submitting a form with income documentation; they must recertify annually. Consumers who fail to recertify on time are removed from REPAYE and placed into the ''Alternative repayment plan'' which has monthly payments that are generally significantly higher than those under the REPAYE plan.[33] Many consumers attempt to reenroll in REPAYE creating a gap period that can range from one month to multiple years. Consumers who apply to reenroll in REPAYE must provide income documentation for the gap period. At one servicer, during a two-year period only 12 percent of applicants attempting to reenter REPAYE for the first time provided the required gap period income documentation. Among the 88 percent that were initially denied for this reason, 74 percent were delinquent six months later compared to only 23 percent of consumers who had been successfully reenrolled in REPAYE.

Examiners found that servicers engaged in an unfair act or practice when they failed to sufficiently inform consumers about the need to provide additional income documentation for prior gap periods when reentering the REPAYE repayment plan. By failing to sufficiently inform consumers about the need for income documentation for gap periods, servicers likely caused the failure of many consumers to successfully reenter REPAYE with their first applications because consumers were unaware of this requirement. This caused or was likely to cause substantial injury because consumers are deprived of the benefits of the REPAYE program (which often offers the lowest repayment amount among IDR plans). Consumers could not reasonably avoid the injury because their servicers did not inform them of the requirement to include income documentation during the gap period.

Compliance Tip: Compliance officers should monitor consumer outcome data to identify potential unfair, deceptive, or abusive acts or practices. Delinquency rates and frequent denials on applications for payment relief may suggest the company is not meeting its obligations under the Consumer Financial Protection Act.

4.3.3 Deceptive Practice of Providing Inaccurate Denial Letters to Consumers Who Applied for IDR Recertification

Starting in March of 2020, the CARES Act and subsequent executive orders suspended payments on all ED-owned student loans and temporarily set interest rates to zero percent. These executive orders also extended the ''anniversary date'' for consumers to recertify income for their IDR plans to after the end of the payment suspension.

Examiners found that servicers engaged in a deceptive act or practice by providing consumers with a misleading denial reason after they submitted an IDR recertification application. Servicers told consumers that they were denied because the executive orders suspending payments had delayed their anniversary date, which made their applications premature. In fact, servicers denied the applications because the consumers' income had increased, in some cases rendering the consumer no longer eligible for an income-driven payment amount under their IDR program because their income-based payment exceeded the standard repayment amount.[34] These denial letters were likely to mislead consumers and affect important decisions related to their repayment elections. For example, a consumer who knew their application was rejected because of an increase in income (instead of the extension of the anniversary date) would know to refile if their income had actually decreased. And even if consumers did not have a decrease in income, having information indicating that their IDR application was denied because of a payment increase would assist them in financial planning for future payments.

4.3.4 Deceptive Practice of Misrepresenting Eligibility of Parent PLUS Loans for Income-Driven Repayment and PSLF

Parent PLUS loans allow parents to fund educational costs for dependent students. Parent PLUS loans are eligible for one IDR plan, ICR, if the loans are first consolidated into Direct Consolidation loans. Generally, to benefit from PSLF, borrowers with Parent PLUS Loans must consolidate their loans into Direct Consolidation loans and make qualifying payments under an ICR plan.

[30] *https://www.ed.gov/news/press-releases/department-education-announces-actions-fix-longstanding-failures-student-loan-programs.*

[31] *https://studentaid.gov/sites/default/files/fsawg/datacenter/library/DLPortfoliobyRepaymentPlan.xls.*

[32] For example, denying an IDR application because there is no pay frequency listed on a paystub when in fact the paystub showed the frequency, or the borrower wrote the frequency on the paystub.

[33] Specifically, the monthly payment under this plan is the fixed amount necessary to repay the loan in the lesser of 10 years or whatever is left on the consumer's 20- or 25-year REPAYE repayment period.

[34] In other instances, the payment increased but the consumer was still eligible for the income-based payment plan. Servicers' policy was to deny applications before the anniversary date that resulted in increased payments.

Examiners found that servicers engaged in deceptive acts or practices when they represented to consumers with parent PLUS loans that they were not eligible for IDR or PSLF. In fact, parent PLUS loans may be eligible for IDR and PSLF if they are consolidated into a Direct Consolidation Loan. These representations were likely to cause reasonable borrowers considering IDR or PSLF for Parent PLUS loans to forgo taking any future steps to pursue those programs. Examiners directed servicers to improve policies and procedures, enhance training, and improve monitoring to prevent future violations.

5. Conclusion

The Bureau will continue to supervise student loan servicers and lenders within its supervisory jurisdiction—regardless of the institution type. *Supervisory Highlights* can aid these entities in their efforts to comply with Federal consumer financial law and manage compliance risks. This report shares information regarding general supervisory findings, observations related to the recent transfer of millions of federally owned student loan accounts, and violations of the Consumer Financial Protection Act's prohibition on unfair, deceptive, and abusive acts or practices.

The Bureau recommends that market participants—student loan servicers, originators, and loan holders—review these findings and implement changes within their own operations to ensure that these risks are thoroughly addressed. The Bureau expects institutions to incorporate measures to avoid these violations and similar consumer risks into internal monitoring and audit practices. Robust compliance programs seek to eliminate the problematic practices described in *Supervisory Highlights* while ensuring that consumers receive complete remediation for any past errors. Evidence of strong compliance programs that take these steps is a factor in the Bureau's risk-based supervision program and tool choice decisions, including decisions on whether or not to open follow-up enforcement investigations. The Bureau expects institutions to self-identify violations and compliance risks, proactively provide complete remediation to all affected consumers, and report those actions to Supervision. Regardless, where the Bureau identifies violations of Federal consumer financial law, it intends to continue to exercise all of its authorities to ensure that servicers and loan holders make consumers whole.

Rohit Chopra,

Director, Consumer Financial Protection Bureau.

[FR Doc. 2022–22056 Filed 10–7–22; 8:45 am]

BILLING CODE 4810–AM–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE:

Wednesday, October 12, 2022–10:00 a.m.

Wednesday, October 12, 2022–2:00 p.m. (See **MATTERS TO BE CONSIDERED** for individual briefing matter.)

PLACE: These meetings will be held remotely. (See **MATTERS TO BE CONSIDERED**.)

STATUS: Commission Meetings—Open to the Public.

MATTERS TO BE CONSIDERED: Briefing Matters:

Wednesday, October 12, 2022–10:00 a.m.

FY 2023 Operating Plan

All attendees should pre-register for the Commission meeting using the following link: *https://cpsc.webex.com/cpsc/onstage/g.php?MTID=ea3225a1b309cd09bb1b61571db6bbb7d.*

After registering you will receive a confirmation email containing information about joining the meeting.

Wednesday, October 12, 2022–2:00 p.m.

Final Rule: Safety Standard for Clothing Storage Units

All attendees should pre-register for the Commission meeting using the following link: *https://cpsc.webex.com/cpsc/onstage/g.php?MTID=e8719b45725fcde354870a4e3d7f21406.*

After registering you will receive a confirmation email containing information about joining the meeting.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, 301–504–7479 (Office) or 240–863–8938 (Cell).

Dated: October 5, 2022.

Alberta E. Mills,

Commission Secretary.

[FR Doc. 2022–22029 Filed 10–6–22; 4:15 pm]

BILLING CODE P

DEPARTMENT OF DEFENSE

Department of the Air Force

Department of the Air Force Scientific Advisory Board; Notice of Federal Advisory Committee Meeting

AGENCY: Department of the Air Force Scientific Advisory Board, DOD.

ACTION: Notice of federal advisory committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Department of the Air Force Scientific Advisory Board will take place.

DATES: Closed to the public. 20 October 2022 from 9:30 a.m. to 3:15 p.m. Eastern Time.

ADDRESSES: The meeting will be held at The MITRE Corporation, 7525 Colshire Drive, McLean, VA 22102.

FOR FURTHER INFORMATION CONTACT: Lt Col Blythe Andrews, (240) 470–4566 (Voice), *blythe.andrews@us.af.mil* (Email). Mailing address is 1500 West Perimeter Road, Ste. #3300, Joint Base Andrews, MD 20762. Website: *https://www.scientificadvisoryboard.af.mil/*. The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The purpose of this Department of the Air Force Scientific Advisory Board meeting is for the Parent Board to receive final outbriefs on the FY22 studies, CCA and RAI. Agenda: [All times are Eastern Standard Time] 9:45 a.m.–10:15 a.m. Welcome Remarks 10:15 a.m.–12:00 p.m. Responsible Artificial Intelligence for Supporting Combat Engagements (RAI) 1:00 p.m.–2:45 p.m. Collaborative Combat Aircraft for Next Generation Air Dominance (CCA) 3:00 p.m.–3:15 p.m. Closing Remarks. In accordance with section 10(d) of the Federal Advisory Committee Act, as amended, 5 U.S.C. appendix and 41 CFR 102–3.155, the Administrative Assistant of the Air Force, in consultation with the Air Force General Counsel, has agreed that the public interest requires the United States Department of the Air Force Scientific Advisory Board meeting be closed to the public because it will involve discussions involving classified matters covered by 5 U.S.C. 552b(c)(1).

Written Statements: Any member of the public wishing to provide input to the United States Department of the Air Force Scientific Advisory Board should submit a written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act and the procedures described in this paragraph. Written statements can be submitted to the Designated Federal Officer at the address detailed above at any time. The Designated Federal Officer will review all submissions with the Department of the Air Force Scientific Advisory Board Chairperson and ensure they are provided to members of the Department of the Air Force Scientific Advisory Board. Written statements received after the meeting that are the subject of this notice may not be considered by the Scientific Advisory Board until the next scheduled meeting.

Adriane Paris,

Air Force Federal Register Liaison Officer.

[FR Doc. 2022–22010 Filed 10–7–22; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF EDUCATION

Extension of Application Deadline Date; Applications for New Awards; Postsecondary Student Success Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: On August 12, 2022, the Department of Education (Department) published in the **Federal Register** a notice inviting applications (NIA) for new awards for fiscal year (FY) 2022 for the Postsecondary Student Success Program, Assistance Listing Number 84.116M. The NIA established a deadline date of October 11, 2022, for the transmittal of applications. For eligible applicants that are affected applicants (as described in Eligibility below), located in Puerto Rico, portions of Alaska covered by a Presidential major disaster declaration, and areas under a Presidential major disaster or emergency declaration resulting from Hurricane Ian, which includes Florida, the Seminole Tribe of Florida, North Carolina, and South Carolina, this notice extends the deadline date for transmittal of applications until October 18, 2022.

DATES: *Deadline for Transmittal of Applications for Affected Applicants:* October 18, 2022.

FOR FURTHER INFORMATION CONTACT: Nemeka Mason, U.S. Department of Education, 400 Maryland Avenue SW, Room 2C102, Washington, DC 20202–4260. Telephone: (202) 453–5650. Email: *Nemeka.Mason@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION: On August 12, 2022, we published the NIA for the Postsecondary Student Success Program competition in the **Federal Register** (87 FR 49811), and we published an NIA correction notice on September 16, 2022 (87 FR 56937). Under the NIA, applications are due on October 11, 2022. We are extending the deadline date for transmittal of applications for affected applicants, which are applicants from: Puerto Rico due to a declared disaster caused by Hurricane Fiona (*https://www.fema.gov/disaster/4671*); the portions of Alaska with declared disaster designations caused by ex-Typhoon Merbok (*https://www.fema.gov/disaster/4672*); and areas under a Presidential major disaster or emergency declaration resulting from Hurricane Ian, which include Florida (*https://www.fema.gov/disaster/4673*), the Seminole Tribe of Florida (*https://www.fema.gov/disaster/4675*), North Carolina (*https://www.fema.gov/disaster/3586*), and South Carolina (*https://www.fema.gov/disaster/3585*) in order to allow applicants from these jurisdictions more time to prepare and submit their applications.

Eligibility: The application deadline extension applies only to eligible applicants under the Postsecondary Student Success competition that are affected applicants. An eligible applicant for this competition is defined in the NIA. To qualify as an affected applicant, the applicant must have a mailing address that is located in one of the federally declared disaster areas listed above and must provide appropriate supporting documentation, if requested.

Affected applicants that have already timely submitted applications under the FY 2022 Postsecondary Student Success competition may submit a new application on or before the new application deadline of October 18, 2022, but they are not required to do so. If a new application is not submitted, the Department will use the application that was submitted by the original deadline. If a new application is submitted, the Department will consider the application that is last submitted and timely received by 11:59:59 p.m., Eastern Time, on October 18, 2022. Any application submitted by an affected applicant under the extended deadline must contain evidence (*e.g.,* the applicant organization's mailing address) that the applicant is located in one of the applicable federally declared disaster areas and, if requested, must provide appropriate supporting documentation.

The application period is not extended for all applicants. Applications from applicants that are not affected, as defined above, will not be accepted past the original October 11, 2022, application deadline.

Note: All requirements and conditions in the NIA, as corrected on September 16, 2022, remain the same, except for the deadline date for affected applicants.

Program Authority: Sections 741–745 of the Higher Education Act of 1965, as amended, 20 U.S.C. 1138–1138d, the Explanatory Statement accompanying Division H of the Consolidated Appropriations Act, 2022 (Pub. L. 117–103).

Accessible Format: On request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this notice, the NIA, the NIA correction notice, and a copy of the application in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Nasser Paydar,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2022–22143 Filed 10–7–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

BPA File No.: Hot Springs to Anaconda Transmission Line Rebuild (DOE/EIS 0502) Bonneville Power Administration Hot Springs to Anaconda Transmission Line Rebuild Environmental Impact Statement (EIS) Termination

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of intent to terminate preparation of an Environmental Impact Statement (EIS).

SUMMARY: This notice advises the public that BPA is terminating the preparation of the Hot Springs to Anaconda Transmission Line Rebuild Project EIS (DOE/EIS–0502) that was announced in the Notice of Intent in the **Federal Register** on July 11, 2014. This EIS was considering BPA's decision whether to rebuild the Hot Springs to Rattlesnake, Rattlesnake to Garrison, and Garrison to Anaconda (collectively Hot Springs to Anaconda) 230-kilovolt (kV) transmission lines. BPA sold the Garrison to Anaconda line and the rebuild design of the remaining two lines has changed since the 2014 Notice of Intent (NOI). In the future, BPA will consider rebuild of the remaining two transmission lines upon redesign.

FOR FURTHER INFORMATION CONTACT: Doug Corkran, Environmental Protection Specialist, Bonneville Power Administration—ECT–4, P.O. Box 3621, Portland, Oregon 97208–3621; toll-free telephone 1–800–282–3713; direct telephone 503–230–7646; or email *dfcorkran@bpa.gov* or Cynthia Rounds, Project Manager, Bonneville Power Administration—TPP–1, P.O. Box 61409, Vancouver, WA 98666–1409; toll-free telephone number 1–800–282–3713; email *cmrounds@bpa.gov.* Additional information can be found at the project website: *https://www.bpa.gov/learn-and-participate/public-involvement-decisions/project-reviews/hot-springs-to-anaconda-transmission-line-rebuild-project-doe-eis-0502.*

SUPPLEMENTARY INFORMATION: An NOI was published in the **Federal Register** on July 11, 2014, (79 FR 40094) to begin preparing an EIS for the Hot Springs to Anaconda Transmission Line Rebuild Project. BPA solicited public comments under the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1501.9). Because of changes to the project design and the sale of one of the three lines included in the original project, the EIS is being terminated in accordance with 40 CFR 1506.6 and 40 CFR 1506.10.

Signing Authority: This document of the Department of Energy was signed on September 26, 2022, by John Hairston, Administrator and Chief Executive Officer of the Bonneville Power Administration, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by the Department of Energy. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned Department of Energy 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 October 4, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–21958 Filed 10–7–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Availability of a Request for Information on the Defense Production Act

AGENCY: Office of Manufacturing and Energy Supply Chains, Office of Policy, Department of Energy.

ACTION: Notice of availability of request for information (RFI).

SUMMARY: The U.S. Department of Energy (DOE) announces the notice of availability (NOA) and invites public comment on its request for information on the Defense Production Act (DPA), which will inform how the DPA authority provided to DOE through Presidential Determinations could best be used as a tool to accelerate manufacturing and deployment of clean energy technologies to bolster national defense, tackle climate change and environmental justice, and improve employment opportunities and broader economic prosperity for Americans. This RFI invites public comment on general use of DPA authority as well as potential program activities and/or designs addressing four of the five technology areas announced by the President on June 6, 2022: transformers and critical electric grid components; solar photovoltaics; insulation materials; and electrolyzers, platinum group metals, and fuel cells for clean hydrogen. Consistent with the intent of Congress, DOE plans to use $250 million of funds appropriated by the Inflation Reduction Act (IRA) to support the fifth and final technology area for which the President issued a determination under the Defense Production Act on June 6, 2022, electric heat pumps. Thus, use of DPA Title III for heat pumps will be addressed in a separate, forthcoming DOE announcement for which public input will be sought.

DATES: Responses will be reviewed and considered on a rolling basis but are due no later than 5:00 p.m. (ET) on November 30, 2022.

ADDRESSES: Interested parties are to submit comments electronically to *dpaenergy@hq.doe.gov* and include ''RFI: Defense Production Act'' in the subject line. Email attachments can be provided as a Microsoft Word (.docx) file or an Adobe PDF (.pdf) file, prepared in accordance with the instructions in the RFI. Attachments with file sizes exceeding 25MB should be compressed (*i.e.,* zipped) to ensure message delivery; however, no email shall exceed a total of 45MB, including all attachments. The complete RFI document is located at *www.energy.gov/mesc/defense-production-act-request-information.* Please refer to the Disclaimer and Important Note section at the end of the RFI on how to submit business sensitive and/or confidential information.

FOR FURTHER INFORMATION CONTACT: Questions may be addressed to Tsisilile Igogo at (240) 278–5471 or *dpaenergy@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Securing energy technology supply chains to ensure grid reliability and support the transition to clean energy is critical to current and future U.S. national security. The urgency of this need has been apparent in recent months. For instance, in the electricity sector, an unprecedented combination of global supply chain challenges, Russia's war in Ukraine, and climate-exacerbated heat waves, wildfires, and storms have threatened utilities' ability to deliver energy cleanly, reliably, and affordably, and to restore power quickly in the event of outages. In the past year, legislative and executive actions have focused on building and strengthening America's energy sector supply chains and manufacturing base. In February 2022, DOE laid out the federal government's first-ever comprehensive strategy for securing U.S. energy supply chains, with technology-specific reports

focused on challenges in electric grid supply chains, solar PV, platinum group metals, and more.[1] In June 2022, President Biden issued Presidential Determinations to DOE to utilize the DPA authority to accelerate domestic manufacturing and deployment of five key energy technologies.[2]

Congress passed the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law (BIL),[3] which invests over $22 billion in several clean energy supply chains, including technologies such as batteries, carbon capture, clean hydrogen, nuclear energy as well as critical minerals used in multiple clean energy technologies.[4] Most recently, Congress passed significant investments in clean energy supply chains through the Inflation Reduction Act (IRA) [5] and the CHIPS and Science Act (CHIPS Act).[6]

IRA energy investments total approximately $369 billion over the next 10 years,[7] which will help drive deployment and manufacturing of clean energy technologies, while the CHIPS Act provides more than $52.7 billion over the next 10 years to restart and expand the development and manufacturing of the domestic semiconductors industry.[8] Further, section 30001 of the IRA appropriates $500 million to DPA. Consistent with Congressional intent, the activities supported by these funds will focus on critical minerals processing and on electric heat pumps. As such, DOE plans to use $250 million of DPA funds appropriated by IRA for electric heat pumps, and public comments on the use of DPA for electric heat pumps will be solicited through a separate forthcoming announcement.

Through this RFI, DOE seeks comments to understand the needs, concerns, and challenges related to energy supply chains for *transformers and critical electric grid components; solar photovoltaics; insulation materials; and electrolyzers, platinum group metals, and fuel cells for clean hydrogen.* Responses will help inform how best the Department, with appropriate funding, can use the DPA tools to support the private sector, workers, and communities to secure and strengthen the U.S. industrial base needed to ensure current and future energy and national security. This RFI includes broad questions on the use of DPA authority and invites comments on four of the five technologies that received Presidential Determinations; information specifically related to electric heat pumps should be reserved for a separate, forthcoming comment opportunity focused on the use of IRA funds.

This RFI is available at: *www.energy.gov/mesc/defense-production-act-request-information.*

Confidential Business Information: Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email 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 about the confidential status of the information and treat it according to its determination.

Signing Authority: This document of the Department of Energy was signed on September 29, 2022, by Kathleen Hogan, Principal Deputy Under Secretary for Infrastructure, 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 October 5, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–22004 Filed 10–7–22; 8:45 am]

BILLING CODE 6450–01–P

[1] *www.energy.gov/policy/securing-americas-clean-energy-supply-chain.*

[2] *www.energy.gov/articles/president-biden-invokes-defense-production-act-accelerate-domestic-manufacturing-clean.*

[3] *www.congress.gov/bill/117th-congress/house-bill/3684.*

[4] *www.energy.gov/policy/articles/americas-strategy-secure-supply-chain-robust-clean-energy-transition.*

[5] *www.congress.gov/bill/117th-congress/house-bill/5376/text.*

[6] *www.commerce.senate.gov/services/files/CFC99CC6-CE84-4B1A-8BBF-8D2E84BD7965.*

[7] *www.democrats.senate.gov/imo/media/doc/inflation_reduction_act_one_page_summary.pdf.*

[8] *www.whitehouse.gov/briefing-room/statements-releases/2022/08/09/fact-sheet-chips-and-science-act-will-lower-costs-create-jobs-strengthen-supply-chains-and-counter-china/.*

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1121–135]

Pacific Gas and Electric Company; Notice of Application for Amendment of License, 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. *Type of Proceeding:* Application for non-capacity amendment of license.

b. *Project No.:* 1121–135.

c. *Date Filed:* September 9, 2022.

d. *Licensee:* Pacific Gas and Electric Company.

e. *Name of Project:* Battle Creek Hydroelectric Project.

f. *Location:* On the mainstem Battle Creek, and on the North Fork and South Fork Battle Creek in Shasta and Tehama Counties, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Licensee Contact:* Richard Doble, Pacific Gas and Electric Company, Mail Code N11D, P.O. Box 770000, San Francisco, CA 94177, (415) 260–2675, *Richard.Doble@PGE.com.*

i. *FERC Contact:* Rebecca Martin, (202) 502–6012, *Rebecca.martin@ferc.gov.*

j. *Deadline for filing comments, interventions, and protests:* November 2, 2022.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your 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: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket

number P–1121–135. 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.

k. *Description of Request:* Pacific Gas and Electric Company (licensee or PG&E) is requesting that its license for the Battle Creek Hydroelectric Project be amended to support a new Phase 2 of the Battle Creek Salmon and Steelhead Restoration Project (Restoration Project). The Restoration Project is a collaborative effort to restore fish habitat on Battle Creek and some of its tributaries through modification of the project facilities and operations, including instream flow releases. This collaborative effort is between PG&E, the U.S. Department of the Interior, Bureau of Reclamation, the U.S. Fish and Wildlife Service, the National Oceanic and Atmospheric Administration National Marine Fisheries Service, and the California Department of Fish and Game. The new Phase 2 amendment requires the removal of the South Diversion Dam, Soap Creek Feeder Diversion Dam, Lower Ripley Creek Feeder Diversion Dam, and Coleman Diversion Dam.

The licensee has submitted the Battle Creek Salmon and Steelhead Restoration Project Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR), prepared in July 2005, as part of its application. The referenced EIS/EIR was a collaborative effort between PG&E, the Bureau of Reclamation, California State Water Resources Control Board, California Bay-Delta Authority, and the Federal Energy Regulatory Commission (Commission), to fulfill National Environmental Policy Act (NEPA) and California Environmental Quality Act requirements. The Commission intends to use the EIS/EIR to meet the NEPA requirements under the proposed action to amend the Battle Creek Project. The EIS/EIR is available for review at the Restoration Projects website (link: *http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=99*).

l. *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.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *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.

o. *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.

Dated: October 3, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–21951 Filed 10–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD22–10–000]

Reliability Technical Conference; Supplemental Notice of Technical Conference

As announced in the Notice of Technical Conference issued in this proceeding on August 23, 2022, the Federal Energy Regulatory Commission (Commission) will convene its annual Commissioner-led Reliability Technical Conference in the above-referenced proceeding on Thursday, November 10, 2022, from approximately 12:00 p.m. to 5:00 p.m. Eastern time. The conference will be held in-person at the Commission's headquarters at 888 First Street NE, Washington, DC 20426 in the Commission Meeting Room.

The purpose of this conference is to discuss policy issues related to the reliability and security of the Bulk-Power System.

The conference will be open for the public to attend, and there is no fee for attendance. Supplemental notices will be issued prior to the conference with further details regarding the agenda, how to register to participate, and the format. Information on this technical conference will also be posted on the Calendar of Events on the Commission's website, *www.ferc.gov,* prior to the event. The conference will also be transcribed. Transcripts will be available for a fee from Ace Reporting, (202) 347–3700.

Those who wish to nominate their names for consideration as a panel participant should submit their name, title, company (or organization they are representing), telephone, email, a one-paragraph biography, picture, and topic they wish to address to: *2022ReliabilityTechConference@ferc.gov* by close of business on October 14, 2022.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov,* call toll-free (866) 208–3372 (voice) or (202) 208–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

For more information about this technical conference, please contact Lodie White at *Lodie.White@ferc.gov* or (202) 502–8453. For information related to logistics, please contact Sarah

McKinley at *Sarah.Mckinley@ferc.gov* or (202) 502–8368.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–22030 Filed 10–7–22; 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: EG23–1–000.

Applicants: Doc Brown LLC.

Description: Doc Brown LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 10/3/22.

Accession Number: 20221003–5313.

Comment Date: 5 p.m. ET 10/24/22.

Docket Numbers: EG23–2–000.

Applicants: Pleasant Hill Solar, LLC.

Description: Pleasant Hill Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 10/4/22.

Accession Number: 20221004–5089.

Comment Date: 5 p.m. ET 10/25/22.

Docket Numbers: EG23–4–000.

Applicants: Watlington Solar, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator status of Watlington Solar, LLC.

Filed Date: 10/4/22.

Accession Number: 20221004–5103.

Comment Date: 5 p.m. ET 10/25/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–2666–006; ER15–1218–013; ER16–38–011; ER16–39–010; ER16–2501–007; ER16–2502–007; ER17–157–006; ER17–2341–008; ER17–2453–007; ER18–713–006; ER18–1775–005; ER20–2888–005.

Applicants: Townsite Solar, LLC, Avalon Solar Partners, LLC, Tropico, LLC, Nicolis, LLC, 64KT 8me LLC, Solar Star California XIII, LLC, Kingbird Solar B, LLC, Kingbird Solar A, LLC, Moapa Southern Paiute Solar, LLC, Imperial Valley Solar 3, LLC, CA Flats Solar 150, LLC, CA Flats Solar 130, LLC.

Description: Supplement to June 30, 2022 Triennial Market Power Analysis for Southwest Region of Avalon Solar Partners, LLC, et al.

Filed Date: 8/12/22.

Accession Number: 20220812–5081.

Comment Date: 5 p.m. ET 10/14/22.

Docket Numbers: ER22–59–000.

Applicants: Navajo Tribal Utility Authority.

Description: Third Amendment to October 6, 2021 Petition for Limited Waiver of the Navajo Tribal Utility Authority tariff filing.

Filed Date: 9/30/22.

Accession Number: 20220930–5469.

Comment Date: 5 p.m. ET 10/20/22.

Docket Numbers: ER22–2974–001.

Applicants: Southwest Power Pool, Inc., Nebraska Public Power District.

Description: Tariff Amendment: Nebraska Public Power District submits tariff filing per 35.17(b): Nebraska Public Power District Amendment to Revisions to FR Protocols Filing to be effective 11/30/2022.

Filed Date: 10/4/22.

Accession Number: 20221004–5157.

Comment Date: 5 p.m. ET 10/25/22.

Docket Numbers: ER23–10–000.

Applicants: Wilderness Line Holdings, LLC.

Description: Request for Waiver of Wilderness Line Holdings, LLC.

Filed Date: 9/30/22.

Accession Number: 20220930–5465.

Comment Date: 5 p.m. ET 10/21/22.

Docket Numbers: ER23–11–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Ministerial Filing of Non-Substantive Revisions to SPP–MISO JOA to be effective 12/5/2022.

Filed Date: 10/4/22.

Accession Number: 20221004–5050.

Comment Date: 5 p.m. ET 10/25/22.

Docket Numbers: ER23–12–000.

Applicants: American Electric Power Service Corporation, Appalachian Power Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: American Electric Power Service Corporation submits tariff filing per 35.13(a)(2)(iii: AEP submits update to Attachment 1 of ILDSA, SA No. 1338 to be effective 12/4/2022.

Filed Date: 10/4/22.

Accession Number: 20221004–5091.

Comment Date: 5 p.m. ET 10/25/22.

Docket Numbers: ER23–13–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3293R4 Thunderhead Wind Energy GIA to be effective 10/5/2022.

Filed Date: 10/4/22.

Accession Number: 20221004–5104.

Comment Date: 5 p.m. ET 10/25/22.

Docket Numbers: ER23–14–000.

Applicants: Black Hills Colorado Electric, LLC.

Description: § 205(d) Rate Filing: Certificate of Concurrence for PSCo BAASA and Request for Waiver to be effective 10/1/2022.

Filed Date: 10/4/22.

Accession Number: 20221004–5132.

Comment Date: 5 p.m. ET 10/25/22.

Docket Numbers: ER23–15–000.

Applicants: New York Independent System Operator, Inc., Central Hudson Gas & Electric Corporation.

Description: § 205(d) Rate Filing: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: Joint 205: EPCA among NYISO, Central Hudson, and Flint Mine (SA No. 2731) to be effective 9/20/2022.

Filed Date: 10/4/22.

Accession Number: 20221004–5166.

Comment Date: 5 p.m. ET 10/25/22.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES23–1–000.

Applicants: Oklahoma Gas and Electric Company.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Oklahoma Gas and Electric Company.

Filed Date: 10/3/22.

Accession Number: 20221003–5358.

Comment Date: 5 p.m. ET 10/24/22.

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 or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) 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.

Dated: October 4, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–22035 Filed 10–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD22–8–000]

Transmission Planning and Cost Management; Supplemental Notice of Technical Conference

As announced in the Notice of Technical Conference issued in this proceeding on April 21, 2022, the Federal Energy Regulatory Commission (Commission) will convene a Commissioner-led technical conference regarding transmission planning and cost management for transmission facilities developed through local or regional transmission planning processes in the above-captioned proceeding on October 6, 2022, from approximately 9:00 a.m. to 5:00 p.m. Eastern Time.

The purpose of this conference is to explore measures to ensure sufficient transparency into and cost effectiveness of local and regional transmission planning decisions, including: (1) the role of cost management measures in ensuring the cost-effective identification of local transmission needs (*e.g.,* planning criteria) and solutions to address identified local transmission and regional reliability-related transmission needs; and (2) cost considerations and the processes through which transmission developers recover their costs to ensure just and reasonable transmission rates. Additionally, this conference will also discuss potential approaches to providing enhanced cost management measures and greater transparency and oversight if needed to ensure just and reasonable transmission rates.

A finalized agenda for this technical conference is attached. This supplemental notice includes further details regarding the agenda and speakers for the technical conference. An additional supplemental notice will be issued following the technical conference with the opportunity for interested parties to submit post-technical conference comments.

The technical conference will be open to the public and there is no fee for attendance. Information will also be posted on the Calendar of Events on the Commission's website, *www.ferc.gov,* prior to the event.

The technical conference will be transcribed and webcast. Transcripts will be available for a fee from Ace Reporting (202–347–3700). A free webcast of this event is available through the Commission's website. Anyone with internet access who desires to view this event can do so by navigating to *www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The Federal Energy Regulatory Commission provides technical support for the free webcasts. Please call (202) 502–8680 or email *customer@ferc.gov* if you have any questions.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov,* call toll-free (866) 208–3372 (voice) or (202) 208–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

For more information about this technical conference, please contact John Riehl at *john.riehl@ferc.gov* or (202) 502–6026. For information related to logistics, please contact Sarah McKinley at *sarah.mckinley@ferc.gov* or (202) 502–8368.

Dated: October 4, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–22031 Filed 10–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

Filings Instituting Proceedings

Docket Numbers: PR23–1–000.
Applicants: Acacia Natural Gas, L.L.C.
Description: § 284.123(g) Rate Filing: Amended Statement of Operating Conditions to be effective 10/1/2022.
Filed Date: 10/3/22.
Accession Number: 20221003–5277.
Comment Date: 5 p.m. ET 10/24/22.
284.123(g) Protest: 5 p.m. ET 12/2/22.

Docket Numbers: PR23–2–000.
Applicants: Moss Bluff Hub, LLC.
Description: § 284.123 Rate Filing: MBH TRRC Rule 7.455 Modifications to be effective 9/1/2022.
Filed Date: 10/3/22.
Accession Number: 20221003–5300.
Comment Date: 5 p.m. ET 10/24/22.

Docket Numbers: PR23–3–000.
Applicants: Valley Crossing Pipeline, LLC.
Description: § 284.123 Rate Filing: VCP—TRRC Rule 7.455 Modifications to be effective 9/1/2022.
Filed Date: 10/3/22.
Accession Number: 20221003–5327.
Comment Date: 5 p.m. ET 10/24/22.

Docket Numbers: RP22–1251–000.
Applicants: Mississippi Hub, LLC.
Description: Annual Informational Filing of Penalty Revenues of Mississippi Hub, LLC.
Filed Date: 9/27/22.
Accession Number: 20220927–5074.
Comment Date: 5 p.m. ET 10/11/22.

Docket Numbers: RP23–4–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Rate Capacity Release Agreements—10/1/2022 to be effective 10/1/2022.
Filed Date: 10/3/22.
Accession Number: 20221003–5146.
Comment Date: 5 p.m. ET 10/17/22.

Docket Numbers: RP23–5–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 10–1–22 to be effective 10/1/2022.
Filed Date: 10/3/22.
Accession Number: 20221003–5179.
Comment Date: 5 p.m. ET 10/17/22.

Docket Numbers: RP23–6–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—CON ED to DIRECT EN MK 809433 to be effective 10/1/2022.
Filed Date: 10/3/22.
Accession Number: 20221003–5181.
Comment Date: 5 p.m. ET 10/17/22.

Docket Numbers: RP23–7–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Narra El Nat to Direct En Mk 809452 to be effective 10/1/2022.
Filed Date: 10/3/22.
Accession Number: 20221003–5182.
Comment Date: 5 p.m. ET 10/17/22.

Docket Numbers: RP23–8–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—BOS GAS to SFE 809389 to be effective 10/1/2022.
Filed Date: 10/3/22.
Accession Number: 20221003–5183.
Comment Date: 5 p.m. ET 10/17/22.

Docket Numbers: RP23–9–000.
Applicants: Spire STL Pipeline LLC.
Description: § 4(d) Rate Filing: Spire STL Pipeline LAUF Filing to be effective 11/1/2022.
Filed Date: 10/3/22.
Accession Number: 20221003–5261.

Docket Numbers: RP23–10–000.
Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Pioneer Oct 2022) to be effective 10/4/2022.

Filed Date: 10/3/22.

Accession Number: 20221003–5271.

Comment Date: 5 p.m. ET 10/17/22.

Docket Numbers: RP23–11–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Non-Conforming Agreement Filing (Sempra) to be effective 11/1/2022.

Filed Date: 10/3/22.

Accession Number: 20221003–5299.

Comment Date: 5 p.m. ET 10/17/22.

Docket Numbers: RP23–12–000.

Applicants: Texas Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Jay-Bee 34446 to MacQuarie 53888) to be effective 10/1/2022.

Filed Date: 10/3/22.

Accession Number: 20221003–5301.

Comment Date: 5 p.m. ET 10/17/22.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings in Existing Proceedings

Docket Numbers: RP22–1222–001.

Applicants: Natural Gas Pipeline Company of America LLC.

Description: Compliance filing: Motion for Authorization to Implement Settlement Rates on an Interim Basis to be effective 11/1/2022.

Filed Date: 10/3/22.

Accession Number: 20221003–5180.

Comment Date: 5 p.m. ET 10/17/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) 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.

Dated: October 4, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–22034 Filed 10–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–8–000]

Microgrid Networks LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Microgrid Networks LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 24, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: October 4, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–22033 Filed 10–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–9–000]

Doc Brown LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Doc Brown LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 24, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the

eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: October 4, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–22032 Filed 10–7–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3025–031]

Green Mountain Power Corporation; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 3025–031.

c. *Date Filed:* March 30, 2022.

d. *Applicant:* Green Mountain Power Corporation (GMP).

e. *Name of Project:* Kelley's Falls Hydroelectric Project (project).

f. *Location:* On the Piscataquog River in Hillsborough County, New Hampshire. The project does not occupy any federal land.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* John Greenan, Green Mountain Power Corporation, 2152 Post Road, Rutland, VT 05701; phone at (802) 770–2195; email at *John.Greenan@greenmountainpower.com.*

i. *FERC Contact:* Arash Barsari at (202) 502–6207, or *Arash.JalaliBarsari@ferc.gov.*

j. *Deadline for filing motions to intervene and protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–3025–031.

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 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 for filing and is now ready for environmental analysis.

The Council on Environmental Quality (CEQ) issued a final rule on April 20, 2022, revising the regulations under 40 CFR parts 1502, 1507, and 1508 that federal agencies use to implement the National Environmental Policy Act (NEPA) (see *National Environmental Policy Act Implementing Regulations Revisions,* 87 FR 23453–70). The final rule became effective on May 20, 2022. Commission staff intends to conduct its NEPA review in accordance with CEQ's new regulations.

l. *Project Description:* The existing Kelley's Falls Project consists of: (1) an approximately 230-foot-long, 31-foot-high concrete and stone masonry dam that includes: (a) an approximately 31-foot-long stone masonry east abutment with an intake structure that includes an 11-foot-wide, 11-foot-high headgate equipped with a 22.2-foot-wide, 17-foot-high trashrack with 2.5-inch clear bar spacing; (b) a 192-foot-long concrete ogee spillway section with: (i) a 6-foot-wide, 2.75-foot-high steel slide gate that includes a 3-foot-wide, 2-foot-high notch; (ii) a 3-foot-diameter, low-level outlet pipe that is plugged and non-operational; (iii) 2.75-foot-high flashboards; and (iv) a crest elevation of 160.75 feet National Geodetic Vertical Datum of 1929 (NGVD 29) at the top of the flashboards; and (c) an approximately 7-foot-long concrete west abutment with a 3.5-foot-diameter gated, low-level outlet pipe; (2) a 284-foot-long, 2.5-foot-wide stone retaining wall on the east river bank that connects to the east abutment of the dam; (3) an impoundment (Namaske Lake) with a surface area of 154 acres at an elevation of 160.75 feet NGVD 29; (4) a 65-foot-long underground steel and concrete penstock; (5) a 28-foot-long, 28-foot-wide brick masonry and steel powerhouse containing a 450-kilowatt vertical Francis turbine-generator unit; (6) a 125-foot-long, 2.4-kilovolt (kV) underground transmission line that connects the generator to a 2.4/12-kV step-up transformer; and (7) appurtenant facilities. The project creates an approximately 65-foot-long bypassed reach of the Piscataquog River.

GMP voluntarily operates the project in a run-of-river mode using an automatic pond level control system, such that project outflow approximates inflow to the impoundment. GMP maintains the impoundment at the flashboard crest elevation of 160.75 feet NGVD 29.

Article 25 of the current license requires GMP to release a continuous minimum flow of 45 cubic feet per

second or inflow to the impoundment, whichever is less, as measured immediately downstream of the powerhouse. Downstream fish passage is provided for river herring through the notch in the slide gate located on top of the spillway. There are no upstream fish passage facilities at the project.

The minimum and maximum hydraulic capacities of the powerhouse are 175 and 420 cfs, respectively. The average annual generation of the project was approximately 1,572 megawatt-hours from 2014 through 2020.

GMP is not proposing any changes to project facilities or operation.

m. A copy of the application can be viewed on the Commission's website at *https://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support.

n. 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, and .214. 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.

All filings must: (1) bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE,'' ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''PRELIMINARY TERMS AND CONDITIONS,'' or ''PRELIMINARY FISHWAY PRESCRIPTIONS;'' (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 protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions, or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). 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. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at *https://www.ferc.gov/ferc-online/overview* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. *The applicant must file no later than 60 days following the date of issuance of this notice:* (1) a copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification. Please note that the certification request must comply with 40 CFR 121.5(b), including documentation that a pre-filing meeting request was submitted to the certifying authority at least 30 days prior to submitting the certification request. Please also note that the certification request must be sent to the certifying authority and to the Commission concurrently.

p. *Procedural schedule:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Deadline for filing interventions, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions.	December 2022.
Deadline for filing reply comments	January 2023.

q. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

Dated: October 3, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–21952 Filed 10–7–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2015–0765; FRL–10248–01–ORD]

Board of Scientific Counselors (BOSC) Review Panel Meeting—October 2022

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The Environmental Protection Agency (EPA), Office of Research and Development (ORD), gives notice of virtual meetings of the Board of Scientific Counselors (BOSC) panel review of the New Chemicals Collaborative Research Program.

DATES: The deliberation meeting will be held over two days via videoconference:

a. Monday, October 24, 2022, from 11 a.m. to 6 p.m. (EDT); and

b. Tuesday, October 25, 2022, from 11 a.m. to 6 p.m. (EDT).

Attendees must register by October 23, 2022.

Meeting times are subject to change. This series of meetings is open to the public. Comments must be received by October 23, 2022, to be considered by the BOSC. Requests for the draft agenda or making a presentation at the meeting will be accepted until October 23, 2022.

ADDRESSES: Instructions on how to connect to the videoconference will be provided upon registration at: *https://bosc-ocspp-review.eventbrite.com.*

Submit your comments to Docket ID No. EPA–HQ–ORD–2015–0765 by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
  - *Note:* Comments submitted to the *www.regulations.gov* website are anonymous unless identifying information is included in the body of the comment.
- *Email:* Send comments by electronic mail (email) to: *ORD.Docket@epa.gov,* Attention Docket ID No. EPA–HQ–ORD–2015–0765.
  - *Note:* Comments submitted via email are not anonymous. The sender's email will be included in the body of the comment and placed in the public docket which is made available on the internet.

Instructions: All comments received, including any personal information provided, will be included in the public docket without change and may be made available online at *www.regulations.gov.* Information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute

will not be included in the public docket and should not be submitted through *www.regulations.gov* or email. For additional information about the EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/dockets/.*

Public Docket: Publicly available docket materials may be accessed *Online* at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer (DFO), Tom Tracy, via phone/voicemail at: 919–541–4334; or via email at: *tracy.tom@epa.gov.*

Any member of the public interested in receiving a draft agenda, attending the meeting, or making a presentation at the meeting should contact Tom Tracy no later than October 23, 2022.

SUPPLEMENTARY INFORMATION: The Board of Scientific Counselors (BOSC) is a federal advisory committee that provides advice and recommendations to EPA's Office of Research and Development on technical and management issues of its research programs. The meeting agenda and materials will be posted to *https://www.epa.gov/bosc.*

Proposed agenda items for the meeting include, but are not limited to, the following: review of the New Chemicals Collaborative Research Program.

Information on Services Available: For information on translation services, access, or services for individuals with disabilities, please contact Tom Tracy at 919–541–4334 or *tracy.tom@epa.gov.* To request accommodation of a disability, please contact Tom Tracy at least ten days prior to the meeting to give the EPA adequate time to process your request.

Authority: Pub. L. 92–463, 1, Oct. 6, 1972, 86 Stat. 770.

Mary Ross,

Director, Office of Science Advisor, Policy and Engagement.

[FR Doc. 2022–22046 Filed 10–7–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2021–0669; FRL–9116–03–OAR]

Phasedown of Hydrofluorocarbons: Notice of 2023 Allowance Allocations for Production and Consumption of Regulated Substances Under the American Innovation and Manufacturing Act of 2020

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has issued calendar year 2023 allowances for the production and consumption of hydrofluorocarbons in accordance with the Agency's regulations as established in the 2021 final rule titled *Phasedown of Hydrofluorocarbons: Establishing the Allowance Allocation and Trading Program under the American Innovation and Manufacturing Act.* The American Innovation and Manufacturing Act directs the Environmental Protection Agency by October 1 of each calendar year to determine the quantity of production and consumption allowances for the following calendar year. The Agency also provided notice to certain companies on September 30, 2022, that the Agency intends to retire an identified set of those companies' allowances in accordance with the administrative consequences provisions established in the final rule.

FOR FURTHER INFORMATION CONTACT: Andy Chang, U.S. Environmental Protection Agency, Stratospheric Protection Division, telephone number: 202–564–6658; email address: *chang.andy@epa.gov.* You may also visit EPA's website at *https://www.epa.gov/climate-hfcs-reduction* for further information.

SUPPLEMENTARY INFORMATION: Subsection (e)(2)(D)(i) of the American Innovation and Manufacturing Act of 2020 (AIM Act) directs the Environmental Protection Agency (EPA) to determine, by October 1 of each calendar year, the quantity of allowances for the production and consumption of regulated substances that may be used for the following calendar year. EPA has codified the production and consumption baselines and phasedown schedules for regulated substances in 40 CFR 84.7. Under the phasedown schedule, for 2023, total production allowances may not exceed 344,299,157 metric tons of exchange value equivalent (MTEVe) and total consumption allowances may not exceed 273,498,315 MTEVe.

EPA regulations at 40 CFR part 84, subpart A, outline the process by which the Agency determines the number of allowances each entity is allocated. EPA allocated allowances consistent with this process for calendar year 2023, and has posted entity-specific allowance allocations on its website at *https://www.epa.gov/climate-hfcs-reduction.* An allowance allocated under the AIM Act does not constitute a property right and is a limited authorization for the production or consumption of a regulated substance.

EPA has codified the procedure for calculating application-specific allowance allocations in 40 CFR 84.13. These allowances are drawn from both the production and consumption allowance pools. EPA is issuing ''application-specific allowances'' to end users in five applications established by the AIM Act: propellants in metered dose inhalers, defense sprays, structural composite preformed polyurethane foam for marine use and trailer use, etching of semiconductor material or wafers and the cleaning of chemical vapor deposition chambers within the semiconductor manufacturing sector, and onboard aerospace fire suppression. Additionally, EPA is issuing ''application-specific allowances'' to the U.S. Department of Defense for mission-critical military end uses.

EPA has denied requests for application-specific allowances from Applied Materials, Inc; Benuvia Manufacturing; General Electric Global Research Center; Gilero LLC; Guardian Protective Devices, Inc.; nHalience LLC; and Shamrock Filling LLC because they are ineligible under 40 CFR 84.13. The requests were ineligible for at least one of the following reasons:

(1) Did not meet the criteria for HFC use in a covered application;

(2) Did not submit by the deadline;

(3) Did not provide proper supporting documentation or justification for their requests; or

(4) Did not report purchases of regulated substances in the past three years.

EPA has allocated 2023 application-specific allowances as shown in Table 1.

TABLE 1—APPLICATION-SPECIFIC ALLOWANCES FOR CALENDAR YEAR 2023

Entity	Application	Number of application-specific allowances issued (MTEVe) [1]
Analog Devices	Semiconductors	28,852.2
Apple	Semiconductors	1,033.8
Armstrong Pharmaceuticals	Metered Dose Inhalers	157,231.4
ASML US	Semiconductors	1,237.2
AstraZeneca Pharmaceuticals	Metered Dose Inhalers	4,652.7
Aurobindo Pharma USA	Metered Dose Inhalers	65,427.9
Broadcom	Semiconductors	834.7
Compsys	Structural Composite Foam	14,152.8
Defense Technology	Defense Sprays	9,366.7
Diodes Incorporated	Semiconductors	3,667.1
GlobalFoundries	Semiconductors	177,721.8
Hitachi High-Tech America	Semiconductors	1,064.4
IBM Corporation	Semiconductors	533.5
Intel Corporation	Semiconductors	746,212.5
InvaGen Pharmaceuticals	Metered Dose Inhalers	74,380.1
Jireh Semiconductor	Semiconductors	5,787.8
Keysight Technologies	Semiconductors	538.8
Kindeva Drug Delivery	Metered Dose Inhalers	408,952.0
Lupin	Metered Dose Inhalers	24,098.0
Medtronic	Semiconductors	637.6
Microchip Technology	Semiconductors	31,266.7
Micron Technology	Semiconductors	42,600.7
Newport Fab DBA TowerJazz	Semiconductors	8,042.3
NXP Semiconductors	Semiconductors	86,878.8
Odin Pharmaceuticals	Metered Dose Inhalers	1,708.5
Polar Semiconductor	Semiconductors	13,446.4
Proteng Distribution	Onboard Aerospace Fire Suppression	4,060.4
Qorvo Texas	Semiconductors	1,237.2
Raytheon Technologies	Onboard Aerospace Fire Suppression	952.6
Renesas Electronics America	Semiconductors	4,445.5
Samsung Austin Semiconductor	Semiconductors	384,969.7
Security Equipment Corporation	Defense Sprays	63,889.9
Semiconductor Components Industries DBA ON Semiconductor.	Semiconductors	38,821.5
SkyWater Technology	Semiconductors	17,549.8
Skyworks Solutions	Semiconductors	4,652.3
Texas Instruments	Semiconductors	194,744.9
The Research Foundation for The State University of New York.	Semiconductors	159.9
Tokyo Electron America	Semiconductors	558.8
Tower Semiconductor San Antonio	Semiconductors	4,948.7
TSMC Arizona Corporation	Semiconductors	32,632.0
UDAP Industries	Defense Sprays	110,727.8
Wabash National Corporation	Structural Composite Foam	73,543.0
WaferTech	Semiconductors	22,355.4
Wolfspeed	Semiconductors	36,114.7
X–FAB Texas	Semiconductors	5,076.0
Zarc International	Defense Sprays	1,384.1
Department of Defense	Mission-critical Military End Uses	2,513,169.3
Total	All	5,426,319.9

[1] Numbers may not sum due to rounding.

EPA has codified the procedure for calculating the production allowance allocation in 40 CFR 84.9. EPA has allocated calendar year 2023 production allowances as shown in Table 2.

TABLE 2—PRODUCTION ALLOWANCES FOR CALENDAR YEAR 2023

Entity	Number of production allowances issued (MTEVe) [1]
Application-specific allowances [2]	5,426,319.9
Arkema	40,873,469.3
Chemour	75,703,417.3
Honeywell International	171,747,616.1
Iofina Chemical	1,758.6
Mexichem Fluor DBA Koura	50,546,575.8
Total	344,299,157.0

[1] Numbers may not sum due to rounding.
[2] See Table 1.

EPA has codified the procedure for calculating the consumption allowance allocation in 40 CFR 84.11. Calendar year 2023 consumption allowances have also been allocated to new market entrants consistent with 40 CFR 84.15.[1] EPA has allocated calendar year 2023 consumption allowances as shown in Table 3.

TABLE 3—CONSUMPTION ALLOWANCES FOR CALENDAR YEAR 2023

Entity	Number of consumption allowances issued (MTEVe) [1]
Application-specific allowances [2]	5,426,319.9
A.C.S. Reclamation & Recovery (Absolute Chiller Services) *	200,000.0
Ability Refrigerants *	200,000.0
ACT Commodities *	77.8
Advance Auto Parts *	190,699.1
Advanced Specialty Gases	285,314.5
AFK & Co. *	193,335.9
AFS Cooling *	200,000.0
A-Gas	3,209,232.5
Air Liquide USA	498,530.3
AllCool Refrigerant Reclaim *	200,000.0
Altair Partners	2,918,730.4
American Air Components *	200,000.0
Arkema	31,075,488.7
Artsen	1,027,571.2
Automart Distributors DBA Refrigerant Plus *	200,000.0
AutoZone Parts	2,486,664.3
AW Product Sales & Marketing	194,505.7
Bluon	33,459.8
CC Packaging *	194,000.0
Certified Refrigerant Services *	200,000.0
Chemours	33,382,686.1
Chemp Technology *	200,000.0
Combs Gas	1,287,918.3
ComStar International	374,063.9
Creative Solution *	200,000.0
Cross World Group *	200,000.0
Daikin America	3,120,932.2
EDX Industry *	200,000.0
Electronic Fluorocarbons	104,289.0
Fireside Holdings DBA American Refrigerants *	199,978.5
First Continental International	769,838.0
FluoroFusion Specialty Chemicals	2,552,532.6
Freskoa USA *	200,000.0
GlaxoSmithKline	536,367.9
Golden Refrigerant *	200,000.0
Harp USA	765,574.0
Honeywell International	82,497,424.7
Hudson Technologies	2,988,057.5
Hungry Bear *	200,000.0
ICool USA	3,406,995.9
IGas Holdings	25,944,614.3
Iofina Chemical	1,264.9
Kidde-Fenwal *	200,000.0
Lenz Sales & Distribution	1,110,319.3
Lina Trade *	200,000.0
Linde	532,503.3
Meraki Group *	200,000.0
Metalcraft *	161,000.0
Mexichem Fluor DBA Koura	25,479,884.3

[1] A comprehensive overview and discussion of allocation decisions to new market entrants can be found in the Agency's April 5, 2022, notice *Phasedown of Hydrofluorocarbons: Notice of 2022 Set-Aside Pool Allowance Allocations for Production and Consumption of Regulated Substances Under the American Innovation and Manufacturing Act of 2020* [87 FR 19683].

TABLE 3—CONSUMPTION ALLOWANCES FOR CALENDAR YEAR 2023—Continued

Entity	Number of consumption allowances issued (MTEVe) [1]
Mondy Global	318,706.9
National Refrigerants	19,806,810.9
Nature Gas Import and Export	819,624.4
North American Refrigerants *	200,000.0
O23 Energy Plus *	200,000.0
Perfect Score Too DBA Perfect Cycle*	37,876.0
Reclamation Technologies *	200,000.0
Refrigerants, Inc.	26,550.9
RMS of Georgia	1,621,276.8
RTR Suppliers *	198,000.0
Saalok *	200,000.0
Sciarra Laboratories *	8,700.0
SDS Refrigerant Services *	200,000.0
Showa Chemicals of America	73,466.6
Solvay Fluorides	1,102,459.2
Summit Refrigerants *	200,000.0
SynAgile Corporation *	1,125.1
Technical Chemical	974,140.0
TradeQuim *	200,000.0
Transocean Offshore Deepwater Drilling	16.8
Tulstar Products	734,110.9
Tyco Fire Products *	200,000.0
USA United Suppliers of America DBA USA Refrigerants *	200,000.0
USSC Acquisition Corp *	131,451.0
Walmart	2,280,583.0
Waysmos USA	634,504.6
Weitron	6,338,344.6
Wesco HMB *	200,000.0
Wilhelmsen Ships Service	40,392.5
Total	273,498,315.0

[1] Numbers may not sum due to rounding.
[2] See Table 1.
* These entities were issued consumption allowances consistent with the provisions in 40 CFR 84.15(e)(3). Consistent with 40 CFR 84.15(e)(3) and as clarified in the Agency's 2021 final rule, these entities were issued the same number of allowances for 2023 as they were in 2022. In accordance with 40 CFR 84.15(f)(1), allowances allocated to these entities may not be transferred.

On September 30, 2022, EPA also provided notice to four entities of the Agency's intent to take administrative consequences in accordance with 40 CFR 84.35. Using this authority, EPA can retire, revoke, or withhold the allocation of allowances, or ban a company from receiving, transferring, or conferring allowances.[2] EPA provided notice of its intent to retire an identified set of each of the four companies' allowances, affecting both calendar year 2022 and calendar year 2023 allowances.

Judicial Review

The AIM Act provides that certain sections of the Clean Air Act (CAA) ''shall apply to'' the AIM Act and actions ''promulgated by the Administrator of [EPA] pursuant to [the AIM Act] as though [the AIM Act] were expressly included in title VI of [the CAA].'' 42 U.S.C. 7675(k)(1)(C). Among the applicable sections of the CAA is section 307, which includes provisions on judicial review. Section 307(b)(1) provides, in part, that petitions for review must only be filed in the United States Court of Appeals for the District of Columbia Circuit: (i) when the agency action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) when such action is locally or regionally applicable, but ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.'' For locally or regionally applicable final actions, the CAA reserves to the EPA complete discretion whether to invoke the exception in (ii).

The final action herein noticed is ''nationally applicable'' within the meaning of CAA section 307(b)(1). The AIM Act imposes a national cap on the total number of allowances available for each year for all entities nationwide. 42 U.S.C. 7675(e)(2)(B)–(D). For 2023, there was a national pool of 344,299,157 production allowances and 273,498,315 consumption allowances available to distribute. The action noticed herein distributed that finite set of allowances consistent with the methodology EPA established in the nationally applicable framework rule. As such, the allowance allocation is the division and assignment of a single, nationwide pool of HFC allowances to entities across the country according to the uniform, national methodology established in EPA's regulations. Each entity's allowance allocation is a relative share of that pool; thus, any additional allowances awarded to one entity directly affects the allocations to others.

In the alternative, to the extent a court finds the final action to be locally or regionally applicable, the Administrator is exercising the complete discretion afforded to him under the CAA to make and publish a finding that the action is based on a determination of

[2] Administrative consequences that the Agency has finalized can be found here: *https://www.epa.gov/climate-hfcs-reduction/administrative-consequences-under-hfc-allocation-rule.*

''nationwide scope or effect'' within the meaning of CAA section 307(b)(1).[3] In deciding to invoke this exception, the Administrator has taken into account a number of policy considerations, including his judgment regarding the benefit of obtaining the D.C. Circuit's authoritative centralized review, rather than allowing development of the issue in other contexts, in order to ensure consistency in the Agency's approach to allocation of allowances in accordance with EPA's national regulations in 40 CFR part 84. The final action treats all affected entities consistently in how the Part 84 regulations are applied. The allowance allocation is the division and assignment of a single, nationwide pool of HFC allowances to entities across the country according to the uniform, national methodology established in EPA's regulations, and each entity's allowance allocation is a relative share of that pool; thus, any additional allowances awarded to one entity directly affect the allocations to others. The Administrator finds that this is a matter on which national uniformity is desirable to take advantage of the D.C. Circuit's administrative law expertise and facilitate the orderly development of the basic law under the AIM Act and EPA's implementing regulations. The Administrator also finds that consolidated review of the action in the D.C. Circuit will avoid piecemeal litigation in the regional circuits, further judicial economy, and eliminate the risk of inconsistent results for different regulated entities. The Administrator also finds that a nationally consistent approach to the allocation of allowances constitutes the best use of agency resources. The Administrator is publishing his finding that the action is based on a determination of nationwide scope or effect in the **Federal Register** as part of this notice in addition to inclusion on the website announcing allocations.

For these reasons, the final action of the Agency allocating hydrofluorocarbon allowances to entities located throughout the country is nationally applicable or, alternatively, the Administrator is exercising the complete discretion afforded to him by the CAA and finds that the final action is based on a determination of nationwide scope or effect for purposes of CAA section 307(b)(1) and is hereby publishing that finding in the **Federal Register**.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit by December 12, 2022.

Hans Christopher Grundler,

Director, Office of Atmospheric Programs.

[FR Doc. 2022–22059 Filed 10–7–22; 8:45 am]

BILLING CODE 6560–50–P

[3] In the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator's determination that the ''nationwide scope or effect'' exception applies would be appropriate for any action that has a scope or effect beyond a single judicial circuit. See H.R. Rep. No. 95–294 at 323, 324, reprinted in 1977 U.S.C.C.A.N. 1402–03.

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0863; FR ID 108097]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before December 12, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0863.

Title: Satellite Delivery of Network Signals to Unserved Households for Purposes of the Satellite Home Viewer Act.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 848 respondents; 250,000 responses.

Estimated Time per Response: 0.50 hours.

Frequency of Response: Recordkeeping requirement, On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection action is contained in 47 U.S.C. 339.

Total Annual Burden to Respondents: 125,000 hours.

Total Annual Cost: No cost.

Needs and Uses: The information collection requirements contained in 47 CFR 73.686 describes a method for measuring signal strength at a household so that the satellite and broadcast industries would have a uniform method for making an actual determination of the signal strength that a household received. The information gathered as part of the noise-limited service contour signal strength tests will be used to indicate whether a household is ''unserved'' by over-the-air network signals.

Satellite and broadcast industries making field strength measurements for formal submission to the Commission in rulemaking proceedings, or making such measurements upon the request of the Commission, shall follow the procedure for making and reporting such measurements which shall be included in a report to the Commission and submitted in affidavit form, in triplicate. The report shall contain the following information:

(a) Tables of field strength measurements, which for each measuring location; (b) U.S. Geological Survey topographic maps; (c) All information necessary to determine the pertinent characteristics of the transmitting installation; (d) A list of

calibrated equipment used in the field strength survey; (e) A detailed description of the calibration of the measuring equipment, and (f) Terrain profiles in each direction in which measurements were made.

The information collection requirements contained in 47 CFR 73.686 also requires satellite and broadcast companies to maintain a written record describing, for each location, factors which may affect the recorded field (*i.e.,* the approximate time or measurement, weather, topography, overhead wiring, heights and types of vegetation, buildings and other structures, the orientation of the measuring location, objects of such shape and size that cause shadows or reflections, signals received that arrived from a direction other than that of the transmitter, survey, list of the measured value field strength, time and date of the measurements and signature of the person making the measurements).

The information collection requirements contained in 47 CFR 73.686(e) describes the procedures for measuring the field strength of television signals. These procedures are used to determine whether a household is eligible to receive a distant digital network signal from a satellite television provider, relying on existing, proven methods. The signal measurement procedures include provisions for the location of the measurement antenna, antenna height, signal measurement method, antenna orientation and polarization, and data recording.

Pursuant to 47 CFR 73.686(e)(3), satellite and broadcast industries making field strength measurements shall maintain written records and include the following information: (a) A list of calibrated equipment used in the field strength survey, which for each instrument specifies the manufacturer, type, serial number and rated accuracy, and the date of the most recent calibration by the manufacturer or by a laboratory. Include complete details of any instrument not of standard manufacture; (b) A detailed description of the calibration of the measuring equipment, including field strength meters, measuring antenna, and connecting cable; (c) For each spot at the measuring site, all factors which may affect the recorded field, such as topography, height and types of vegetation, buildings, obstacles, weather, and other local features; (d) A description of where the cluster measurements were made; (e) Time and date of the measurements and signature of the person making the measurements; (f) For each channel being measured, a list of the measured value of field strength (in units of dBμ after adjustment for line loss and antenna factor) of the five readings made during the cluster measurement process, with the median value highlighted.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–21930 Filed 10–7–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0882; FR ID 107587]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before December 12, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0882.

Title: Section 95.1933, Construction requirements.

Form No.: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 4 respondents and 4 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Every 10 year reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154 and 303.

Total Annual Burden: 4 hours.

Annual Cost Burden: $1,000.

Needs and Uses: 218–219 MHz service system licensees are required to file a report after 10 years of license grant to demonstrate that they provide substantial service to its service areas. This information is examined by the Commission to assess whether or not licensees are in compliance with 218–219 MHz service system construction requirements which is covered under section 95.1933. Without this information, the Commission would not be able to carry out its statutory responsibilities.

Federal Communications Commission.

Marlene Dortch,

Secretary. Office of the Secretary.

[FR Doc. 2022–22052 Filed 10–7–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0017; FR ID 107614]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction

Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before December 12, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0017.

Title: Application for Media Bureau Audio and Video Service Authorization, FCC 2100, Schedule D.

Form Number: FCC Form 2100, Schedule D.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit entities; Not for profit institutions; State, local or Tribal government.

Number of Respondents/Responses: 800 respondents; 800 responses.

Estimated Hours per Response: 1.5 hours per response.

Frequency of Response: One-time reporting requirement; On occasion reporting requirement.

Total Annual Burden: 1,200 hours.

Total Annual Cost: $48,000.

Obligation to Respond: Required to obtain benefits. The statutory authority for this information collection is contained in sections 154(i), 301, 303, 307, 308 and 309 of the Communications Act of 1934, as amended.

Needs and Uses: Applicants/licensees/permittees are required to file FCC Form 2100, Schedule D when applying for a Low Power Television, TV Translator or DTV Transition.

The information collection requirements contained in 47 CFR 74.799 (previously 74.800) permit LPTV and TV translator stations to seek approval to share a single television channel with other LPTV and TV translator stations and with full power and Class A stations. Stations interested in terminating operations and sharing another station's channel must submit FCC Form 2100 Schedule D in order to complete the licensing of their channel sharing arrangement.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–22055 Filed 10–7–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1203; FR ID 108346]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before December 12, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1203.

Title: Section 79.107 User Interfaces Provided by Digital Apparatus; Section 79.108 Video Programming Guides and Menus Provided by Navigation Devices; Section 79.110 Complaint Procedures for User Interfaces, Menus and Guides, and Activating Accessibility Features on Digital Apparatus and Navigation Devices.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit entities; Not for profit institutions; State, Local or Tribal government.

Number of Respondents and Responses: 5,599 respondents and 546,277 responses.

Estimated Time per Response: 0.0167 hours to 10 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement; Recordkeeping requirement.

Obligation to Respond: Voluntary. The statutory authority for this information collection is contained in the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), Public Law 111–260, 124 Stat. 2751, and sections 4(i), 4(j), 303(r), 303(u), 303(aa), 303(bb), and 716(g) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), 303(u), 303(aa), 303(bb), and 617(g).

Total Annual Burden: 39,350 hours.
Annual Cost Burden: $74,100.
Needs and Uses: The Commission will use the information submitted by a digital apparatus manufacturer or other party to determine whether it is achievable for digital apparatus to be fabricated so that control of appropriate built-in apparatus functions are accessible to and usable by individuals who are blind or visually impaired or whether it is achievable to comply with the information, documentation, and training requirements. The Commission will use the information submitted by an Multichannel Video Programming Distributor (MVPD) or navigation device manufacturer or other party to determine whether it is achievable for on-screen text menus and guides provided by navigation devices for the display or selection of multichannel video programming to be audibly accessible in real time upon request by individuals who are blind or visually impaired or whether it is achievable to comply with the information, documentation, and training requirements. Consumers will use the information provided by manufacturers of digital apparatus on the full functionalities of digital apparatus, such as instructions and product information, as well as information provided by manufacturers and MVPDs in accordance with the information, documentation, and training requirements, in order to have accessible information and support on how to use the device. Consumers will use the information provided by manufacturers and MVPDs notifying consumers of the availability of accessible digital apparatus and navigation devices to determine which devices accessible and whether they wish to request an accessible device. MVPDs and manufacturers of navigation devices will use the information provided by consumers who are blind or visually impaired consumers when requesting accessible navigation devices to fulfill such requests. MVPDs will use information provided by customers who are blind or visually impaired as reasonable proof of disability as a condition to providing equipment and/or services at a price that is lower than that offered to the general public. Consumers will use the contact information of covered entities to file written complaints regarding the accessibility requirements for digital apparatus and navigation devices. Finally, the Commission will use information received pursuant to the complaint procedures for violations of sections 79.107–79.109 to enforce the Commission's digital apparatus and navigation device accessibility requirements. The Commission will forward complaints, as appropriate, to the named manufacturer or provider for its response, as well as to any other entity that the Commission determines may be involved, and it may request additional information from relevant parties.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–21947 Filed 10–7–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Advisory Committee of State Regulators; Notice of Meeting

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of open meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the FDIC Advisory Committee of State Regulators. The Advisory Committee will provide advice and recommendations on a broad range of policy issues regarding the regulation of state-chartered financial institutions throughout the United States, including its territories. The meeting is open to the public. The public's means to observe this meeting of the Advisory Committee of State Regulators will be both in-person and via a Webcast live on the internet. In addition, the meeting will be recorded and subsequently made available on-demand approximately two weeks after the event. To view the live event, visit *http://fdic.windrosemedia.com.*

DATES: Monday, October 24, 2021, from 2 p.m. to 4 p.m.

ADDRESSES: The meeting will be held in the FDIC Board Room on the sixth floor of the FDIC building located at 550 17th Street NW, Washington, DC

FOR FURTHER INFORMATION CONTACT: Requests for further information concerning the meeting may be directed to Debra A. Decker, Committee Management Officer of the FDIC, at (202) 898–8748.

SUPPLEMENTARY INFORMATION:

Agenda: The agenda will include a discussion of a variety of current and emerging issues that have potential implications regarding the regulation and supervision of state-chartered financial institutions. The agenda is subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

Type of Meeting: The meeting will be open to the public, limited only by the space available on a first-come, first-served basis. For security reasons, members of the public will be subject to security screening procedures and must present a valid photo identification to enter the building. The FDIC will provide attendees with auxiliary aids (*e.g.,* sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY) at least two days before the meeting to make the necessary arrangements. Written statements may be filed with the committee before or after the meeting. This meeting of the Advisory Committee of State Regulators will be Webcast live via the internet at *http://fdic.windrosemedia.com.* For optimal viewing, a high-speed internet connection is recommended. To view the recording, visit *http://fdic.windrosemedia.com/index.php?category=Advisory+Committee+State+Regulators.* If you require a reasonable accommodation to participate, please send an email to *DisabilityProgram@fdic.gov* or call 703–562–2096 to make necessary arrangements.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on October 4, 2022.

James Sheesley,

Assistant Executive Secretary.

[FR Doc. 2022–21937 Filed 10–7–22; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Advisory Committee on Community Banking; Notice of Meeting

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of open meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the FDIC Advisory Committee on Community Banking. The Advisory Committee will provide advice and recommendations on a broad range of policy issues that have particular impact on small community banks throughout the United States and the local communities they serve. The meeting is open to the public. The public's means to observe this meeting of the Advisory Committee on Community Banking will be both in-person and via a Webcast live on the internet. In addition, the meeting will be recorded and subsequently made available on-demand approximately two weeks after the event. To view the live

event, visit *http://fdic.windrosemedia.com.*

DATES: Wednesday, October 26, 2022, from 9 a.m. to 3 p.m.

ADDRESSES: The meeting will be held in the FDIC Board Room on the sixth floor of the FDIC building located at 550 17th Street NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Requests for further information concerning the meeting may be directed to Debra A. Decker, Committee Management Officer of the FDIC at (202) 898–8748.

SUPPLEMENTARY INFORMATION:

Agenda: The agenda will include a discussion of current issues affecting community banking. The agenda is subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

Type of Meeting: The meeting will be open to the public, limited only by the space available on a first-come, first-served basis. For security reasons, members of the public will be subject to security screening procedures and must present a valid photo identification to enter the building. The FDIC will provide attendees with auxiliary aids (*e.g.,* sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY) at least two days before the meeting to make the necessary arrangements. Written statements may be filed with the committee before or after the meeting. This meeting of the Advisory Committee on Community Banking will be Webcast live via the internet at *http://fdic.windrosemedia.com.* For optimal viewing, a high-speed internet connection is recommended. To view the recording, visit *http://fdic.windrosemedia.com/index.php?category=Community+Banking+Advisory+Committee.* If you require a reasonable accommodation to participate, please send an email to *DisabilityProgram@fdic.gov* or call 703–562–2096 to make necessary arrangements.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on October 6, 2022.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2022–21936 Filed 10–7–22; 8:45 am]

BILLING CODE 6714–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–MG–2022–04; Docket No. 2022–0002; Sequence No. 25]

Office of Federal High-Performance Buildings; Green Building Advisory Committee; Notification of Upcoming Web-Based Public Meetings

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

ACTION: Meeting notice.

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, this notice provides the agenda for the Wednesday, November 9, 2022 Web-based meeting of the Green Building Advisory Committee (the Committee) and the next series of Web-based meetings of the Committee's Federal Building Decarbonization Task Group (the Task Group). All meetings are open for the public to observe. Interested individuals must register to attend as instructed below.

DATES: The Committee's Web-based meeting will be held on Wednesday, November 9, 2022, from 11:00 a.m. to 4:30 p.m. Eastern time (ET). The Task Group will hold its next series of Web-based meetings on Mondays from December 5, 2022, through September 25, 2023, from 3:00 p.m. to 4:00 p.m., Eastern Time (ET).

FOR FURTHER INFORMATION CONTACT: Dr. Ken Sandler, Designated Federal Officer, Office of Federal High-Performance Buildings, Office of Government-wide Policy, GSA, 1800 F Street NW, (Mail-code: MG), Washington, DC 20405, at *ken.sandler@gsa.gov* or 202–219–1121. Additional information about the Committee, including meeting materials and agendas, will be available on-line at *http://www.gsa.gov/gbac.*

SUPPLEMENTARY INFORMATION:

Procedures for Attendance and Public Comment

Contact Dr. Ken Sandler at *ken.sandler@gsa.gov* or 202–219–1121 to register to attend the Committee meeting and/or the recurring Task Group meetings. To attend, submit your full name, organization, email address, and phone number, and which meetings you would like to observe. Requests to attend the Committee meeting must be received by 5:00 p.m. ET, on Monday, October 31, 2022. Requests to attend the full series of Task Group meetings must be received by 5:00 p.m. ET, on Wednesday, November 30, 2022. After that time, requests to attend ongoing Task Group meetings must be received by 5:00 p.m. ET on the Monday before the meeting in question. Since Task Group meetings are conducted as a series, it will generally be most useful to attend them in order (GSA will be unable to provide technical assistance to any listener experiencing technical difficulties. Testing access to the Web meeting site before the calls is recommended.)

Contact Dr. Sandler to register to comment during the Committee meeting public comment period. Registered speakers/organizations will be allowed a maximum of five minutes each and will need to provide written copies of their presentations. Requests to comment at the Committee meeting must be received by 5:00 p.m., ET, on Monday, October 31, 2022. Time will also be provided at Task Group meetings for public comment. To request an accommodation, such as closed captioning, or to ask about accessibility, please contact Dr. Sandler at least 10 business days prior to the meeting to give GSA as much time as possible to process the request.

Background

The Administrator of GSA established the Committee on June 20, 2011 (**Federal Register**/Vol. 76, No. 118) pursuant to Section 494 of the Energy Independence and Security Act of 2007 (EISA, 42 U.S.C. 17123). Under this authority, the Committee provides independent policy advice and recommendations to GSA to advance federal building innovations in planning, design, and operations to reduce costs, enable agency missions, enhance human health and performance, and minimize environmental impacts.

November 9, 2022 Meeting Agenda

- Introductions
- Discussion of new laws and executive orders
- Advisory vote for Committee Chair
- Federal Building Decarbonization task group findings & recommendations
- Public comment
- New committee directions & topics to explore
- Next steps and closing comments

The next phase of the Federal Building Decarbonization Task Group will build on the findings of the first two phases of this Task Group with a deeper investigation of issues related to beneficial federal building electrification.

The purpose of these Web-based meetings is for the Task Group to develop consensus recommendations for submission to the full Committee.

The Committee will, in turn, deliberate on the Task Group recommendations and decide whether to proceed with formal advice to GSA based upon them.

Lois D. Mandell,

Director, Regulatory Secretariat Division, Office of Government-wide Policy, General Services Administration.

[FR Doc. 2022–21964 Filed 10–7–22; 8:45 am]

BILLING CODE 6820–14–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: Notice.

SUMMARY: 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 revised information collection project ''The AHRQ Safety Program for Methicillin-Resistant *Staphylococcus aureus* (MRSA) Prevention.''

This proposed information collection was previously published in the **Federal Register** on July 21, 2022 and allowed 60 days for public comment. AHRQ did not receive substantive comments during public review period. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by November 10, 2022.

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: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

AHRQ Safety Program for Methicillin-Resistant Staphylococcus Aureus (MRSA) Prevention

The Agency for Healthcare Research and Quality (AHRQ) requests to revise the currently approved AHRQ Safety Program for Methicillin-Resistant Staphylococcus aureus (MRSA) Prevention. The AHRQ Safety Program for MRSA Prevention's purpose is to reduce the incidence and prevalence of infections caused by MRSA in a variety of settings.

The AHRQ Safety Program for MRSA Prevention was last approved by OMB on August 31, 2021 and will expire on August 31, 2024. The OMB control number for the AHRQ Safety Program for MRSA Prevention is 0935–0260. All of the supporting documents for the current AHRQ Safety Program for MRSA Prevention can be downloaded from OMB's website at *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202107-0935-003.*

The revision for the AHRQ Safety Program for MRSA Prevention includes the following modifications:

1. *ICU/Non-ICU cohort:* The optional point prevalence data will be collected at baseline (pre-intervention) and every six months throughout the 18-month implementation period rather than only at baseline. Thus, it will be collected a total of four times. The clinical outcomes measures for the ICU/Non-ICU cohort have been updated from the version included in the original OMB review.

In addition to the change in the frequency of collection of point prevalence data, the program will accept hospital data collected using the new Version 2.0 of the AHRQ Hospital Survey on Patient Safety Culture (HSOPS) as an alternative to the original HSOPS Version 1.0. HSOPS Version 2.0 is a shorter instrument with a total of 40 survey items compared with 51 survey items in the HSOPS Version 1.0.

2. *Surgical Services cohort:* After a discussion with the program's Technical Expert Panel (TEP), it was decided to collect surgical site infection (SSI) outcome data on a different subset of surgical procedures performed within the cardiac surgery, orthopedic surgery, and neurosurgery specialty areas. The clinical outcomes measures for the Surgical Services cohort have been updated from the version included in the original OMB review to reflect the changes in surgical types.

For all three surgical specialties, hospitals will have the opportunity to confer rights to the program to their SSI data submitted via National Healthcare Safety Network (NHSN). Hospitals confer rights to their NHSN data by giving the program permission to access their data directly from NHSN. In addition, hospitals with cardiac surgery teams enrolled in the program will be asked to provide data elements that are regularly collected and submitted to the Society of Thoracic Surgeons (STS). STS data elements for cardiac surgeries will include procedures that involve sternotomy and hospital readmission due to Endocarditis, infection (conduit harvest site), infection (deep sternum/mediastinitis), Pneumonia, Sepsis, or wound (drainage, cellulitis).

We estimate that 50% of 300 enrolled units (n=150) will be orthopedic and neurosurgical specialties that will confer NHSN data rights to the program. These hospitals will not need to submit any data directly to the program.

The remaining 50% of 300 enrolled units (n=150) are estimated to be either cardiac surgical specialties that need to submit STS data or orthopedic or neurosurgical specialties that do not confer NHSN data rights to the program. These hospitals are assumed to have some burden for either pulling and submitting STS data extracts for cardiac surgical specialties or pulling and submitting NHSN data elements for orthopedic or neurosurgical specialties that do not confer rights to NHSN. We assume 1 hour for the initial data pull and 30 minutes for each subsequent quarterly data pull.

In addition to the changes in clinical outcomes described above, the program will use the new HSOPS Version 2.0 instead of the original HSOPS Version 1.0 to assess patient safety culture within enrolled surgical services teams.

3. *Long-Term Care (LTC) cohort:* The LTC cohort will now also submit the Minimum Data Set (MDS) 3.0 M Skin Conditions data elements. These elements are currently collected by CMS-certified LTC facilities to remain compliant. Since the MDS 3.0 data is already being collected for CMS, LTC facilities would be asked to submit the same data to the program after transmittal to CMS. As a result, there is a minimal change in burden (*i.e.* from five hours to six hours for the initial data pull and from 30 minutes to 45 minutes for additional pulls). The clinical outcomes measures for the LTC cohort have been updated from the version included in the original OMB review.

The project is being conducted by AHRQ through its contractor, Johns Hopkins University (JHU) and JHU's subcontractor, NORC at the University of Chicago. The project is being undertaken pursuant to AHRQ's mission to enhance the quality, appropriateness, and effectiveness of health services, and access to such services, through the establishment of a broad base of scientific research and through the promotion of improvements in clinical and health systems practices, including

the prevention of diseases and other health conditions (42 U.S.C. 299).

Method of Collection

The data collection will include both primary and secondary data sources. The primary data collection includes the following:

(1) Unit-level clinical outcome change data: The program will use a secure online portal to collect clinical outcomes measures extracted from site electronic health record (EHR) systems for the 12 month period prior to the start of the implementation, as well as for the 18 month implementation period. These data will be used to evaluate the effectiveness of the AHRQ Safety Program for MRSA Prevention. The clinical outcomes measures for the ICU/non-ICU and Surgical Services and Long-Term Care cohorts have been updated from the version included in the original OMB review.

For the ICU and non-ICU cohorts, the clinical outcomes data will be collected quarterly and will include:

- Hospital onset MRSA invasive infection (MRSA bacteremia LabID Day 3 or after of admission).
- Community onset MRSA invasive infection (MRSA bacteremia LabID prior to Day 3 after admission).
- Patient days.
- Central Line-Associated Blood Stream Infections with causative organism(s).
- Central Line Days.
- Hospital onset bacteremia (Day 3 or after of admission) with causative organisms, including MSSA.
- MRSA-positive clinical cultures.

In addition, hospitals that are already conducting MRSA point prevalence surveys in participating ICU and non-ICU units will be asked to submit this optional data via the secure online portal. Hospitals will be asked to submit baseline data at the start of the program and then submit data once every six months for the duration of the 18-month implementation period. Thus, it will be collected a total of four times.

For the surgical services cohort, the clinical outcomes data will be collected quarterly and will include:

- Surgical site infection (SSI) events and causative organisms.
- Number of surgical procedures performed, by type of surgical procedure.
- Hospital readmissions.

For the LTC cohort, the clinical outcomes data will be collected monthly via the secure online portal, or via fax submission, and will include:

- Transfer of facility resident(s) to an acute care hospital, with reason of suspected or confirmed infection.
- Transfer of facility resident(s) to an acute care hospital, with reason other than infection.
- All-cause bacteremia with causative organisms.
- Resident days.
- MDS 3.0 Section M Skin Conditions data elements.

(2) *Survey of Patient Safety:* The program will administer AHRQ Surveys of Patient Safety Culture to all eligible AHRQ Safety Program for MRSA Prevention staff at the participating units or facilities at the beginning (month 1) and end (month 18) of the implementation. We will administer the Hospital Survey of Patient Safety Culture (HSOPS) in the ICU, non-ICU, and surgical cohorts, and the Nursing Home Survey on Patient Safety (NHSOPS) in the LTC cohort. We will accept either HSOPS Version 1.0 or Version 2.0 for the ICU and non-ICU cohort and will accept HSOPS Version 2.0 for the surgical services cohort. These surveys ask questions about patient safety issues, medical errors, and event reporting in the respective setting. The program will request that all staff on the unit or facility that is implementing the AHRQ Safety Program for MRSA Prevention complete the survey. As unit and facility size vary, we estimate the average number of respondents to be 25 for each unit.

(3) *Infrastructure Assessment Tool-Gap Analysis:* The program will administer the Gap Analysis at month 1 and month 18 of the implementation to an Infection Preventionist and one of the unit's team leaders (most likely a nurse). Information on current practices in MRSA prevention on the unit will be collected. The Gap Analysis for the surgical services cohort has been updated from the version included in the original OMB review.

(4) *Implementation Assessments-Team Checkup Tool:* The implementation assessments will be conducted to monitor the program's progress and determine what the participating sites have learned through participating in the program. The Team Checkup Tool will be requested monthly, and we anticipate participation from approximately 1 frontline staff (most commonly a nurse) per unit. The program will use the Team Checkup Tool to monitor key actions of staff. The Tool asks about use of safety guidelines, tools, and resources throughout three different phases: Assessment; Planning, Training, and Implementation; and Sustainment. The Team Checkup Tools for the LTC and Surgical Services cohorts have been updated from the versions included in the original OMB review.

The secondary data collection strategy includes use of NHSN data from hospitals that confer rights to the AHRQ Safety Program for MRSA Prevention to use their NHSN data for the evaluation. NHSN data will serve as secondary data sources for clinical outcomes in ICU, non-ICU, and surgical services units. Clinical outcome measures in LTC settings are not available in NHSN.

For hospitals that confer NHSN rights to the program for the ICU and non-ICU cohorts, the secondary data will include the five out of seven clinical outcome measures that are available via NHSN:

- Hospital onset MRSA invasive infection (MRSA bacteremia LabID Day 3 or after of admission).
- Community onset MRSA invasive infection (MRSA bacteremia LabID prior to Day 3 after admission).
- Patient days.
- Central Line-Associated Blood Stream Infections with causative organism(s).
- Central Line Days.

For hospitals that confer NHSN rights to the program for the surgical services cohort, the secondary data will include the two clinical outcome measures that are available via NHSN:

- Surgical site infection (SSI) events and causative organisms.
- Number of surgical procedures performed, by type of surgical procedure.

Estimated Annual Respondent Burden

Exhibit 1 shows the total estimated annualized burden hours for the data collection efforts.

All data collection activities are expected to occur within the three-year clearance period. The total estimated annualized burden is 12,052 hours.

EXHIBIT 1 ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents +	Number of responses per respondent	Hours per response	Total burden hours
Survey of Patient Safety Culture				
HSOPS Version 1.0 *(25 respondents per unit, pre- and post-implementation for ICU and non-ICU)*	6667	2	0.25	3334
HSOPS Version 2.0 *(25 respondents per unit, pre- and post-implementation for ICU and non-ICU)*	2500	2	0.21	1050
NHSOPS *(25 respondents per facility, one response per pre- and post-implementation for LTC cohort, 300 facilities total)*	2,500	2	0.25	1,250
Infrastructure Assessment				
Gap Analysis *(1 assessment per unit or facility, pre and post-implementation for all four cohorts, 1,400 sites total)*	467	2	1	934
Implementation Assessments				
Team Checkup Tool *(1 checklist conducted monthly during the 18 months of implementation for ICU, non-ICU, and Surgical cohorts, 1,100 units total)*	367	18	0.17	1,123
Team Checkup Tool *(1 checklist conducted monthly per facility during the 18 month implementation period for LTC cohort, 300 facilities total)*	100	18	0.17	306
Electronic Health Record (EHR) Extracts				
Initial data pull for 10% of hospitals that do not confer rights to their NHSN data—(*once at baseline for ICU and non-ICU cohorts, 800 units total*)	27	1	5	135
Initial data pull for hospital onset bacteremia (including MSSA) and MRSA-positive clinical cultures (not available in NHSN) (*once at baseline for ICU and non-ICU cohorts, 800 units total*)	267	1	3.5	935
Initial data pull for 10% of units that submit point prevalence survey data (*once at baseline for ICU and non-ICU cohorts, 800 units total*)	27	1	0.5	14
Subsequent data pull for 10% of units that submit point prevalence data (*every six months during 18 months of implementation for ICU and non-ICU cohorts, 800 units total*)	27	3	0.25	20
Initial data pull for 50% of surgical units that do not confer rights to NHSN data—(*once at baseline for Surgical cohort, 300 settings total*)	50	1	1	50
Initial data pull—(*once at baseline for LTC cohort, 300 facilities total*)	100	1	6	600
Quarterly data collection of monthly data—*(quarterly during 18 months of implementation for ICU and non-ICU, cohorts, 800 units total)*	267	6	0.5	801
Quarterly data collection of monthly data for 50% of hospitals that do not confer rights to their NHSN data (*quarterly during 18 months of implementation for surgical cohorts, 300 units total*)	50	6	0.5	150
Monthly data—*(monthly per facility during 18 months of implementation for LTC cohort, 300 facilities total)*	100	18	0.75	1350
Total	13,516			12,052

+ The number of respondents per data collection effort is calculated by multiplying the number of respondents per unit by the total number of units. The result is divided by three to capture an annualized number.

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to complete the data collection activities. The total annualized cost burden is estimated to be $554,699.76.

EXHIBIT 2 ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate	Total cost burden
Survey of Patient Safety Culture				
HSOPS Version 1.0 *(25 respondents per unit, pre- and post-implementation for ICU and non-ICU cohorts)*	6,667	3,334	*$51.53	$171,801.02
HSOPS Version 2.0 *(25 respondents per unit, pre- and post- implementation surgical cohort)*	2,500	1,050	*51.53	54,106.50
NHSOPS *(25 respondents per facility, one response per pre- and post-implementation for LTC cohort, 300 facilities total)*	2,500	1,250	*51.53	64,412.50

EXHIBIT 2 ESTIMATED ANNUALIZED COST BURDEN—Continued

Form name	Number of respondents	Total burden hours	Average hourly wage rate	Total cost burden
Infrastructure Assessment				
Gap Analysis *(1 assessment per unit or facility, pre- and post-implementation for all four cohorts, 1,400 sites total)*	467	934	*51.53	48,129.02
Implementation Assessments				
Team Checkup Tool *(1 checklist conducted monthly during 3 months of ramp-up and 15 months of implementation periods for ICU, non-ICU, and Surgical cohorts, 1,100 units total)*	367	1,123	*51.53	57,868.19
Team Checkup Tool *(1 checklist conducted monthly per facility during 18 months of implementation for LTC cohort, 300 facilities total)*	100	306	*51.53	15,768.18
Electronic Health Record (EHR) Extracts				
Initial data pull for 10% of hospitals that do not confer rights to their NHSN data—*(once at baseline for ICU and non-ICU cohorts, 800 units total)*	27	135	^35.17	4,747.95
Initial data pull for hospital onset bacteremia (including MSSA) and MRSA-positive clinical cultures (not available in NHSN) *(once at baseline for ICU and non-ICU cohorts, 800 units total)*	267	935	^35.17	32,883.95
Initial data pull for 10% of units that submit point prevalence survey data *(once at baseline for ICU and non-ICU cohorts, 800 units total)*	27	14	^35.17	492.38
Subsequent data pull for 10% of units that submit point prevalence data *(every six months during 18 months of implementation for ICU and non-ICU cohorts, 800 units total)*	27	20	^35.17	703.40
Initial data pull for 50% of surgical settings that do not confer rights to NHSN data—*(once at baseline for Surgical cohort, 300 settings total)*	50	50	^35.17	1,758.50
Initial data pull—*(once at baseline for LTC cohort, 300 facilities total)*	100	600	^35.17	21,102.00
Quarterly data—*(quarterly during 18 months of implementation for ICU and non-ICU cohorts, 1,100 units total)*	267	801	^35.17	28,171.17
Quarterly data collection of monthly data for 50% of hospitals that do not confer rights to their NHSN data *(quarterly during 18 months of implementation for surgical cohorts, 300 units total)*	50	150	^35.17	5,275.50
Monthly data—*(monthly per facility during 18 months of implementation for LTC cohort, 100 facilities total)*	100	1,350	^35.17	47,479.50
Total	13,516	12,052		554,699.76

*This is an average of the average hourly wage rate for physician, nurse, nurse practitioner, physician's assistant, and nurse's aide from the May 2019 National Occupational Employment and Wage Estimates, United States, U.S. Bureau of Labor Statistics *(https://www.bls.gov/oes/current/oes_nat.htm#00-0000).*

^This is an average of the average hourly wage rate for nurse and IT specialist from the May 2019 National Occupational Employment and Wage Estimates, United States, U.S. Bureau of Labor Statistics *(https://www.bls.gov/oes/current/oes_nat.htm#00-0000).*

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: October 4, 2022.

Marquita Cullom,

Associate Director.

[FR Doc. 2022–21991 Filed 10–7–22; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–23–22GG]

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 ''Pilot Plan for the Interim Local Health Department Strategy for Response, Control, and Prevention of Healthcare Associated Infections (HAI) and Antibiotic Resistance (AR)'' 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 June 17th, 2022 to obtain comments from the public and affected agencies. CDC did not receive 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

Pilot Plan for the Interim Local Health Department Strategy for Response, Control, and Prevention of Healthcare Associated Infections (HAI) and Antibiotic Resistance (AR)—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Through piloting the Interim Local Strategy, CDC's Division of Healthcare Quality Promotion (DHQP) aims to understand Local Health Departments' (LHDs) experience implementing the strategy and collect their feedback for refinement. A secondary goal of this study is to create a network of LHDs working in Healthcare Associated Infections (HAI) and Antibiotic Resistance (AR) activities to learn from one another and share best practices. Data collected during the pilot will be used to assess the extent to which the strategy materials and resources help LHDs to: (1) grow and expand their HAI/AR partner networks and collaboration; (2) build operational capacity to conduct and promote sustainable HAI/AR infection prevention and control practices; and (3) expand HAI/AR infection prevention, outbreak response, and stewardship activities. Furthermore, data will inform any necessary refinements of the materials and resources.

CDC will conduct data collection through interviews and electronic surveys, to capture feedback on the strategy's usability and effectiveness, as well as on each individual material and resource. CDC will use a mixed methods approach with both deductive and inductive analysis of qualitative data collected through surveys and structured interviews, and aggregate quantitative survey data.

CDC requests OMB approval for an estimated 360 annualized 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)
Voluntary LHD Participants/NACCHO Coag LHD participants.	LHD HAI/AR Strategy Pilot Feedback Form ..	60	1	4
Voluntary LHD Participants	LHD HAI/AR Strategy Pilot Interview Guide ..	30	1	2
NACCHO CoAg LHD Participants	LHD HAI/AR Strategy Pilot Survey	30	1	2

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–22028 Filed 10–7–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–23–22CX]

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 ''Preferences for Longer-Acting Preexposure Prophylaxis (PrEP) Methods Among Persons in US Populations at Highest Need: A Discrete Choice Experiment'' 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 March 2, 2022, to obtain comments from the public and affected agencies. CDC did not receive 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

Preferences for Longer-Acting Preexposure Prophylaxis (PrEP) Methods Among Persons in US Populations at Highest Need: A Discrete Choice Experiment—New—National Center for HIV, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The 2022–2025 National HIV/AIDS Strategy includes a goal of increasing PrEP coverage to 50% among persons with indications, from a 2017 baseline of 13.2%. Despite successes in development and scale up of daily oral pre-exposure prophylaxis (PrEP) as a biomedical HIV prevention product, studies consistently show obstacles to its uptake and continuation. The Centers for Disease Control and Prevention (CDC) and its partners must engage in early planning for the implementation of longer-acting (LA)-PrEP agents to help achieve the U.S. Ending the HIV Epidemic (EHE) goal of reducing incident HIV infections by 90% by 2030. Understanding providers' and priority populations' preferences for different LA-PrEP agents and perceived advantages and disadvantages of each product will be critical to estimating future uptake and market share of the various products that are likely to come to market.

The goal of this study is to understand preferences for long-acting pre-exposure prophylaxis (LA-PrEP) products for HIV prevention among potential users and providers, including product characteristics and other service delivery factors that may facilitate or hinder future uptake of these products. RTI will collaborate with CDC to conduct a discrete choice experiment (DCE) among providers and potential users of LA-PrEP products to elicit their preferences for characteristics of LA-PrEP and delivery programs to maximize uptake of LA-PrEP among people in need of HIV prevention methods. Results from this experiment will be used to identify factors key to adoption and implementation of each product and increase implementation efficiency by identifying strategies to support decision making and address potential use challenges early on.

The study design is a cross-sectional, online survey comprised of a DCE and additional questions to directly elicit participant preferences and gather data on socioeconomic, behavioral, and attitudinal factors. DCE methods are based on the principle that products or services are evaluated through their multiple features or 'attributes,' and that an individual's choice of a product or service is a function of the utility of each attribute option or 'level.' Attributes and their corresponding levels are chosen to represent the features of medications, devices, and health care services that are relevant to a health care decision.

The proposed information collection will include two separate DCE surveys: one for priority populations; and one for clinicians. The survey uses an experimental design to combine levels from each attribute into hypothetical product profiles and to pair profiles into choice tasks. The experimental design will be split into several blocks or versions. Each equally sized block will have 11 questions, with one question being repeated across blocks. Participants will be randomly assigned to a block and will see only one block when completing the survey instrument.

The study's target population includes clinical providers ages 18 and older who prescribe PrEP and the following priority population groups who were selected because they have the highest rates of HIV acquisition and are in need for HIV prevention services. To be eligible for the study, potential participants in each of the priority population groups must be 18 years of age and older, living without HIV, and meet the U.S. Public Health Service (USPHS) indications for offering PrEP as described in the 2021 USPHS Clinical Practice Guidelines.

The study sample will be recruited from cities with high numbers of annual HIV diagnoses within the 57 priority jurisdictions identified as part of the Ending the HIV Epidemic (EHE) initiative. Data collection will last approximately six months. Participants will be randomly assigned to a block when they are sent their unique DCE survey link and will only complete the set of choice tasks in that block. Throughout the study, we will closely monitor recruitment and data collection to ensure that screening criteria are being met, key demographic groups are adequately represented, and survey completion rates are acceptable. Participants will be reimbursed $20 upon completion of the DCE. A Visa gift card will be sent electronically or mailed via the postal system based on the participant's choice.

Participation is voluntary. For this study, CDC intends to screen approximately 9,200 participants and enroll 1,840. CDC estimates that approximately 15% of enrolled participants will be removed from the analysis due to fraud or incomplete data, resulting in a final analysis sample size of 1,600 participants. At 25 minutes per survey and 10 minutes per combined screener and consent, CDC requests OMB approval for an estimated 2,282 annualized burden hours. There are no costs to participants other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Potential LA-PrEP users or Clients	Client Screening Survey & Consent Form	8,050	1	10/60
	C4P Client DCE Survey	1,610	1	25/60
Clinical providers who prescribe PrEP, in the United States.	Provider Screening Survey & Consent Form	1,150	1	10/60
	C4P Provider DCE Survey	230	1	20/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–22025 Filed 10–7–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–23–1310; Docket No. CDC–2022–0119]

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 Public Health Laboratory Testing for Emerging Antibiotic Resistance and Fungal Threats. This collection will allow CDC to partner with public health laboratories and will help equip them to detect and characterize isolates.

DATES: CDC must receive written comments on or before December 12, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0119 by any 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

Public Health Laboratory Testing for Emerging Antibiotic Resistance and Fungal Threats (OMB Control No. 0920–1310, Exp. 12/31/2023)—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This state and local laboratory testing capacity is being implemented by the Department of Health and Human Services (HHS), Centers for Disease Control and Prevention (CDC) in response to the Executive Order 13676 of September 18, 2014 (Attachment 1a), the National Strategy of September 2014 (Attachment 1b) and to implement sub-objective 2.1.1 of the National Action Plan of March 2015 for Combating Antibiotic Resistant Bacteria (Attachment 1c). Data collected throughout this network is also authorized by Section 301 of the Public Health Service Act (42 U.S.C. 241).

The Antibiotic Resistance Laboratory Network (AR Lab Network) is made up of jurisdictional public health laboratories (*i.e.,* all 50 states, five large cities, and Puerto Rico). These public health laboratories will be equipped to detect and characterize isolates of carbapenem-resistant Enterobacteriaceae (CRE), carbapenem-resistant *Pseudomonas aeruginosa* (CRPA), and carbapenem-resistant *Acinetobacter baumannii* (CRAB), as well as carbapenemase-positive organisms (CPOs) from colonization screening swabs. These resistant bacteria are

becoming more and more prevalent, particularly in healthcare settings, and are typically identified in clinical laboratories, but characterization is often limited. The laboratory testing will allow for additional testing and characterization, including use of gold-standard methods. Isolate characterization includes organism identification, antimicrobial susceptibility testing (AST) to confirm carbapenem resistance and determine susceptibility to new drugs of therapeutic and epidemiological importance, a phenotypic method to detect carbapenemase enzyme production, and molecular testing to identify the resistance mechanism(s). Screening swabs will undergo molecular testing to identify whether carbapenemase-producing organisms are present.

Results from this laboratory testing will be used to: (1) identify targets for infection control; (2) detect new types of resistance; (3) characterize geographical distribution of resistance; (4) determine whether resistance mechanisms are spreading among organisms, people, and facilities; and (5) provide data that informs state and local public health surveillance and prevention activities and priorities. Additionally, some jurisdictions will participate in reference identification of *Candida* spp. to aid in these pursuits using matrix-assisted laser desorption ionization/time-of-flight (MALDI–TOF) mass spectrometry or deoxyribonucleic acid (DNA) based sequencing.

CDC's AR Lab Network supports nationwide lab capacity to rapidly detect antibiotic resistance and inform local public health responses to prevent spread and protect people. It closes the gap between local capabilities and the data needed to combat antibiotic resistance by providing comprehensive lab capacity and infrastructure for detecting antibiotic-resistant pathogens, cutting-edge technology like DNA sequencing, and rapid sharing of actionable data to drive infection control responses and help treat infections. This infrastructure allows the public health community to rapidly detect emerging antibiotic-resistant threats in healthcare and the community, mount a comprehensive local response, and better understand these deadly threats to quickly contain them. A subset of jurisdictions will participate in detection and characterization of AR *Neisseria gonorrhoeae,* including antimicrobial susceptibility testing of *Neisseria gonorrhoeae.*

Funded state and local public health laboratories will provide the following information to the Program Office at CDC's Division of Healthcare Quality Promotion (DHQP):

1. Annually, participating laboratories will submit a summary report describing testing methods and volume. These reports will be submitted by email to *ARLN_DHQP@cdc.gov.* These measures are to be used by the DHQP Program Office to determine the ability of each laboratory to confirm and characterize targeted AR organisms and their overall capacity to support state healthcare-associated infection (HAI)/AR prevention programs.

2. Annually, participating laboratories will provide an Evaluation and Performance Measurement Report to CDC via email to *HAIAR@cdc.gov.* Data will be used to indicate progress made toward program objectives and challenges encountered.

3. Participating laboratories will report all testing results to CDC, at least monthly, by CSV or Health Level 7 (HL7) using an online web-portal transmission. This information will be used to: (a) provide data for state and local infection prevention programs; (b) identify new types of antibiotic resistant organisms; (c) identify new resistance mechanisms in targeted organisms; (d) describe the spread of targeted resistance mechanisms; and (e) identify geographical distribution of antibiotic resistance or other epidemiological trends. Participating laboratories will utilize secure public health messaging protocols to transfer data to CDC and submitting facilities and clinical laboratories. For messaging to CDC, these protocols will be based in Association of Public Health Laboratories (APHL) Informatics Messaging Services (AIMS) platform. The AIMS platform is a secure environment that provides shared services to assist public health laboratories in the transport, validation and routing of electronic data. AIMS is transitioning to the use of HL7 messaging for data to be transmitted in real-time, allowing more frequent reporting or results while simultaneously lessening burden on public health laboratories.

4. Detection of targeted resistant organisms and resistance mechanisms that pose an immediate threat to patient safety and require rapid infection control, facility assessments, and/or additional diagnostics, an immediate communication to the local healthcare-associated infection program in the jurisdictional public health department and CDC is needed. The ''AR Lab Network Alerts'' encompass targeted AR threats that include new and rare plasmid-mediated (''jumping'') carbapenemase genes, isolates resistant to all drugs tested, and detection of human reservoirs for transmission. These alerts must be sent within one working day of detection. Participating laboratories will utilize REDCap to communicate these findings. The elements of these messages will include the unique public health laboratory specimen ID and a summary of its testing results to date.

Sites participating in *Candida* identification testing will also provide the following to the Mycotics Program Office at CDC—Division of Foodborne, Waterborne, and Environmental Diseases (DFWED):

1. Annually, participating laboratories will provide an Evaluation and Performance Measurement Report to CDC via email to *ARLN@cdc.gov.* Data will be used to indicate progress made toward program objectives and challenges encountered.

2. Participating laboratories will report all testing results to CDC, requested at least monthly, by REDCap or HL7 using an online web-portal transmission. This information will be used to: (a) identify and track antifungal resistance and emerging fungal pathogens; and (b) aid public health departments and healthcare facilities in rapidly responding to fungal public health threats and outbreaks. Participating laboratories will utilize secure public health messaging protocols to transfer results data to CDC. For messaging to CDC, these messaging protocols will be based in REDCap or the AIMS platform. The REDCap and AIMS platforms are secure environments that provide shared services to assist public health laboratories in the transport, validation and routing of electronic data. AIMS is transitioning to the use of HL7 messaging for data to be transmitted in real-time, allowing more frequent reporting of results while simultaneously lessening burden on public health laboratories.

3. For those resistant organisms that pose an immediate threat to patient safety and require rapid infection control, facility assessments, and/or additional diagnostics, an immediate communication to the local healthcare-associated infection program in the jurisdictional public health department and CDC is needed. The ''AR Lab Network Alerts'' encompass targeted AR threats that include *C. auris,* which is rapidly emerging in healthcare settings. These alerts must be sent within one working day of detection. Participating laboratories will utilize REDCap and/or email to *ARLN_alert@cdc.gov* to communicate these findings. The

elements of these messages will include the unique public health laboratory specimen ID and a summary of specimen testing results to date.

Sites participating in detection and characterization of AR Neisseria gonorrhoeae, including antimicrobial susceptibility testing of *Neisseria gonorrhoeae* will provide the following to the STD Laboratory Reference and Research Branch (SLRRB) at CDC—Division of STD Prevention (DSTDP):

1. Annually, participating laboratories will provide an Evaluation and Performance Measure Report. Data will be used to indicate progress made toward program objectives and challenges encountered.

2. Participating laboratories will notify CDC DTSDP of any isolate(s) identified to demonstrate an ''alert'' MIC as defined by SLRRB within one working day. Laboratories will utilize REDCap to communicate these findings. The elements of these messages will include the unique public health laboratory specimen ID and a summary of specimen testing results to date.

3. Participating laboratories will report all testing results to CDC, requested at least monthly, by email, REDCap, or HL7 using an online web-portal transmission. This information will be used to: (a) identify and track antibiotic resistant pathogens and emerging patterns of resistance; and (b) aid public health departments and healthcare facilities in timely responding to antibiotic resistant public health threats and outbreaks. Participating laboratories will utilize secure public health messaging protocols to transfer results data to CDC, submitting facilities and clinical laboratories. For messaging to CDC, these messaging protocols will be based in REDCap or the AIMS platform. The REDCap and AIMS platforms are secure environments that provide shared services to assist public health laboratories in the transport, validation, and routing of electronic data. AIMS is transitioning to the use of HL7 messaging for data to be transmitted in real-time, allowing more frequent reporting of results while simultaneously lessening burden on public health laboratories.

CDC requests OMB approval for an estimated 4,705 annualized 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)
Public Health Laboratories	Annual Report of Bacterial Specimen Testing Methods.	56	1	6/60	6
Public Health Laboratories	Annual Evaluation and Performance Measurement Report for Bacterial Specimen Testing.	56	1	4	224
Public Health Laboratories	Monthly Testing Results Reports—Bacterial Specimen Testing.	56	12	4	2688
Public Health Laboratories	AR Lab Network Alerts—Bacterial Specimen Testing.	56	34	6/60	190
Public Health Laboratories	Annual Evaluation and Performance Measurement Report (*Candida* identification).	Up to 56	1	2	112
Public Health Laboratories	Monthly Testing Results Reports—*Candida* identification.	Up to 56	12	2	1344
Public Health Laboratories	AR Lab Network Alerts—*Candida auris*.	Up to 56	13	6/60	73
Public Health Laboratories	Annual Evaluation and Performance Measurement Report (*Neisseria gonorrhoeae*).	Up to 56	1	1	56
Public Health Laboratories	Monthly Testing Results Reports—*Neisseria gonorrhoeae*.	Up to 56	1	6/60	6
Public Health Laboratories	AR Lab Network Alerts—*Neisseria gonorrhoeae*.	Up to 56	1	6/60	6
Total					4705

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–22027 Filed 10–7–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3431–N]

Medicare Program; Virtual Meeting of the Medicare Evidence Development and Coverage Advisory Committee—December 7, 2022

AGENCY: Centers for Medicare & Medicaid Services (CMS), Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces a virtual public meeting of the Medicare Evidence Development & Coverage Advisory Committee (MEDCAC) (''Committee'') will be held on Wednesday, December 7, 2022. National Coverage Determinations resulting in coverage with evidence development (CED) can expedite earlier Medicare beneficiary access to innovative technology while ensuring that systematic patient safeguards are in place to reduce the risks inherent to new technologies, or to new

applications of older technologies. This meeting will examine the general requirements for clinical studies submitted for CMS coverage requiring CED. The MEDCAC will evaluate the CED criteria to assure that CED studies are evaluated with consistent, feasible, transparent and methodologically rigorous criteria and advise CMS on whether the criteria are appropriate to ensure that CED-approved studies will produce reliable evidence that CMS can rely on to help determine whether a particular item or service is reasonable and necessary. This meeting is open to the public in accordance with the Federal Advisory Committee Act.

DATES:

Meeting Date: The virtual meeting will be held on Wednesday, December 7, 2022 from 10:00 a.m. until 5:00 p.m., Eastern Standard Time (EST).

Deadline for Submission of Written Comments: Written comments must be received at the email address specified in the **ADDRESSES** section of this notice by 5:00 p.m., Eastern Standard Time (EST), on Monday, November 7, 2022. Once submitted, all comments are final.

Deadlines for Speaker Registration and Presentation Materials: The deadline to register to be a speaker and to submit PowerPoint presentation materials and writings that will be used in support of an oral presentation is 5:00 p.m., EST, on Monday, November 7, 2022. Speakers may register by phone or via email by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Presentation materials must be received at the email address specified in the **ADDRESSES** section of this notice.

Submission of Presentations and Comments: Presentation materials and written comments that will be presented at the meeting must be submitted via email to *MedCACpresentations@cms.hhs.gov* section of this notice by Monday November 7, 2022.

Deadline for All Other Attendees Registration: Individuals who want to join the meeting may register online at *https://cms.zoomgov.com/webinar/register/WN_CsJL7k7kQcyY0Z20OR6eqw* by 11:59 p.m. EST, on Tuesday, December 6, 2022.

Webinar and Teleconference Meeting Information: Teleconference dial-in instructions, and related webinar details will be posted on the meeting agenda, which will be available on the CMS website *http://www.cms.gov/medicare-coverage-database/indexes/medcac-meetings-index.aspx?bc=BAAAAAAAAAAA&.* Participants in the MEDCAC meeting will require the following: A computer, laptop or smartphone where the Zoom application needs to be downloaded; a strong Wi-Fi or an internet connection and access to use Chrome or Firefox web browser and a webcam if the meeting participant is scheduled to speak or make a presentation during the meeting.

Deadline for Submitting a Request for Special Accommodations: Individuals viewing or listening to the meeting who are hearing or visually impaired and have special requirements, or a condition that requires special assistance, should send an email to the MEDCAC Coordinator as specified in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than 5:00 p.m., EST on Monday, November 14, 2022.

ADDRESSES: Due to the current COVID–19 public health emergency, the Panel meeting will be held *virtually* and *will not* occur at the campus of the Centers for Medicare & Medicaid Services (CMS), Central Building, 7500 Security Boulevard, Baltimore, Maryland 21244.

FOR FURTHER INFORMATION CONTACT: Tara Hall, MEDCAC Coordinator, via email at *Tara.Hall@cms.hhs.gov* or by phone 410–786–4347.

SUPPLEMENTARY INFORMATION:

I. Background

MEDCAC, formerly known as the Medicare Coverage Advisory Committee (MCAC), is advisory in nature, with all final coverage decisions resting with CMS. MEDCAC is used to supplement CMS' internal expertise. Accordingly, the advice rendered by the MEDCAC is most useful when it results from a process of full scientific inquiry and thoughtful discussion, in an open forum, with careful framing of recommendations and clear identification of the basis of those recommendations. MEDCAC members are valued for their background, education, and expertise in a wide variety of scientific, clinical, and other related fields. (For more information on MEDCAC, see the MEDCAC Charter (*http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/Downloads/medcaccharter.pdf*) and the CMS Guidance Document, *Factors CMS Considers in Referring Topics to the MEDCAC* (*http://www.cms.gov/medicare-coverage-database/details/medicare-coverage-document-details.aspx?MCDId=10*).

II. Meeting Topic and Format

This notice announces the Wednesday, December 7, 2022, virtual public meeting of the Committee. This meeting will examine the requirements for clinical studies submitted for CMS coverage under CED. It has been nearly 8 years since the criteria for CED were last evaluated and codified. In that time, not only have technologies become more complex, but there has been growing appreciation and commitment to transparency in decision-making, to making certain that study methodologies are ''fit to purpose'' as determined by the topic, questions asked, health outcomes studied, and to making certain that the populations studied are representative of the diversity in the Medicare beneficiary population. For example, some questions may be sufficiently answered through analysis of real-world evidence including data from clinical registries, electronic health records, and administrative claims. Any decision about whether an item or service is reasonable and necessary must, minimally, be sensitive to these commitments as well as to ensuring that study participants' interests are respected and protected. The MEDCAC will evaluate the CED criteria to assure that CED studies are evaluated with consistent, feasible, transparent and methodologically rigorous criteria and advise CMS on whether the criteria are appropriate to ensure that CED-approved studies will produce reliable evidence that CMS can rely on to help determine whether a particular item or service is reasonable and necessary.

Background information about this topic, including panel materials, is available at *http://www.cms.gov/medicare-coverage-database/indexes/medcac-meetings-index.aspx?bc=BAAAAAAAAAAA&.* Electronic copies of all the meeting materials will be on the CMS website no later than 2 business days before the meeting. We encourage the participation of organizations, researchers and people with expertise or interest in the thoughtful, efficient design and implementation of clinical studies whose goals are to improve the health of people, especially Medicare beneficiaries. This meeting is open to the public. The Committee will hear oral presentations from the public for approximately 45 minutes. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than what can be reasonably accommodated during the scheduled open public hearing session, we may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their

request to speak no later than 1 week from the speaker registration deadline specified in the **DATES** section of this notice. Your comments must focus on issues specific to the list of topics that we have proposed to the Committee. The list of research topics to be discussed at the meeting will be available on the following website prior to the meeting *http://www.cms.gov/medicare-coverage-database/indexes/medcac-meetings-index.aspx?bc=BAAAAAAAAAAA&.* We require that you declare at the meeting whether you have any financial involvement with manufacturers (or their competitors) of any items or services being discussed. Speakers presenting at the MEDCAC meeting must include a full disclosure slide as their second slide in their presentation for financial interests (for example, type of financial association—consultant, research support, advisory board, and an indication of level, such as minor association <$10,000 or major association >$10,000) as well as intellectual conflicts of interest (for example, involvement in a federal or nonfederal advisory committee that has discussed the issue) that may pertain in any way to the subject of this meeting. If you are representing an organization, we require that you also disclose conflict of interest information for that organization. If you do not have a PowerPoint presentation, you will need to present the full disclosure information requested previously at the beginning of your statement to the Committee.

The Committee will deliberate openly on the topics under consideration. Interested persons may observe the deliberations, but the Committee will not hear further comments during this time except at the request of the chairperson. The Committee will also allow a 15-minute unscheduled open public session for any attendee to address issues specific to the topics under consideration. At the conclusion of the day, the members will vote and the Committee will make its recommendation(s) to CMS.

III. Registration Instructions

CMS' Coverage and Analysis Group is coordinating meeting registration. While there is no registration fee, individuals must register to attend. You may register online at *https://cms.zoomgov.com/webinar/register/WN_CsJL7k7kQcyY0Z20OR6eqw* or by phone by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by the deadline listed in the **DATES** section of this notice. Please provide your full name (as it appears on your state-issued driver's license), address, organization, telephone number(s), and email address. You will receive a registration confirmation with instructions for your participation at the virtual public meeting.

IV. Collection of Information

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

The Chief Medical Officer and Director of the Center for Clinical Standards and Quality for the Centers for Medicare & Medicaid Services (CMS), Lee A. Fleisher, having reviewed and approved this document, authorizes Lynette Wilson, who is the **Federal Register** Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: October 5, 2022.

Lynette Wilson,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2022–22067 Filed 10–7–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–437A and CMS–437B]

Agency Information Collection Activities: Proposed Collection; Extension of Comment Period

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Agency information collection activities: Proposed collection; comment request; extension of comment period.

SUMMARY: This notice extends the comment period for a 60-day notice request for proposed information collection request associated with the notice [Document Identifier: CMS–437A and CMS–437B] entitled ''Rehabilitation Unit and Hospital Criteria Worksheet'' that was published in the August 9, 2022 **Federal Register**. The comment period for the information collection request, which would have ended on October 11, 2022, is extended to November 16, 2022.

DATES: The comment period for the information collection request published in the August 9, 2022 **Federal Register** (87 FR 48482) is extended to November 16, 2022.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov*. Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: In the FR Doc. 2022–17063 of August 9, 2022 (87 FR 48482), we published a Paperwork Reduction Act notice requesting a 60-day public comment period for the document entitled ''Rehabilitation Unit and Hospital Criteria Worksheet.'' There were technical delays associated with making the information collection request publicly available; therefore, in this notice we are extending the comment period from the date originally listed in the August 9, 2022, notice.

Dated: October 5, 2022.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2022–22066 Filed 10–7–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–0412]

Revocation of Authorization of Emergency Use of an In Vitro Diagnostic Device for Detection and/or Diagnosis of COVID–19; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the Emergency Use Authorization (EUA) (the Authorization) issued to Laboratorio Clinico Toledo for the Laboratorio Clinico Toledo SARS–CoV–2 Assay. FDA revoked this Authorization under the Federal Food, Drug, and Cosmetic Act (FD&C Act). The revocation, which includes an explanation of the reasons for revocation, is reprinted in this document.

DATES: The Authorization for the Laboratorio Clinico Toledo SARS–CoV–2 Assay is revoked as of September 21, 2022.

ADDRESSES: Submit a written request for a single copy of the revocation to the Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4338, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the revocation may be sent. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the revocation.

FOR FURTHER INFORMATION CONTACT: Jennifer J. Ross, Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4332, Silver Spring, MD 20993–0002, 301–796–8510 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb–3) as amended by the Project BioShield Act of 2004 (Pub. L. 108–276) and the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (Pub. L. 113–5) allows FDA to strengthen the public health protections against biological, chemical, nuclear, and radiological agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations. On July 6, 2020, FDA issued an EUA to Laboratorio Clinico Toledo for the Laboratorio Clinico Toledo SARS–CoV–2 Assay, subject to the terms of the Authorization. Notice of the issuance of this Authorization was published in the **Federal Register** on November 20, 2020 (85 FR 74346), as required by section 564(h)(1) of the FD&C Act. Subsequent updates to the Authorization were made available on FDA's website. The authorization of a device for emergency use under section 564 of the FD&C Act may, pursuant to section 564(g)(2) of the FD&C Act, be revoked when the criteria under section 564(c) of the FD&C Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the FD&C Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the FD&C Act).

II. EUA Revocation Request

In a request received by FDA on September 8, 2022, Laboratorio Clinico Toledo requested withdrawal of, and on September 21, 2022, FDA revoked, the Authorization for the Laboratorio Clinico Toledo SARS–CoV–2 Assay. Because Laboratorio Clinico Toledo notified FDA that Laboratorio Clinico Toledo has decided to no longer test using the Laboratorio Clinico Toledo SARS–CoV–2 Assay and requested FDA withdraw the EUA for the Laboratorio Clinico Toledo SARS–CoV–2 Assay, FDA has determined that it is appropriate to protect the public health or safety to revoke this Authorization.

III. Electronic Access

An electronic version of this document and the full text of the revocation is available on the internet at *https://www.regulations.gov/.*

IV. The Revocation

Having concluded that the criteria for revocation of the Authorization under section 564(g)(2)(C) of the FD&C Act are met, FDA has revoked the EUA of Laboratorio Clinico Toledo for the Laboratorio Clinico Toledo SARS–CoV–2 Assay. The revocation in its entirety follows and provides an explanation of the reasons for revocation, as required by section 564(h)(1) of the FD&C Act.

BILLING CODE 4164–01–P

U.S. FOOD & DRUG ADMINISTRATION

September 21, 2022

Ilia M. Toledo Garcia
President & Director
Laboratorio Clinico Toledo
51 Palma St.
Arecibo PR 00612
Re: Revocation of EUA200207

Dear Ilia M. Toledo Garcia:

This letter is in response to the request from Laboratorio Clinico Toledo, received via email on September 8, 2022, that the U.S. Food and Drug Administration (FDA) withdraw the EUA for the Laboratorio Clinico Toledo SARS-CoV-2 Assay issued on July 6, 2020, and amended on December 28, 2020, and September 23, 2021. Laboratorio Clinico Toledo indicated in their email and cover letter that they are no longer testing with the Laboratorio Clinico Toledo SARS-CoV-2 Assay and have none of the reagents in stock in their laboratory.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may, pursuant to section 564(g)(2) of the Act, be revoked when circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). Because Laboratorio Clinico Toledo has notified FDA that it has decided to no longer test using the Laboratorio Clinico Toledo SARS-CoV-2 Assay and requested FDA withdraw the EUA for the Laboratorio Clinico Toledo SARS-CoV-2 Assay, FDA has determined that it is appropriate to protect the public health or safety to revoke this authorization. Accordingly, FDA hereby revokes EUA200207 for the Laboratorio Clinico Toledo SARS-CoV-2 Assay, pursuant to section 564(g)(2)(C) of the Act. As of the date of this letter, the Laboratorio Clinico Toledo SARS-CoV-2 Assay is no longer authorized for emergency use by FDA.

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Sincerely,

/s/

Namandjé N. Bumpus, Ph.D.
Chief Scientist
Food and Drug Administration

Dated: October 4, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–21998 Filed 10–7–22; 8:45 am]

BILLING CODE 4164–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–D–1253]

Laser-Assisted In Situ Keratomileusis Lasers—Patient Labeling Recommendations; Draft Guidance for Industry and Food and Drug Administration Staff; Availability; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is extending the comment period for the notice of availability that appeared in the **Federal Register** of July 28, 2022. In the notice of availability, FDA requested comments on draft guidance for industry and FDA staff entitled ''Laser-Assisted In Situ Keratomileusis (LASIK) Lasers—Patient Labeling Recommendations.'' The Agency is taking this action in response to requests for an extension to allow

interested persons additional time to submit comments.

DATES: FDA is extending the comment period on the document published July 28, 2022 (87 FR 45334). Submit either electronic or written comments on the draft guidance by November 25, 2022, 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:

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2022–D–1253 for ''Laser-Assisted In Situ Keratomileusis (LASIK) Lasers—Patient Labeling Recommendations.'' 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 ''Laser-Assisted In Situ Keratomileusis (LASIK) Lasers—Patient Labeling Recommendations'' 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: Bradley Cunningham, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1414, Silver Spring, MD 20993–0002, 301–796–6484.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of July 28, 2022, FDA published a notice of availability with a 90-day comment period to request comments on draft guidance for industry and FDA staff entitled ''Laser-Assisted In Situ Keratomileusis (LASIK) Lasers—Patient Labeling Recommendations.''

The Agency has received requests for an extension of the comment period. The requests conveyed the desire for additional time to develop meaningful and thoughtful feedback.

FDA has considered the requests and is extending the comment period for the notice of availability for 30 days, until November 25, 2022. The Agency believes that a 30-day extension allows adequate time for interested persons to submit comments without significantly delaying guidance on these important issues.

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 ''Laser-Assisted In Situ Keratomileusis (LASIK) Lasers—Patient Labeling Recommendations.'' 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 draft guidance document is also available at *https://www.regulations.gov* and at *https://www.fda.gov/regulatory-*

information/search-fda-guidance-documents. Persons unable to download an electronic copy of ''Laser-Assisted In Situ Keratomileusis (LASIK) Lasers—Patient Labeling Recommendations'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 16053 and complete title to identify the guidance you are requesting.

Dated: October 4, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–21971 Filed 10–7–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–2390]

Proposal To Refuse To Approve a New Drug Application Supplement for HETLIOZ (Tasimelteon); Opportunity for a Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Director of the Center for Drug Evaluation and Research (Center Director) at the Food and Drug Administration (FDA or Agency) is proposing to refuse to approve a supplemental new drug application (sNDA) submitted by Vanda Pharmaceuticals, Inc. (Vanda), for HETLIOZ (tasimelteon) capsules, 20 milligrams (mg), in its present form. This notice summarizes the grounds for the Center Director's proposal and offers Vanda an opportunity to request a hearing on the matter.

DATES: Either electronic or written requests for a hearing must be submitted by November 10, 2022; submit data, information, and analyses in support of the hearing and any other comments by December 12, 2022.

ADDRESSES: You may submit hearing requests, documents in support of the hearing, and any other comments as follows. Please note that late, untimely filed requests and documents will not be considered. The *https://www.regulations.gov* electronic filing system will accept hearing requests until 11:59 p.m. Eastern Time at the end of November 10, 2022, and will accept documents in support of the hearing and any other comments until 11:59 p.m. Eastern Time at the end of December 12, 2022. Documents received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before these dates.

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2022–N–2390 for ''Proposal To Refuse To Approve a New Drug Application Supplement for HETLIOZ (Tasimelteon); Opportunity for a Hearing.'' 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: Kaetochi Okemgbo, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6224, Silver Spring, MD 20993, 301–796–1546, *Kaetochi.Okemgbo@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Proposal To Refuse To Approve sNDA 205677–004

FDA approved new drug application (NDA) 205677 for HETLIOZ (tasimelteon) for treatment of non-24-hour sleep-wake disorder on January 31, 2014. On October 16, 2018, Vanda submitted sNDA 205677–004 for HETLIOZ (tasimelteon) capsule, 20 mg, as an efficacy supplement proposing to add a new indication for the treatment of jet lag disorder. Jet lag disorder is recognized by the International Classification of Sleep Disorders as a circadian rhythm sleep-wake disorder

resulting from a mismatch between an individual's internal circadian clock and the local time, most frequently occurring in response to rapid travel across time zones (Ref. 1). Jet lag disorder is characterized by daytime fatigue, general malaise, memory difficulties, difficulty staying alert, problems with concentration and decision-making, and gastrointestinal symptoms (*e.g.,* constipation or diarrhea) (Ref. 1). Although symptoms of jet lag are common, all of the following criteria must be met for a diagnosis of jet lag disorder:

(1) There is a complaint of insomnia or excessive daytime sleepiness, accompanied by a reduction of total sleep time, associated with transmeridian jet travel across at least two time zones.

(2) There is associated impairment of daytime function, general malaise, or somatic symptoms (*e.g.,* gastrointestinal disturbance) within 1 to 2 days after travel.

(3) The sleep disturbance is not better explained by another current sleep disorder, medical or neurological disorder, mental disorder, medication use, or substance use disorder (Ref. 1).

Therefore, substantial evidence of efficacy of tasimelteon for the treatment of jet lag disorder would include sufficient evidence to show that the drug will have an effect on: (1) insomnia or excessive daytime sleepiness, accompanied by a reduction of total sleep time, associated with transmeridian jet travel across at least two time zones and (2) an associated impairment of daytime function, general malaise, or somatic symptoms within 1 to 2 days after travel, as those symptoms are described in the diagnostic criteria for a diagnosis of jet lag disorder.[1]

On August 16, 2019, the former Division of Psychiatry Products, Office of Drug Evaluation I (Division),[2] issued a complete response letter to Vanda under § 314.110(a) (21 CFR 314.110(a)) stating that sNDA 205677–004 could not be approved in its present form because the application does not provide substantial evidence of efficacy for tasimelteon for the treatment of jet lag disorder. The complete response letter described the specific deficiencies that led to this determination and, where possible, recommended ways that Vanda might remedy these deficiencies. The following is a summary of these deficiencies:

(1) There was inadequate justification for the primary endpoints for the pivotal clinical trials, Study VP–VEC–162–3101 (Study 3101) and VP–VEC–162–3107 (Study 3107). The primary endpoint in Study 3101 was latency to persistent sleep as measured by polysomnogram. Latency to persistent sleep is defined as the length of time that elapsed between lights out and the point of 10 minutes of solid (persistent) sleep. The primary endpoint in Study 3107 was total sleep time in the first two-thirds of the night as measured by polysomnogram. Both latency to persistent sleep and total sleep time in the first two-thirds of the night provide objective assessments of sleep on 1 night after a sleep advance cycle, but the supplement did not demonstrate how these primary endpoints assess the fundamental sleep disturbances associated with jet lag disorder.

(2) The clinical trials did not prespecify type I error control for subjective endpoints. Additionally, there was insufficient support for the relevance of the exploratory subjective endpoints to the diagnosis of jet lag disorder. Subjective endpoints can be important to FDA's analysis of whether objective endpoints are clinically meaningful.[3]

(3) Studies 3101 and 3107 each focused on only one jet lag-related symptom and one direction of travel in healthy subjects. Other important aspects required for a diagnosis of the disorder (*i.e.,* associated impairment of daytime function, general malaise, or somatic symptoms (*e.g.,* gastrointestinal disturbance)) were not evaluated in these studies.

(4) Studies 3101 and 3107 did not include sufficient data, such as baseline polysomnograms, to determine each individual's reaction to the sleep advance within the protocol or the effects of the drug.

(5) There are inadequate data to demonstrate effectiveness of the drug when administered according to the dosing and administration information in the proposed labeling, *i.e.,* for 1 or more nights, depending on the number of time zones traveled and the duration of the stay. Studies 3101 and 3107 were single-dose studies that did not demonstrate the effectiveness of repeat dosing of tasimelteon for jet lag disorder.

(6) There are inadequate data to inform a recommendation on the optimal night to dose the drug, and whether dosing on multiple nights is more effective than dosing on a single night.

(7) There are inadequate data to characterize the use of the study drug with a sleep-delay cycle (westward travel as outgoing or incoming). The only data presented simulate eastward travel by sleep advance.

(8) The assessment of next-day functioning appears to be based on the driving study (Study VP–VEC–162–1201) and a subjective assessment of sleepiness, *i.e.,* the Karolinska Sleepiness Scale. The Karolinska Sleepiness Scale is not fit-for-purpose for the proposed indication, and the driving study, which enrolled healthy subjects without sleep advance, does not assess the range of functional impairments associated with jet lag disorder. Thus, the assessment of next-day functioning is inadequate.

These deficiencies preclude a finding of substantial evidence of effectiveness for the treatment of jet lag disorder. The complete response letter stated that to address the deficiencies, Vanda should conduct at least one additional adequate and well-controlled study. FDA encouraged Vanda to meet with the Division to discuss and reach agreement on the design of a study or studies that would address the deficiencies. The complete response letter stated that Vanda is required either to resubmit the application, fully addressing all deficiencies listed in the letter, or take other actions available under § 314.110 (*i.e.,* withdraw the application or request an opportunity for a hearing). Applicable regulations, including 21 CFR 10.75, also provide a mechanism for applicants to obtain formal review of one or more decisions reflected in a complete response letter (see Ref. 2).

On January 3, 2020, Vanda submitted a formal dispute resolution request (FDRR) concerning the complete response letter. Dr. Billy Dunn, then-Acting Director of the Office of Neuroscience, denied the FDRR by correspondence dated August 4, 2020, based on his determination that the application did not provide substantial evidence of effectiveness for tasimelteon for treatment of jet lag disorder. In addition to the bases provided in the complete response letter, Dr. Dunn noted that only one study relied upon by Vanda to support the approval of the supplement, Study VP–VEC–162–2102 (Study 2102), evaluated individuals

[1] In contrast, when appropriate, clinically meaningful evidence that a drug has an effect on certain symptoms of a multisymptom condition such as jet lag disorder may support an indication limited to those particular symptoms. Because Vanda did not propose such an indication in its sNDA, FDA did not consider whether the data show substantial evidence of effectiveness for a more limited use.

[2] This division is now the Division of Psychiatry within the Office of Neuroscience in the Office of New Drugs (OND) of FDA's Center for Drug Evaluation and Research (CDER).

[3] Here, irrespective of subjective endpoints, the supplement failed to demonstrate that the objective endpoints used in Study 3101 and Study 3107 were clinically meaningful for the reasons discussed in deficiency (1).

with a history of jet lag disorder. The other studies were conducted in healthy individuals with no evidence of experiencing jet lag disorder. Dr. Dunn evaluated Study 2102 and the other study submitted by Vanda as supportive evidence, Study VP–VEC–162–2101, and concluded that they were small phase 2 studies with design and methodological limitations. He also noted that jet lag disorder presents a series of complaints and symptoms beyond sleep disturbances and daytime sleepiness, and the sleep disturbances of jet lag disorder typically persist over several days. Because Studies 3101 and 3107 lacked robust assessment of important additional endpoints that might have been able to address these characteristics of jet lag disorder, Dr. Dunn concluded the data submitted do not support a finding of substantial evidence of effectiveness of tasimelteon for treatment of jet lag disorder. He also denied Vanda's requests: (1) for the Division to consider a narrower indication for treatment of insomnia and daytime sleepiness in jet lag disorder, because that request was raised after the complete response letter and therefore was outside the scope of the dispute resolution process and (2) for FDA to convene an Advisory Committee to answer the question of whether the supplement had provided substantial evidence of effectiveness, because he found no scientific questions that would have been appropriate for consideration by an Advisory Committee.

Vanda submitted another FDRR on September 2, 2020, for review of the Office of Neuroscience denial. Dr. Mary Thanh Hai, then-Acting Deputy Director of the Office of New Drugs (OND), denied the second FDRR on behalf of OND by correspondence dated October 21, 2020, based on her determination that the application did not provide substantial evidence of effectiveness for tasimelteon for treatment of jet lag disorder. Dr. Thanh Hai noted that the regulatory history of this development program revealed very clear advice from FDA on the study population and recommended endpoints for clinical trials to support a marketing application for the treatment of jet lag disorder. She also agreed with Dr. Dunn's denial of Vanda's requests regarding a narrower indication and convening an Advisory Committee.

On July 1, 2022, Vanda submitted a request for an opportunity for a hearing under § 314.110(b)(3) on whether there are grounds under section 505(d) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(d)) for denying approval of sNDA 205677–004.

II. Notice of Opportunity for a Hearing

For the reasons stated above and as explained in further detail in the August 16, 2019, complete response letter and the August 4, 2020, and October 21, 2020, FDRR denials, notice is given to Vanda and all other interested persons that the Center Director proposes to issue an order refusing to approve sNDA 205677–004 on the grounds that the application fails to meet the criteria for approval under section 505(d) of the FD&C Act because there is a lack of substantial evidence that the drug is effective for treatment of jet lag disorder (section 505(d)(5) of the FD&C Act).[4]

Vanda may request a hearing before the Commissioner of Food and Drugs (the Commissioner) on the Center Director's proposal to refuse to approve sNDA 205677–004. Pursuant to § 314.200(c)(1) (21 CFR 314.200(c)(1)), if Vanda decides to seek a hearing, it must file: (1) a written notice of participation and request for a hearing on or before 30 days after the notice is published in the **Federal Register**; and (2) the studies, data, information, and analyses relied upon to justify a hearing, as specified in § 314.200, on or before 60 days after the date the notice is published in the **Federal Register**.

As stated in § 314.200(g), a request for a hearing may not rest upon mere allegations or denials but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing to resolve. We note in this regard that because CDER proposes to refuse to approve sNDA 205677–004 based on the multiple deficiencies summarized above, any hearing request from Vanda must address all of those deficiencies. Failure to request a hearing within the time provided and in the manner required by § 314.200 constitutes a waiver of the opportunity to request a hearing. If a hearing request is not properly submitted, FDA will issue a notice refusing to approve sNDA 205677–004.

The Commissioner will grant a hearing if there exists a genuine and substantial issue of fact or if the Commissioner concludes that a hearing would otherwise be in the public interest (§ 314.200(g)(6)). If a hearing is granted, it will be conducted according to the procedures provided in 21 CFR parts 10 through 16 (21 CFR 314.201).

Paper submissions under this notice of opportunity for a hearing should be filed in one copy, except for those submitted as ''Confidential Submissions'' (see ''Written/Paper Submissions'' and ''Instructions'' in **ADDRESSES**). Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, submissions may be seen in the Dockets Management Staff Office between 9 a.m. and 4 p.m., Monday through Friday, and on the internet at *https://www.regulations.gov.* This notice is issued under section 505(c)(1)(B) of the FD&C Act and §§ 314.110(b)(3) and 314.200.

III. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at *https://www.regulations.gov.* References without asterisks are not on public display at *https://www.regulations.gov* because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. Sateia, M., ''Jet Lag Disorder,'' *International Classification of Sleep Disorders,* 3rd ed., Illinois: American Academy of Sleep Medicine, pp. 220–224, 2014.

* 2. FDA Guidance for Industry and Review Staff, ''Formal Dispute Resolution: Sponsor Appeals Above the Division Level,'' November 2017, (available at *https://www.fda.gov/media/126910/download*), accessed August 30, 2022.

Dated: October 4, 2022.

Jacqueline Corrigan-Curay,

Principal Deputy Center Director, Center for Drug Evaluation and Research.

[FR Doc. 2022–21932 Filed 10–7–22; 8:45 am]

BILLING CODE 4164–01–P

[4] Section 505(d)(5) of the FD&C Act provides that FDA shall refuse to approve an NDA supplement if ''there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof[.]'' For the reasons explained in this notice, CDER has concluded that the data and information submitted in the supplement do not show that the drug is effective for the proposed conditions of use.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Presidential Advisory Council on HIV/AIDS

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary for Health.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Service is hereby giving notice that the Presidential Advisory Council on HIV/AIDS (PACHA or the Council) will convene the 75th full council meeting virtually on Monday, October 17, 2022 from approximately 12:00–2:00 p.m. (ET). The meeting will be open to the public and there will be a public comment session; pre-registration is required to provide public comment. To pre-register to provide public comment, please send an email to *PACHA@hhs.gov* and include your name, organization, and title by close of business Monday, October 10, 2022. There is also an option to submit written statement by emailing *PACHA@hhs.gov* by close of business Monday, October 24, 2022. The meeting agenda will be posted on the PACHA page on *HIV.gov* at *https://www.hiv.gov/federal-response/pacha/about-pacha* prior to the meeting.

DATES: The meeting will be held on Monday, Monday, October 17, 2022 from approximately 12:00–2:00 p.m. (ET).

FOR FURTHER INFORMATION CONTACT: Ms. Caroline Talev, MPA, Senior Management Analyst, at *PACHA@hhs.gov* or *Caroline.Talev@hhs.gov* or 202–795–7622. Additional information can be obtained by accessing the Council's page on the *HIV.gov* site at *www.hiv.gov/pacha.*

SUPPLEMENTARY INFORMATION: PACHA was established by Executive Order 12963, dated June 14, 1995, as amended by Executive Order 13009, dated June 14, 1996 and is currently operating under the authority given in Executive Order 14048, dated September 30, 2021. The Council was established to provide advice, information, and recommendations to the Secretary regarding programs and policies intended to promote effective HIV diagnosis, treatment, prevention, and quality care services. The functions of the Council are solely advisory in nature.

The Council consists of not more than 35 members. Council members are selected from prominent community leaders with particular expertise in, or knowledge of, matters concerning HIV and AIDS, public health, global health, population health, philanthropy, marketing or business, as well as other national leaders held in high esteem from other sectors of society. PACHA selections also include persons with lived HIV experience and racial/ethnic and sexual and gender minority persons disproportionately affected by HIV. Council members are appointed by the Secretary.

B. Kaye Hayes,

Deputy Assistant Secretary for Infectious Disease, Director, Office of Infectious Disease and HIV/AIDS Policy, Executive Director, Presidential Advisory Council on HIV/AIDS, Office of the Assistant Secretary for Health, Department of Health and Human Services.

[FR Doc. 2022–22013 Filed 10–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–4040–0020]

Agency Information Collection Request. 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before December 12, 2022.

ADDRESSES: Submit your comments to *sagal.musa@hhs.gov* or by calling (202) 205–2634.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 4040–0020–60D and project title for reference, to Sagal Musa, email: *sagal.musa@hhs.gov,* or call (202) 205–2634 the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: SF–424 Mandatory Form.

Type of Collection: Renewal.

OMB No.: 4040–0020.

Abstract: The Standard 424 Mandatory form provides the Federal grant-making agencies an alternative to the Standard Form 424 data set and form. Agencies may use SF–424 Mandatory Form for grant programs not required to collect all the data that is required on the SF–424 core data set and form.

Type of respondent: The SF–424 Mandatory form is used by organizations to apply for Federal financial assistance in the form of grants. This form is submitted to the Federal grant-making agencies for evaluation and review. This IC expires on January 31, 2023. *Grants.gov* seeks a three-year clearance of these collections.

ANNUALIZED BURDEN HOUR TABLE

Forms (if necessary)	Respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
SF424 Mandatory Form	Grant Applicants	5761	1	1	5761
Total		5761	1	1	5761

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2022–22054 Filed 10–7–22; 8:45 am]

BILLING CODE 4151–AE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–4040–0005]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before December 12, 2022.

ADDRESSES: Submit your comments to *sagal.musa@hhs.gov* or by calling (202) 205–2634.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 4040–0005–60D and project title for reference, to Sagal Musa, email: *sagal.musa@hhs.gov,* or call (202) 205–2634 the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Application for Federal Domestic Assistance-Individual.

Type of Collection: Renewal.

OMB No. 4040–0005.

Abstract: The Application for Federal Assistance—Individual form provides the Federal grant-making agencies an alternative to the Standard Form 424 data set and form. Agencies may use Application for Federal Assistance—Individual form for grant programs not required to collect all the data that is required on the SF–424 core data set and form.

Type of respondent: The Application for Federal Assistance—Individual form is used by organizations to apply for Federal financial assistance in the form of grants. This form is submitted to the Federal grant-making agencies for evaluation and review. This IC expires on January 31, 2023. *Grants.gov* seeks a three-year clearance of these collections.

ANNUALIZED BURDEN HOUR TABLE

Forms (If necessary)	Respondents (If necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
Application for Federal Assistance-Individual.	Grant Applicants	100	1	1	100
Total		100	1	1	100

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2022–22060 Filed 10–7–22; 8:45 am]

BILLING CODE 4151–AE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; BRAIN Initiative Cell Atlas Network (BICAN) Sequencing Core.

Date: November 3, 2022.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Evon S. Ereifej, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Rockville, MD 20852, *ereifejes@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: October 4, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–22022 Filed 10–7–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) 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 Neurological Disorders and Stroke Special Emphasis Panel; Clinical Trials and

Comparative Effectiveness Studies in Neurological Disorders.

Date: November 1–2, 2022.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892, 301–435–6033, *rajarams@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health.)

Dated: October 4, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–22015 Filed 10–7–22; 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 10(d) 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 Clinical Trial Planning Grants (R34 Clinical Trial Not Allowed).

Date: November 2, 2022.

Time: 12:00 p.m. to 4:00 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 3G41, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Tara Capece, Ph.D., MPH, 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 3G41, Rockville, MD 20852, 240–191–4281, *capecet2@niaid.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: October 4, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–22017 Filed 10–7–22; 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 10(d) 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: Center for Scientific Review Special Emphasis Panel; Small Business: Social and Community Influences Across the Life course.

Date: November 2–3, 2022.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Washington, DC City Center, 1400 M St. NW, Washington, DC 20005.

Contact Person: David Erik Pollio, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1006F, Bethesda, MD 20892, (301) 594–4002, *polliode@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cardiovascular Sciences.

Date: November 2, 2022.

Time: 9:00 a.m. to 6:00 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: Imoh S. Okon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Bethesda, MD 20817, 301–347–8881, *imoh.okon@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Pilot and Feasibility Clinical Research Studies in Digestive Diseases and Nutrition.

Date: November 4, 2022.

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: Joseph D. Mosca, BA, Ph.D., MBA Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892, (301) 408–9465, *moscajos@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Shared Instrumentation: Interdisciplinary Molecular Sciences and Technologies (S10).

Date: November 8–9, 2022.

Time: 9:30 a.m. to 7:30 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: Alexander Gubin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6046B, MSC 7892, Bethesda, MD 20892, 301–408–9655, *gubina@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Circadian Mechanisms and Sleep.

Date: November 8, 2022.

Time: 2:00 p.m. to 7:00 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: John Bishop, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408–9664, *bishopj@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 4, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–22021 Filed 10–7–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) 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 on Drug Abuse Special Emphasis Panel; Cutting-Edge Basic Research Awards (CEBRA).

Date: November 7, 2022.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sheila Pirooznia, Ph.D., Scientific Review Officer, Division of Extramural Review, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 496–9350, *sheila.pirooznia@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Enhancing Social Connectedness and Ameliorating Loneliness to Prevent and Treat SUD and Support Recovery.

Date: November 30, 2022.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Brian Stefan Wolff, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 480–1448 *brian.wolff@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: October 4, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–22016 Filed 10–7–22; 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 10(d) 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; Nonhuman Primate Transplantation Tolerance Cooperative Study Group (U01, U19 Clinical Trial Not Allowed).

Date: October 31–November 1, 2022.

Time: 10:00 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 3G58, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Anuja Mathew, 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 3G58, Rockville, MD 20852, 301–761–6911, *anuja.mathew@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: October 4, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–22018 Filed 10–7–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Inherited Disease Research Access Committee (CIDR).

Date: November 4, 2022.

Time: 11:30 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Room 3185, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Barbara J. Thomas, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Room 3185, Bethesda, MD 20892, (301) 402–0838, *barbara.thomas@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: October 4, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–22023 Filed 10–7–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Meeting of the Substance Abuse and Mental Health Services Administration's Tribal Technical Advisory Committee (TTAC)

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given for the meeting on November 15–17, 2022 of the Substance Abuse and Mental Health

Services Administration's Tribal Technical Advisory Committee (TTAC). The meeting is open to the public and will be held in person. Agenda with call-in information will be posted on the SAMHSA website prior to the meeting at: *https://www.samhsa.gov/about-us/advisory-councils/meetings.* The meeting will include, but not be limited to, remarks from the Assistant Secretary for Mental Health and Substance Use; updates on SAMHSA priorities; follow up on topics related to the previous TTAC meetings; and council discussions.

DATES: November 15–17, 2022, 9:00 a.m. to approximately 5:00 p.m. (PST).

ADDRESSES: Viejas Casino and Resort, 5000 Willows Rd., Alpine, CA 91901.

FOR FURTHER INFORMATION CONTACT: Karen Hearod, CAPT USPHS, Director, Office of Tribal Affairs Policy, 5600 Fishers Lane, Rockville, Maryland 20857 (mail); telephone: (202) 868–9931; email: *karen.hearod@samhsa.hhs.gov*.

SUPPLEMENTARY INFORMATION: SAMHSA TTAC provides a venue wherein Tribal leadership and SAMHSA staff can exchange information about public health issues, identify urgent mental health and substance abuse needs, and discuss collaborative approaches to addressing these behavioral health issues and needs.

TTAC meetings are exclusively between federal officials and elected officials of Tribal governments (or their designated employees) to exchange views, information, or advice related to the management or implementation of SAMHSA programs. The public may attend but are not allowed to participate in the meeting.

To obtain the call-in number, access code, and/or web access link; or request special accommodations for persons with disabilities, please register on-line at: *https://snacregister.samhsa.gov,* or communicate with Karen Hearod.

Meeting information and a roster of TTAC members may be obtained either by accessing the SAMHSA Council's website at *https://www.samhsa.gov/about-us/advisory-councils/*, or by contacting Karen Hearod.

Dated: October 4, 2022.

Carlos Castillo,

Committee Management Officer.

[FR Doc. 2022–21992 Filed 10–7–22; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket Number USCG–2021–0183]

Draft Programmatic Environmental Impact Statement Expansion and Modernization of Base Seattle

AGENCY: Coast Guard, DHS.

ACTION: Notice of Availability for Draft Programmatic Environmental Impact Statement Expansion and Modernization of Base Seattle; and request for comments.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969 as amended and the Council on Environmental Quality NEPA Regulations, the U.S. Coast Guard announces the availability of the Draft Programmatic Environmental Impact Statement (PEIS) for the Expansion and Modernization of Base Seattle. The Draft PEIS analyzes the potential environmental and socioeconomic impacts, and identifies related mitigation measures, associated with land acquisition, facility and infrastructure modernization, and continued operation to support current and future Coast Guard missions at Base Seattle. By this notice, Coast Guard is announcing the availability of the draft PEIS for public review and comment.

DATES: Comments and related material must be post-marked or received by the Coast Guard on or before December 2nd, 2022.

ADDRESSES: The PEIS can be reviewed at *https://www.dcms.uscg.mil/Our-Organization/Assistant-Commandant-for-Engineering-Logistics-CG-4-/Program-Offices/Environmental-Management/Environmental-Planning-and-Historic-Preservation/.* Comments can be submitted to docket number USCG–2021–0183 using the Federal eRulemaking Portal at *https://www.regulations.gov/.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be sent to Dean Amundson, Coast Guard; telephone 510–637–5541, *BaseSeattlePEIS@uscg.mil.*

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, sections 4321 *et seq.* of Title 42 United States Code, and Council on Environmental Quality Regulations (sections 1500–1508 of Title 40 Code of Federal Regulations [CFR]; CEQ), the Coast Guard announces the availability of a Draft PEIS for public comment. The Coast Guard published a Notice of Intent (NOI) to prepare a PEIS on May 7, 2021 (FR24637). The NOI formally announced a formal 45 day scoping period in which comments were received. The Coast Guard used these comments to develop the Draft PEIS that is the subject of this Notice.

I. Public Participation and Comments

The Coast Guard invites you to review the Draft PEIS. The Coast Guard will consider all submissions and may adjust our final analysis and decision based on your comments. If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting Comments: You may submit comments on the Draft PEIS by one of the following methods:

- *Via the Web:* You may submit comments identified by docket number USCG–2021–0183 using the Federal eRulemaking Portal at *https://www.regulations.gov.*
- *Via U.S. Mail:* U.S. Coast Guard, Shore Infrastructure Logistics Center, Environmental Management Division, Attn: Mr. Dean Amundson, 1301 Clay Street, Suite 700N, Oakland, CA 94612–5203. Please note that mailed comments must be post-marked on or before the comment deadline of December 2nd, 2022.

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 in the docket.

II. Public Comment and Meeting

After publication of this Notice of Availability (NOA) of the Draft PEIS, the Coast Guard will receive public comments for 57 days. During this time period, the Coast Guard will hold a public meeting in Seattle, Washington. The public meeting will provide an additional opportunity to submit written comments on the Draft PEIS. The date and time of the public meeting will be announced in the Seattle Times. If special assistance is required to attend the meeting, contact the U.S. Coast Guard as indicated in **FOR FURTHER INFORMATION CONTACT**.

Upon the completion of the 57 day public comment period, the Coast Guard

will prepare comment responses and publish its Final PEIS. This notice is issued under authority of NEPA, specifically in compliance with 42 U.S.C. 4332(2)(C) and CEQ implementing regulations in 40 CFR parts 1500 through 1508.

III. Purpose and Need

Base Seattle supports, and will continue to support, the Coast Guard's execution of its statutory missions, pursuant to 14 U.S.C. 102. The Coast Guard's Base Seattle is located on Puget Sound in Seattle, Washington. The Base serves as the homeport for several Coast Guard cutters and provides a full range of support functions for vessels and Coast Guard missions in the Pacific Northwest and Polar areas of operation.

The purpose of the Proposed Action is to provide adequate facilities and infrastructure at Base Seattle to support current and future execution of the Coast Guard's statutory missions. Base Seattle is the largest Coast Guard facility in the Pacific Northwest and is an essential facility to support Coast Guard missions in the Pacific Northwest and Polar regions now and for the foreseeable future. To continue to support Coast Guard mission execution throughout these regions, expansion and extensive modernization of Base Seattle is required.

The need for the Proposed Action is to address substantial existing deficiencies in facilities and infrastructure at Base Seattle that hinder the efficient execution of Coast Guard missions, as well as provide facility enhancements necessary to support current and future major cutters homeported at Base Seattle. Advances in major cutter technology require infrastructure enhancements and renovations to accommodate the increased size and shore-side support requirements associated with these advanced operating assets. The Coast Guard has identified deficiencies that include, but are not limited to, a lack of adequate land area, incompatible land uses, shortage of berthing capacity, out of date and inadequate facilities and infrastructure, and traffic congestion and parking shortfalls, as well as the need for improved resiliency in the event of natural disasters, and improved physical security capabilities.

IV. Scope of Analysis

The Draft PEIS identifies and examines the proposed action to expand and modernize Base Seattle, the reasonable alternatives available to the Coast Guard, and assesses the potential environmental impact of each. Future decisions to homeport major cutters at Base Seattle, as well as the fate of cutters currently homeported at Base Seattle, are independent actions from the modernization program evaluated in this PEIS and therefore these actions are not within the scope of the PEIS analysis. Additionally, the EPA is the lead agency for a potential removal of contamination in Slip 36 at Base Seattle under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Since the Coast Guard is not the lead agency, and the project is being completed under CERCLA (exempt from NEPA), this action is independent of the Base Seattle modernization.

V. Alternatives

The Coast Guard has determined the requirements to modernize and upgrade existing facilities and infrastructure at Base Seattle. These requirements include resolving incompatible land uses, increasing berthing capacity, upgrading existing facilities and infrastructure, reducing congestion and parking shortfalls, providing a safer work environment, enhancing physical security capabilities, and providing new infrastructure, as necessary.

All action alternatives include demolition, rehabilitation/renovation, and construction of structures. In addition to buildings, the proposed construction actions would include utility replacement, upgrade, and modernization; seismic soil stabilization; upgrades to base security (fencing); expanded parking and flexible use space; and repair of internal road surfaces, hardscaping, and landscaping.

Once the program is fully executed, Base Seattle population would increase from the current level of 1,140 to an estimated 1,900 personnel.

The Coast Guard identified three reasonable alternatives that would meet the purpose and need of the Proposed Action.

1. *Alternative 1: Modernization with Additional Land and Two Berths at Terminal 46 (Preferred Alternative).* Under Alternative 1, approximately 27 to 54 acres of land would be acquired, including the 1.1-acre Belknap property and between 26 and 53 acres at Terminal 46 from the Port of Seattle. The acquired property at Terminal 46 would provide 1,070 linear feet of new Coast Guard berthing space. In addition to the construction activities discussed above, Alternative 1 would include the re-construction of portions of Terminal 46.

2. *Alternative 2: Modernization with Additional Land from Terminals 30 and 46.* Alternative 2 would expand Base Seattle both to the north and south. Under Alternative 2, many of the proposed infrastructure modernization and expansion elements would occur within the current Base boundaries or on land acquired at Terminal 30 and berthing requirements would be satisfied by the development of two new berths to the south (Pier 35 E/F). Land acquired at Terminal 46 would be used for active cutter support services, material laydown areas, and AT/FP setbacks. Land acquisition under Alternative 2 would include 21.5 to 29.5 acres of land, with the majority being 13.5 to 21.5 acres at Terminal 30, which would include Jack Perry Memorial Park. Two new berths would provide 1,120 linear feet of wharf space. The berths would be constructed through the Pier 35E/F development with one berth on currently owned Coast Guard property and a second berth constructed on acquired property at Terminal 30.

3. *Alternative 3: Modernization with Additional Land and One Berth at Terminal 46.* Under Alternative 3, Base Seattle would expand to the north through land acquisition at Terminal 46 and would infill the current Base footprint by acquiring currently leased properties. The minimum acquired land would total approximately 24.25 to 32.25 acres with the majority of land being 21.75 to 29.75 acres at Terminal 46. These elements include satisfying berthing requirements with construction of one new berth within the current Base boundaries (Pier 35E) and one additional existing berth at Terminal 46. Under this alternative, one existing berth totaling 560 LF would be acquired at Terminal 46. No further modifications are required for this berth. One berth would be constructed on Coast Guard property at proposed Pier 35.

The Coast Guard also carried forward the No Action Alternative for detailed analysis in the Draft PEIS. While the No Action Alternative would not satisfy the purpose and need for the Proposed Action, this alternative was retained to provide a comparative against which to analyze the effects of the Action Alternatives as required under CEQ's NEPA regulation.

VI. Findings of the Draft PEIS

The Draft PEIS analyzes the potential environmental and socioeconomic impacts associated with the Proposed Action, action alternatives and the No Action Alternative; including direct, indirect, and cumulative effects, and mitigation measure to minimize impacts. Resource areas analyzed in the Draft PEIS include: land use, geological resources, water resources, transportation, air quality, biological resources, socioeconomics and

environmental justice, cultural resources, noise, utilities and public services, hazardous materials and wastes, visual resources, recreational resources, and greenhouse gases and climate change.

Based on the analysis presented in the Draft PEIS, significant adverse impacts could occur to land use/Coastal Zone Management and socioeconomics/environmental justice. Due to the programmatic nature of the Proposed Action, the analysis determined that there are adverse potentially significant impacts to cultural resources. When considered with other projects there will be both significant and potentially significant cumulative impacts. The Coast Guard invites public response and comments on the Draft PEIS to assist the Coast Guard in improving the analysis and mitigation of environmental impacts associated with the Proposed Action.

Dated: September 29, 2022.

C.J. List,

Rear Admiral, USCG.

[FR Doc. 2022–22075 Filed 10–7–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2007–0008]

National Advisory Council; Meeting

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Committee Management; Notice of open Federal Advisory Committee meeting.

SUMMARY: The Federal Emergency Management Agency's National Advisory Council (NAC) will meet on October 25–27, 2022. The meeting will be open to the public through virtual means.

DATES: The NAC will meet from 8:30 a.m. to 3:30 p.m. Central Time (CT) on Tuesday, October 25, 2022; from 8:30 a.m. to 5:30 p.m. CT on Wednesday, October 26, 2022; and from 10:00 a.m. to 12:00 p.m. CT on Thursday, October 27, 2022. Please note that the meeting will pause for breaks and may end early any day on which the NAC has completed its business.

ADDRESSES: Anyone who wishes to participate in the NAC meeting must register with FEMA in advance by providing their name, official title, organization, telephone number, and email address to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below by 5:00 p.m. CT on Friday, October 21, 2022. Members of the public are urged to provide written comments on the issues to be considered by the NAC. The topic areas are indicated in the **SUPPLEMENTARY INFORMATION** section below. Any written comments must be submitted by 5:00 p.m. CT on Friday, October 21, 2022, identified by Docket ID FEMA–2007–0008, and submitted via the Federal eRulemaking Portal at *http://www.regulations.gov,* following the instructions for submitting comments below.

Instructions for Submitting Comments: All submissions must include the words ''Federal Emergency Management Agency'' and the docket number (Docket ID FEMA–2007–0008) for this action. Comments received, including any personal information provided, will be posted without alteration at *http://www.regulations.gov.* For access to the docket or to read comments received by the NAC, go to *http://www.regulations.gov,* and search for Docket ID FEMA–2007–0008.

Opportunities for public comments, limited to one minute and directed to the current topic, will be offered by the Designated Federal Officer during meeting discussions on Tuesday, October 25, 2022, from 10:00 a.m. to 3:00 p.m. CT, and Thursday, October 27, 2022, from 10:00 a.m. to 12:00 p.m. CT. An open public comment period is available on Wednesday, October 26, 2022, from 5:00 p.m. to 5:15 p.m. CT. All speakers must register in advance of the meeting to make remarks during the public comment period and must limit their comments to three minutes. Comments should be addressed to the NAC. Any comments unrelated to the agenda topics will not be considered. To register to make remarks during the public comment period, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section below by 5:00 p.m. CT on Friday, October 21, 2022. Please note that the public comment period may end before the time indicated, following the last call for comments.

The NAC 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 the individual listed in the **FOR FURTHER INFORMATION CONTACT** section below as soon as possible and no later than October 18, 2022. Last-minute requests will be considered but may not be possible to fulfill.

FOR FURTHER INFORMATION CONTACT: Rob Long, Designated Federal Officer, Office of the National Advisory Council, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472–3184, 202–716–4612, *FEMA-NAC@fema.dhs.gov.* The NAC website is *https://www.fema.gov/about/offices/national-advisory-council.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Appendix.

The NAC advises the FEMA Administrator on all aspects of emergency management. The NAC incorporates input from state, local, tribal, and territorial (SLTT) governments, and the private sector in the development and revision of FEMA plans and strategies. The NAC includes a cross-section of officials, emergency managers, and emergency response officials from SLTT governments, the private sector, and nongovernmental organizations.

Agenda: On Tuesday, October 25, 2022, NAC subcommittees will present to the full NAC their draft annual recommendations regarding the 2022–2026 FEMA Strategic Plan goals and objectives. The NAC 2022 Draft Recommendations will be available one week prior to this meeting for public review at *https://www.fema.gov/about/offices/national-advisory-council.* On Wednesday, October 26, 2022, the NAC will meet with FEMA leadership in the morning and, in the afternoon, host panel discussions on inter-governmental relationships and challenges with emergency management from the perspectives of Tribal Nations in FEMA Region 6. On Thursday, October 27, 2022, the NAC will vote on the adoption of the NAC 2022 Draft Recommendations.

The full agenda and any related documents for this meeting will be available at *https://www.fema.gov/about/offices/national-advisory-council* on Tuesday, October 18, 2022, or by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2022–22020 Filed 10–7–22; 8:45 am]

BILLING CODE 9111–48–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7056–N–40]

60-Day Notice of Proposed Information Collection: Multifamily Mortgagee's Application for Insurance Benefits; OMB Control No.: 2502–0419

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* December 12, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities.

To learn more about how to make an accessible telephone call, please visit: *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, REE Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit: *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Multifamily Mortgagee's Application for Insurance Benefits.

OMB Approval Number: 2502–0419.

OMB Expiration Date: August 31, 2023.

Type of Request: Extension of a currently approved collection.

Form Number: Form HUD 2747, Application for Insurance Benefits, Multifamily Mortgage.

Description of the need for the information and proposed use: A lender with an insured multifamily mortgage pays an annual insurance premium to the Department. When and if the mortgage goes into default, the lender may elect to file a claim for insurance benefits with the Department. A requirement of the claims process is the submission of an application for insurance benefits. Form HUD 2747, Mortgagee's Application for Insurance Benefits (Multifamily Mortgage), satisfies this requirement.

Respondents: Not-for-profit institutions, State, local or Tribal Government.

Estimated Number of Respondents: 110.

Estimated Number of Responses: 110.

Frequency of Response: Occasion.

Average Hours per Response: 1.

Total Estimated Burden: 110 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) 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) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Jeffrey D. Little,

General Deputy Assistant Secretary for Housing.

[FR Doc. 2022–22019 Filed 10–7–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R8–ES–2022–0073; FXES11130800000–212–FF08ENVS00]

Spring Mountain Raceway and Motor Resort, Nye County, Nevada; Receipt and Availability for Public Comment: Incidental Take Permit Application, Draft Habitat Conservation Plan, and Draft NEPA Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the receipt and availability of an application for an incidental take permit (ITP) under the Endangered Species Act (ESA) and an associated draft habitat conservation plan (HCP). Additionally, consistent with the requirements of the National Environmental Policy Act (NEPA), we have prepared a draft low-effect screening form and environmental action statement supporting our preliminary determination that the proposed permit action qualifies for a categorical exclusion under NEPA. The Spring Mountain Raceway and Motor Resort has applied for an ITP under the ESA for their HCP for a 56-acre go-kart project in Nye County, Nevada. The ITP would authorize the take of Mojave desert tortoise (*Gopherus agassizii*) incidental to development, construction, and operation of the project. We invite the public and local, State, Tribal, and Federal agencies to comment on the permit application, proposed low-effect HCP, and NEPA categorical exclusion determination documentation. Before issuing the requested ITP, we will take into consideration any information that we receive during the public comment period.

DATES: Written comments must be received on or before November 10, 2022.

ADDRESSES:

Obtaining Documents: The documents announced by this notice, as well as any comments and other materials that we receive, will be available for public inspection in Docket No. FWS–R8–ES–2022–0073 at *https://www.regulations.gov.*

Submitting Comments: To send written comments, please use one of the following methods and identify to which document your comments are in reference—the draft HCP or NEPA compliance documentation.

- *Internet:* Submit comments at *https://www.regulations.gov* under Docket No. FWS–R8–ES–2022–0073.
- *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS–R8–ES–2022–0073; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comments and Public Availability of Comments under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Glen W. Knowles, Field Supervisor, Southern Nevada Fish and Wildlife Office, by phone at 702–515–5244. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the receipt of a permit application from the Spring Mountain Raceway and Motor Resort (applicant), for a 2-year incidental take permit (ITP) under section 10(a)(1)(B) of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). Application for the permit requires the preparation of a habitat conservation plan (HCP) with measures to avoid, minimize, and mitigate the impacts of incidental take of endangered, threatened, or candidate species to the maximum extent practicable. The applicant prepared a draft low-effect HCP for a 56-acre go-kart project pursuant to section 10(a)(1)(B) of the ESA.

The Service's consideration of issuing an ITP also requires evaluation of its potential impacts on the natural and human environment in accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). The Service has prepared a low-effect screening form and environmental action statement (categorical exclusion, or CatEx documentation), pursuant to NEPA and its implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1501.4, to preliminarily determine if the proposed HCP qualifies as a low-effect HCP, eligible for a categorical exclusion.

Background

Except for permitted exceptions, section 9 of the ESA (16 U.S.C. 1538 *et seq.*) prohibits the taking of fish and wildlife species listed as endangered under section 4 of the ESA; by regulation, take of certain species listed as threatened is also prohibited (16 U.S.C. 1533(d); 50 CFR 17.31). Regulations governing the permitted exception for allowable incidental take of endangered and threatened species are at 50 CFR 17.22 and 17.32. For more about the Federal habitat conservation HCP program, go to: *https://www.fws.gov/media/habitat-conservation-plans-under-endangered-species-act.*

National Environmental Policy Act Compliance

The proposed permit issuance triggers the need for compliance with the NEPA. The draft CatEx documentation was prepared to determine if issuance of an ITP, based on the draft HCP, would only have individually or cumulatively minor or negligible effects on the species covered in the HCP, as well as on other environmental values or resources, and would therefore qualify as a low-effect HCP not subject to further environmental analysis under NEPA.

Proposed Action

Under the proposed action, the Service would issue a permit to the applicant for a period of 2 years for covered activities (described below) related to the construction of a 56-acre go-kart facility. Covered species include the federally threatened Mojave desert tortoise (*Gopherus agassizii*).

Habitat Conservation Plan Area

The geographic scope of this draft HCP area encompasses 56 acres in the town of Pahrump in Nye County, Nevada.

Covered Activities

The proposed section 10(a) permit would allow incidental take of the federally threatened Mojave desert tortoise (*Gopherus agassizii*) for covered activities in the proposed HCP area. The applicant is requesting incidental take authorization for covered activities pertaining to the construction of a go-kart facility, including desert tortoise and security fence installation, desert tortoise clearance surveys and translocation, cactus and yucca transplanting, blading, vegetation removal, grading and contouring, construction of go-kart tracks and associated features, and construction of facility buildings, lighting, and parking lots. For covered activities, the applicant has outlined best management practices and other measures in the HCP to minimize and mitigate for direct impacts to the Mojave desert tortoise. The proposed actions will result in the permanent loss of 56 acres of suitable Mojave desert tortoise habitat in Nye County, Nevada.

Public Comments

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on the draft HCP and associated documents. If you wish to comment, you may submit comments by either of the methods in **ADDRESSES**.

Public Availability of Comments

Any comments we receive will become part of the decision record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

Issuance of a permit is a Federal proposed action subject to compliance with NEPA and section 7 of the ESA. We will evaluate the permit application, the HCP, associated documents, and any public comments we receive during the comment period to determine whether the application meets the requirements of section 10(a) of the ESA. If we determine that those requirements are met, we will conduct an intra-Service consultation under section 7 of the ESA for the Federal action and for the potential issuance of an ITP. If the intra-Service consultation confirms that

issuance of the permit will not jeopardize the continued existence of any endangered or threatened species, or destroy or adversely modify critical habitat, we will issue a permit to the applicant for the incidental take of the covered species.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1539(c) and its implementing regulations (50 CFR 17.32) and NEPA (42 U.S.C. 4371 *et seq.*) and NEPA implementing regulations (40 CFR 1501.4).

Glen W. Knowles,

Field Supervisor, Southern Nevada Fish and Wildlife Office, U.S. Fish and Wildlife Service, Las Vegas, Nevada.

[FR Doc. 2022–21974 Filed 10–7–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2022–N053; FXES11140400000–223–FF04E00000]

Endangered Species; Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits, permit renewals, and/or permit amendments to conduct activities intended to enhance the propagation or survival of endangered species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive written data or comments on the applications by November 10, 2022.

ADDRESSES:

Reviewing Documents: Submit requests for copies of applications and other information submitted with the applications to Karen Marlowe (see **FOR FURTHER INFORMATION CONTACT**). All requests and comments should specify the applicant name and application number (*e.g.,* Mary Smith, ESPER0001234).

Submitting Comments: If you wish to comment, you may submit comments by one of the following methods:

- *Email (preferred method): permitsR4ES@fws.gov.* Please include your name and return address in your email message. If you do not receive a confirmation from the U.S. Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed in **FOR FURTHER INFORMATION CONTACT**.
- *U.S. mail:* U.S. Fish and Wildlife Service Regional Office, Ecological Services, 1875 Century Boulevard, Atlanta, GA 30345 (Attn: Karen Marlowe, Permit Coordinator).

FOR FURTHER INFORMATION CONTACT: Karen Marlowe, Permit Coordinator, 404–679–7097 (telephone) or *karen_marlowe@fws.gov* (email). Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite review and comment from the public and local, State, Tribal, and Federal agencies on applications we have received for permits to conduct certain activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17. Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552).

Background

With some exceptions, the ESA prohibits take of listed species unless a Federal permit is issued that authorizes such take. The ESA's definition of ''take'' includes hunting, shooting, harming, wounding, or killing, and also such activities as pursuing, harassing, trapping, capturing, or collecting.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to take endangered or threatened species while engaging in activities that are conducted for scientific purposes that promote recovery of species or for enhancement of propagation or survival of species. These activities often include the capture and collection of species, which would result in prohibited take if a permit were not issued. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

The ESA requires that we invite public comment before issuing these permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies. Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE 61981B–4	The Peregrine Fund, Boise, ID.	Puerto Rican sharp-shinned hawk (*Accipiter striatus venator*).	Puerto Rico	Captive propagation and reintroduction.	Capture; band; color band; radio tag; collect blood and chest feathers; salvage carcasses, eggshells, and infertile eggs; treat individuals and nests for parasites; feed; collect eggs for captive propagation; and release.	Renewal and amendment.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE 237544–2	Stephen Golladay, Newton, GA.	Fat threeridge (*Amblema neislerii*), Gulf moccasinshell (*Medionidus penicillatus*), oval pigtoe (*Pleurobema pyriforme*), purple bankclimber (*Elliptoideus sloatianus*), and shinyrayed pocketbook (*Hamiota subangulata*).	Georgia	Presence/ ... probable absence surveys.	Capture, handle, identify, release, and salvage relic shells.	Renewal.
TE 063179–9	Edwards-Pitman Environmental, Inc., Atlanta, GA.	Fishes: Amber darter (*Percina antesella*), blue shiner (*Cyprinella* [=*Notropis*] *caerulea*), Cherokee darter (*Etheostoma scotti*), Conasauga logperch (*P. jenkinsi*), Etowah darter (*E. etowahae*), goldline darter (*P. aurolineata*), snail darter (*P. tanasi*), and trispot darter (*E. trisella*);. Mussels: Alabama moccasinshell (*Medionidus acutissimus*), Altamaha spinymussel (*Elliptio spinosa*), Coosa moccasinshell (*M. parvulus*), dwarf wedgemussel (*Alasmidonta heterodon*), fat threeridge (*Amblema neislerii*), finelined pocketbook (*Hamiota altilis*), Georgia pigtoe (*Pleurobema hanleyianum*), Gulf moccasinshell (*M. penicillatus*), Ochlockonee moccasinshell (*M. simpsonianus*), oval pigtoe (*P. pyriforme*), purple bankclimber (*Elliptoideus sloatianus*), shinyrayed pocketbook (*H. subangulata*), southern clubshell (*P. decisum*), southern pigtoe (*P. georgianum*), Suwannee moccasinshell (*M. walkeri*), Tar River spinymussel (*Parvaspina steinstansana*), triangular kidneyshell (*Ptychobranchus greenii*), and yellow lance (*Elliptio lanceolata*).	Georgia and North Carolina.	Presence/ ... probable absence surveys.	Capture, handle, identify, release, and salvage relic shells.	Renewal.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE 117405–5	Tennessee Valley Authority, Knoxville, TN.	Mammals: Gray bat (*Myotis grisescens*), Indiana bat (*M. sodalis*), northern long-eared bat (*M. septentrionalis*), and Virginia big-eared bat (*Corynorhinus townsendii virginianus*); Reptiles: Flattened musk turtle (*Sternotherus depressus*) and ringed map turtle (*Graptemys oculifera*); Fishes: Alabama cavefish (*Speoplatyrhinus poulsoni*), Alabama sturgeon (*Scaphirhynchus suttkusi*), amber darter (*Percina antesella*), blackside dace (*Chrosomus cumberlandensis*), blue shiner (*Cyprinella* [=*Notropis*] *caerulea*), bluemask darter (*Etheostoma akatulo*), boulder darter (*E. wapiti*), Cahaba shiner (*Notropis cahabae*), Cherokee darter (*E. scotti*), chucky madtom (*Noturus crypticus*), Conasauga logperch (*Percina jenkinsi*), Cumberland darter (*E. susanae*), duskytail darter (*E. percnurum*),. Etowah darter (*E. etowahae*), goldline darter (*P. aurolineata*), laurel dace (*Chrosomus saylori*), palezone shiner (*Notropis albizonatus*), pallid sturgeon (*Scaphirhynchus albus*), pygmy madtom (*Noturus stanauli*), relict darter (*E. chienense*), rush darter (*E. phytophylum*), smoky madtom (*N. baileyi*), snail darter (*P. tanasi*), spring pygmy sunfish (*Elassoma alabamae*), and vermilion darter (*Etheostoma chermocki*); Mussels: Alabama clubshell (*Pleurobema troschelianum*), Alabama lampmussel (*Lampsilis virescens*), Alabama moccasinshell (*Medionidus acutissimus*), Appalachian elktoe (*Alasmidonta raveneliana*), Applachian monkeyface (*Theliderma sparsa*), birdwing pearlymussel (*Lemiox rimosus*), black clubshell (*Pleurobema curtum*), clubshell (*P. clava*), Coosa moccasinshell (*M. parvulus*), cracking pearlymussel (*Hemistena lata*), Cumberland bean (*Villosa trabalis*), Cumberland elktoe (*Alasmidonta atropurpurea*), Cumberland monkeyface (*T. intermedia*), Cumberland pigtoe (*Pleurnaia gibberum*), Cumberlandian combshell (*Epioblasma brevidens*), dark pigtoe (*Pleurobema furvum*), dromedary pearlymussel (*Dromus dromas*), fanshell (*Cyprogenia stegaria*), fat pocketbook (*Potamilus capax*), finelined pocketbook (*Hamiota altilis*),.	Alabama, Arkansas, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, and Virginia.	Presence/probable absence surveys and population monitoring.	Mammals: Enter hibernacula or maternity roost caves, capture with mist nets or harp traps, handle, identify, band, collect hair samples, radio tag, light tag, and wing punch; Reptiles: Capture, identify, and release; Fishes: Capture, identify, fin clip, and release; Mussels and Snails: Capture, identify, release, and salvage relic shells; Arachnids: Search bryophyte mats; Crustaceans: Capture, identify, measure, sex, and release; Plants: Remove and reduce to possession (collect) seeds and plant material.	Renewal and amendment.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
		finerayed pigtoe (*Fusconaia cuneolus*), flat pigtoe (*Pleurobema marshalli*), fluted kidneyshell (*Pytchobranchus subtentus*), Georgia pigtoe (*Pleurobema hanleyianum*), green blossom (*E. torulosa gubernaculum*), heavy pigtoe (*P. taitianum*), inflated heelsplitter (*Potamilius inflatus*), littlewing pearlymussel (*Pegias fabula*), northern riffleshell (*E. rangiana*), orangefoot pimpleback (*Plethobasus cooperianus*), orangenacre mucket (*H. perovalis*), ovate clubshell (*Pleurobema perovatum*), oyster mussel (*E. capsaeformis*), pale lilliput (*Toxolasma cylindrellus*), pink mucket (*Lampsilis abrupta*), purple bean (*Villosa perpurpurea*), purple cat's paw (*E. obliquata obliquata*), rabbitsfoot (*Quadrula cylindrica cylindrica*), rayed bean (*Villosa fabalis*), ring pink (*Obovaria retusa*), rough pigtoe (*Pleurobema plenum*), rough rabbitsfoot (*Q. cylindrica strigillata*), scaleshell mussel (*Leptodea leptodon*), sheepnose mussel (*Plethobasus cyphyus*), shiny pigtoe (*Fusconaia cor*), slabside pearlymussel (*Pleuronaia dolabelloides*),.				
		snuffbox mussel (*E. triquetra*), southern acornshell (*E. othcaloogensis*), southern clubshell (*Pleurobema decisum*), southern combshell (*E. penita*),.				
		southern pigtoe (*P. georgianum*), spectaclecase (*Cumberlandia monodonta*), stirrupshell (*Q. stapes*), tan riffleshell (*E. florentina walker* [=*E. walkeri*]), triangular kidneyshell (*Ptychobranchus greenii*), tubercled blossom (*E. torulosa torulosa*), turgid blossom (*E. turgidula*), upland combshell (*E. metastriata*), white wartyback (*Plethobasus cicatricosus*),.				
		winged mapleleaf (*Q. fragosa*), and				
		yellow blossom (*E. florentina florentina*); Snails: Anthony's riversnail (*Athearnia anthonyi*), armored snail (*Marstonia pachyta*), cylindrical lioplax (*Lioplax cyclostomaformis*), interrupted [=Georgia] rocksnail (*Leptoxis foremani*), lacy elimia (*Elimia crenatella*), painted rocksnail (*L. taeniata*), painted snake coiled forest snail (*Anguispira picta*), plicate rocksnail (*L. plicata*),.				
		rough hornsnail (*Pleurocera foremani*), royal marstonia (*Marstonia ogmorhaphe*), slender campeloma (*Campeloma decampi*), and tulotoma snail (*Tulotoma magnifica*); Arachnids: Spruce-fir moss spider (*Microhexura montivaga*); Crustaceans: Kentucky cave shrimp (*Palaemonias ganteri*) and Nashville crayfish (*Orconectes shoupi*);.				
		Plants: Alabama leather flower (*Clematis socialis*), Alabama streak-sorus fern (*Thelypteris pilosa* var. *alabamensis*), American chaffseed (*Schwalbea americana*), American hart's tongue fern (*Asplenium scolopendrium* var. *americanum*), Blue Ridge goldenrod (*Solidago spithamaea),* bunched arrowhead (*Sagittaria fasciculata*),.				
		Cumberland rosemary (*Conradina verticillata*), Georgia rockcress (*Arabis georgiana*), fleshy-fruit gladecress (*Leavenworthia crassa*), green pitcher-plant (*Sarracenia oreophila*), harperella (*Ptilimnium nodosum*), Heller's blazingstar (*Liatris helleri*), large-flowered skullcap (*Scutellaria montana*),				

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
		leafy prairie-clover (*Dalea foliosa*), lyrate bladderpod (*Lesquerella lyrata),* Michaux's sumac (*Rhus michauxii*), Mohr's Barbara's buttons (*Marshallia mohrii*), Morefields leather flower (*Clematis morefieldii*), Mountain sweet pitcher-plant (*Sarracenia rubra* ssp. *Jonesii*), persistent trillium (*Trillium persistens*),. pondberry (*Lindera melissifolia*), Prices potato-bean (*Apios priceana*), Guthrie's [=Pyne's] ground-plum (*Astragalus bibullatus*), relict trillium (*T. reliquum),* Roan Mountain bluet (*Hedyotis purpurea* var. *montana*), rock gnome lichen (*Gymnoderma lineare*), Ruth's golden aster (*Pityopsis ruthii*), Short's bladderpod (*Physaria globosa*),. small whorled pogonia (*Isotria medeoloides*), smooth coneflower (*Echinacea laevigata*), spreading avens (*Geum radiatum*), Spring Creek bladderpod (*Lesquerella perforata*), swamp pink (*Helonias bullata*), Tennessee yellow-eyed grass (*Xyris tennesseensis*), Virginia round-lead birch (*Betula uber*), Virginia spiraea (*Spiraea virginiana*), white irisette (*Sisyrinchium dichotomum*), and whorled sunflower (*Helianthus verticillatus*).				
TE 34882A–4	Mark Bailey, Andalusia, AL.	Black warrior waterdog (*Necturus alabamensis*).	Alabama	Presence/ ... probable absence surveys.	Capture, handle, and release.	Amendment.
TE 81492B–1	Dylan Brooks, Sylva, NC.	Gray bat (*Myotis grisescens*), Indiana bat (*M. sodalis*), and northern long-eared bat (*M. septentrionalis*).	Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin.	Presence/ ... probable absence surveys, habitat use and assessment research, population monitoring, and studies to evaluate potential impacts of White-nose Syndrome or other potential threats.	Capture with mist nets and harp traps, handle, identify, band, and radio tag.	Renewal and amendment.
TE 070846–4	Jeffrey Walters, Blacksburg, VA.	Red-cockaded woodpecker (*Picoides borealis*).	Camp Lejeune, NC ..	Population management and monitoring.	Monitor nests, capture, band, radio tag, construct artificial nest cavities and restrictors, and translocate.	Renewal.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE 91733B–1	Joshua Adams, Lexington, KY.	Mammals: Gray bats (*Myotis grisescens*), Indiana bats (*M. sodalis*), northern long-eared bats (*M. septentrionalis*), Ozark big-eared bat *(Corynorhinus townsendii ingens),* and Virginia big-eared bats *(C. t. virginianus*); Fishes: Blackside dace *(Phoxinus cumberlandensis*) and Kentucky arrow darter (*Etheostoma spilotum*).	Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin.	Presence/ ... probable absence surveys.	Mammals: Capture with mist nets, handle, band, radio tag, and release; Fishes: capture via seining, netting, or electroshocking, handle, identify, and release.	Renewal

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. 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. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue a permit to an applicant listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

John Tirpak,

Deputy Assistant Regional Director, Ecological Services, Southeast Region.

[FR Doc. 2022–22058 Filed 10–7–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2022–0103; FXES11140800000–223–FF08EVEN00]

Permit Amendment Request; 12 Rancho San Carlos (Ocho West) Project, Monterey County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Andris Upitis (applicant) to amend an incidental take permit pursuant to the Endangered Species Act of 1973, as amended. The permit would continue to authorize take of the central distinct population segment (DPS) of the California tiger salamander and the California red-legged frog, incidental to construction of a single-family residence at 12 Rancho San Carlos (Ocho West). We invite public comment on the amendment request, which includes the applicant's original HCP. In accordance with the requirements of the National Environmental Policy Act, we have prepared a draft low-effect screening form supporting our preliminary determination that the proposed action qualifies for a categorical exclusion under NEPA. To make this determination, we reassessed our environmental action statement and low-effect screening form prepared for the current HCP, and this draft NEPA compliance documentation is also available for public review.

DATES: Written comments should be received on or before November 10, 2022.

ADDRESSES:

To obtain documents: You may obtain copies of the documents online in Docket No. FWS–R8–ES–2022–0103 at *https://www.regulations.gov,* or you may request copies of the documents by U.S. mail (below) or by email (see **FOR FURTHER INFORMATION CONTACT**).

To submit comments: If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

- *Online: https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R8–ES–2022–0103.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R8–ES–2022–0103; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Rachel Henry, Fish and Wildlife Biologist, at *rachel_henry@fws.gov* (by email), or at the Ventura Fish and Wildlife office (by telephone at 805–644–1766, or by mail; see **ADDRESSES**). Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have received an application from

Andris Upitis (applicant) to amend their incidental take permit pursuant to the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The permit amendment would authorize increased take of the federally threatened central distinct population segment (DPS) of the California tiger salamander (*Ambystoma californiense*) and California red-legged frog (*Rana draytonii*) incidental to otherwise lawful activities associated with the construction of a single-family residence at 12 Rancho San Carlos (Ocho West). The applicant requests to amend their permit to account for increased take resulting from a modification to water pipeline alignment necessary to connect with the existing Santa Lucia Preserve Community Services District water system at a different location than originally proposed. The project described in the original HCP has not changed, except for the modified location of the water pipeline connection alignment. The modification will result in an increase in temporary impacts of 4.8 to 5.2 acres. The applicant's amendment request includes measures to minimize, avoid, and mitigate impacts to the central DPS of the California tiger salamander and California red-legged frog consistent with those proposed in the original HCP. The Service prepared a draft low-effect screening form and environmental action statement in accordance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) to evaluate the potential effects to the natural and human environment resulting from issuing an amended ITP to the applicant. We invite public comment on these documents.

Background

The Service listed the central DPS of the California tiger salamander as threatened on August 4, 2004 (69 FR 47212). The Service listed the California red-legged frog as threatened on May 23, 1996 (61 FR 25813), and critical habitat was designated on March 10, 2010 (75 FR 12816). Federal regulation pursuant to section 4(d) of the ESA prohibits the ''take'' of certain fish or wildlife species listed as threatened, including the central DPS of the California tiger salamander and the California red-legged frog, with exceptions for certain ranching activities on private and Tribal lands as described in 50 CFR 17.43(c)(3)(i)–(xi) and 50 CFR 17.43(d)(3)(i)–(xi). ''Take'' is defined under the ESA to include the following activities: ''[T]o harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the ESA, we may issue permits to authorize incidental take of listed species. Incidental take is take that is incidental to, and not the purpose of, carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened species are at 50 CFR 17.32. Issuance of an incidental take permit also must not jeopardize the existence of federally listed fish, wildlife, or plant species. The original incidental take permit was first issued for the HCP on September 23, 2021.

Proposed Project Activities

The applicant's amendment request includes measures to minimize, avoid, and mitigate impacts to the Central DPS of the California tiger salamander and California red-legged frog consistent with those proposed in the original HCP through restoration of habitat.

Public Comments

If you wish to comment on the amendment request and categorical exclusion screening form, you may submit comments by one of the methods in **ADDRESSES**.

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 view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Stephen P. Henry,

Field Supervisor, Ventura Fish and Wildlife Office, Ventura, California.

[FR Doc. 2022–22048 Filed 10–7–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX23.WB12.C25A1.00; OMB Control Number 1028–0116]

Agency Information Collection Activities; Alaska Beak Deformity Observations

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), we, the U.S. Geological Survey (USGS), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before December 12, 2022.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to the U.S. Geological Survey, Information Collections Clearance Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0116 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Colleen Handel by email at *cmhandel@usgs.gov,* or by telephone at 907–786–7181. 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: In accordance with the PRA, we provide the general public and other Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or

summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you may ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Abstract: As part of the USGS Ecosystems Mission Area effort to assess the status and trends of the Nation's biological resources, the Alaska Science Center Landbird Program conducts research on avian populations within Alaska. Beginning in the late 1990s, an outbreak of beak deformities in Black-capped Chickadees emerged in south-central Alaska. USGS scientists launched a study to understand the scope of this problem and its effect on wild birds. Since that time, researchers have gathered important information about the deformities and have identified a new virus as the potential cause. The collection of PII is requested as part of this ongoing research in resident Alaskan birds. Members of the public provide observation reports of birds with deformities from around Alaska and other regions of North America. These reports are very important in that they allow researchers to determine the geographical distribution and species affected. Data collection over such a large and remote area would not be possible without the public's assistance. As part of the online reporting system, an individual's phone number, email address, and mailing address are requested. This information allows researchers to request additional details or verify reports if necessary but is not required for submission. PII is used only for contact purposes, is stored in a separate table that is encrypted, and is not shared in any way with other individuals, groups, or organizations.

Title of Collection: Alaska Beak Deformity Observations.

OMB Control Number: 1028–0116.

Form Number: NA.

Type of Review: Renew an information collection.

Respondents/Affected Public: Individuals/households.

Total Estimated Number of Annual Respondents: 150.

Total Estimated Number of Annual Responses: 175.

Estimated Completion Time per Response: Approximately 5 minutes.

Total Estimated Number of Annual Burden Hours: 15 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time.

Total Estimated Annual Non-hour Burden Cost: None.

An agency may not conduct or sponsor, nor is a person required to respond to, a collection of information unless it displays a currently valid OMB control number.

The authorities for this action are the PRA (44 U.S.C. 3501, *et seq.*).

Dated: October 4, 2022.

Christian Zimmerman,

USGS Alaska Science Center Director.

[FR Doc. 2022–21961 Filed 10–7–22; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZP01000.L12200000.EA0000; P01000–23–0001]

Notice of Temporary Closure of Public Lands in Maricopa County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure.

SUMMARY: As authorized under the provisions of the Federal Land Policy and Management Act of 1976, as amended, notice is hereby given that temporary closures will be in effect on public lands administered by the Bureau of Land Management (BLM), Hassayampa Field Office, to minimize the risk of potential collision during operation of the Vulture Mine Off-Road Challenge off-highway vehicle (OHV) race event, authorized under a special recreation permit (SRP).

DATES: The temporary closure will be in effect from 5 p.m., November 4, 2022, through 10 p.m., November 6, 2022, Mountain time.

FOR FURTHER INFORMATION CONTACT: Chris Gammage, Outdoor Recreation Planner; telephone (623) 580–5500; email: *cgammage@blm.gov*; or Irina Ford, Hassayampa Field Manager; Phoenix District Office, 2020 E Bell Road, Phoenix, AZ 85022; telephone (623) 580–5500; email: *iford@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 temporary closure affects certain public lands within the Vulture Mine Recreation Management Zone in Maricopa County, Arizona. This action is necessary to ensure public safety during the Vulture Mine Off-Road Challenge OHV race event.

The temporary closure will be posted at main entry points to this area. Maps of the affected area and other documents associated with this temporary closure are available at the Hassayampa Field Office, which is located at the same address as the Phoenix District Office.

The event is authorized on public land under an SRP and in conformance with the Bradshaw-Harquahala Record of Decision and Approved Resource Management Plan and the Wickenburg Travel Management Plan.

Description of Race Course Closed Area: Areas subject to this temporary closure include the designated race course and public lands within the boundary defined by the race course. The race course begins at the intersection of BLM routes 9092F and 9090C traveling east along 9090C to 9090D going south and then east along 9090D to 9090; continue traveling along 9090 north to 9093A to 9274 traveling northeast to 9094, traveling southeast to 9195, south on 9195 to Vulture Mine Road (including the camping area to the west and east of the road which varies in width from 70 feet to 268 feet between the signs indicating ''No Vehicles beyond this Point''), then north on 9195 to 9286, then traveling northeast to 9196, to 9192 then to route 9095 traveling north and west to 9089C to 9089A north to 9092B west to 9092 to 9092F and south returning to the beginning intersection with 9090C.

Temporary Closure: The designated race course and all areas within the boundary of the race course as described earlier are temporarily closed to public entry during the temporary closure period.

Exclusive Use: During the temporary closure, the affected area will be for the exclusive use of Vulture Mine Off-Road Challenge event officials, race participants, and vendors authorized under the event SRP. Anyone without an SRP authorizing use within the temporary closure area during the temporary closure period is prohibited from using the area.

Exceptions: The temporary closure does not apply to Federal, State, and local officers and employees in the performance of their official duties; members of organized rescue or firefighting forces in the performance of their official duties; Vulture Mine Off-Road Challenge event officials, race participants, or vendors authorized under the event SRP.

Enforcement: Any person who violates the temporary closure may be

tried before a United States magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, or both. Regulations will be enforced in accordance with 43 CFR 8364.1, and 43 CFR 8365.1–7; State or local officials may also impose penalties for violations of Arizona law.

Effect of Closure: The entire area encompassed by the designated race course and all areas within the race course as described earlier and in the time period as described earlier are temporarily closed to all public use, including pedestrian use and vehicles, unless specifically excepted as described earlier.

(Authority: 43 CFR 8364.1)

Irina Ford,

Field Manager.

[FR Doc. 2022–22007 Filed 10–7–22; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034595; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Northern Arizona University, Department of Anthropology, Flagstaff, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Northern Arizona University, Department of Anthropology has completed an inventory of human remains in consultation with the appropriate Indian Tribes or Native Hawaiian organizations and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Northern Arizona University, Department of Anthropology. If no additional requestors come forward, transfer of control of the human remains to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Northern Arizona University, Department of Anthropology at the address in this notice by November 10, 2022.

ADDRESSES: Dr. Kerry Thompson, Department of Anthropology, Northern Arizona University, Box 15200, Flagstaff, AZ 86011–5200, telephone (928) 523–0212, email *Kerry.Thompson@nau.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Northern Arizona University, Department of Anthropology, Flagstaff, AZ. The human remains were removed from various locations in eastern Arizona near Springerville, Taylor, and Lyman Lake (Navajo and Apache Counties).

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by Northern Arizona University, Department of Anthropology (NAU) professional staff in consultation with representatives of the Hopi Tribe of Arizona.

History and Description of the Remains

At unknown dates prior to 1990, human remains representing, at minimum, eight individuals were removed from locations near Springerville (Navajo County), Taylor (Apache County), and Lyman Lake (Apache County), Arizona. NAU acquired these human remains through both transfer from private individuals prior to the enactment in 1990 of state burial laws and (poorly documented) field collection by University personnel prior to 1990. No known individuals were identified. No associated funerary objects are present.

Accompanying documentation and non-invasive/non-destructive skeletal analysis show that these human remains belong to Native American individuals from the Southwest. Based on the following types of information, a cultural affiliation exists between these Native American human remains and the Hopi Tribe of Arizona: cultural, geographical, biological, archeological, anthropological, oral traditional, and expert opinion.

Determinations Made by the Northern Arizona University, Department of Anthropology

Northern Arizona University, Department of Anthropology faculty have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of eight individuals of Native American/Southwest ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Hopi Tribe of Arizona.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. Kerry Thompson, Department of Anthropology, Northern Arizona University, Box 15200, Flagstaff, AZ 86011–5200, telephone (928) 523–0212, email *Kerry.Thompson@nau.edu,* by November 10, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Hopi Tribe of Arizona may proceed.

The Northern Arizona University, Department of Anthropology is responsible for notifying the Hopi Tribe of Arizona that this notice has been published.

Dated: September 27, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–22040 Filed 10–7–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034594; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: William and Mary, Department of Anthropology, Williamsburg, VA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The William and Mary, Department of Anthropology has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate

Indian Tribes or Native Hawaiian organizations and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to William and Mary's Anthropology Department. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to William and Mary's Anthropology Department at the address in this notice by November 10, 2022.

FOR FURTHER INFORMATION CONTACT: Martin Gallivan, Anthropology Department, William and Mary, P.O. Box 8795, Williamsburg, VA 23187–8795, telephone (757) 221–3622, email *mdgall@wm.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the William and Mary, Department of Anthropology, Williamsburg, VA. The human remains and associated funerary objects were removed from Charles City, New Kent, Chesterfield, Prince George, and York Counties, VA, and Hampton, VA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by William and Mary's Anthropology Department professional staff in consultation with representatives of the Chickahominy Indian Tribe; Monacan Indian Nation; Nansemond Indian Nation (*previously* listed as Nansemond Indian Tribe); Pamunkey Indian Tribe; Rappahannock Tribe, Inc.; Upper Mattaponi Tribe; and the Mattaponi Indian Tribe, a non-federally recognized Indian group (hereafter referred to as ''The Consulted Tribes and Group'').

History and Description of the Remains

The Anthropology Department's NAGPRA collection is comprised of human remains and associated funerary objects that were removed during excavations conducted at various sites in Virginia from 1967 through 1978. Most of the excavations were carried out as part of the *Chickahominy River Survey* under the direction of Professors Norm Barka and Ben McCary. The project was designed to identify and investigate the villages of the Chickahominy Indian Tribe that were located along the Chickahominy River in present day Charles City and New Kent Counties.

Chickahominy River Survey—Edge Hill Site (44CC0029)

The removal of the human remains from the Edge Hill Site took place in 1968, during excavations completed as part of the *Chickahominy River Survey.* Based on three radiocarbon dates the site's occupation was centered on the 13th and 14th centuries A.D. In total, five ossuaries containing 78 individuals and 250 associated funerary objects were uncovered. In addition to the five ossuaries, a dog burial was located near Ossuary 5. Several dog and pig burials were excavated from the sites included in the *Chickahominy River Survey.* They appear to represent ceremonial events related to the interment of the individuals buried in the ossuaries.

Ossuary 1

In 1968, human remains representing at minimum, 16 individuals were removed from an ossuary burial context at the Edge Hill Site located along the Chickahominy River in Charles City County, VA (Ossuary 1). The human remains belong to two children with ages ranging between 2 and 6 to 8 years; one young adult of undetermined sex; six adult females whose ages range between 18 to 45 years; two adult males whose ages range between 18 and 60 years old; two individuals of undetermined sex; and three individuals of undetermined age and sex. The 26 associated funerary objects include 23 ceramic sherds, one unidentified quartzite projectile point, and two faunal fragments representing white tailed deer. None of these objects appeared to be directly associated with any one individual buried in the ossuary. Their identification as associated funerary objects was determined through consultation with The Consulted Tribes and Group.

Ossuary 2

In 1968, human remains representing at minimum, 10 individuals were removed from an ossuary burial context at the Edge Hill Site located along the Chickahominy River in Charles City County, VA (Ossuary 2). The human remains belong to one infant; one child aged 4–6 years; two adult females whose ages range between 18 and 45 years; one adult male older than 35 years; three adults of undetermined sex; and two individuals of undetermined age and sex. The 36 associated funerary objects include 17 ceramic sherds, 17 lithics (flakes, shatter, and projectile point), and two fragments from faunal remains. None of these objects appeared to be directly associated with any one individual buried in the ossuary. Their identification as associated funerary objects was determined through consultation with The Consulted Tribes and Group.

Ossuary 3

In 1968, human remains representing at minimum, eight individuals were removed from an ossuary burial context at the Edge Hill Site located along the Chickahominy River in Charles City County, VA (Ossuary 3). The human remains belong to three children whose ages range between 2 and 12 years; one young adult female between 17 and 25 years old; one adult female aged older than 45 years; one adult male of undetermined age; and two individuals of undetermined sex and age. The 19 associated funerary objects include 12 ceramic sherds, five lithics (flakes and shatter), and two fragments from faunal remains. None of these objects appeared to be directly associated with any one individual buried in the ossuary. Their identification as associated funerary objects was determined through consultation with The Consulted Tribes and Group.

Ossuary 4

In 1968, human remains representing at minimum, 18 individuals were removed from an ossuary burial context at the Edge Hill Site located along the Chickahominy River in Charles City County, VA (Ossuary 4). The human remains belong to one infant; four children whose ages range between 3 and 10 years; one adolescent male 12–15 years old; one young adult male 16–

20 years old; three adult males aged older than 35 years; one young adult female 15–19 years old; three adult females 21–35 years old; two adult females aged older than 35 years; one adult female; and one individual of undetermined sex and age. The 28 associated funerary objects include eight ceramic sherds, 18 lithics (flakes, shatter, biface, projectile point, fire cracked rock), and two fragments from faunal remains. None of these objects appeared to be directly associated with any one individual buried in the ossuary. Their identification as associated funerary objects was determined through consultation with The Consulted Tribes and Group.

Ossuary 5

In 1968, human remains representing at minimum, 26 individuals were removed from an ossuary burial context at the Edge Hill Site located along the Chickahominy River in Charles City County, VA (Ossuary 5). The human remains belong to four infants; six children whose ages range between 2 and 12 years; seven adult females whose ages range between 17 and 54 years; six adult males whose ages range 22 and 60 years; and three individuals of undetermined sex and age. The 141 associated funerary objects include 38 ceramic sherds, 10 lithics (flakes, shatter, and projectile point), five columella shell beads, and 88 fragments from faunal remains of various species including raccoon, white tail deer, turtle, fish, and eastern gray squirrel. Also, near Ossuary 5 was the burial of one dog that contained one plain shell-tempered ceramic sherd. Except for the five columella shell beads, none of these objects appeared to be directly associated with any one individual buried in the ossuary. Their identification as associated funerary objects was determined through consultation with The Consulted Tribes and Group.

Wilcox Neck Site (44CC0030)

Excavations at the Wilcox Neck site began in November of 1967, under the direction of archeologist Leverette Gregory of the Virginia Foundation for Archaeological Research (predecessor to the Virginia Department of Historic Resources). Following Gregory's excavations, investigations at the site continued during the summer of 1968, under the *Chickahominy River Survey.* The excavations at Wilcox Neck were focused on two ossuary features. Based on both the radiocarbon dating of charcoal recovered from Ossuary 1 and the ceramic seriation dates of the pottery excavated from both ossuaries, this site dates to approximately A.D. 988 through 1100. Together, both ossuaries contained 45 individuals and 92 associated funerary objects.

Ossuary 1

In 1968, human remains representing at minimum, 29 individuals were removed from an ossuary burial context at the Wilcox Neck Site located along the Chickahominy River in Charles City County, VA (Ossuary 1). The human remains belong to two infants; three children whose ages range 3 and 11 years; one adolescent 13–18 years old; one subadult of undetermined sex; one young adult female 17–25 years old; six adult females whose ages range between 21 and 50 years; four possible adult females; one young adult male 17 to 25 years old; one adult male; four adult males whose ages range between 25 and 50 years; one individual aged older than 55 years and of undetermined sex; and four individuals of undetermined sex and age. The 56 associated funerary objects include 27 ceramic sherds and 29 lithics (flakes, fire cracked rock, and Yadkin projectile point). None of these objects appeared to be directly associated with any one individual buried in the ossuary. Their identification as associated funerary objects was determined through consultation with The Consulted Tribes and Group.

Ossuary 2

In 1968, human remains representing at minimum, 16 individuals were removed from an ossuary burial context at the Wilcox Neck Site located along the Chickahominy River in Charles City County, VA (Ossuary 2). The human remains belong to three children whose ages range between 3 and 10 years; five adult females whose ages range between 18 and 60 years; one adult female; five adult males whose ages range between 22 and 60 years; one adult male; and one individual 30–60 years old and of undetermined sex. The 36 associated funerary objects include 16 ceramic sherds and 20 lithics (flakes and fire cracked rock). None of these objects appeared to be directly associated with any one individual buried in the ossuary. Their identification as associated funerary objects was determined through consultation with The Consulted Tribes and Group.

Cypress Banks Site (44CC409)

In 1968, human remains representing, at minimum, two individuals were removed from the Cypress Banks site (44CC409), along the Chickahominy River in Charles City County, VA.

Excavations revealed evidence of a series of dispersed Native settlements spanning the end of the Middle Woodland and the beginning of the Late Woodland periods and dating from approximately A.D. 900 to 1200. Two burials were uncovered during the excavations. Burial 1 contained the primary interment of an adult female 35–45 years old. Burial 2 contained the fragmentary remains of an adult male. No known individuals were identified. No associated funerary objects are present.

Buck Farm Site (44CC0037)

In 1969, human remains representing, at minimum, one individual were removed from a burial at the Buck Farm site (44CC0037), a relatively small, palisaded settlement surrounded by two concentric ditch features constructed and used between A.D. 1200 and 1600, which is located along the Chickahominy River in Charles City County, VA. The human remains belong to an adult male 30–40 years old. No known individual was identified. No associated funerary objects were present in the burial itself, but 11 ceremonial burials of various animals—four pigs, one bird, and six possible dogs—were also excavated. The faunal remains from only five of these ceremonial burials remain in the Department's collection. Burials 1, 2, 3, and 4 each contained pig remains, and Burial 6 contained dog remains.

Clark's Old Neck Site (44CC0043)

In 1969, human remains representing, at minimum, four individuals were removed from Clark's Old Neck site, along the Chickahominy River in Charles City County, VA. The excavations uncovered evidence of Native occupations of the site from the 11th through early 13th centuries A.D. Four adult burials were uncovered at the site as well as five ceremonial dog burials. Burial 1 contained the primary interment of an adult female 20–30 years old. Burial 2 contained the primary interment of an adult male 48–60 years old. Burial 3 contained the secondary internment of an adult female 23–25 years old. Burial 3 appears to be a bundle burial of a female whose bones evidence exposure to smoke and ochre. Burial 4 was uncovered in a disturbed context and contained the remains of an adult female. No known individuals were identified. No associated funerary objects were present in the human burials themselves, but five ceremonial dog burials were uncovered together with 3,100 associated objects that include ceramic sherds, various types of lithics, and pipe fragments.

Maycock Site (44PG0040)

At an unknown date, human remains representing, at minimum, five individuals were removed from the Maycock site (44PG0040), on the south bank of the James River in present-day Prince George County, VA. This village site was occupied by the Weanoc (Weyanoke) community for centuries prior to the arrival of the English in 1607. The Weyanoke were displaced decades later, in the 17th century, due to relentless English encroachment along the James River. Flowerdew Hundred, a colonial plantation, was established in 1618, in proximity to the Weyanoke village. Little information exists regarding the excavation and removal of the human remains from the Maycock Site. Altogether, the human remains of nine individuals were excavated from the site, but only the human remains of five remain in the Anthropology Department's collection. (The human remains of at least three individuals were transferred to the University of Virginia, which holds the Flowerdew Hundred Collection. Those human remains were determined not to be Native American, but instead relate to the history of the plantation.) Burial 2 contained the human remains of a child 6–10 years old. Burial 3 contained only cranial, hand, and rib fragments of the individual. Burial 8 contained the human remains of a young child under the age of 5. Burial 10 contained the human remains of a young adult male 17–25 years old. Burial A contained the human remains of an individual 12–22 years old and of undetermined sex. No known individuals were identified. The one associated funerary object is a ceramic sherd.

Based on archeological, ethnohistorical, and documentary evidence, the Maycock site has been historically affiliated with the Weyanoke Indians. The Weyanoke were a part of the Powhatan Chiefdom that spanned the Tidewater region of Virginia. When they were displaced from the village and the surrounding area in the early 17th century, they were subsumed within other Powhatan-allied tribal communities. Prince George County is the historically and ancestrally documented territory of the Indian Tribes that comprised, and were allied with, the Powhatan Chiefdom. The present-day descendants of these earlier groups include the Chickahominy Indian Tribe, Chickahominy Indian Tribe—Eastern Division, Nansemond Indian Nation, Pamunkey Indian Tribe, Rappahannock Indian Tribe, Upper Mattaponi Indian Tribe, and Mattaponi Indian Tribe.

Grandview Beach, Hampton, Virginia

On an unknown date, human remains representing, at minimum, one individual were removed from the Grandview Beach fishing pier at the end of Beach Road, in the City of Hampton, VA. The human remains were brought to the Department of Anthropology by the Hampton City Police Department who, at the time, reported that, according to oral tradition, a ''burial ground'' was located in the vicinity of the pier. The human remains—cranial fragments—belong to an individual of undetermined sex and age. No known individual was identified. No associated funerary objects are present.

Based on archeological, ethnohistorical, historical, and oral traditional information, Grandview Beach in Hampton is the territory of the Nansemond Indian Nation. The Nansemond were allied and affiliated with the Powhatan Chiefdom.

Comstock (44CF0020)

In 1966 and 1967, human remains representing, at minimum, three individuals were removed from the Comstock site (44CF0020), in Colonial Heights, Chesterfield County, VA, during excavations led by Leverette Gregory. Also known as Conjurer's Field, this site is located on the west bank of the Appomattox River. The excavations revealed evidence of indigenous occupation going back to the Middle and Late Woodland periods. William and Mary acquired the collection from the Comstock site in 1968. Burial 1 contained the nearly complete skeleton of an adult female 40–45 years old. Burial 2 contained the nearly complete skeleton of an adult female 25–30 years old. Burial 3 contained the partial skeleton of a young adult 15–18 years old and of undetermined sex. No known individual was identified. The five associated funerary objects are one columella bead, one lot of ceramics, one lot of debitage, one lot of fire cracked rock, and one lot of faunal remains.

Based on archeological, ethnohistorical, and documentary evidence, the Comstock Site is located within a geographic area considered to be the ancestral territory of the Appomattox Indians. This community was comprised of Algonquian speakers and was allied to the Powhatan Chiefdom in power in the Tidewater region during the 16th and 17th centuries. The artifacts excavated from the site are consistent with the material culture of Algonquian speaking communities that resided in the Tidewater region. However, Comstock is located near the fall line, which is near the cities of Petersburg and Colonial Heights. The fall line is a naturally occurring boundary that has historically been treated as a border separating the territory of the Indian Tribes that comprised the Monacan to the west, and the allied Tribes of the Powhatan Chiefdom to the east.

Yorktown, York County Virginia

In the 1970s, human remains representing, at minimum, one individual were removed from the Nelson House site, Yorktown, VA, by Dr. Norman Barka, a William and Mary Anthropology Department professor. There is little documentation on the collection history of these human remains. The human remains include part of an amputated (saw cut) lower left arm and hand. Due to the fragmented state of the burial, the age and sex of this individual are undetermined. No known individual was identified. No associated funerary objects are present.

In 1973, human remains representing, at minimum, seven individuals were removed from Hangman's Point (Gallows Point) in Yorktown, VA. Hangman's Point is located atop a prominent bluff that comes to a point overlooking Water Street and the York River. Burial 1 contained the remains of a young adult 16–23 years old and of undetermined sex. Burials 2, 3, and 6 each contained the remains of an adult of undetermined sex. Burial 4 contained the remains of a young adult 17–25 years and of undetermined sex. Burial 5 contained the remains of a young adult 14–21 years old and of undetermined sex. Burial 7 contained the remains of an adult male and represents the most intact skeleton among the seven burials. No known individuals were identified. No associated funerary objects are present.

In 1978, human remains representing, at minimum, one individual were removed from Hangman's Point (Gallows Point) in Yorktown, VA. Hangman's Point is located atop a prominent bluff that comes to a point overlooking Water Street and the York River. The burial contained the remains of an individual of undetermined sex and age. No known individual was identified. No associated funerary objects are present.

In the 1970s, human remains representing, at minimum, one individual were removed from site 12Y in Yorktown, VA. The nearly complete skeleton belongs to an adult male 35–50 years old. No known individual was identified. No associated funerary objects are present.

In 1978, human remains representing, at minimum, six individuals were removed from site 44YO0196, Yorktown Beach, in Yorktown, VA. The site is located below the Victory Monument, a well-known place marker in the town. Burial 1 contained the human remains of a child 7–9 years old and of undetermined sex. Burial 2 contained the human remains of an adolescent 10–16 years old and of undetermined sex. Burial 3 contained the human remains of an adult female 20–35 years old. Burial 4 contained the human remains of a young adult male 17–25 years old. Burials 5 and 6 each contained the human remains of an adult individual of undetermined sex. No known individuals were identified. No associated funerary objects are present.

In 1975, human remains representing, at minimum, one individual were removed from site 44YO0244, Yorktown Beach, in Yorktown, VA. The human remains—a skull—belong to an adult 18–44 years old and of undetermined sex. No known individual was identified. No associated funerary objects are present.

Based on ethnohistorical, historical, ethnographic, archeological, and oral traditional information collected over the last 400 years, York County, VA is the historically and ancestrally documented territory of the Indian Tribes that comprised the Powhatan Chiefdom. The area is located near the geographic and political center of the Powhatan Chiefdom that was formed over several decades during the latter half of the 16th century and the first decade of the 17th century. The Pamunkey, Upper Mattaponi, and Mattaponi Tribes consider the York County area to encompass their ancestral lands.

Determinations Made by the William and Mary, Department of Anthropology

Officials of the William and Mary, Department of Anthropology have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 156 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 348 associated funerary objects 11 ceremonial animal burials, and 3,101 objects associated with the animal burials described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Chickahominy Indian Tribe; Chickahominy Indian Tribe—Eastern Division; Nansemond Indian Nation (*previously* listed as Nansemond Indian Tribe); Pamunkey Indian Tribe; Rappahannock Tribe, Inc.; and the Upper Mattaponi Tribe (hereafter referred to as ''The Tribes'').

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Martin Gallivan, Anthropology Department, William and Mary, P.O. Box 8795, Williamsburg, VA 23187–8795, telephone (757) 221–3622, email *mdgall@wm.edu,* by November 10, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed. If joined to a request from one or more of The Tribes, the Mattaponi Indian Tribe, a non-federally recognized Indian group may receive transfer of control of the human remains and associated funerary objects.

The William and Mary, Department of Anthropology is responsible for notifying The Consulted Tribes and Group that this notice has been published.

Dated: September 27, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–22038 Filed 10–7–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034593; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: William and Mary, Department of Anthropology, Williamsburg, VA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The William and Mary, Department of Anthropology has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to William and Mary's Anthropology Department. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to William and Mary's Anthropology Department at the address in this notice by November 10, 2022.

FOR FURTHER INFORMATION CONTACT: Martin Gallivan, Anthropology Department, William and Mary, P.O. Box 8795, Williamsburg, VA 23187–8795, telephone (757) 221–3622, email *mdgall@wm.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of William and Mary, Department of Anthropology, Williamsburg, VA. The human remains were removed from Smyth County, VA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by William and Mary's Anthropology Department professional staff in consultation with representatives of the Chickahominy Indian Tribe; Monacan Indian Nation; Nansemond Indian Nation (*previously* listed as Nansemond Indian Tribe); Pamunkey Indian Tribe; Rappahannock Tribe, Inc.; Upper Mattaponi Tribe; and the Mattaponi Indian Tribe, a non-federally recognized Indian group (hereafter referred to as ''The Consulted Tribes and Group'').

History and Description of the Remains

At an unknown date, human remains representing, at minimum, two individuals were removed from Smyth County, VA. Writing on one of the skeletal elements (a cranium) states ''Found in a dry cave near Saltville, Smyth Co. VA.'' The exact site is uncertain but is possibly Site 44SM0028. The human remains have been in the possession of William and Mary's Anthropology Department since the 1960s and might have been acquired by the College in 1963. Collectively, the two individuals are represented by one cranium, one cranial vault, and a set of teeth embedded in soil. No known individuals were identified. No associated funerary objects are present.

The Monacan Indian Nation of Virginia and the Cherokee Tribes including Cherokee Nation, Eastern Band of Cherokee Indians, and United Keetoowah Band of Cherokee Indians, consider Smyth County to encompass their ancestral and historic territory. This oral traditional information is supported by archival, ethnographic, archeological, and oral history studies.

Determinations Made by the William and Mary, Department of Anthropology

Officials of the William and Mary, Department of Anthropology have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Cherokee Nation; Eastern Band of Cherokee Indians; Monacan Indian Nation; and the United Keetoowah Band of Cherokee Indians (hereafter referred to as ''The Tribes'').

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Martin Gallivan, Anthropology Department, College of William and Mary, P.O. Box 8795, Williamsburg, VA 23187–8795, telephone (757) 221–3622, email *mdgall@wm.edu,* by November 10, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

The William and Mary, Department of Anthropology is responsible for notifying The Tribes and The Consulted Tribes and Group that this notice has been published.

Dated: September 27, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–22042 Filed 10–7–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034592; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Maxwell Museum of Anthropology, University of New Mexico, Albuquerque, NM

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Maxwell Museum of Anthropology, University of New Mexico has completed an inventory of human remains and associated funerary objects in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects, and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Maxwell Museum of Anthropology. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Maxwell Museum of Anthropology at the address in this notice by November 10, 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Carla Sinopoli, Maxwell Museum of Anthropology, MSC01–1050, 1 University of New Mexico, Albuquerque, NM 87131, telephone (505) 277–0382, email *csinopoli@unm.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Maxwell Museum of Anthropology, University of New Mexico, Albuquerque, NM. The human remains and associated funerary objects were removed from the Puerco River Valley in Bernalillo County, NM.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Maxwell Museum of Anthropology professional staff, in consultation with representatives of the Gila River Indian Community of the Gila River Indian Reservation, Arizona; Havasupai Tribe of the Havasupai Reservation, Arizona; Hopi Tribe of Arizona; Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona; Jicarilla Apache Nation, New Mexico; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico, & Utah; Ohkay Owingeh, New Mexico (*previously* listed as Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo de Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; San Juan Southern Paiute Tribe of Arizona; Santo Domingo Pueblo (*previously* listed as Kewa Pueblo, New Mexico, and as Pueblo of Santo Domingo); Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Mountain Ute Tribe (*previously* listed as Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico, & Utah); White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Ysleta del Sur Pueblo (*previously* listed

as Ysleta Del Sur Pueblo of Texas); and the Zuni Tribe of the Zuni Reservation, New Mexico (hereafter referred to as ''The Consulted Tribes'').

History and Description of the Remains

In 1976, human remains representing, at minimum, five individuals were removed from the Puerco River Valley (north of Interstate 40) in Bernalillo County, NM, and given to the Maxwell Museum by a surveyor for a proposed water line by the Westland Corporation, who owned the land at that time. The only burial information provided by the surveyor are general directional distinctions. The human remains belong to five adults of indeterminate sex. No known individuals were identified. The 36 associated funerary objects are two pottery sherds, one ground stone, one charcoal fragment, two faunal bones, 12 beads, one lithic core, one lithic flake, one faunal bone, one lot of faunal bone, one ceramic sherd, one lithic biface, three lithic flakes, and nine pottery sherds.

The undecorated grayware ceramic fragments associated with these individuals suggest a date range for these human remains between A.D. 750 and 1600. The combination of the grayware pottery sherds, flaked lithics, and beads show that these human remains are Native American. Based on geographical information, these human remains and associated funerary objects are culturally affiliated with the Pueblo of Isleta, New Mexico; Pueblo of Sandia, New Mexico; and the Ysleta del Sur Pueblo (*previously* listed as Ysleta Del Sur Pueblo of Texas).

Determinations Made by the Maxwell Museum of Anthropology, University of New Mexico

Officials of the Maxwell Museum of Anthropology, University of New Mexico have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of five individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 36 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Pueblo of Isleta, New Mexico; Pueblo of Sandia, New Mexico; and the Ysleta del Sur Pueblo (*previously* listed as Ysleta Del Sur Pueblo of Texas) (hereafter referred to as ''The Tribes'').

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Carla Sinopoli, Maxwell Museum of Anthropology, MSC01–1050, 1 University of New Mexico, Albuquerque, NM 87131, telephone (505) 277–0382, email *csinopoli@unm.edu,* by November 10, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The Maxwell Museum of Anthropology, University of New Mexico is responsible for notifying The Consulted Tribes that this notice has been published.

Dated: September 27, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–22043 Filed 10–7–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034591; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: New York University, College of Dentistry, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the New York University, College of Dentistry (NYU Dentistry) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Los Angeles County, CA.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after November 10, 2022.

ADDRESSES: Joshua Hayes Johnson, Department of Molecular Pathobiology, NYU Dentistry, 345 E 24th Street, New York, NY 10010, telephone (646) 341–1016, email *jj65@nyu.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 NYU Dentistry. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by NYU Dentistry.

Description

At an unknown date, human remains representing, at minimum, eight individuals were removed from Santa Catalina Island in Los Angeles County, CA. One set of human remains (NYUCD #167) was removed by an unknown individual at an unknown date and subsequently was acquired by the Museum of the American Indian. A second set of human remains (NYUCD #364) was removed by an unknown individual at an unknown date, subsequently became part of the E.L. Hills collection, and in 1923, was donated by Mrs. Thea Heye to the Museum of the American Indian, Heye Foundation. A further six sets of human remains (NYUCD #70, 229, 403, 438, 452, and 475) were excavated in 1920 by Ralph Glidden as part of an archeological expedition sponsored by the Museum of the American Indian, Heye Foundation and the Field Museum of Natural History (NMAI Archives, Box OC 126, Folder 27). The human remains were catalogued into the Department of Physical Anthropology that same year. In 1956, the eight sets of human remains were transferred to Dr. Theodore Kazamiroff, a professor at the NYU College of Dentistry. No known individuals were identified. No associated funerary objects are present.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological, biological, folkloric, geographical, historical, kinship, linguistic, and oral traditional.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, NYU Dentistry has determined that:

- The human remains described in this notice represent the physical remains of eight individuals of Native American ancestry.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and the La Jolla Band of Luiseno Indians, California (*previously* listed as La Jolla Band of Luiseno Mission Indians of the La Jolla Reservation); Pala Band of Mission Indians (*previously* listed as Pala Band of Luiseno Mission Indians of the Pala Reservation, California); Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California; Pechanga Band of Indians (*previously* listed as Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California); Rincon Band of Luiseno Mission Indians of Rincon Reservation, California; Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California; and the Soboba Band of Luiseno Indians, California.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects 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 and associated funerary objects in this notice to a requestor may occur on or after November 10, 2022. If competing requests for repatriation are received, NYU Dentistry 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. NYU Dentistry 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 10.9, § 10.10, and § 10.14.

Dated: September 27, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–22041 Filed 10–7–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1088]

Bulk Manufacturer of Controlled Substances Application: Eli-ElSohly Laboratories

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Eli-ElSohly Laboratories, has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before December 12, 2022. Such persons may also file a written request for a hearing on the application on or before December 12, 2022.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on August 19, 2022, Eli-ElSohly Laboratories, 5 Industrial Park Drive, Oxford, Mississippi 38655–5343, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Dihydromorphine	9145	I
Amphetamine	1100	II
Methamphetamine	1105	II
Cocaine	9041	II
Codeine	9050	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Ecgonine	9180	II
Thebaine	9333	II

The company plans to manufacture the listed controlled substances for product development and reference standards. In reference to drug codes 7360 (Marihuana) and 7370 (Tetrahydrocannabinols), the company plans to isolate these controlled substances from procured 7350 (Marihuana Extract). In reference to drug code 7360, no cultivation activities are authorized for this registration. In reference to drug code 9333 (Thebaine), the company plans to manufacture a Thebaine derivative. No other activities for these drug codes are authorized for this registration.

Kristi O'Malley,

Assistant Administrator.

[FR Doc. 2022–21945 Filed 10–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1089]

Importer of Controlled Substances Application: Hybrid Pharma

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Hybrid Pharma has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before November 10, 2022. Such persons may also file a written request for a hearing on the application on or before November 10, 2022.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal,

which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on September 2, 2022, Hybrid Pharma, 1015 West Newport Center Drive, Suite 106A, Deerfield Beach, Florida 33442–7707, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Dimethyltryptamine	7435	I

The company plans to import the listed controlled substance to manufacture dosage forms to support clinical trials. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Kristi O'Malley,

Assistant Administrator.

[FR Doc. 2022–21946 Filed 10–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1084]

Importer of Controlled Substances Application: Groff NA Hemplex LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Groff NA Hemplex LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before November 10, 2022. Such persons may also file a written request for a hearing on the application on or before November 10, 2022.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on August 18, 2022, Groff NA Hemplex LLC, 100 Redco Avenue, Suite A, Red Lion, Pennsylvania 17356–1436, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I

The company plans to import the above listed controlled substance(s) as bulk to manufacture research grade material for clinical trial studies. Several types of Marihuana Extract compounds are listed under drug code 7350. No other activity for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Kristi O'Malley,

Assistant Administrator.

[FR Doc. 2022–21939 Filed 10–7–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1080]

Bulk Manufacturer of Controlled Substances Application: Cambrex High Point, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Cambrex High Point, Inc has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before December 12, 2022. Such persons may also file a written request for a hearing on the application on or before December 12, 2022.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow

the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on July 26, 2022, Cambrex High Point, Inc, 4180 Mendenhall Oaks Parkway, High Point, North Carolina 27265–8017, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Oxymorphone	9652	II
Noroxymorphone	9668	II

The company plans to manufacture the above listed controlled substances in bulk for use as internal intermediates and distribution to its customers. No other activities for these drug codes are authorized for this registration.

Kristi O'Malley,

Assistant Administrator.

[FR Doc. 2022–21933 Filed 10–7–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1079]

Bulk Manufacturer of Controlled Substances Application: Curia Missouri, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Curia Missouri, Inc., has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before December 12, 2022. Such persons may also file a written request for a hearing on the application on or before December 12, 2022.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on August 11, 2022, Curia Missouri, Inc., 2460 West Bennett Street, Springfield, Missouri 65807–1229, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
Amphetamine	1100	II
Lisdexamfetamine	1205	II
Methylphenidate	1724	II
Phenylacetone	8501	II
Tapentadol	9780	II

The company plans to bulk manufacture the listed controlled substances for internal use intermediates or for sale to its customers.

Kristi O'Malley,

Assistant Administrator.

[FR Doc. 2022–21931 Filed 10–7–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1078]

Importer of Controlled Substances Application: Curia Wisconsin, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Curia Wisconsin, Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before November 10, 2022. Such persons may also file a written request for a hearing on the application on or before November 10, 2022.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on July 25, 2022, Curia Wisconsin, Inc., 870 Badger Circle, Grafton, Wisconsin 53024–9436, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
Marihuana Extract	7350	I
Marihuana	7360	I
Dimethyltryptamine	7435	I

The company plans to import Dimethyltryptamine and a derivative of Gamma Hydroxybutyric Acid to support post procurement reprocessing. The cannabidiol from Marihuana and Marihuana Extract is intended for analytical purposes with Tetramethylpyrazine (TMP). No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Kristi O'Malley,

Assistant Administrator.

[FR Doc. 2022–21935 Filed 10–7–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1082]

Importer of Controlled Substances Application: VICI Health Sciences, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: VICI Health Sciences, LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before November 10, 2022. Such persons may also file a written request for a hearing on the application on or before November 10, 2022.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on August 5, 2022, VICI Health Sciences, LLC, 6655 Amberton Drive, Suite N, Elkridge, Maryland 21075–6202, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Ibogaine	7260	I

The company plans to import the listed controlled substances for use in clinical trials, research and analytical testing as well as dosage formulation development. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Kristi O'Malley,

Assistant Administrator.

[FR Doc. 2022–21942 Filed 10–7–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1081]

Bulk Manufacturer of Controlled Substances Application: Curia New York, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Curia New York, Inc., has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before December 12, 2022. Such persons may also file a written request for a hearing on the application on or before December 12, 2022.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on July 18, 2022, Curia New York, Inc., 33 Riverside Avenue, Rensselaer, New York 12144–2951, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Amphetamine	1100	II
Lisdexamfetamine	1205	II
Pentobarbital	2270	II
4-Anilino-N-phenethyl-4-piperidine (ANPP).	8333	II
Codeine	9050	II
Oxycodone	9143	II
Hydromorphone	9150	II
Hydrocodone	9193	II
Meperidine	9230	II
Morphine	9300	II
Fentanyl	9801	II

The company plans to manufacture the above controlled substances as bulk active pharmaceutical ingredients (API) for use in product development and for distribution to its customers. In reference to drug codes 7360 (Marihuana), and 7370 (Tetrahydrocannabinols), the company plans to bulk manufacture these drugs as synthetic. No other activities for these drug codes are authorized for this registration.

Kristi O'Malley,

Assistant Administrator.

[FR Doc. 2022–21934 Filed 10–7–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1083]

Importer of Controlled Substances Application: Chattem Chemicals, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Chattem Chemicals, Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before November 10, 2022. Such persons may also file a written request for a hearing on the application on or before November 10, 2022.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on August 4, 2022, Chattem Chemicals, Inc., 3801 Saint Elmo Avenue, Chattanooga, Tennessee 37409–1237, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Methamphetamine	1105	II
4-Anilino-N-phenethyl-4-piperidine (ANPP).	8333	II
Phenylacetone	8501	II
Poppy Straw Concentrate.	9670	II
Tapentadol	9780	II

The company plans to import the listed controlled substances to manufacture bulk controlled substances for sale to its customers. The company plans to import an intermediate of Tapentadol (9780), to bulk manufacture Tapentadol for distribution to its customers. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2).

Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Kristi O'Malley,

Assistant Administrator.

[FR Doc. 2022–21940 Filed 10–7–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[OMB 1121–NEW]

Agency Information Collection Activities; Proposed Collection Comments Requested; New Collection: Office of Justice Programs Territories Financial Support Center (OJP TFSC) Needs Assessment and Evaluation Package

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Office of Justice Programs, U.S. Department of Justice, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: The purpose of this notice is to allow for an additional 60 days for public comment until December 12, 2022.

FOR FURTHER INFORMATION CONTACT: If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Bethany Hemphill, Office of Justice Programs, U.S. Department of Justice, 810 7th Street NW, Washington, DC 20530. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Officer of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send to *OIRA_submissions@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- 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;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* New Information Collection.

2. *The Title of the Form/Collection:* OJP TFSC Needs Assessment and Evaluation Package.

3. *The agency form number and agency component sponsoring the collection:* NA. Office of Justice Programs, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Territory agencies/organizations.

Abstract: The Office of Justice Programs Territories Financial Support

Center (OJP TFSC) Needs Assessment and Evaluation Package is designed to identify the financial needs of territory grantees and obtain feedback on OJP's Territories Financial Support Center. Data collection items generally include ratings of various aspects of the training and technical assistance activities, ratings of presenters, open-ended questions about what was most helpful and what could be improved, and needs of grantees. The data will then be used to advise OJP and OJP TFSC on ways to improve the support that it provides to territory grantees.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 11,850 respondents who will require an average of 8 minutes (ranging from 2 to 45 minutes across all forms) to respond to a single form each year.

6. *An estimate of the total public burden (in hours) associated with the collection:* The total annual public burden hours for this information collection are estimated to be 404 hours per year.

If additional information is required contact: Robert Houser, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 3E.206, Washington, DC 20530.

Dated: October 5, 2022.

Robert Houser,

Department Clearance Officer for PRA, Policy and Planning Staff, Office of the Chief Information Officer, U.S. Department of Justice.

[FR Doc. 2022–22064 Filed 10–7–22; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On October 3, 2022, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of Ohio in the lawsuit entitled *United States* v. *Dover Chemical Corporation,* Civil Action No. 5:17–cv–02335. The proposed decree resolves state and federal allegations under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of natural resource damages, or NRD, associated with the Dover Chemical Corporation Superfund Site, or Site, and the surrounding NRD assessment area. The proposed decree is related to a 2017 complaint and a resulting 2018 consent decree that implemented the final Superfund remedial work at the Site, and expressly reserved the right of the United States to pursue compensation for NRD. Simultaneous with the lodging of the proposed consent decree, the trustees have published a Draft Restoration Plan/Environmental Assessment that informs the public about the proposed NRD restoration and protection projects included in the negotiated settlement.

The United States Fish and Wildlife Service and the Ohio Environmental Protection Agency, or Ohio EPA, are joint trustees for the biological and surface water resources impacted by contamination at the Site, while Ohio EPA is the trustee for the ground water resource. The trustees began an NRD assessment in 2009 that identified injuries to the surface water, biological resources, and ground water resources in the assessment area caused by hazardous substances.

Under the proposed decree, Dover Chemical Corporation agrees to implement projects that will restore and protect 28.5 acres of wetlands in Stark County and protect 195 acres of riparian habitat in Tuscarawas, Jefferson, Columbiana, and/or Belmont counties. Dover Chemical Corporation will also pay $880,000 to Ohio to fund projects near the Site to protect, restore, or enhance state ground water resources. Finally, Dover Chemical Corporation will pay for costs incurred by Ohio and the United States to assess injuries to natural resources associated with the Site.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Dover Chemical Corporation,* D.J. Ref. No. 90–11–3–11517/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $27.75 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $11.25.

The Fish and Wildlife Service and the Ohio EPA are seeking concurrent public comment on the Draft Restoration Plan/Environmental Assessment, or Draft RP/EA. The Draft RP/EA informs the public about the proposed NRD restoration and protection projects included in the negotiated settlement. The trustees invite the public to view and comment on the Draft RP/EA from October 3 to November 2, 2022 at *https://fws.gov/project/dover-chemical-corp-nrdar-sugar-creek-ohio.*

Patricia McKenna,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2022–21996 Filed 10–7–22; 8:45 am]

BILLING CODE 4410–CW–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Job Openings and Labor Turnover Survey (JOLTS)

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Bureau of Labor Statistics (BLS)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before November 10, 2022.

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. Comments are invited

on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Job Openings and Labor Turnover Survey (JOLTS) collects data on job vacancies, labor hires, and labor separations. The data can be used as demand-side indicators of labor shortages. These indicators of labor shortages at the national level greatly enhance policy makers' understanding of imbalances between the demand and supply of labor. Presently there is no other economic indicator of labor demand with which to assess the presence of labor shortages in the U.S. labor market. The availability of unfilled jobs is an important measure of tightness of job markets, symmetrical to unemployment measures. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 1, 2022 (87 FR 39565).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–BLS.

Title of Collection: Job Openings and Labor Turnover Survey (JOLTS).

OMB Control Number: 1220–0170.

Affected Public: Private Sector—Businesses or other for-profits, State, Local, or Tribal Governments, Federal Government.

Total Estimated Number of Respondents: 8,663.

Total Estimated Number of Responses: 103,956.

Total Estimated Annual Time Burden: 17,326 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2022–21990 Filed 10–7–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0020]

Additional Requirements for Special Dipping and Coating Operations (Dip Tanks); Extension of the Office of Management and Budget's (OMB) Approval of the Information Collection (Paperwork) Requirement

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget (OMB) approval of the information collection requirement specified in its Standard on Dipping and Coating Operations (Dip Tanks).

DATES: Comments must be submitted (postmarked, sent, or received) by December 12, 2022.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2010–0020) for the Information Collection Request (ICR). OSHA will place all comments and requests to speak, including any personal information you provide, in the public docket without change, which may be made available online at *http://www.regulations.gov.* Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birthdates. For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, the reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (*See* 29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with a minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (*See* 29 U.S.C. 657).

The Standard on Dipping and Coating Operations (29 CFR 1910.126(g)(4)) requires employers to post a conspicuous sign near each piece of electrostatic detearing equipment that

notifies employees of the minimum safe distance they must maintain between goods undergoing electrostatic detearing and the electrodes or conductors of the equipment used in the process. Doing so reduces the likelihood of igniting the explosive chemicals used in electrostatic detearing operations.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirement is necessary for the proper performance of the agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirement, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply. For example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

The agency is requesting to retain its previous burden hour estimate of one (1) hour contained in the Standard on Additional Requirements for Special Dipping and Coating Operations (Dip Tanks) (29 CFR 1910.126(g)(4)). There are no program changes or adjustments associated with the information collection requirement in the standard. The agency has correspondingly adjusted the per response burden to maintain a time burden as close as is possible to the actual time of one (1) hour.

OSHA has determined that where electrostatic equipment is being used, the information has already been ascertained and that the ''safe distance'' has been displayed on a sign in a permanent manner. The agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved information collection.

Title: Additional Requirements for Special Dipping and Coating Operations (Dip Tanks) (29 CFR 1910.126(g)(4)).

OMB Control Number: 1218–0237.

Affected Public: Business or other for-profits; Federal Government; State, Local, or Tribal Government.

Number of Respondents: 10.

Frequency of Recordkeeping: On occasion.

Total Responses: 10.

Average Time per Response: 0.

Estimated Total Burden Hours: 1.

Estimated Cost (Operation and Maintenance). $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. *Please note:* While OSHA's Docket Office is continuing to accept and process submissions by regular mail due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the docket by hand, express mail, messenger, and courier service. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0020). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or a facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so that the agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments.

For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website.

All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 8–2020 (85 FR 58393).

Signed at Washington, DC, on September 28, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–21993 Filed 10–7–22; 8:45 am]

BILLING CODE 4510–26–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 22–15]

Renewal of the MCC Economic Advisory Council and Call for Nominations

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, the Millennium Challenge Corporation (MCC) has renewed the charter for the MCC Economic Advisory Council (''EAC'') and is hereby soliciting representative nominations for the 2022–2024 term. The EAC serves MCC in an advisory capacity only and provides insight to sharpen MCC's analytical capacity and ensure continued expertise on relevant issues related to economic development. The EAC provides a platform for engagement with economic development and evaluation experts and contributes to MCC's mission to reduce poverty through sustainable and inclusive economic growth. MCC will use the advice, recommendations, and guidance from the EAC to inform threshold, compact, and concurrent regional compact development, implementation, and results measurement procedures; and assess future policy innovations and methodologies at MCC. The MCC Vice President of the Department of Policy and Evaluation affirms that the EAC is necessary and in the public interest. The EAC is seeking members to comprise a diverse group of recognized thought leaders and experts representing academic institutions, think tanks, donor organizations, and development

banks. Additional information about MCC and its portfolio can be found at *www.mcc.gov.*

DATES: Nominations for EAC members must be received on or before 5 p.m. EST on November 25, 2022. Further information about the nomination process is included below. MCC plans to host the first meeting of the 2022–2024 term of the MCC Advisory Council in early 2023. The EAC will meet at least two times a year in Washington, DC or via video/teleconferencing. Members who are unable to attend in-person meetings may have the option to dial-in via video/teleconferencing.

FOR FURTHER INFORMATION CONTACT: Nominators are asked to send all nomination materials by email to *MCCEACouncil@mcc.gov.* While email is strongly preferred, nominators may send nomination materials by mail to Millennium Challenge Corporation, Attn: Mesbah Motamed, Designated Federal Officer, MCC Economic Advisory Council, 1099 14th St. NW, Suite 700, Washington, DC 20005. Request for additional information can also be directed to Mesbah Motamed, 202.521.7874, *MCCEACouncil@mcc.gov.*

SUPPLEMENTARY INFORMATION: The EAC shall consist of not more than 25 individuals who are recognized experts in their field, academics, innovators, and thought leaders, representing academic organizations, independent think tanks, international development agencies, multilateral and regional development financial institutions, and foundations. Efforts will be made to include expertise from countries and regions where MCC operates, within the resource constraints of the MCC to support logistics costs. Qualified individuals may self-nominate or be nominated by any individual or organization. To be considered for the EAC, nominators should submit the following information:

- Name, title, organization, and relevant contact information (including phone, mailing address, and email address) of the individual under consideration;
- A letter containing a brief biography for the nominee and description of why the nominee should be considered for membership; and
- CV including professional and academic credentials.

Please do not send company or organizational brochures or any other information. Materials submitted should total two pages or less, excluding CV. Should more information be needed, MCC staff will contact the nominee, obtain information from the nominee's past affiliations, or obtain information from publicly available sources.

All members of the EAC will be independent of the agency, representing the views and interests of their respective institution or area of expertise, and not as Special Government employees. All members shall serve without compensation. The duties of the EAC are solely advisory and any determinations to be made or actions to be taken on the basis of EAC advice shall be made or taken by appropriate officers of MCC.

Nominees selected for appointment to the EAC will be notified by return email and receive a letter of appointment. A selection team will review the nomination packages and make recommendations regarding membership to the MCC Vice President of the Department of Policy and Evaluation based on criteria including: (1) professional experience and knowledge; (2) academic field and expertise; (3) experience within regions in which MCC works; (4) contribution of diverse regional or technical professional perspectives, and (5) availability and willingness to serve. Based upon the selection team's recommendations, the MCC Vice President of the Department of Policy and Evaluation will select representatives.

In the selection of members for the EAC, MCC will seek to ensure a balanced representation and consider a cross-section of those directly affected, interested, and qualified, as appropriate to the nature and functions of the EAC.

Nominations are open to all individuals without regard to race, color, religion, sex, gender, national origin, age, mental or physical disability, marital status, sexual orientation, or location.

Authority: Federal Advisory Committee Act, 5 U.S.C. app.

Dated: October 4, 2022.

Thomas G. Hohenthaner,

Acting VP/General Counsel and Corporate Secretary.

[FR Doc. 2022–21941 Filed 10–7–22; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (22–081)]

NASA Planetary Science Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Planetary Science Advisory Committee. The meeting will be held specifically to discuss reporting under the Government Performance and Results Modernization Act (GPRAMA).

DATES: Tuesday, October 18, 2022, 3:00 p.m. to 5:00 p.m., Eastern Time.

ADDRESSES: Virtual meeting via WebEx only.

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Kinard, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355 or *karshelia.kinard@nasa.gov.*

SUPPLEMENTARY INFORMATION: As noted above, this meeting will be available to the public via WebEx only. The meeting event address for attendees is: *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=m0daf1e92352bda8593307645bc43a2ff.* The Webinar number is: 2764 425 8669 and the password is H6smmpPG$72 (46766774 from phones). To join by telephone call, use US Toll: +1–415–527–5035 (Access Code: 276 442 58669).

Accessibility: Captioning will be provided for this meeting. We are committed to providing equal access to this meeting for all participants. If you need alternative formats or other reasonable accommodations, please contact Ms. KarShelia Kinard, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355 or *karshelia.kinard@nasa.gov.*

The agenda for the meeting will include reporting under the Government Performance and Results Act Modernization Act (GPRAMA) for NASA's Planetary Science Division.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Carol Hamilton,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2022–22026 Filed 10–7–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Submission for OMB Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice.

SUMMARY: The National Credit Union Administration (NCUA) will submit the following information collection requests 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.

DATES: Comments should be received on or before November 10, 2022 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 submission may be obtained by contacting Dawn Wolfgang at (703) 548–2279, emailing *PRAComments@ncua.gov,* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0170.

Type of Review: Extension of a currently approved collection.

Title: Fidelity Bond and Insurance Coverage, Sec. 704.18 and Part 713.

Abstract: The Federal Credit Union Act (at 12 U.S.C. 1761b(2)) requires that the boards of federal credit unions (FCU) arrange for adequate fidelity coverage for officers and employees having custody of or responsibility for handling funds.

The regulation contains a number of reporting requirements where a credit union seeks to exercise flexibility under the regulations. These requirements enable NCUA to monitor the FCU's financial condition for safety and soundness purposes and helps to assure that FCUs are properly and adequately protected against potential losses due to insider abuse such as fraud and embezzlement.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 19.

OMB Number: 3133–0201.

Type of Review: Extension of a currently approved collection.

Title: NCUA Personnel Security Processing Forms.

Abstract: Title 5, Code of Federal Regulations, Part 731 (suitability), Executive Order (E.O.) 13764 (contractor fitness), E.O. 12968/SEAD 4 (classified access), and Homeland Security Directive-12 (badging) requires all federal and contractor employees to undergo a background investigation when seeking employment with an agency. The NCUA Personnel Security Processing Forms (Personnel Security Data Form-Contractor, Personnel Security Data Form-Employee and the Authorization for Release of Credit Information) are used to collect information necessary for applying the government-established suitability/fitness criteria on employees before they can begin employment with or perform contractual services for the NCUA. It may be also required should a contract employee be moved to a new contract work. The background investigation process culminates in an adjudicative determination on whether or not these employees are fit to perform services on behalf of the agency.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 200.

By Melane Conyers-Ausbrooks, Secretary of the Board, the National Credit Union Administration, on October 4, 2022.

Dated: October 5, 2022.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2022–22024 Filed 10–7–22; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

National Council on the Arts 208th Meeting

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that a meeting of the National Council on the Arts will be held open to the public for in-person attendance as well as by videoconference.

DATES: See the **SUPPLEMENTARY INFORMATION** section for meeting time and date. The meeting is Eastern time and the ending time is approximate.

ADDRESSES: The National Endowment for the Arts, Constitution Center, 400 Seventh Street SW, Washington, DC 20560. This meeting will be held in-person and by videoconference. Please see *arts.gov* for the most up-to-date information.

FOR FURTHER INFORMATION CONTACT: Liz Auclair, Office of Public Affairs, National Endowment for the Arts, Washington, DC 20506, at 202/682–5744.

SUPPLEMENTARY INFORMATION: The meeting on October 27, 2022, from 12:45 p.m. to 3:00 p.m., will be closed for discussion of National Medal of Arts nominations. The meeting on October 28, 2022, from 9:30 a.m. to 11:00 a.m. will be open to the public. If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b, and in accordance with the March 11, 2022 determination of the Chair. Additionally, discussion concerning purely personal information about individuals, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c) (6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, to Council discussions and reviews that are open to the public. In-person attendees must register in advance at: *https://www.eventbrite.com/e/208th-national-council-on-the-arts-meeting-public-session-tickets-431803444727.*

If you need special accommodations due to a disability, please contact Beth Bienvenu, Office of Accessibility, National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506, 202/682–5733, Voice/T.T.Y. 202/682–5496, at least seven (7) days prior to the meeting.

The upcoming meeting is:

National Council on the Arts 208th Meeting.

This portion of the meeting will be held open to the public for in-person attendance and by videoconference.

Date and time: October 28, 2022; 9:30 a.m. to 11:00 a.m.

There will be opening remarks and voting on recommendations for grant funding and rejection, followed by updates from NEA Chair Maria Rosario Jackson.

To view the webcasting of this open session of the meeting, go to: *https://www.arts.gov/.*

Dated: October 4, 2022.

Daniel Beattie,

Director, Office of Guidelines and Panel Operations.

[FR Doc. 2022–21970 Filed 10–7–22; 8:45 am]

BILLING CODE 7537–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2021–131; MC2023–1 and CP2023–1; MC2023–2 and CP2023–2; MC2023–3 and CP2023–3; MC2023–4 and CP2023–4; MC2023–5 and CP2023–5]

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:* October 12, 2022.

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).:* CP2021–131; *Filing Title:* Notice of the United States Postal Service of Filing Modification One to Global Reseller Expedited Package 2 Negotiated Service Agreement; *Filing Acceptance Date:* October 3, 2022; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* October 12, 2022.

2. *Docket No(s).:* MC2023–1 and CP2023–1; *Filing Title:* USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 6 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 3, 2022; *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:* October 12, 2022.

3. *Docket No(s).:* MC2023–2 and CP2023–2; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 57 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 3, 2022; *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:* October 12, 2022.

4. *Docket No(s).:* MC2023–3 and CP2023–3; *Filing Title:* USPS Request to Add Parcel Select Contract 53 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 3, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jethro Dely; *Comments Due:* October 12, 2022.

5. *Docket No(s).:* MC2023–4 and CP2023–4; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 58 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 3, 2022; *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:* October 12, 2022.

6. *Docket No(s).:* MC2023–5 and CP2023–5; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 59 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 3, 2022; *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:* October 12, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–21953 Filed 10–7–22; 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. 34–95971; File No. SR–NYSECHX–2022–22]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Connectivity Fee Schedule

October 4, 2022.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 21, 2022, the NYSE Chicago, Inc. (''NYSE Chicago'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Connectivity Fee Schedule related to colocation to remove obsolete text. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Connectivity Fee Schedule related to colocation to remove Partial Cabinet Solution bundles Options A and B as obsolete.[4]

The Exchange recently deleted the service ''LCN Access—1 Gb Circuit'' from the list of types of services available in colocation, due to the lack of User demand for 1 Gb LCN ports.[5] In making that change, the Exchange explained that the number of 1 Gb LCN ports purchased by Users had steadily declined from 4 in 2017, to 2 in 2018, to 1 in 2021, to zero in 2022. The Exchange understands that this fall-off in demand for the 1 Gb LCN port is due to the fact that market data feeds continue to increase in bandwidth, such that Users prefer to purchase larger port sizes. Based on this trend, the Exchange explained that it believes that there is no remaining User demand for the 1 Gb LCN port, and discontinued the service as obsolete.

The same rationale applies equally to two of the Exchange's Partial Cabinet Solution (''PCS'') bundles: Options A and B. Options A and B each include various bundled services, including, among other things, a 1 Gb LCN connection. Although Options A and B have been offered by the Exchange and its Affiliate SROs since 2016,[6] no Users ever purchased an Option B bundle, and only one User purchased an Option A bundle, which it canceled in July 2021. There are currently no Users purchasing either an Option A or B bundle. Accordingly, the Exchange believes that there is no remaining User demand for Options A or B, and proposes to discontinue them as obsolete.

Application and Impact of the Proposed Changes

The Exchange does not expect that the proposed changes would have any impact. As noted above, there was only ever one User that purchased either an Option A or B bundle, and that User canceled its bundled service over a year ago, in July 2021. There are currently no purchasers of either Option A or B bundles.

The proposed changes would not have any affect on the two remaining PCS bundles, Options C and D, which include 10 Gb ports.

In addition, the proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users[7] equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Connectivity Fee Schedule is applied uniformly to all Users.

Competitive Environment

The proposed changes are not otherwise intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that discontinuing offering the Option A and B PCS bundles would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. There was only ever one User that purchased either an Option A or B bundle, and that User canceled its bundled service over a year ago, in July 2021. There are currently no purchasers of either Option A or B bundles. The Exchange does not expect demand for Options A and B to rebound given Users' overall preference for larger port sizes to accommodate larger market data feeds. Removing references to the fees for these obsolete options from the Connectivity Fee Schedule would make the Connectivity Fee Schedule easier to read, understand, and administer.

The Exchange believes that the proposed rule change does not significantly affect the protection of investors or the public interest. The proposed rule change would delete obsolete services from the Connectivity Fee Schedule in order to enhance transparency and alleviate potential customer confusion.

The Exchange believes that deleting obsolete services from the Connectivity Fee Schedule would not permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed changes would apply equally to all Users.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

[4] The Exchange is an indirect subsidiary of Intercontinental Exchange, Inc. (''ICE''). Each of the Exchange's affiliates New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., and NYSE National, Inc. (the ''Affiliate SROs'') has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2022–45, SR–NYSEAMER–2022–43, SR–NYSEARCA–2022–64, and SR–NYSENAT–2022–22.

[5] *See* Securities Exchange Act Release No. 95361 (July 25, 2022), 87 FR 45811 (July 29, 2022) (SR–NYSECHX–2022–17).

[6] *See, e.g.,* Securities Exchange Act Release No. 77072 (February 5, 2016), 81 FR 7394 (Feb. 11, 2016) (SR–NYSE–2015–53).

[7] For purposes of the Exchange's colocation services, a ''User'' means any market participant that requests to receive colocation services directly from the Exchange. *See* Securities Exchange Act Release No. 87408 (October 28, 2019), 84 FR 58778 at n.6 (November 1, 2019) (SR–NYSECHX–2019–12). As specified in the Connectivity Fee Schedule, a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Affiliate SROs.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[10] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed rule change would not place 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 issues but rather is designed to enhance the clarity and transparency of the Connectivity Fee Schedule and alleviate possible customer confusion that may arise from the inclusion of obsolete services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [13] 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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSECHX–2022–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSECHX–2022–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://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 10:00 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. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSECHX–2022–22 and should be submitted on or before November 1, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–21987 Filed 10–7–22; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78f(b)(8).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95976; No. SR–NYSEARCA–2022–66]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the NYSE Arca Options Fee Schedule

October 4, 2022.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 30, 2022, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE Arca Options Fee Schedule (''Fee Schedule'') regarding the discount in take liquidity fees. The Exchange proposes to implement the fee change effective October 3, 2022. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend the Fee Schedule to modify the amount of one of the alternatives offered as a Discount in Take Liquidity Fees for Professional Customer and Non-Customer Liquidity Removing Interest (''Take Fee Discount'').

If an OTP Holder or OTP Firm (collectively, ''OTP Holders'') executes a transaction that removes or ''takes'' liquidity on the Exchange, the OTP Holder is charged a ''Take Liquidity'' fee (referred to herein as a ''Take Fee'') and such liquidity may be referred to as ''Liquidity Removing'' or liquidity taking.[4] To offset such costs and to encourage market participants to direct order flow to the Exchange, the Exchange offers, among other incentives, the Take Fee Discounts for executions in Penny Issues.

The Exchange currently offers OTP Holders three alternative Take Fee Discounts, with varying qualifying bases and amounts, and an OTP Holder may only earn one such discount. One of the Take Fee Discount alternatives is available to an OTP Holder that executes at least 0.80% of TCADV from Customer posted interest in all issues, plus executed ADV of 0.30% ADV of U.S. equity market share posted and executed on the NYSE Arca Equity market. The amount of the Take Fee Discount would be $0.04 when the executing buyer and seller are the same OTP Holder or an Affiliate or Appointed OFP or Appointed MM of such firm; otherwise, the Take Fee Discount is $0.03.[5]

The Exchange proposes to modify the Take Fee Discount amounts for this alternative to be $0.03 when the executing buyer and seller are the same OTP Holder or an Affiliate or Appointed OFP or Appointed MM of such firm, or $0.02 otherwise.

The Exchange cannot predict with certainty whether any OTP Holders will seek to qualify for this Take Fee Discount alternative, as modified. Although the Exchange proposes to decrease the amount of the discount OTP Holders could earn through this alternative, the Exchange believes that OTP Holders would continue to be encouraged to direct liquidity-taking interest to the Exchange to take advantage of the available credits and discounts on Take Fees.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[7] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Proposed Rule Change Is Reasonable

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. 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.'' [8]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[9] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in August of 2022, the Exchange had less than 12% market share of executed volume of multiply-listed equity and ETF options trades.[10]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. In response to this competitive environment, the Exchange has established incentives, such as the Take Fee Discount.

The Exchange believes that the proposed modification to the Take Fee Discount is reasonably designed to continue to offer OTP Holders discounts on Take Fees and to incent OTP Holders to increase the amount and type of Professional Customer and Non-Customer interest sent to the Exchange, especially posted and liquidity-taking interest, which benefits all market participants by providing more trading opportunities, thereby making the Exchange a more attractive execution venue.

To the extent the proposed rule change continues to attract greater volume and liquidity by encouraging OTP Holders (and their affiliates) to increase their options volume on the Exchange, the Exchange believes the proposed change would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants. In the backdrop of the competitive environment in which the Exchange operates, the proposed rule change is a reasonable attempt by the Exchange to increase the depth of its market and improve its market share relative to its competitors, including another exchange that offers similar incentives on liquidity-taking interest.[11]

[4] *See* Fee Schedule, NYSE Arca OPTIONS: TRADE-RELATED CHARGES FOR STANDARD OPTIONS, TRANSACTION FEE FOR ELECTRONIC EXECUTIONS—PER CONTRACT (setting forth a per contract Take Fee of $0.50 for such Penny executions in Professional Customer, Firm, Broker Dealer, and Market Maker range as compared to a per contract take fee of $0.49 for such Penny executions in the Customer range).

[5] For example, when an OTP Holder or its Affiliate trades against itself (*e.g.,* Firm 1 MM trades against Firm 1 Customer or Firm 1 MM trades against Customer of an Affiliate of Firm 1), the $0.04 Take Fee discount applies. If, however, the OTP Holder trades against another OTP Holder (*e.g.,* Firm 1 MM trades against Firm 2 Customer), the $0.03 Take Fee discount applies.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4) and (5).

[8] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (''Reg NMS Adopting Release'').

[9] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: *https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.*

[10] Based on OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, *see id.,* the Exchange's market share in equity-based options decreased from 12.32% for the month of August 2021 to 11.36% for the month of August 2022.

[11] *See, e.g.,* Nasdaq Options 7 Pricing Schedule, Section 2 Nasdaq Options Market—Fees and Rebates, available at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/nasdaq-options-7* (providing that Nasdaq participants that add 1.30% of Customer, Professional, Firm, Broker-Dealer or Non-NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols of TCADV per day in a month will pay ''a $0.48 per contract Penny Symbols Fee for Removing Liquidity when the Participant is (i) both the buyer and the seller or (ii) the Participant removes liquidity from another Participant under Common Ownership,''

Continued

The Proposed Rule Change Is an Equitable Allocation of Credits and Fees

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits. The proposal is based on the amount and type of business transacted on the Exchange, and OTP Holders can seek to qualify for this discount or not. Moreover, although the Exchange proposes to decrease the amount of the discount OTP Holders could qualify for via one of the alternative Take Fee Discounts, the Exchange believes that the proposal is designed to continue to incent OTP Holders to aggregate all liquidity-taking interest at the Exchange as a primary execution venue. To the extent that the proposed change attracts more liquidity to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

The Proposed Rule Change Is not Unfairly Discriminatory

The Exchange believes the proposed change is not unfairly discriminatory because it would apply to all similarly-situated market participants on an equal and non-discriminatory basis. The proposal is based on the amount and type of business transacted on the Exchange, and OTP Holders are not obligated to try to earn the discount, nor are they obligated to execute liquidity-taking interest. To the extent that the proposed change attracts more Professional Customer and Non-Customer interest to the Exchange, especially posted and liquidity-taking interest, this increased order flow would continue to make the Exchange a more competitive venue for order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery. The resulting increased volume and liquidity would provide more trading opportunities and tighter spreads to all market participants and thus would promote just and equitable principles of trade, 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.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [12]

Intramarket Competition. The proposed change is designed to attract additional order flow to the Exchange, particularly take-liquidity interest. The Exchange believes that the proposed modifications, although they would reduce the amount of the discount offered by one of the Take Fee Discount alternatives, would continue to incent OTP Holders to direct their liquidity-taking order flow to the Exchange. Greater liquidity benefits all market participants on the Exchange and increased liquidity-taking order flow and posted Market Maker interest would increase opportunities for execution of other trading interest. The proposed change would apply to all similarly-situated market participants and thus would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the 16 competing option exchanges if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[13] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in August 2022, the Exchange had less than 12% market share of executed volume of multiply-listed equity & ETF options trades.[14]

The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner designed to incent OTP Holders to direct trading interest (particularly Customer posted interest and Professional Customer and Non-Customer liquidity-taking interest) to the Exchange. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market quality and increased opportunities for price improvement.

The Exchange also believes that the proposed change could promote competition between the Exchange and other execution venues, including one that currently offers similar incentives relating to Take Fees,[15] by encouraging additional orders to be sent to the Exchange for execution.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [16] of the Act and subparagraph (f)(2) of Rule 19b–4 [17] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

otherwise such participants pay $0.50 per contract on such interest).

[12] *See* Reg NMS Adopting Release, *supra* note 8, at 37499.

[13] *See supra* note 9.

[14] Based on OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, *see id.*, the Exchange's market share in equity-based options decreased from 12.32% for the month of August 2021 to 11.36% for the month of August 2022.

[15] *See supra* note 11.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(2).

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) [18] 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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2022–66 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2022–66. 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 (*http://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 10:00 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. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2022–66, and should be submitted on or before November 1, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–21985 Filed 10–7–22; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(2)(B).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95981; File No. SR–MEMX–2022–28]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule To Adopt Market Data Fees

October 4, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 21, 2022, MEMX LLC (''MEMX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''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

The Exchange is filing with the Commission a proposed rule change to amend the Exchange's fee schedule applicable to Members [3] and non-Members (the ''Fee Schedule'') pursuant to Exchange Rules 15.1(a) and (c). The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal immediately. The text of the proposed rule change is provided in Exhibit 5.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 1.5(p).

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

Background

The purpose of the proposed rule change is to amend the Fee Schedule to adopt fees the Exchange will charge to Members and non-Members for each of its three proprietary market data feeds, namely MEMOIR Depth, MEMOIR Top, and MEMOIR Last Sale (collectively, the ''Exchange Data Feeds''). The Exchange is proposing to implement the proposed fees immediately.

The Exchange previously filed the proposal on March 24, 2022 (SR–MEMX–2022–03) (the ''Initial Proposal''). The Exchange withdrew the Initial Proposal and replaced the proposal with SR–MEMX–2022–14 (the ''Second Proposal''). The Exchange withdrew the Second Proposal and replaced the proposal with SR–MEMX–2022–19 (the ''Third Proposal''). The Exchange recently withdrew the Third Proposal and is replacing it with the current proposal (SR–MEMX–2022–27).

The Exchange notes that it has previously included a cost analysis in connection with the proposed fees for the Exchange Data Feeds, however, the prior cost analysis coupled costs related to operating its trading system, or transaction services, with costs of producing market data. As described more fully below, this filing provides an updated cost analysis that focuses solely on costs related to the provision of the Exchange Data Feeds (the ''Cost Analysis''). Although the baseline Cost Analysis used to justify the fees has been updated, the fees themselves have not changed since the Initial Proposal and the Exchange still proposes fees that are intended to cover the Exchange's cost of producing the Exchange Data Feeds with a reasonable mark-up over those costs. Before setting forth the

additional details regarding the proposal as well as the updated Cost Analysis conducted by the Exchange, immediately below is a description of the proposed fees.

Proposed Market Data Pricing

The Exchange offers three separate data feeds to subscribers—MEMOIR Depth, MEMOIR Top and MEMOIR Last Sale. The Exchange notes that there is no requirement that any Firm subscribe to a particular Exchange Data Feed or any Exchange Data Feed whatsoever, but instead, a Firm may choose to maintain subscriptions to those Exchange Data Feeds they deem appropriate based on their business model. The proposed fee will not apply differently based upon the size or type of Firm, but rather based upon the subscriptions a Firm has to Exchange Data Feeds and their use thereof, which are in turn based upon factors deemed relevant by each Firm. The proposed pricing for each of the Exchange Data Feeds is set forth below.

MEMOIR Depth

The MEMOIR Depth feed is a MEMX-only market data feed that contains all displayed orders for securities trading on the Exchange (*i.e.,* top and depth-of-book order data), order executions (*i.e.,* last sale data), order cancellations, order modifications, order identification numbers, and administrative messages.[4] The Exchange proposes to charge each of the fees set forth below for MEMOIR Depth.

1. *Internal Distribution Fee.* For the receipt of access to the MEMOIR Depth feed, the Exchange proposes to charge $1,500 per month. This proposed access fee would be charged to any data recipient that receives a data feed of the MEMOIR Depth feed for purposes of internal distribution (*i.e.,* an ''Internal Distributor''). The Exchange proposes to define an Internal Distributor as ''a Distributor that receives an Exchange Data product and then distributes that data to one or more data recipients within the Distributor's own organization.'' [5] The proposed access fee for internal distribution will be charged only once per month per subscribing entity (''Firm''). The Exchange notes that it has proposed to use the phrase ''own organization'' in the definition of Internal Distributor and External Distributor because a Firm will be permitted to share data received from an Exchange Data product to other legal entities affiliated with the Firm that have been disclosed to the Exchange without such distribution being considered external to a third party. For instance, if a company has multiple affiliated broker-dealers under the same holding company, that company could have one of the broker-dealers or a non-broker-dealer affiliate subscribe to an Exchange Data product and then share the data with other affiliates that have a need for the data. This sharing with affiliates would not be considered external distribution to a third party but instead would be considered internal distribution to data recipients within the Distributor's own organization.

2. *External Distribution Fee.* For redistribution of the MEMOIR Depth feed, the Exchange proposes to establish an access fee of $2,500 per month. The proposed redistribution fee would be charged to any External Distributor of the MEMOIR Depth feed, which would be defined to mean ''a Distributor that receives an Exchange Data product and then distributes that data to a third party or one or more data recipients outside the Distributor's own organization.'' [6] The proposed access fee for external distribution will be charged only once per month per Firm. As noted above, while a Firm will be permitted to share data received from an Exchange Data product to other legal entities affiliated with the Firm that have been disclosed to the Exchange without such distribution being considered external to a third party, if a Firm distributes data received from an Exchange Data product to an unaffiliated third party that would be considered distribution to data recipients outside the Distributor's own organization and the access fee for external distribution would apply.

3. *Non-Display Use Fees.* The Exchange proposes to establish separate non-display fees for usage by Trading Platforms and other Users (*i.e.,* not by Trading Platforms).[7] Non-Display Usage would be defined to mean ''any method of accessing an Exchange Data product that involves access or use by a machine or automated device without access or use of a display by a natural person or persons.'' [8] For Non-Display Usage of the MEMOIR Depth feed not by Trading Platforms, the Exchange proposes to establish a fee of $1,500 per month.[9] For Non-Display Usage of the MEMOIR Depth feed by Trading Platforms, the Exchange proposes to establish a fee of $4,000 per month. The proposed fees for Non-Display Usage will be charged only once per category per Firm.[10] In other words, with respect to Non-Display Usage Fees, a Firm that uses MEMOIR Depth for non-display purposes but does not operate a Trading Platform would pay $1,500 per month, a Firm that uses MEMOIR Depth in connection with the operation of one or more Trading Platforms (but not for other purposes) would pay $4,000 per month, and a Firm that uses MEMOIR Depth for non-display purposes other than operating a Trading Platform and for the operation of one or more Trading Platforms would pay $5,500 per month.

4. *User Fees.* The Exchange proposes to charge a Professional User [11] Fee (per User) of $30 per month and a Non-Professional User [12] Fee (per User) of $3

[4] *See* MEMX Rule 13.8(a).

[5] *See* Market Data Definitions under the proposed MEMX Fee Schedule. The Exchange also proposes to adopt a definition for ''Distributor'', which would mean any entity that receives an Exchange Data product directly from the Exchange or indirectly through another entity and then distributes internally or externally to a third party.

[6] *See* Market Data Definitions under the proposed MEMX Fee Schedule.

[7] The Exchange proposes to define a Trading Platform as ''any execution platform operated as or by a registered National Securities Exchange (as defined in Section 3(a)(1) of the Exchange Act), an Alternative Trading System (as defined in Rule 300(a) of Regulation ATS), or an Electronic Communications Network (as defined in Rule 600(b)(23) of Regulation NMS).'' *See* Market Data Definitions under the proposed MEMX Fee Schedule.

[8] *See* Market Data Definitions under the proposed MEMX Fee Schedule.

[9] Non-Display Usage not by Trading Platforms would include trading uses such as high frequency or algorithmic trading as well as any trading in any asset class, automated order or quote generation and/or order pegging, price referencing for smart order routing, operations control programs, investment analysis, order verification, surveillance programs, risk management, compliance, and portfolio management.

[10] The Exchange proposes to adopt note 1 to the proposed Market Data fees table, which would make clear to subscribers that use of the data for multiple non-display purposes or operate more than one Trading Platform would only be charged once per category per month. Thus, the footnote makes clear that each fee applicable to Non-Display Usage is charged per subscriber (*e.g.,* a Firm) and that each of the fees represents the maximum charge per month per subscriber regardless of the number of non-display uses and/or Trading Platforms operated by the subscriber, as applicable.

[11] As proposed, a Professional User is any User other than a Non-Professional User. *See infra* note 12.

[12] As proposed, a Non-Professional User is a natural person or qualifying trust that uses Exchange Data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) registered or qualified in any capacity with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an ''investment adviser'' as that term is defined in Section 202(a)(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States.

per month. The proposed User fees would apply to each person that has access to the MEMOIR Depth feed for displayed usage. Thus, each Distributor's count will include every individual that accesses the data regardless of the purpose for which the individual uses the data. Internal Distributors and External Distributors of the MEMX Depth feed must report all Professional and Non-Professional Users in accordance with the following:

- In connection with a Distributor's distribution of the MEMOIR Depth feed, the Distributor must count as one User each unique User that the Distributor has entitled to have access to the MEMOIR Depth feed.
- Distributors must report each unique individual person who receives access through multiple devices or multiple methods (*e.g.,* a single User has multiple passwords and user identifications) as one User.
- If a Distributor entitles one or more individuals to use the same device, the Distributor must include only the individuals, and not the device, in the count. Thus, Distributors would not be required to report User device counts associated with a User's display use of the data feed.

5. *Enterprise Fee.* Other than the Digital Media Enterprise Fee described below, the Exchange is not proposing to adopt an Enterprise Fee for the MEMOIR Depth feed at this time.

6. *Digital Media Enterprise Fee.* As an alternative to User fees, a recipient Firm may purchase a monthly Digital Media Enterprise license to receive MEMOIR Depth for distribution to an unlimited number of Users for viewing via television, websites, and mobile devices for informational and non-trading purposes only. The Exchange proposes to establish a fee of $5,000 per month for a Digital Media Enterprise license to the MEMOIR Depth feed.

MEMOIR Top

The MEMOIR Top feed is a MEMX-only market data feed that contains top of book quotations based on equity orders entered into the System as well as administrative messages.[13] The Exchange proposes to charge each of the fees set forth below for MEMOIR Top.

1. *Internal Distribution Fee.* For the receipt of access to the MEMOIR Top feed, the Exchange proposes to charge $750 per month. This proposed access fee would be charged to any data recipient that receives a data feed of the MEMOIR Top feed for purposes of internal distribution (*i.e.,* an Internal Distributor). The proposed access fee for internal distribution will be charged only once per month per Firm.

2. *External Distribution Fee.* For redistribution of the MEMOIR Top feed, the Exchange proposes to establish an access fee of $2,000 per month. The proposed redistribution fee would be charged to any External Distributor of the MEMOIR Top feed. The proposed access fee for external distribution will be charged only once per month per Firm.

3. *Non-Display Use Fees.* The Exchange does not propose to establish non-display fees for usage by Trading Platforms or other Users with respect to MEMOIR Top.

4. *User Fees.* The Exchange proposes to charge a Professional User Fee (per User) of $0.01 per month and a Non-Professional User Fee (per User) of $0.01 per month. The proposed User fees would apply to each person that has access to the MEMOIR Top feed that is provided by an External Distributor for displayed usage. The Exchange does not propose any per User fees for internal distribution of the MEMOIR Top feed. Each External Distributor's count will include every individual that accesses the data regardless of the purpose for which the individual uses the data. External Distributors of the MEMOIR Top feed must report all Professional and Non-Professional Users [14] in accordance with the following:

- In connection with an External Distributor's distribution of the MEMOIR Top feed, the Distributor must count as one User each unique User that the Distributor has entitled to have access to the MEMOIR Top feed.
- External Distributors must report each unique individual person who receives access through multiple devices or multiple methods (*e.g.,* a single User has multiple passwords and user identifications) as one User.
- If an External Distributor entitles one or more individuals to use the same device, the Distributor must include only the individuals, and not the device, in the count. Thus, Distributors would not be required to report User device counts associated with a User's display use of the data feed.

5. *Enterprise Fee.* As an alternative to User fees, a recipient Firm may purchase a monthly Enterprise license to receive MEMOIR Top for distribution to an unlimited number of Professional and Non-Professional Users. The Exchange proposes to establish a fee of $10,000 per month for an Enterprise license to the MEMOIR Top feed.

6. *Digital Media Enterprise Fee.* As an alternative to User fees, a recipient Firm may purchase a monthly Digital Media Enterprise license to receive MEMOIR Top for distribution to an unlimited number of Users for viewing via television, websites, and mobile devices for informational and non-trading purposes only. The Exchange proposes to establish a fee of $2,000 per month for a Digital Media Enterprise license to the MEMOIR Top feed.

MEMOIR Last Sale

The MEMOIR Last Sale feed is a MEMX-only market data feed that contains only execution information based on equity orders entered into the System as well as administrative messages.[15] The Exchange proposes to charge each of the fees set forth below for MEMOIR Last Sale.

1. *Internal Distribution Fee.* For the receipt of access to the MEMOIR Last Sale feed, the Exchange proposes to charge $500 per month. This proposed access fee would be charged to any data recipient that receives a data feed of the MEMOIR Last Sale feed for purposes of internal distribution (*i.e.,* an Internal Distributor). The proposed access fee for internal distribution will be charged only once per month per Firm.

2. *External Distribution Fee.* For redistribution of the MEMOIR Last Sale feed, the Exchange proposes to establish an access fee of $2,000 per month. The proposed redistribution fee would be charged to any External Distributor of the MEMOIR Last Sale feed. The proposed access fee for external distribution will be charged only once per month per Firm.

3. *Non-Display Use Fees.* The Exchange does not propose to establish separate non-display fees for usage by Trading Platforms or other Users with respect to MEMOIR Last Sale.

4. *User Fees.* The Exchange proposes to charge a Professional User Fee (per User) of $0.01 per month and a Non-Professional User Fee (per User) of $0.01 per month. The proposed User fees would apply to each person that has access to the MEMOIR Last Sale feed that is provided by an External Distributor for displayed usage. The Exchange does not propose any per User fees for internal distribution of the MEMOIR Last Sale feed. Each External Distributor's count will include every individual that accesses the data regardless of the purpose for which the individual uses the data. External

[13] *See* MEMX Rule 13.8(b).

[14] The Exchange notes that while it is not differentiating Professional and Non-Professional Users based on fees (in that it is proposing the same fee for such Users) for this data feed, and thus will not audit Firms based on this distinction, it will request reporting of each distinct category for informational purposes.

[15] *See* MEMX Rule 13.8(c).

Distributors of the MEMOIR Last Sale feed must report all Professional and Non-Professional Users [16] in accordance with the following:

- In connection with an External Distributor's distribution of the MEMOIR Last Sale feed, the Distributor must count as one User each unique User that the Distributor has entitled to have access to the MEMOIR Last Sale feed.
- External Distributors must report each unique individual person who receives access through multiple devices or multiple methods (*e.g.,* a single User has multiple passwords and user identifications) as one User.
- If an External Distributor entitles one or more individuals to use the same device, the Distributor must include only the individuals, and not the device, in the count. Thus, Distributors would not be required to report User device counts associated with a User's display use of the data feed.

5. *Enterprise Fee.* As an alternative to User fees, a recipient Firm may purchase a monthly Enterprise license to receive MEMOIR Last Sale for distribution to an unlimited number of Professional and Non-Professional Users. The Exchange proposes to establish a fee of $10,000 per month per Firm for an Enterprise license to the MEMOIR Last Sale feed.

6. *Digital Media Enterprise Fee.* As an alternative to User fees, a recipient Firm may purchase a monthly Digital Media Enterprise license to receive MEMOIR Last Sale for distribution to an unlimited number of Users for viewing via television, websites, and mobile devices for informational and non-trading purposes only. The Exchange proposes to establish a fee of $2,000 per month per Firm for a Digital Media Enterprise license to the MEMOIR Last Sale feed.

Additional Discussion—Background

In two years, MEMX has grown from 0% to monthly market share ranging between 3–4% of consolidated trading volume. During that same period, the Exchange has had a steady increase in the number of subscribers to Exchange Data Feeds. As a new entrant into the exchange industry, the Exchange is particularly subject to competitive forces as it works to attract new Members and trading volume and maintain participation from existing participants. Until April of this year, MEMX did not charge fees for market data provided by the Exchange. The objective of this approach was to eliminate any fee-based barriers for Members when MEMX launched as a national securities exchange in 2020, which the Exchange believes has been helpful in its ability to attract order flow as a new exchange. The Exchange also did not initially charge for market data because MEMX believes that any exchange should first deliver meaningful value to Members and other market participants before charging fees for its products and services. As discussed more fully below, the Exchange recently calculated its annual aggregate costs for providing the Exchange Data Feeds at approximately $3 million. In order to establish fees that are designed to recover the aggregate costs of providing the Exchange Data Feeds plus a reasonable mark-up, the Exchange is proposing to modify its Fee Schedule, as described above. In addition to the Cost Analysis, described below, the Exchange believes that its proposed approach to market data fees is reasonable based on a comparison to competitors.

Additional Discussion—Comparison With Other Exchanges

The proposed fee structure is not novel but is instead comparable to the fee structure currently in place for the equities exchanges operated by Cboe Global Markets, Inc., in particular BZX.[17] As noted above, in January 2022, MEMX had 4.2% market share; for that same month, BZX had 5.5% market share.[18] The Exchange is proposing fees for its Exchange Data Feeds that are similar in structure to BZX and rates that are equal to, or in most cases lower, than the rates data recipients pay for comparable data feeds from BZX.[19] The Exchange notes that other competitors maintain fees applicable to market data that are considerably higher than those proposed by the Exchange, including NYSE Arca [20] and Nasdaq.[21] However, the Exchange has focused its comparison on BZX because it is the closest market in terms of market share and offers market data at prices lower than several other incumbent exchanges.[22]

The fees for the BZX Depth feed—which like the MEMOIR Depth feed, includes top of book, depth of book, trades, and security status messages—consist of an internal distributor access fee of $1,500 per month (the same as the Exchange's proposed rate), an external distributor access fee of $5,000 per month (two times the Exchange's proposed rate), a non-display usage fee for non-Trading Platforms of $2,000 per

[16] *See supra* note 14.

[17] *See* BZX Fee Schedule, available at: *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/.*

[18] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[19] The Exchange notes that although no fee proposed by the Exchange is higher than the fee charged for BZX for a comparable data product, under certain fact patterns a BZX data recipient could pay a lower rate than that charged by the Exchange. For instance, while the Exchange has proposed to adopt identical fees to those charged for internal distribution of MEMOIR Top as compared to BZX Top ($750 per month) and for internal distribution of MEMOIR Last Sale as compared to BZX Last Sale ($500 per month), BZX permits a data recipient who takes both feeds to pay only one fee and, upon request, to receive the other data feed free of charge. *See* BZX Fee Schedule, Market Data Fees, BZX Depth, available at: *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/.* Because the Exchange has not proposed such a discount, a data recipient taking both MEMOIR TOP and MEMOIR Last Sale would pay more ($1,250 per month) than they would to take comparable data feeds from BZX ($750 per month).

[20] Fees for the NYSE Arca Integrated Feed, which is the comparable product to MEMOIR Depth, are $3,000 for access (internal use) and $3,750 for redistribution (external distribution), compared to the Exchange's proposed fees of $1,500 and $2,500, respectively. In addition, for its Integrated Feed, NYSE Arca charges for three different categories of non-display usage, each of which is $10,500 and each of which can be charged to the same firm more than one time (*e.g.,* a customer operating a Trading Platform would pay $10,500 compared to the Exchange's proposed fee of $4,000 but would also pay for each Trading Platform, up to three, if they operate more than one, instead of the single fee proposed by the Exchange; if that customer also uses the data for the other categories of non-display usage they would also pay $10,500 for each other category of usage, whereas the Exchange would only charge $1,500 for any non-display usage other than operating a Trading Platform). Finally, the NYSE Arca Integrated Feed user fee for pro devices is $60 compared to the proposed Professional User fee of $30 for MEMOIR Depth and the NYSE Arca Integrated user fee for non-pro devices is $20 compared to the proposed Non-Professional User fee of $3 for MEMOIR Depth. *See* NYSE Proprietary Market Data Pricing list, available at: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Pricing.pdf.*

[21] Fees for the Nasdaq TotalView data feed, which is the comparable product to MEMOIR Depth, are $1,500 for access (internal use) and $3,750 for redistribution (external distribution), compared to the Exchange's proposed fees of $1,500 and $2,500, respectively. In addition, for TotalView, Nasdaq charges Trading Platforms $5,000 compared to the Exchange's proposal of $4,000, and, like NYSE Arca, charges customers per Trading Platform, up to three, if they operate more than one, instead of the single fee proposed by the Exchange. Nasdaq also requires users to report and pay usage fees for non-display access at levels of from $375 per subscriber for smaller firms with 39 or fewer subscribers to $75,000 per firm for a larger firm with over 250 subscribers. The Exchange does not require counting of devices or users for non-display purposes and instead has proposed flat fee of $1,500 for non-display usage not by Trading Platforms. Finally, the Nasdaq TotalView user fee for professional subscribers is $76 compared to the proposed Professional User fee of $30 for MEMOIR Depth and the Nasdaq TotalView user fee for non-professional subscribers is $15 compared to the proposed Non-Professional User fee of $3 for MEMOIR Depth. *See* Nasdaq Global Data Products pricing list, available at: *http://www.nasdaqtrader.com/TraderB.aspx?id=MDDPricingALLN.*

[22] *See supra* notes 20–21.

month ($500 more than the Exchange's proposed rate), a non-display usage fee for Trading Platforms of $5,000 per month ($1,000 more than the Exchange's proposed rate), a Professional User fee (per User) of $40 per month ($10 more than the Exchange's proposed rate), and a Non-Professional User fee (per User) of $5 per month ($2 more than the Exchange's proposed rate).[23]

The comparisons of the MEMOIR Last Sale feed and MEMOIR Top feed to the BZX Last Sale feed and BZX Top feed, respectively, are similar in that BZX generally maintains the same fee structure proposed by the Exchange and BZX charges fees that are comparable to, but in most cases higher than, the Exchange's proposed fees. Notably, the User fees proposed by the Exchange for External Distributors of MEMOIR Last Sale and MEMOIR Top ($0.01 for both Professional Users and Non-Professional Users) are considerably lower than those charged by BZX for BZX Top and BZX Last Sale ($4 for Professional Users and $0.10 for Non-Professional Users).

By charging the same low rate for all Users of MEMOIR Top and MEMOIR Last Sale the Exchange believes it is proposing a structure that is not only lower cost but that will also simplify reporting for subscribers who externally distribute these data feeds to Users, as the Exchange believes that categorization of Users as Professional and Non-Professional is not meaningful for these products and requiring such categorization would expose Firms to unnecessary audit risk of paying more for mis-categorization. However, the Exchange does not believe this is equally true for MEMOIR Depth, as most individual Users of MEMOIR Depth are likely to be Professional Users and the Exchange has proposed pricing for such Users that the Exchange believes is reasonable given the value to Professional Users (*i.e.,* since Professional Users use data to participate in the markets as part of their full-time profession and earn compensation based on their employment). While the Exchange would prefer the simplicity of a single fee, similar to that imposed for Professional Users and Non-Professional Users of the MEMOIR Top and MEMOIR Last Sale feeds, as that would reduce audit risk and simplify reporting, the proposed fee for Professional Users of the MEMOIR Depth feed if also applied to Non-Professional Users of such feed would be significantly higher than other exchanges charge. The Exchange reiterates that it does not anticipate many Non-Professional Users to subscribe to MEMOIR Depth. In fact, the Exchange is only aware of a single Non-Professional User (*i.e.,* one User) that is reported to receive MEMOIR Depth.

Additional Discussion—Cost Analysis

In general, the Exchange believes that exchanges, in setting fees of all types, should meet very high standards of transparency to demonstrate why each new fee or fee increase meets the Exchange Act requirements that fees be reasonable, equitably allocated, not unfairly discriminatory, and not create an undue burden on competition among members and markets. In particular, the Exchange believes that each exchange should take extra care to be able to demonstrate that these fees are based on its costs and reasonable business needs. Accordingly, in proposing to charge fees for market data, the Exchange has sought to be especially diligent in assessing those fees in a transparent way against its own aggregate costs of providing the related service, and also carefully and transparently assessing the impact on Members—both generally and in relation to other Members, *i.e.,* to assure the fee will not create a financial burden on any participant and will not have an undue impact in particular on smaller Members and competition among Members in general. The Exchange does not believe it needs to otherwise address questions about market competition in the context of this filing because the proposed fees are so clearly consistent with the Act based on its Cost Analysis. The Exchange also believes that this level of diligence and transparency is called for by the requirements of Section 19(b)(1) under the Act,[24] and Rule 19b–4 thereunder,[25] with respect to the types of information self-regulatory organizations (''SROs'') should provide when filing fee changes, and Section 6(b) of the Act,[26] which requires, among other things, that exchange fees be reasonable and equitably allocated,[27] not designed to permit unfair discrimination,[28] and that they not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[29] This rule change proposal addresses those requirements, and the analysis and data in this section are designed to clearly and comprehensively show how they are met.[30]

As noted above, MEMX has conducted and recently updated a study of its aggregate costs to produce the Exchange Data Feeds—the Cost Analysis. The Cost Analysis required a detailed analysis of MEMX's aggregate baseline costs, including a determination and allocation of costs for core services provided by the Exchange—transactions, market data, membership services, physical connectivity, and application sessions (which provide order entry, cancellation and modification functionality, risk functionality, ability to receive drop copies, and other functionality). MEMX separately divided its costs between those costs necessary to deliver each of these core services, including infrastructure, software, human resources (*i.e.,* personnel), and certain general and administrative expenses (''cost drivers''). Next, MEMX adopted an allocation methodology with various principles to guide how much of a particular cost should be allocated to each core service. For instance, fixed costs that are not driven by client activity (*e.g.,* message rates), such as data center costs, were allocated more heavily to the provision of physical connectivity (75%), with smaller allocations to logical ports (2.6%), and the remainder to the provision of transaction execution and market data services (22.4%). The allocation methodology was decided through conversations with senior management familiar with each area of the Exchange's operations. After adopting this allocation methodology, the Exchange then applied an estimated allocation of each cost driver to each core service, resulting in the cost allocations described below.

[23] *See* BZX Fee Schedule, Market Data Fees, BZX Depth, available at: *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/.* The Exchange notes that there are differences between the structure of BZX Depth fees and the proposed fees for MEMOIR Depth, including that the Exchange has proposed a Digital Media Enterprise License for MEMOIR Depth but a comparable license is not available from BZX. Additionally, BZX maintains a general enterprise license for User fees, similar to that proposed by the Exchange for MEMOIR Top and MEMOIR Last Sale, but the Exchange has not proposed adding a general Enterprise license at this time.

[24] 15 U.S.C. 78s(b)(1).

[25] 17 CFR 240.19b–4.

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(4).

[28] 15 U.S.C. 78f(b)(5).

[29] 15 U.S.C. 78f(b)(8).

[30] In 2019, Commission staff published guidance suggesting the types of information that SROs may use to demonstrate that their fee filings comply with the standards of the Exchange Act (''Fee Guidance''). While MEMX understands that the Fee Guidance does not create new legal obligations on SROs, the Fee Guidance is consistent with MEMX's view about the type and level of transparency that exchanges should meet to demonstrate compliance with their existing obligations when they seek to charge new fees. *See* Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019) available at *https://www.sec.gov/tm/staff-guidancesro-rule-filings-fees.*

By allocating segmented costs to each core service, MEMX was able to estimate by core service the potential margin it might earn based on different fee models. The Exchange notes that as a non-listing venue it has four primary sources of revenue that it can potentially use to fund its operations: transaction fees, fees for connectivity services, membership and regulatory fees, and market data fees. Accordingly, the Exchange generally must cover its expenses from these four primary sources of revenue.

Through the Exchange's extensive Cost Analysis, which was again recently updated to focus solely on the provision of the Exchange Data Feeds, the Exchange analyzed every expense item in the Exchange's general expense ledger to determine whether each such expense relates to the provision of the Exchange Data Feeds, and, if such expense did so relate, what portion (or percentage) of such expense actually supports the provision of the Exchange Data Feeds, and thus bears a relationship that is, ''in nature and closeness,'' directly related to the Exchange Data Feeds. Based on its analysis, MEMX calculated its aggregate annual costs for providing the Exchange Data Feeds, at $3,014,348. This results in an estimated monthly cost for providing Exchange Data Feeds of $251,196. In order to cover operating costs and earn a reasonable profit on its market data, the Exchange has determined it necessary to charge fees for its proprietary data products, and, as such, the Exchange is proposing to modify its Fee Schedule, pursuant to MEMX Rules 15.1(a) and (c), as set forth above.

Costs Related to Offering Exchange Data Feeds

The following chart details the individual line-item (annual) costs considered by MEMX to be related to offering the Exchange Data Feeds to its Members and other customers as well as the percentage of the Exchange's overall costs that such costs represent for such area (*e.g.,* as set forth below, the Exchange allocated approximately 6.9% of its overall Human Resources cost to offering Exchange Data Feeds).

Costs drivers	Costs	Percent of all
Human Resources	$1,729,856	6.9
Network Infrastructure (*e.g.,* servers, switches)	232,452	8.8
Data Center	318,456	9.8
Hardware and Software Licenses	246,864	9.8
Depreciation	399,911	18.0
Allocated Shared Expenses	86,809	1.8
Total	3,014,348	6.5

Human Resources

For personnel costs (Human Resources), MEMX calculated an allocation of employee time for employees whose functions include directly providing services necessary to offer the Exchange Data Feeds, including performance thereof, as well as personnel with ancillary functions related to establishing and providing such services (such as information security and finance personnel). The Exchange notes that it has fewer than seventy (70) employees and each department leader has direct knowledge of the time spent by those spent by each employee with respect to the various tasks necessary to operate the Exchange. The estimates of Human Resources cost were therefore determined by consulting with such department leaders, determining which employees are involved in tasks related to providing the Exchange Data Feeds, and confirming that the proposed allocations were reasonable based on an understanding of the percentage of their time such employees devote to tasks related to providing the Exchange Data Feeds. The Exchange notes that senior level executives were allocated Human Resources costs to the extent the Exchange believed they are involved in overseeing tasks related to providing the Exchange Data Feeds. The Exchange's cost allocation for employees who perform work in support of generating and disseminating the Exchange Data Feeds arrive at a full time equivalent (''FTE'') of 5.2 FTEs. The Human Resources cost was calculated using a blended rate of compensation reflecting salary, equity and bonus compensation, benefits, payroll taxes, and 401(k) matching contributions.

Network Infrastructure

The Network Infrastructure cost includes cabling and switches required to generate and disseminate the Exchange Data Feeds. The Network Infrastructure cost was narrowly estimated by focusing on the servers used at the Exchange's primary and back-up data centers specifically for the Exchange Data Feeds. Further, as certain servers are only partially utilized to generate and disseminate the Exchange Data Feeds, only the percentage of such servers devoted to generating and disseminating the Exchange Data Feeds was included (*i.e.,* the capacity of such servers allocated to the Exchange Data Feeds). From this analysis, the Exchange determined that 9.8% of its servers are used to generate and disseminate the Exchange Data Feeds. When combined with the applicable switches used for Exchange Data Feeds, the Exchange has determined that approximately 8.8% of its overall Network Infrastructure costs are attributable to the Exchange Data Feeds.

Data Center

Data Center costs includes an allocation of the costs the Exchange incurs to provide the Exchange Data Feeds in the third-party data centers where the Exchange maintains its equipment as well as related costs (the Exchange does not own the Primary Data Center or the Secondary Data Center, but instead, leases space in data centers operated by third parties). As the Data Center costs are primarily for space, power, and cooling of servers, the Exchange applied the same percentage calculated above with respect to servers, *i.e.,* 9.8%, to allocate the applicable Data Center costs for the Exchange Data Feeds. The Exchange believes it is reasonable to apply the same proportionate percentage of Data Center costs to that of Network Infrastructure.

Hardware and Software Licenses

Hardware and Software Licenses includes hardware and software licenses used to operate and monitor physical assets necessary to offer the Exchange Data Feeds. Because the hardware and software license fees are correlated to the servers used by the Exchange, the Exchange again applied an allocation of 9.8% of its costs for Hardware and Software Licenses to the Exchange Data Feeds.

Depreciation

The Exchange included Depreciation cost related to depreciated software used to generate and disseminate the Exchange Data Feeds. The Exchange also included in the Depreciation costs certain budgeted improvements that the Exchange intends to capitalize and depreciate with respect to the Exchange Data Feeds in the near-term. As with the other allocated costs in the Exchange's updated Cost Analysis, the Depreciation cost was therefore narrowly tailored to depreciation related to the Exchange Data Feeds.

Allocated Shared Expenses

Finally, certain general shared expenses were allocated to the Exchange Data Feeds. However, contrary to its prior cost analysis, rather than taking the whole amount of general shared expenses and applying an allocated percentage, the Exchange has narrowly selected specific general shared expenses relevant to the Exchange Data Feeds. The costs included in general shared expenses allocated to the Exchange Data Feeds include office space and office expenses (*e.g.,* occupancy and overhead expenses), utilities, recruiting and training, marketing and advertising costs, professional fees for legal, tax and accounting services (including external and internal audit expenses), and telecommunications costs. The cost of paying individuals to serve on the Exchange's Board of Directors or any committee was not allocated to providing Exchange Data Feeds.

Cost Analysis—Additional Discussion

In conducting its Cost Analysis, the Exchange did not allocate any of its expenses in full to any core service and did not double-count any expenses. Instead, as described above, the Exchange identified and allocated applicable cost drivers across its core services and used the same approach to analyzing costs to form the basis of a separate proposal to adopt fees for connectivity services (the ''Connectivity Filing'') [31] and this filing proposing fees for Exchange Data Feeds. Thus, the Exchange's allocations of cost across core services were based on real costs of operating the Exchange and were not double-counted across the core services or their associated revenue streams.

The Exchange anticipates that the proposed fees for Exchange Data Feeds will generate approximately $262,500 monthly ($3,150,000 annually) based on billing and reporting that has taken place since the Exchange commenced billing for such data feeds. The proposed fees for Exchange Data Feeds are designed to permit the Exchange to cover the costs allocated to providing Exchange Data Feeds with a mark-up that the Exchange believes is modest (approximately 4%), which the Exchange believes is fair and reasonable after taking into account the costs related to creating, generating, and disseminating the Exchange Data Feeds that the Exchange has previously borne completely on its own and help fund future expenditures (increased costs, improvements, etc.). The Exchange also reiterates that prior to April of this year the Exchange has not previously charged any fees for Exchange Data Feeds and its allocation of costs to Exchange Data Feeds was part of a holistic allocation that also allocated costs to other core services without double-counting any expenses.

The Exchange like other exchanges is, after all, a for-profit business. Accordingly, while the Exchange believes in transparency around costs and potential margins, as well as periodic review of revenues and applicable costs (as discussed below), the Exchange does not believe that these estimates should form the sole basis of whether or not a proposed fee is reasonable or can be adopted. Instead, the Exchange believes that the information should be used solely to confirm that an Exchange is not earning supra-competitive profits, and the Exchange believes its Cost Analysis and related projections demonstrate this fact.

As a general matter, the Exchange believes that its costs will remain relatively similar in future years. It is possible however that such costs will either decrease or increase. To the extent the Exchange sees growth in use of Exchange Data Feeds it will receive additional revenue to offset future cost increases. However, if use of Exchange Data Feeds is static or decreases, the Exchange might not realize the revenue that it anticipates or needs in order to cover applicable costs. Accordingly, the Exchange is committing to conduct a one-year review after implementation of these fees. The Exchange expects that it may propose to adjust fees at that time, to increase fees in the event that revenues fail to cover costs and a reasonable mark-up of such costs.[32] Similarly, the Exchange expects that it would propose to decrease fees in the event that revenue materially exceeds current projections. In addition, the Exchange will periodically conduct a review to inform its decision making on whether a fee change is appropriate (*e.g.,* to monitor for costs increasing/decreasing or subscribers increasing/decreasing, etc. in ways that suggest the then-current fees are becoming dislocated from the prior cost-based analysis) and expects that it would propose to increase fees in the event that revenues fail to cover its costs and a reasonable mark-up, or decrease fees in the event that revenue or the mark-up materially exceeds current projections. In the event that the Exchange determines to propose a fee change, the results of a timely review, including an updated cost estimate, will be included in the rule filing proposing the fee change. More generally, the Exchange believes that it is appropriate for an exchange to refresh and update information about its relevant costs and revenues in seeking any future changes to fees, and the Exchange commits to do so.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) [33] of the Act in general, and furthers the objectives of Section 6(b)(4) [34] of the Act, in particular, in that 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. Additionally, the Exchange believes that the proposed fees are consistent with the objectives of Section 6(b)(5) [35] of the Act in that they are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to a free and open market and national market system, and, in general, to protect investors and the public interest, and, particularly, are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange notes prior to addressing the specific reasons the Exchange believes the proposed fees and fee structure are reasonable, equitably allocated and not unreasonably discriminatory, that the proposed definitions and fee structure described above are consistent with the

[31] *See* SR–MEMX–2022–26, filed September 15, 2022, available at: *https://info.memxtrading.com/rules-and-filings/.*

[32] The Exchange notes that it does not believe that a 4% mark-up is necessarily competitive, and instead that this is likely significantly below the mark-up many businesses place on their products and services.

[33] 15 U.S.C. 78f.

[34] 15 U.S.C. 78f(b)(4).

[35] 15 U.S.C. 78f(b)(5).

definitions and fee structure used by most U.S. securities exchanges, and Cboe BZX in particular. As such, the Exchange believes it is adopting a model that is easily understood by Members and non-Members, most of which also subscribe to market data products from other exchanges. For this reason, the Exchange believes that the proposed definitions and fee structure described above are consistent with the Act generally, and Section 6(b)(5) [36] of the Act in particular.

As noted above, the Exchange's executed trading volume has grown from 0% market share to approximately 3–4% market share in less than two years and the Exchange believes that it is reasonable to begin charging fees for the Exchange Data Feeds. One of the primary objectives of MEMX is to provide competition and to reduce fixed costs imposed upon the industry. Consistent with this objective, the Exchange believes that this proposal reflects a simple, competitive, reasonable, and equitable pricing structure, with fees that are discounted when compared to comparable data products and services offered by competitors.[37]

Reasonableness

Overall. With regard to reasonableness, the Exchange understands that the Commission has traditionally taken a market-based approach to examine whether the SRO making the fee proposal was subject to significant competitive forces in setting the terms of the proposal. The Exchange understands that in general the analysis considers whether the SRO has demonstrated in its filing that (i) there are reasonable substitutes for the product or service; (ii) ''platform'' competition constrains the ability to set the fee; and/or (iii) revenue and cost analysis shows the fee would not result in the SRO taking supracompetitive profits. If the SRO demonstrates that the fee is subject to significant competitive forces, the Exchange understands that in general the analysis will next consider whether there is any substantial countervailing basis to suggest the fee's terms fail to meet one or more standards under the Exchange Act. The Exchange further understands that if the filing fails to demonstrate that the fee is constrained by competitive forces, the SRO must provide a substantial basis, other than competition, to show that it is consistent with the Exchange Act, which may include production of relevant revenue and cost data pertaining to the product or service.

The Exchange has not determined its proposed overall market data fees based on assumptions about market competition, instead relying upon a cost-plus model to determine a reasonable fee structure that is informed by the Exchange's understanding of different uses of the products by different types of participants. In this context, the Exchange believes the proposed fees overall are fair and reasonable as a form of cost recovery plus the possibility of a reasonable return for Exchange's aggregate costs of offering the Exchange Data Feeds. The Exchange believes the proposed fees are reasonable because they are designed to generate annual revenue to recoup some or all of Exchange's annual costs of providing market data with a reasonable mark-up. As discussed in the Purpose section, the Exchange estimates this fee filing will result in annual revenue of approximately $3.15 million, representing a potential mark-up of just 4% over the cost of providing market data. Accordingly, the Exchange believes that this fee methodology is reasonable because it allows the Exchange to recoup some or all of its expenses for providing market data products (with any additional revenue representing no more than what the Exchange believes to be a reasonable rate of return). The Exchange also believes that the proposed fees are reasonable because they are significantly less than the fees charged by competing equities exchanges for comparable market data products, notwithstanding that the competing exchanges may have different system architectures that may result in different cost structures for the provision of market data.

The Exchange believes the proposed fees for the Exchange Data Feeds are reasonable when compared to fees for comparable products, such as the BZX Depth feed, BZX Top feed, and BZX Last Sale feed, compared to which the Exchange's proposed fees are generally lower, as well as other comparable data feeds priced significantly higher than the Exchange's proposed fees for the Exchange Data Feeds.[38] Specifically with respect to the MEMOIR Depth feed, the Exchange believes that the proposed fees for such feed are reasonable because they represent not only the value of the data available from the MEMOIR Top and MEMOIR Last Sale data feeds, which have lower proposed fees, but also the value of receiving the depth-of-book data on an order-by-order basis. The Exchange believes it is reasonable to have pricing based, in part, upon the amount of information contained in each data feed and the value of that information to market participants. The MEMOIR Top and Last Sale data feeds, as described above, can be utilized to trade on the Exchange but contain less information than that is available on the MEMOIR Depth feed (*i.e.,* even for a subscriber who takes both feeds, such feeds do not contain depth-of-book information). Thus, the Exchange believes it reasonable for the products to be priced as proposed, with MEMOIR Last Sale having the lowest price, MEMOIR Top the next lowest price, and MEMOIR Depth the highest price (and more than MEMOIR Last Sale and MEMOIR Top combined).

Internal Distribution Fees. The Exchange believes that it is reasonable to charge.

Fees to access the Exchange Data Feeds for Internal Distribution because of the value of such data to subscribers in their profit-generating activities. The Exchange also believes that the proposed monthly Internal Distribution fees for MEMOIR Depth, MEMOIR Top, and MEMOIR Last Sale are reasonable as they are the same amounts charged by at least one other exchange of comparable size for comparable data products,[39] and are lower than the fees charged by several other exchanges for comparable data products.[40]

External Distribution Fees. The Exchange believes that it is reasonable to charge External Distribution fees for the Exchange Data Feeds because vendors receive value from redistributing the data in their business products provided to their customers. The Exchange believes that charging External Distribution fees is reasonable because the vendors that would be charged such fees profit by re-transmitting the Exchange's market data to their customers. These fees would be charged only once per month to each vendor account that redistributes any Exchange Data Feed, regardless of the number of customers to which that vendor redistributes the data. The Exchange also believes the proposed monthly External Distribution fee for the MEMOIR Depth Feed is reasonable because it is half the amount of the fee

[36] 15 U.S.C. 78f(b)(5).

[37] *See supra* notes 20–21; *see supra* note 23 and accompanying text.

[38] *See supra* notes 20–21; *see supra* note 23 and accompanying text.

[39] *See* BZX Fee Schedule available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/.*

[40] *See* NYSE Proprietary Market Data Pricing list, available at: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Pricing.pdf;* Nasdaq Global Data Products pricing list, available at: *http://www.nasdaqtrader.com/TraderB.aspx?id=MDDPricingALLN.*

charged by at least one other exchange of comparable size for a comparable data product,[41] and significantly less than the amount charged by several other exchanges for comparable data products.[42] Similarly, the Exchange believes the proposed monthly External Distribution fees for the MEMOIR TOP and MEMOIR Last Sale feeds are reasonable because they are discounted compared to same amounts charged by at least one other exchange of comparable size for comparable data products, and significantly less than the amount charged by several other exchanges for comparable data products.[43]

User Fees. The Exchange believes that having separate Professional and Non-Professional User fees for the MEMOIR Depth feed is reasonable because it will make the product more affordable and result in greater availability to Professional and Non-Professional Users. Setting a modest Non-Professional User fee is reasonable because it provides an additional method for Non-Professional Users to access the Exchange Data Feeds by providing the same data that is available to Professional Users. The proposed monthly Professional User fee and monthly Non-Professional User fee are reasonable because they are lower than the fees charged by at least one other exchange of comparable size for comparable data products,[44] and significantly less than the amounts charged by several other exchanges for comparable data products.[45] The Exchange also believes it is reasonable to charge the same low per User fee of $0.01 for both Professional Users and Non-Professional Users receiving the MEMOIR Top and MEMOIR Last Sale feeds, as this is not only pricing such data at a much lower cost than other exchanges charge for comparable data feeds [46] but doing so will also simplify reporting for subscribers who externally distribute these data feeds to Users, as the Exchange believes that categorization of Users as Professional and Non-Professional is not meaningful for these products and that requiring such categorization would expose Firms to unnecessary audit risk of paying more for mis-categorization. The Exchange also believes that the proposal to require reporting of individual Users, but not devices, is reasonable as this too will eliminate unnecessary audit risk that can arise when recipients are required to apply complex counting rules such as whether or not to count devices or whether an individual accessing the same data through multiple devices should be counted once or multiple times.

The Exchange further believes that its proposal to adopt a Digital Media Enterprise Fee for each of the Exchange Data Feeds is reasonable because it would allow a market participant that wishes to disseminate information from the Exchange Data Feeds through a digital media platform such as a public website without determining the number of Users, which would be practically impossible. The Exchange further believes it is reasonable for the Digital Media Enterprise Fee to be higher for MEMOIR Depth than MEMOIR Top or MEMOIR Last Sale because of the additional information that is contained in MEMOIR Depth, and in turn, the potential additional value to data recipients.

The Exchange also believes it is reasonable to adopt an Enterprise Fee for MEMOIR Top and MEMOIR Last Sale because this would allow a market participant to disseminate such data feeds to an unlimited number of Users without the necessity of counting such Users. As this is an optional subscription, a data recipient is able to determine whether it prefers to count Users and report such Users to the Exchange or not, and also whether it is more economically advantageous to count and pay for specific Users or to subscribe to the Enterprise Fee. The Exchange also notes that given the low cost proposed per User, only a market participant with a substantial number of Users would likely choose to subscribe for and pay the Enterprise Fee.

Non-Display Use Fees. The Exchange believes the proposed Non-Display Usage fees for the MEMOIR Depth feed are reasonable, because they reflect the value of the data to the data recipients in their profit-generating activities and do not impose the burden of counting non-display devices.

The Exchange believes that the proposed Non-Display Usage fees reflect the significant value of the non-display data use to data recipients, which purchase such data on an entirely voluntary basis. Non-display data can be used by data recipients for a wide variety of profit-generating purposes, including proprietary and agency trading and smart order routing, as well as by data recipients that operate Trading Platforms that compete directly with the Exchange for order flow. The data also can be used for a variety of non-trading purposes that indirectly support trading, such as risk management and compliance. Although some of these non-trading uses do not directly generate revenues, they can nonetheless substantially reduce a recipient's costs by automating such functions so that they can be carried out in a more efficient and accurate manner and reduce errors and labor costs, thereby benefiting recipients. The Exchange believes that charging for non-trading uses is reasonable because data recipients can derive substantial value from such uses, for example, by automating tasks so that can be performed more quickly and accurately and less expensively than if they were performed manually.

Previously, the non-display use data pricing policies of many exchanges required customers to count, and the exchanges to audit the count of, the number of non-display devices used by a customer. As non-display use grew more prevalent and varied, however, exchanges received an increasing number of complaints about the impracticality and administrative burden associated with that approach. In response, several exchanges developed a non-display use pricing structure that does not require non-display devices to be counted or those counts to be audited, and instead categorizes different types of use. The Exchange proposes to distinguish between non-display use for the operation of a Trading Platform and other non-display use, which is similar to exchanges such as BZX and EDGX,[47] while other exchanges maintain additional categories and in many cases charge multiple times for different types of non-display use or the operation of multiple Trading Platforms.[48]

The Exchange believes that it is reasonable to segment the fee for non-display use into these two categories. As noted above, the uses to which customers can put the MEMOIR Depth feed are numerous and varied, and the Exchange believes that charging

[41] *See* BZX Fee Schedule available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/.*

[42] *See id.*

[43] *See* NYSE Proprietary Market Data Pricing list, available at: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Pricing.pdf;* Nasdaq Global Data Products pricing list, available at: *http://www.nasdaqtrader.com/TraderB.aspx?id=MDDPricingALLN.*

[44] *See* BZX Fee Schedule, available at: *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/.*

[45] *See* NYSE Proprietary Market Data Pricing list, available at: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Pricing.pdf;* Nasdaq Global Data Products pricing list, available at: *http://www.nasdaqtrader.com/TraderB.aspx?id=MDDPricingALLN.*

[46] *See id.*

[47] *See* BZX Fee Schedule, available at: *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/;* EDGX Fee Schedule, available at: *https://www.cboe.com/us/equities/membership/fee_schedule/edgx/.*

[48] *See supra* notes 20–21.

separate fees for these separate categories of use is reasonable because it reflects the actual value the customer derives from the data, based upon how the customer makes use of the data.

The Exchange believes that the proposed fees for non-display use other than operation of a Trading Platform is reasonable. These fees are comparable to, and lower than, the fees charged by at least one other exchange of comparable size for a comparable data product,[49] and significantly less than the amounts charged by several other exchanges for comparable data products.[50] The Exchange believes that the proposed fees directly and appropriately reflect the significant value of using data on a non-display basis in a wide range of computer-automated functions relating to both trading and non-trading activities and that the number and range of these functions continue to grow through innovation and technology developments. Further, in contrast to non-display use for operation of a Trading Platform, discussed below, the Exchange benefits from and wants to encourage other non-display use by market participants (including the fact that the Exchange receives orders resulting from algorithms and routers as well as more broadly beneficial uses such as risk management and compliance).

The Exchange also believes, regarding non-display use for operation of a Trading Platform, it is reasonable to charge a higher monthly fee than for other non-display use because such use of the Exchange's data is directly in competition with the Exchange and the Exchange should be permitted to recoup some of its lost trading revenue by charging for the data that makes such competition possible. The Exchange also believes that it is reasonable to charge the proposed fees for non-display use for operation of a Trading Platform because the proposed fees are comparable to, and lower than, the fees charged at least one other exchange of comparable size for a comparable data product,[51] and significantly less than the amounts charged by several other exchanges for comparable data products, which also charge per Trading Platform operated by a data subscriber subject to a cap in most cases, rather than charging per Firm, as proposed by the Exchange.[52]

The proposed Non-Display Usage fees for the MEMOIR Depth feed are also reasonable because they take into account the extra value of receiving the data for Non-Display Usage that includes a rich set of information including top of book quotations, depth-of-book quotations, executions and other information. The Exchange believes that the proposed fees directly and appropriately reflect the significant value of using the MEMOIR Depth feed on a non-display basis in a wide range of computer-automated functions relating to both trading and non-trading activities and that the number and range of these functions continue to grow through innovation and technology developments.[53] For the same reasons, the Exchange believes it is reasonable to provide other data feeds, namely MEMOIR Top and MEMOIR Last Sale, free of charge for Non-Display Usage. The Exchange does not believe that either MEMOIR Top or MEMOIR Last Sale has the same value to market participants with respect to non-display usage as MEMOIR Depth, as neither of MEMOIR Top or MEMOIR Last Sale contains the amount of information that the Exchange expects market participants need for typical trading and non-trading non-display applications.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the Exchange Data Feeds are reasonable.

Equitable Allocation and Non-Discrimination

Overall. The Exchange believes that its proposed fees are reasonable, fair, and equitable, and not unfairly discriminatory because they are designed to align fees with services provided. For the foregoing reasons, the Exchange believes that the proposed fees are reasonable, equitably allocated, and not unfairly discriminatory. The Exchange believes the proposed fees for the Exchange Data Feeds are allocated fairly and equitably among the various categories of users of the feeds, and any differences among categories of users are justified and appropriate.

The Exchange believes that the proposed fees are equitably allocated because they will apply uniformly to all data recipients that choose to subscribe to the Exchange Data Feeds. Any subscriber or vendor that chooses to subscribe to one or more Exchange Data Feeds is subject to the same Fee Schedule, regardless of what type of business they operate, and the decision to subscribe to one or more Exchange Data Feeds is based on objective differences in usage of Exchange Data Feeds among different Firms, which are still ultimately in the control of any particular Firm. The Exchange believes the proposed pricing between Exchange Data Feeds is equitably allocated because it is based, in part, upon the amount of information contained in each data feed and the value of that information to market participants. The MEMOIR Top and Last Sale data feeds, as described above, can be utilized to trade on the Exchange but contain less information than that is available on the MEMOIR Depth feed (*i.e.,* even for a subscriber who takes both feeds, such feeds do not contain depth-of-book information). Thus, the Exchange believes it is an equitable allocation of fees for the products to be priced as proposed, with MEMOIR Last Sale having the lowest price, MEMOIR Top the next lowest price, and MEMOIR Depth the highest price (and more than MEMOIR Last Sale and MEMOIR Top combined).

Internal Distribution Fee. The Exchange believes the proposed monthly fees for Internal Distribution of the Exchange Data Feeds are equitably allocated because they would be charged on an equal basis to all data recipients that receive the Exchange Data Feeds for internal distribution, regardless of what type of business they operate.

External Distribution Fees. The Exchange believes the proposed monthly fees for External Distribution of the Exchange Data Feeds are equitably allocated because they would be charged on an equal basis to all data recipients that receive the Exchange Data Feeds that choose to redistribute the feeds externally. The Exchange also believes that the proposed monthly fees for External Distribution are equitably allocated when compared to lower proposed fees for Internal Distribution because data recipients that are externally distributing Exchange Data Feeds are able to monetize such distribution and spread such costs amongst multiple third party data

[49] *See* BZX Fee Schedule, available at: *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/.*

[50] *See* NYSE Proprietary Market Data Pricing list, available at: *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Pricing.pdf;* Nasdaq Global Data Products pricing list, available at: *http://www.nasdaqtrader.com/TraderB.aspx?id=MDDPricingALLN.*

[51] *See* BZX Fee Schedule, available at: *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/.*

[52] *See supra* notes 20–21.

[53] *See also* Exchange Act Release No. 69157, March 18, 2013, 78 FR 17946, 17949 (March 25, 2013) (SR–CTA/CQ–2013–01) (''[D]ata feeds have become more valuable, as recipients now use them to perform a far larger array of non-display functions. Some firms even base their business models on the incorporation of data feeds into black boxes and application programming interfaces that apply trading algorithms to the data, but that do not require widespread data access by the firm's employees. As a result, these firms pay little for data usage beyond access fees, yet their data access and usage is critical to their businesses.''

recipients, whereas the Internal Distribution fee is applicable to use by a single data recipient (and its affiliates).

User Fees. The Exchange believes that the fee structure differentiating Professional User fees from Non-Professional User fees for display use of the MEMOIR Depth feed is equitable. This structure has long been used by other exchanges and the SIPs to reduce the price of data to Non-Professional Users and make it more broadly available.[54] Offering the MEMOIR Depth feed to Non-Professional Users at a lower cost than Professional Users results in greater equity among data recipients, as Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. While Non-Professional Users too can receive significant financial benefits through their participation in the markets, the Exchange believes it is reasonable to charge more to those Users who are more directly engaged in the markets. The Exchange also believes it may be unreasonable to charge a Non-Professional User the same fee that it has proposed for Professional Users, as this fee would be higher than any other U.S. equities exchange charges to Non-Professional Users for receipt of a comparable data product. These User fees would be charged uniformly to all individuals that have access to the MEMOIR Depth feed based on the category of User. The Exchange also believes the proposed User fees for MEMOIR Top and MEMOIR Last Sale are equitable because the Exchange has proposed to charge Professional Users and Non-Professional Users the same low rate of $0.01 per month.

The Exchange further believes that its proposal to adopt a Digital Media Enterprise Fee for each of the Exchange Data Feeds is equitable because it would allow a market participant that wishes to disseminate information from the Exchange Data Feeds through a digital media platform such as a public website without determining the number of Users, which would be practically impossible. The Exchange further believes it is equitable for the Digital Media Enterprise Fee to be higher for MEMOIR Depth than MEMOIR Top or MEMOIR Last Sale because of the additional information that is contained in MEMOIR Depth, and in turn, the potential additional value to data recipients.

The Exchange also believes it is equitable to adopt an Enterprise Fee for MEMOIR Top and MEMOIR Last Sale because this would allow a market participant to disseminate such data feeds to an unlimited number of Users without the necessity of counting such Users. As this is an optional subscription, a data recipient is able to determine whether it prefers to count Users and report such Users to the Exchange or not, and also whether it is more economically advantageous to count and pay for specific Users or to subscribe to the Enterprise Fee.

Non-Display Use Fees. The Exchange believes the proposed Non-Display Usage fees are equitably allocated because they would require subscribers to pay fees only for the uses they actually make of the data. As noted above, non-display data can be used by data recipients for a wide variety of profit-generating purposes (including trading and order routing) as well as purposes that do not directly generate revenues (such as risk management and compliance) but nonetheless substantially reduce the recipient's costs by automating certain functions. The Exchange believes that it is equitable to charge non-display data subscribers that use data for purposes other than operation of a Trading Platform as proposed because all such subscribers would have the ability to use such data for as many non-display uses as they wish for one low fee. As noted above, this structure is comparable to that in place for the BZX Depth feed but several other exchanges charge multiple non-display fees to the same client to the extent they use a data feed in several different trading platforms or for several types of non-display use.[55]

The Exchange also believes, regarding non-display use for operation of a Trading Platform, it is equitable to charge a higher rate for each Firm operating a Trading Platform (as compared to other Non-Display Usage not by Trading Platforms) because such use of the data is directly in competition with the Exchange and the Exchange should be permitted to recoup some of its lost trading revenue by charging for the data that makes such competition possible. Further, in contrast to non-display use for operation of a Trading Platform, the Exchange benefits from and wants to encourage other non-display use by market participants (including the fact that the Exchange receives orders resulting from algorithms and routers as well as more broadly beneficial uses such as risk management and compliance). The Exchange believes that it is equitable to charge a single fee per Firm rather than multiple fees for a Firm that operates more than one Trading Platform because operators of Trading Platforms are many times viewed as a single competing venue or group, even if there are multiple liquidity pools operated by the same competitor.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the Exchange Data Feeds are equitably allocated.

The Proposed Fees Are Not Unfairly Discriminatory

The Exchange believes the proposed fees for the Exchange Data Feeds are not unfairly discriminatory because any differences in the application of the fees are based on meaningful distinctions between customers, and those meaningful distinctions are not unfairly discriminatory between customers.

Overall. The Exchange believes that the proposed fees are not unfairly discriminatory because they would apply to all data recipients that choose to subscribe to the same Exchange Data Feed(s). Any vendor or subscriber that chooses to subscribe to the Exchange Data Feeds is subject to the same Fee Schedule, regardless of what type of business they operate. Because the proposed fees for MEMOIR Depth are higher, vendors and subscribers seeking lower cost options may instead choose to receive data from the SIPs or through the MEMOIR Top and/or MEMOIR Last Sale feed for a lower cost. Alternatively, vendors and subscribers can choose to pay for the MEMOIR Depth feed in order to receive data in a single feed with depth-of-book information if such information is valuable to such vendors or subscribers. The Exchange notes that vendors or subscribers can also choose to subscribe to a combination of data feeds for redundancy purposes or to use different feeds for different purposes. In sum, each vendor or subscriber has the ability to choose the best business solution for itself. The Exchange does not believe it is unfairly discriminatory to base pricing upon the amount of information contained in each data feed and the value of that information to market participants. As described above, the MEMOIR Top and Last Sale data feeds, can be utilized to trade on the Exchange but contain less information than that is available on the MEMOIR Depth feed (*i.e.,* even for a subscriber who takes both feeds, such feeds do not contain depth-of-book information).

[54] *See, e.g.,* Securities Exchange Act Release No. 59544 (March 9, 2009), 74 FR 11162 (March 16, 2009) (SR–NYSE–2008–131) (establishing the $15 Non-Professional User Fee (Per User) for NYSE OpenBook); Securities Exchange Act Release No. 20002, File No. S7–433 (July 22, 1983), 48 FR 34552 (July 29, 1983) (establishing Non-Professional fees for CTA data); NASDAQ BX Equity 7 Pricing Schedule, Section 123.

[55] *See supra* notes 20–21.

Thus, the Exchange believes it is not unfairly discriminatory for the products to be priced as proposed, with MEMOIR Last Sale having the lowest price, MEMOIR Top the next lowest price, and MEMOIR Depth the highest price (and more than MEMOIR Last Sale and MEMOIR Top combined).

Internal Distribution Fees. The Exchange believes the proposed monthly fees for Internal Distribution of the Exchange Data Feeds are not unfairly discriminatory because they would be charged on an equal basis to all data recipients that receive the same Exchange Data Feed(s) for internal distribution, regardless of what type of business they operate.

External Distribution Fees. The Exchange believes the proposed monthly fees for redistributing the Exchange Data Feeds are not unfairly discriminatory because they would be charged on an equal basis to all data recipients that receive the same Exchange Data Feed(s) that choose to redistribute the feed(s) externally. The Exchange also believes that having higher monthly fees for External Distribution than Internal Distribution is not unfairly discriminatory because data recipients that are externally distributing Exchange Data Feeds are able to monetize such distribution and spread such costs amongst multiple third party data recipients, whereas the Internal Distribution fee is applicable to use by a single data recipient (and its affiliates).

User Fees. The Exchange believes that the fee structure differentiating Professional User fees from Non-Professional User fees for display use of the MEMOIR Depth feed is not unfairly discriminatory. This structure has long been used by other exchanges and the SIPs to reduce the price of data to Non-Professional Users and make it more broadly available.[56] Offering the Exchange Data Feeds to Non-Professional Users with the same data as is available to Professional Users results in greater equity among data recipients. These User fees would be charged uniformly to all individuals that have access to the Exchange Data Feeds based on the category of User. The Exchange also believes the proposed User fees for MEMOIR Top and MEMOIR Last Sale are not unfairly discriminatory because the Exchange has proposed to charge Professional Users and Non-Professional Users the same low rate of $0.01 per month.

The Exchange further believes that its proposal to adopt a Digital Media Enterprise Fee for each of the Exchange Data Feeds and an Enterprise Fee for MEMOIR Top and MEMOIR Last Sale is not unfairly discriminatory because these optional alternatives to counting and paying for specific Users will provide market participants the ability to provide information from the Exchange Data Feeds to large numbers of Users without counting and paying for such Users.

Non-Display Use Fees. The Exchange believes the proposed Non-Display Usage fees for the MEMOIR Depth feed are not unfairly discriminatory because they would require subscribers for non-display use to pay fees depending on their use of the data, either for operation of a Trading Platform or not, but would not impose multiple fees to the extent a Firm operates multiple Trading Platforms or has multiple different types of non-display use. As noted above, non-display data can be used by data recipients for a wide variety of profit-generating purposes as well as purposes that do not directly generate revenues but nonetheless substantially reduce the recipient's costs by automating certain functions. This segmented fee structure is not unfairly discriminatory because no subscriber of non-display data would be charged a fee for a category of use in which it did not actually engage.

The Exchange also believes that, regarding non-display use for operation of a Trading Platform, it is not unreasonably discriminatory to charge a higher fee for each Firm operating a Trading Platform (as compared to other Non-Display Usage not by Trading Platforms) because such use of the data is directly in competition with the Exchange and the Exchange should be permitted to recoup some of its lost trading revenue by charging for the data that makes such competition possible. The Exchange believes that it is not unreasonably discriminatory to charge a single fee for an operator of Trading Platforms that operates more than one Trading Platform because operators of Trading Platforms are many times viewed as a single competing venue or group, even if there a multiple liquidity pools operated by the same competitor. The Exchange again notes that certain competitors to the Exchange charge for non-display usage per Trading Platform,[57] in contrast to the Exchange's proposal. In turn, to the extent they subscribe to Exchange Data Feeds, these same competitors will benefit from the Exchange's pricing model to the extent they operate multiple Trading Platforms (as most do) by paying a single fee rather than paying for each Trading Platform that they operate that consumes Exchange Data Feeds.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the Exchange Data Feeds are not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[58] the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange does not believe that the proposed fees for Exchange Data Feeds place certain market participants at a relative disadvantage to other market participants because, as noted above, the proposed fees are associated with usage of Exchange Data Feeds by each market participant based on the type of business they operate, and the decision to subscribe to one or more Exchange Data Feeds is based on objective differences in usage of Exchange Data Feeds among different Firms, which are still ultimately in the control of any particular Firm, and such fees do not impose a barrier to entry to smaller participants. Accordingly, the proposed fees for Exchange Data Feeds do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation of the proposed fees reflects the types of Exchange Data Feeds consumed by various market participants and their usage thereof.

Inter-Market Competition

The Exchange does not believe the proposed fees place an undue burden on competition on other SROs that is not necessary or appropriate. In particular, market participants are not forced to subscribe to any of the Exchange Data Feeds, as described above. Additionally, other exchanges have similar market data fees in place for their participants, but with higher rates to connect.[59] The proposed fees are based on actual costs and are designed to enable the Exchange to recoup its applicable costs with the possibility of a reasonable profit on its investment as described in the Purpose and Statutory Basis sections. Competing equities exchanges are free to adopt comparable fee structures subject to the SEC rule filing process.

[56] *See supra* note 54.

[57] *See supra* notes 20–21.

[58] 15 U.S.C. 78f(b)(8).

[59] *See supra* notes 20–21; *see supra* note 23 and accompanying text.

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)(ii) of the Act [60] and Rule 19b–4(f)(2) [61] 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 shall 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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MEMX–2022–28 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–MEMX–2022–28. 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 (*http://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 10:00 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. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MEMX–2022–28 and should be submitted on or before November 1, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[62]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–21989 Filed 10–7–22; 8:45 am]

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[60] 15 U.S.C. 78s(b)(3)(A)(ii).

[61] 17 CFR 240.19b–4(f)(2).

[62] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95982; File No. SR–MRX–2022–18]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Rules in Connection With a Technology Migration to Enhanced Nasdaq Functionality

October 4, 2022.

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 30, 2022, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules in connection with a technology migration to enhanced Nasdaq, Inc. (''Nasdaq'') functionality.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/mrx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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

In connection with a technology migration to enhanced Nasdaq functionality that will result in higher performance, scalability, and more robust architecture, the Exchange proposes to amend its rules to adopt certain trading functionality currently utilized at Nasdaq affiliate options exchanges. As further discussed below, the Exchange is proposing to adopt such functionality substantially in the same form as currently on the Nasdaq affiliated options exchanges, while retaining certain intended differences between it and its affiliates. The Exchange also proposes a number of changes to memorialize existing functionality, add more granularity in its rules to describe how existing functionality operates today, and to harmonize the Exchange's rules where appropriate with the rules of its affiliated options exchanges by using consistent language to describe identical functionality.

The Exchange intends to begin implementation of the proposed rule change in Q4 2022. MRX would commence its implementation with a limited symbol migration and continue to migrate symbols over several weeks. The Exchange will issue an Options

Trader Alert to Members to provide notification of the symbols that will migrate and the relevant dates.

Routing Changes

In connection with the technology migration to enhanced Nasdaq functionality, the Exchange recently amended Options 5 (Order Protections and Locked and Crossed Markets) in order to harmonize its routing functionality to that of Nasdaq BX, Inc. (''BX'').[3] As part of this harmonization, the Routing Filing included proposals to adopt or harmonize routing strategies on the Exchange that are substantially identical to BX, (*i.e.,* DNR, FIND, and SRCH), and eliminate existing Exchange routing functionality that BX does not offer today (*e.g.,* flash functionality,[4] and Sweep Orders [5]).

In connection with the proposed changes in the Routing Filing, the Exchange now proposes to make corresponding changes to the following Rules within Options 3 to account for the proposed amendments to Options 5: Section 5 (Entry and Display of Single-Leg Orders), Section 7 (Types of Orders and Orders and Quote Protocols), Section 9 (Trading Halts), Section 10 (Priority of Quotes and Orders), and Section 11 (Auction Mechanisms).[6] First, the Exchange proposes to remove the following rule text in Options 3, Section 5(b)(1) relating to flash functionality and Non-Customer order handling in lieu of using flash functionality: ''Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be accepted and immediately cancelled automatically by the System [7] at the time of receipt.'' With the removal of flash functionality in the Routing Filing, the foregoing rule text would no longer be necessary. In connection with this change, the Exchange will renumber current Section 5(b)(2) as (b)(1). Second, the Exchange proposes to delete similar flash-related language in Options 3, Section 5(d) that currently provides: ''Orders that are not automatically executed will be handled as provided in Supplementary Material .02 to Options 5, Section 2; provided that Members may specify that a Non-Customer order should instead be cancelled automatically by the System at the time of receipt.''

Third, the Exchange proposes to delete references to do-not-route orders [8] and Sweep Orders in Options 3, Section 7(m) and (s), respectively, and reserve those Rules. As discussed in the Routing Filing, the Exchange is eliminating these order types (and for do-not-route orders, eliminating as an order type and describing these instead as a routing strategy) in order to align with BX's current offerings. Fourth, the Exchange proposes to add a new Supplementary Material .04 to Options 3, Section 7, which would set forth the new routing strategies that are substantially identical to BX's current routing strategies, as further discussed in the Routing Filing. Specifically, new Supplementary Material .04 would provide: ''Routing Strategies. Orders may be entered on the Exchange with a routing strategy of FIND or SRCH, or, in the alternative, an order may be marked Do-Not-Route (''DNR'') as provided in Options 5, Section 4 through FIX only.'' [9] The addition of this sentence will make clear which routing strategies may be utilized when submitting an order type and will provide a citation to the routing rule in Options 5, Section 4 for ease of reference.[10]

Fifth, the Exchange proposes to amend subparagraph (d)(2) of Options 3, Section 9. Among other things, this Rule describes the processing of Market Orders exposed at the NBBO pursuant to Supplementary Material .02 to Options 5, Section 2 after a trading halt. This rule text is no longer necessary with the elimination of flash functionality in the Routing Filing. Sixth, the Exchange proposes to amend Options 3, Section 10(a)(ii) [11] to remove a reference to flash functionality that will no longer exist with the proposed changes in the Routing Filing. The Exchange also proposes to renumber Options 3, Section 10(a)(i) and (ii) as Options 3, Section 10(a)(1) and (2) to conform the numbering in that Rule, and correct a citation within Section 10(a)(ii) (proposed Section 10(a)(2)) from Options 3, Section 3 to Options 3, Section 10.

Seventh, the Exchange proposes to amend Options 3, Section 11(g) [12] to

[3] Specifically, the Exchange's affiliate, Nasdaq ISE, LLC (''ISE'') amended ISE Options 5, which MRX Options 5 incorporates by reference. *See* Securities Exchange Act Release No. 94897 (May 12, 2022), 87 FR 30294 (May 18, 2022) (SR–ISE–2022–11) (''Routing Filing''). As a result, the amendments to ISE Options 5 in the Routing Filing also amended MRX Options 5.

[4] Today, the Exchange's flash functionality permits certain eligible incoming orders to first be exposed at the National Best Bid or Offer (''NBBO'') to all Members for execution at the NBBO price before that order is routed to another market for execution. *See* Supplementary Material .02 to Options 5, Section 2.

[5] A Sweep Order is a limit order that is to be executed in whole or in part on the Exchange and the portion not so executed shall be routed pursuant to Supplementary Material .05 to Options 5, Section 2 to Eligible Exchange(s) for immediate execution as soon as the order is received by the Eligible Exchange(s). Any portion not immediately executed by the Eligible Exchange(s) shall be canceled. If a Sweep Order is not marketable when it is submitted to the Exchange, it shall be canceled. *See* Options 3, Section 7(s).

[6] The Exchange notes that ISE proposed identical amendments in ISE Options 3 as part of the Routing Filing.

[7] The term ''System'' means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. *See* Options 1, Section (a)(49).

[8] A do-not-route order is a market or limit order that is to be executed in whole or in part on the Exchange only. Due to prices available on another options exchange (as provided in Options 5 (Order Protection; Locked and Crossed Markets)), any balance of a do-not-route order that cannot be executed upon entry, or placed on the Exchange's limit order book, will be automatically cancelled. *See* Options 3, Section 7(m).

[9] ''Financial Information eXchange'' or ''FIX'' is an interface that allows Members and their Sponsored Customers to connect, send, and receive messages related to orders and auction orders to the Exchange. Features include the following: (1) execution messages; (2) order messages; (3) risk protection triggers and cancel notifications; and (4) post trade allocation messages. *See* Supplementary Material .03(a) to Options 3, Section 7. The Exchange notes that FIX is the only order entry protocol on the Exchange that permits routing today.

[10] Routing options may be combined with all available order types and times-in-force (''TIFs''), with the exception of orders and TIFs whose terms are inconsistent with the terms of a particular routing option.

[11] Options 3, Section 10(a)(ii) currently provides that this rule does not apply to the Block Order Mechanism described within Options 3, Section 11(a), the Facilitation Mechanism described within Options 3, Section 11(b), the Solicited Order Mechanism described within Options 3, Section 11(d), the Price Improvement Mechanism described within Options 3, Section 13, orders described within Options 3, Section 12 *or an exposure period as provided in Options 5, Section 2 at Supplementary Material .02,* unless Options 3, Section 3 is specifically referenced within MRX Rules applicable to the aforementioned functionality.

[12] Options 3, Section 11(g) currently provides that an auction in the Block Order Mechanism at Options 3, Section 11(a), Facilitation Mechanism at Options 3, Section 11(b), Solicited Order Mechanism at Options 3, Section 11(d), or Price Improvement Mechanism at Options 3, Section 13(d), respectively, *or an exposure period as provided in Supplementary Material .02 to Options 5, Section 2,* for an option series may occur concurrently with a Complex Order Exposure Auction at Supplementary Material .01 to Options 3, Section 14, Complex Facilitation Auction at Options 3, Section 11(c), Complex Solicited Order Auction at Options 3, Section 11(e), or Complex Price Improvement Mechanism auction at Options 11, Section 13(e), respectively, for a Complex Order that includes that series. To the extent that there are concurrent Complex Order and single leg auctions involving a specific option series, each auction will be processed sequentially based on the time the auction commenced. At the time an auction concludes, including when it concludes early, the auction will be processed pursuant to Options 3, Section 11(a), (b), (d), or Section 13(a) *or Supplementary Material .02 to Options 5, Section 2,* as applicable, for the single option, or pursuant to Supplementary Material .01 to Options 3, Section 14, Options 3, Section 11(c), 11(e), Options 3, Section 13(e), as applicable, for the Complex Order, except as provided for at Options 3, Section 13(e)(4)(vi).

remove references to the flash functionality, which will no longer exist with the proposed changes in the Routing Filing. Eighth, the Exchange proposes to amend its Pricing Schedule at Options 7 to remove all references to pricing related to the flash functionality. In particular, the Exchange proposes to delete the definition of Flash Order in Options 7, Section 1 and to delete the language in Options 7, Section 5.B that currently provides that marketing fees are waived for Flash Order responses.

Bulk Message

The Exchange proposes to codify existing functionality that allows Market Makers to submit their quotes to the Exchange in block quantities as a single bulk message. In other words, a Market Maker may submit a single message to the Exchange, which may contain bids and offers in multiple series. The Exchange does not permit bulk messaging for orders today. The Exchange has historically provided Market Makers with information regarding bulk messaging in its publicly available technical specifications.[13] To promote greater transparency, the Exchange is seeking to codify this functionality in its rulebook. Specifically, the Exchange proposes to amend Options 3, Section 4(b)(3) to memorialize that quotes may be submitted as a bulk message. The Exchange also proposes to add a definition of ''bulk message'' in new subparagraph (i) of Options 3, Section 4(b)(3), which will provide that a bulk message means a single electronic message submitted by a Market Maker to the Exchange which may contain a specified number of quotations as designated by the Exchange.[14] The bulk message, submitted via SQF,[15] may enter, modify, or cancel quotes. Bulk messages are handled by the System in the same manner as it handles a single quote message.

The Exchange notes that other exchanges like Cboe Options Exchange (''Cboe'') currently offer similar bulk messaging functionality that allow their market participants to submit block quantity quotes in a single electronic message.[16]

Order Types

The Exchange proposes to make several enhancements to certain order types in Options 3, Section 7 in connection with the technology migration to Nasdaq enhanced functionality. Specifically in connection with the migration, the Exchange proposes to: (1) introduce an intra-day cancel timer feature for Market Orders,[17] (2) eliminate non-Immediate-or-Cancel (''IOC'') [18] Intermarket Sweep Orders (''ISOs''),[19] (3) introduce BX-like re-pricing to Add Liquidity Orders (''ALOs''),[20] and (4) allow Market Orders to be entered as Opening Only (''OPG'') [21] orders (currently only allowed for Limit Orders).[22] As discussed below, the proposed enhancements are intended to align with existing BX functionality. The Exchange also proposes to add more granularity on how certain order types currently operate on the Exchange today, codify existing order type functionality, and to relocate related rule text within Options 3, Section 7 for better readability. Except with respect to the order type enhancements specified above, none of the proposed order type rule changes will amend current functionality. Rather, these changes are designed to bring greater transparency as to the applicability of certain order types currently available on the Exchange, and to provide greater consistency between the rules of the Exchange and its affiliates.

Market Orders

The Exchange proposes to amend the definition of Market Orders in Options 3, Section 7(a) to introduce a cancel timer feature, which will allow Members to designate Market Orders that do not execute after a certain period of time to be cancelled back to the Member. Specifically, the Exchange proposes to add that Members can designate their Market Orders not executed after a pre-established period of time, as established by the Exchange,[23] will be cancelled back to the Member, once an options series has opened for trading. BX currently has an identical timer feature for BX Market Orders.[24] Similar to BX, the proposed timer would be available once the intra-day trading session begins for an options series, as the Exchange already has a separate opening delay timer that provides protection to the market during the Opening Process. In particular, the Exchange would cancel or route orders (consistent with the Member's instructions) if an options series has not opened before the conclusion of the opening delay timer.[25] As such, the

[13] *See https://www.nasdaq.com/MRX_SQF* (specifying for bulk quoting of up to 200 quotes per quote block message). The specifications note in other places the manner in which a Member can send such quote block messages.

[14] See id. As noted above, quote bulk messages can presently contain up to 200 quotes per message. This is the maximum amount that is permitted in a bulk message. The Exchange would announce any change to these specifications in an Options Technical Update distributed to all Members.

[15] ''Specialized Quote Feed'' or ''SQF'' is an interface that allows Market Makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. Features include the following: (1) options symbol directory messages (*e.g.,* underlying and complex instruments); (2) system event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series. *See* Supplementary Material .03(c) to Options 3, Section 7.

[16] *See* definition of ''bulk message'' in Cboe Rule 1.1. Unlike Cboe, which also allows bulk messaging for orders, the Exchange's bulk message functionality only applies to quotes as discussed above.

[17] A market order is an order to buy or sell a stated number of options contracts that is to be executed at the best price obtainable when the order reaches the Exchange. *See* Options 3, Section 7(a).

[18] An IOC order must be executed in whole or in part upon receipt. Any portion not so executed is to be treated as cancelled. *See* Options 3, Section 7(b)(3). As discussed later in this filing, the Exchange will relocate the IOC rule into Supplementary Material .02 to Options 3, Section 7.

[19] An ISO is a limit order that meets the requirements of Options 5, Section 1(h). *See* Options 3, Section 7(b)(5).

[20] An Add Liquidity Order is a limit order that is to be executed in whole or in part on the Exchange (i) only after being displayed on the Exchange's limit order book; and (ii) without routing any portion of the order to another market center. Members may specify whether an Add Liquidity Order shall be cancelled or re-priced to the minimum price variation above the national best bid price (for sell orders) or below the national best offer price (for buy orders) if, at the time of entry, the order (i) is executable on the Exchange; or (ii) the order is not executable on the Exchange, but would lock or cross the national best bid or offer. If at the time of entry, an Add Liquidity Order would lock or cross one or more non-displayed orders on the Exchange, the Add Liquidity Order shall be cancelled or re-priced to the minimum price variation above the best non-displayed bid price (for sell orders) or below the best non-displayed offer price (for buy orders). An Add Liquidity Order will only be re-priced once and will be executed at the re-priced price. An Add Liquidity Order will be ranked in the Exchange's limit order book in accordance with Options 3, Section 10. *See* Options 3, Section 7(n).

[21] An OPG order is a Limit Order that can be entered for the opening rotation only. *See* Options 3, Section 7(o). As discussed later in this filing, the Exchange will relocate the OPG rule into Supplementary Material .02 to Options 3, Section 7.

[22] A Limit Order is an order to buy or sell a stated number of options contracts at a specified price or better. *See* Options 3, Section 7(b).

[23] The Exchange will initially set the pre-established period of time at 4 seconds, identical to BX. This specification will be set out in the MRX system settings document on a publicly available website. The Exchange would issue an Options Trader Alert notifying all Members if it determined to amend that timeframe.

[24] *See* BX Options 3, Section 7(a)(5).

[25] *See* Options 3, Section 8(k).

Exchange is proposing that the pre-established period of time for the proposed timer feature would commence once the intra-day trading session begins for that options series. In other words, while the opening process is on-going, and the intra-day trading session has not commenced, the pre-established period of time for the proposed timer feature would not commence. Further, the Exchange proposes to note that Market Orders on the order book would be immediately cancelled if an options series is halted, provided the Member designated the cancellation of Market Orders.[26] The proposed changes are intended to make clear that in the event there is a Market Order in a zero bid market with the Market Order was resting on the order book, the Member has an option to designate the cancellation of that Market Order pursuant to the proposed cancel timer feature. In this case, those Market Orders to sell, which were resting on the order book, would immediately cancel upon a trading halt instead of waiting until the end of the pre-established timer period. BX has identical language governing its Market Orders today.[27] Like BX, the Exchange believes that the proposed intra-day timer feature will provide additional flexibility for Members that wish to cancel unexecuted Market Orders after a certain period of time. Lastly, the Exchange proposes a non-substantive change to capitalize the term ''market orders'' in the first sentence of Options 3, Section 7(a) for consistency with the proposed rule text.

Intermarket Sweep Orders

The Exchange proposes to amend the ISO rule in Options 3, Section 7(b)(5), which currently provides that an ISO is limit order that meets the requirements of Options 5, Section 1(h).[28] As amended, the ISO rule will provide:

An Intermarket Sweep Order (''ISO'') is a limit order that meets the requirements of Options 5, Section 1(h). Orders submitted to the Exchange as ISO are not routable and will ignore the ABBO and trade at allowable prices on the Exchange. ISOs must have a TIF designation of IOC. ISOs may not be submitted during the Opening Process.

The proposed rule text is substantially similar to BX's ISO rule in BX Options 3, Section 7(a)(6).[29] The Exchange is also proposing to add that ISOs may not be submitted during the Opening Process to reflect current System handling. The Exchange notes that BX similarly prohibits the submission of ISOs before the market opens and therefore proposes to add a similar level of detail in the Exchange's ISO rule.

Other than the stipulation that ISOs must have a TIF [30] designation of IOC, the proposed language does not amend the current ISO functionality but rather is intended to add more granularity and more closely align the ISO rule with BX's ISO rule. The Exchange does note that in connection with the system migration, the Exchange proposes to amend the current ISO functionality to only allow ISOs to be entered as IOC. Today, Options 5, Section 1(h) provides that an ISO may either be an IOC or an order that expires on the day it is entered.[31] The Exchange is proposing to require ISOs to be entered as IOC, which would cause an ISO to cancel in whole or in part upon receipt if the ISO does not execute or does not entirely execute, because an ISO is generally used when trying to sweep a price level across multiple exchanges in an effort to post the balance of an order without locking an away market. The Exchange therefore believes that ISOs have a limited purpose and should be cancelled if they do not execute or do not entirely execute. As noted above, the proposal will align to current BX functionality that similarly only allows ISOs to be entered as IOC on BX.

All-or-None Orders

The Exchange proposes to amend the All-Or-None (''AON'') Order rule in Options 3, Section 7(c), which currently provides that an AON Order is a limit or market order that is to be executed in its entirety or not at all, and that an AON Order may only be entered as an IOC Order. As amended, the AON rule will provide:

An All-Or-None (''AON'') Order is a limit or market order that is to be executed in its entirety or not at all. An AON Order may only be entered as an Immediate-or-Cancel Order. AON Orders will only execute against multiple, aggregated orders if the executions would occur simultaneously. AON Orders may not be submitted during the Opening Process.

With the proposed changes, the Exchange is not amending current AON functionality; rather, it is memorializing current System behavior in a manner consistent with its affiliates. Today, AON Orders have a size contingency (*i.e.,* executed in its entirety at the entered size or not at all) and must be IOC. The Exchange is specifying that AON Orders will execute against multiple, aggregated orders only if the executions would occur simultaneously to ensure that AON Orders are executed at the specified size while also honoring the priority of all other orders on the order book. The Exchange is adopting this rule text for AON orders to align to substantially similar language on BX.[32]

The Exchange notes that the handling of AONs as described in the proposed rule text in Options 3, Section 7(c) is consistent with the Exchange's allocation methodology in Options 3, Section 10. The additional detail makes clear that because of the size contingency of AON Orders, those orders must be satisfied simultaneously to avoid any priority conflict on the order book, which considers current displayed NBBO prices to avoid locked and crossed markets as well as trade-throughs.

The Exchange is also proposing to add that AON orders may not be submitted during the Opening Process to reflect current System handling. The Exchange notes that BX similarly prohibits the submission of AON orders before the market opens and therefore proposes to add a similar level of detail in the Exchange's AON rule.[33]

[26] Members may make the designation to cancel their Market Orders through their FIX and OTTO port settings.

[27] *See* BX Options 3, Section 7(a)(5).

[28] Options 5, Section 1(h) provides that an ISO is a limit order for an options series that, simultaneously with the routing of the ISO, one or more additional ISOs, as necessary, are routed to execute against the full displayed size of any Protected Bid, in the case of a limit order to sell, or any Protected Offer, in the case of a limit order to buy, for the options series with a price that is superior to the limit price of the ISO. A Member may submit an Intermarket Sweep Order to the Exchange only if it has simultaneously routed one or more additional Intermarket Sweep Orders to execute against the full displayed size of any Protected Bid, in the case of a limit order to sell, or Protected Offer, in the case of a limit order to buy, for an options series with a price that is superior to the limit price of the Intermarket Sweep Order. An ISO may be either an Immediate-Or-Cancel Order or an order that expires on the day it is entered.

[29] BX's ISO rule also currently states that ''ISOs may be entered on the Order Book or into the PRISM Mechanism pursuant to Options 3, Section 13(ii)(K).'' *See* BX Options 3, Section 7(a)(6). The Exchange notes that it intends to file a separate rule filing to add similar language as BX relating to how ISOs may be entered on the Exchange.

[30] As discussed later in this filing, the Exchange is proposing to codify the definition of ''Time in Force'' or ''TIF'' to mean the period of time that the System will hold an order for potential execution. *See* proposed Supplementary Material .02 to Options 3, Section 7.

[31] Because MRX Options 5 incorporates ISE Options 5 by reference, ISE will file a subsequent ISE rule filing to amend Options 5 to remove the language in Options 5, Section 1(h) that currently allows ISOs to be entered as an order that expires on the day it is entered.

[32] *See* BX Options 3, Section 7(a)(4)(A) (describing Minimum Quantity Orders and AON Orders as Contingency Orders). Unlike BX, the Exchange does not currently offer Minimum Quantity Orders.

[33] *See* BX Options 3, Section 7(a)(7).

Stop Orders

The Exchange proposes to amend its Stop Order rule in Options 3, Section 7(d), which presently provides that a stop order is an order that becomes a market order when the stop price is elected. A stop order to buy is elected when the option is bid or trades on the Exchange at, or above, the specified stop price. A stop order to sell is elected when the option is offered or trades on the Exchange at, or below, the specified stop price. The Exchange now proposes to add that a Stop Order shall be cancelled if it is immediately electable upon receipt. Stop Orders allow Members increased control and flexibility over their transactions and the prices at which they are willing to execute an order. The purpose of a Stop Order is to not execute upon entry, and instead rest in the System until the market reaches a certain price level, at which time the order could be executed. A Stop Order that is immediately electable upon receipt would therefore negate the purpose of the Stop Order, so the Exchange would cancel such orders today. The Exchange believes that this ensures Members are able to use Stop Orders to achieve their intended purpose. The proposed changes codify current Stop Order handling and are intended to better align the Exchange's Stop Order rule with that of its affiliate, Phlx.[34]

The Exchange also proposes to specify that Stop Orders may only be entered through FIX. This is how Stop Orders are handled today. Because the Exchange offers two order entry protocols today (FIX and OTTO),[35] the Exchange believes that adding this detail will make clear that Stop Orders are only available to be entered through one of these order entry protocols and reduce any potential confusion.

Stop Limit Orders

The Exchange proposes to amend its Stop Limit Order rule in Options 3, Section 7(e), which presently provides that a stop limit order is an order that becomes a limit order when the stop price is elected. A stop limit order to buy is elected when the option is bid or trades on the Exchange at, or above, the specified stop price. A stop limit order to sell is elected when the option is offered or trades on the Exchange at, or below, the specified stop price. The Exchange now proposes to add that a Stop Limit Order shall be cancelled if it is immediately electable upon receipt. The Exchange would cancel these orders today for the same reasons discussed above for Stop Orders. The proposed changes codify current Stop Limit Order handling and are intended to better align the Exchange's Stop Limit Order rule with that of Phlx.[36]

The Exchange also proposes to specify that Stop Limit Orders may only be entered through FIX. This is how Stop Limit Orders are handled today. For the same reasons discussed above for Stop Orders, the Exchange believes that adding this detail will make clear that Stop Limit Orders are only available to be entered through the specified order entry protocol and reduce any potential confusion.

Cancel and Replace Orders

The Exchange proposes to relocate the rule text governing Cancel and Replace Orders from Supplementary Material .02 to Options 3, Section 7 into Options 3, Section 7(f). The Exchange also proposes non-substantive, clarifying changes to the relocated rule text to update the incorrect cross-cites therein to the System's price or other reasonability checks. The Exchange also proposes to amend the following portion of the rule, which currently provides: ''The replacement order will retain the priority of the cancelled order, if the order posts to the Order Book, provided the price is not amended, size is not increased, or in the case of Reserve Orders,[37] size is not changed.'' The Exchange proposes to make clear that in the case of Reserve Orders, a change in price will also result in a change of priority for the replacement order. The Exchange also proposes to clarify that the reference to the Reserve Order's size in this Rule is referring to both displayed and non-displayed size. As amended, the rule will provide: ''The replacement order will retain the priority of the cancelled order, if the order posts to the Order Book, provided the price is not amended, or size is not increased. In the case of Reserve Orders, the replacement order will retain the priority of the cancelled order, if the order posts to the Order Book, provided the price is not amended or size (displayed and non-displayed) is not changed.'' The proposed changes will aid market participants in locating this order type in the main body of the rule, and add more granularity around how the Exchange will treat the cancellation and replacement of Reserve Orders.

Reserve Orders

As described in Options 3, Section 7(g), the Exchange offers Members a Reserve Order, which is a Limit Order that contains both a displayed portion and a non-displayed portion. Both the displayed and non-displayed portions of a Reserve Order are available for potential execution against incoming marketable orders. A non-marketable Reserve Order will rest on the order book. The non-displayed portion of a Reserve Order will be available for execution only after all displayed interest at that price has been executed. Both the displayed and the non-displayed portions of a Reserve Order will be ranked initially by the specified limit price and time of entry, and both the displayed and non-displayed portions of a Reserve Order will trade in accordance with the priority and allocation provisions in Options 3, Section 10.

When the displayed portion of a Reserve Order has been decremented, in whole or in part, it will be refreshed from the non-displayed portion of the resting Reserve Order. If the displayed portion is refreshed in part, the new displayed portion will include the previously displayed portion. Upon any refresh, the entire displayed portion of the order will be ranked at the specified limit price, assigned a new entry time (*i.e.,* the time that the newly displayed portion of the order was refreshed), and given priority in accordance with Options 3, Section 10. Any remaining non-displayed portion of the order will receive the same time stamp as the newly displayed portion of the order.

The Exchange now proposes to enhance the Reserve Order rule by providing more granularity in how Members may elect to refresh the display quantity for the Reserve Order. The Exchange is not proposing to modify the current functionality of Reserve Orders, but rather proposes to augment the definition to clarify current System behavior. Specifically, the Exchange proposes to make clear that Reserve Orders may be entered with an instruction for the displayed portion of the order to be refreshed: (A) upon full execution of the displayed portion or upon any partial execution; and (B) up

[34] *See* Phlx Options 3, Section 7(b)(4).

[35] ''Ouch to Trade Options'' or ''OTTO'' is an interface that allows Members and their Sponsored Customers to connect, send, and receive messages related to orders, auction orders, and auction responses to the Exchange. Features include the following: (1) options symbol directory messages (*e.g.,* underlying and complex instruments); (2) system event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) order messages; (6) risk protection triggers and cancel notifications; (7) auction notifications; (8) auction responses; and (9) post trade allocation messages. *See* Supplementary Material .03(b) to Options 3, Section 7.

[36] *See* Phlx Options 3, Section 7(b)(4)(A).

[37] As discussed later in this filing, a Reserve Order is defined in Options 3, Section 7(g) as a Limit Order that contains both a displayed portion and a non-displayed portion.

to the initial size of the displayed portion or with a random refresh quantity within a range determined by the Member.[38] The Exchange believes that this refresh feature for Reserve Orders provides more flexibility and opportunities for Members to add displayed liquidity to the Exchange. The Exchange believes that the proposed changes would add transparency to the operation of Reserve Orders, without altering current functionality. The Exchange notes that other options exchanges like Cboe currently offer similar refresh features on their Reserve Order functionality.[39]

Finally, the Exchange proposes non-substantive, technical changes in Options 3, Section 7(g) to reformat the paragraph numbering, make a corrective change to ''non-displayed portions'' in proposed paragraph (6), and update a cross-cite in proposed paragraph (6).

Attributable Orders

As described in Options 3, Section 7(h), the Exchange currently offers Attributable Orders, which allow Members to voluntarily display their firm IDs on the orders. The rule also provides the Exchange with flexibility to announce which Exchange Systems and class of securities for which the Attributable Order would be available.[40]

The Exchange now proposes to delete existing text that refers to class of securities in Options 3, Section 7(h). Attributable Orders are available for all classes of securities today. The Exchange is therefore deleting this language as inaccurate. The Exchange also proposes a corrective change herein to ''a*n* Option Trader Alert.''

Customer Cross Orders

Customer Cross Orders are currently defined in Options 3, Section 7(i). The Exchange proposes to add that such orders will trade in accordance with Options 3, Section 12(a). This is a non-substantive amendment to add a cross-reference to Section 12(a), which currently describes in detail how a Customer Cross Order would execute on the Exchange.

Qualified Contingent Cross Orders

Qualified Contingent Cross (''QCC'') Orders are currently defined in Options 3, Section 7(j). The Exchange proposes a non-substantive, technical change to add a reference to ''QCC'' in the first sentence of this rule. The Exchange also proposes to add that QCC Orders will trade in accordance with Options 3, Section 12(c). This is a non-substantive amendment to add a cross-reference to Section 12(c), which currently describes in detail how a QCC Order would execute on the Exchange.

The Exchange further proposes to specify that QCC Orders may only be entered through FIX. This is how QCC Orders are handled today. Because the Exchange offers two order entry protocols today (FIX and OTTO), the Exchange believes that adding this detail will make clear that QCC Orders are only available to be entered through one of these order entry protocols and reduce any potential confusion.

Preferenced Orders

The Exchange proposes to include the following definition of a Preferenced Order in Options 3, Section 7(l) for ease of reference: ''A Preferenced Order is as described in Options 2, Section 10.'' This is not a new order type, as Preferenced Orders are currently described in Options 2, Section 10. While this order type is not currently listed in the order type rule in Options 3, Section 7, the Exchange believes that it will be useful to market participants to have order types centralized within one rule. Phlx similarly lists out Directed Orders (akin to Preferenced Orders) in its order type rule in Phlx Options 3, Section 7(b)(11).

Add Liquidity Orders

Add Liquidity Orders (''ALOs'') are currently defined in Options 3, Section 7(n). Today, the Exchange offers ALOs to provide market participants with greater control over the circumstances in which their orders are executed. ALOs are Limit Orders that will only be executed as a ''maker'' on the Exchange (*i.e.,* when the Member is providing liquidity). Members can choose whether an ALO that is executable on the Exchange upon entry (or that is not executable on the Exchange upon entry, but locks or crosses the NBBO) will be cancelled or re-priced to one MPV above the national best bid (for sell orders) or below the national best offer (for buy orders). If at the time of entry, an ALO would lock or cross one or more non-displayed orders on the Exchange, the ALO will be cancelled or re-priced to one MPV above the best non-displayed bid price (for sell orders) or below the best non-displayed offer price (for buy orders).[41] Today, an ALO will only be re-priced once and will be executed at the re-priced price. The Exchange notes that without the ability to re-price an ALO in the foregoing manner, under certain circumstances, an incoming ALO could execute against a displayed or non-displayed order resting on the Exchange's limit order book, which would be in direct contravention with the purpose of an ALO (to provide liquidity, not take liquidity).

As part of a concurrent rule filing, the Exchange is proposing to adopt a re-pricing mechanism identical to current BX re-pricing functionality[42] to avoid certain orders from locking or crossing an away market's price.[43] In connection with the proposed adoption of the BX-like re-pricing mechanism in Options 3, Section 5(d) in the Re-Pricing Filing, the Exchange now proposes to make related changes to the ALO rule in Options 3, Section 7(n). In particular, the Exchange proposes that if an ALO would not lock or cross an order or quote on the System but would lock or cross the NBBO, the order will be handled pursuant to Options 3, Section 5(d), which will set forth the new BX-like re-pricing mechanism for non-routable orders.[44] As noted in Options 3, Section 7(n), ALOs are inherently non-routable. Accordingly, the Exchange is proposing to handle ALOs in a consistent manner with the new re-pricing mechanism. Because the new mechanism will allow for continuous re-pricing as discussed above, the Exchange also proposes to remove the current limitation in the

[38] *See* proposed Options 3, Section 7(g)(4). The Exchange will also renumber the paragraphs within this rule accordingly. As it relates to the refresh quantity range, Members must designate a range for the random refresh election when they submit the Reserve Order if they elect a random refresh, otherwise the Reserve Order would be refreshed at a quantity equal to the initial size of the displayed portion. The range must be set at a number between 1 and the initial displayed quantity.

[39] *See* Cboe Rule 5.6(c) (setting forth the random replenishment and fixed replenishment features for Reserve Orders).

[40] Today, Attributable Orders are not available for the Facilitation, Solicited Order, and Price Improvement Mechanisms.

[41] As discussed in more detail below, the Exchange will amend this sentence to say ''orders *or quotes*'' to codify existing ALO behavior.

[42] Today, BX re-prices certain orders to avoid locking and crossing away markets, consistent with its Trade-Through compliance and Locked or Crossed Markets obligations. *See* BX Options 3, Section 5(d). *See also* Securities Exchange Act Release No. 89476 (August 4, 2020), 85 FR 48274 (August 10, 2020) (SR–BX–2020–017) (describing BX re-pricing mechanism in BX Options 3, Section 5).

[43] *See* Securities Exchange Act Release No. 95807 (September 16, 2022), 87 FR 57933 (September 22, 2022) (SR–MRX–2022–16) (''Re-Pricing Filing''). Specifically in the Re-Pricing Filing, the Exchange is proposing to adopt the following language in Options 3, Section 5(d), which will be identical to BX Options 3, Section 5(d): An order that is designated by a Member as non-routable will be re-priced in order to comply with applicable Trade-Through and Locked and Crossed Markets restrictions. If, at the time of entry, an order that the entering party has elected not to make eligible for routing would cause a locked or crossed market violation or would cause a trade-through violation, it will be re-priced to the current national best offer (for bids) or the current national best bid (for offers) and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.

[44] *Id.*

ALO rule stipulating that these orders will only be re-priced once and executed at the re-priced price. The proposed order handling for ALOs will be functionally identical to ALO handling on BX today.[45]

The Exchange further proposes a clarifying change in the ALO rule that would not amend current system behavior. The Exchange proposes to add ''or quotes'' to make clear that if at the time of entry, an ALO would lock or cross one or more non-displayed orders *or quotes* on the Exchange, the ALO will be cancelled or re-priced to one MPV above the best non-displayed bid price (for sell orders) or below the best non-displayed offer price (for buy orders).

Finally, the Exchange proposes to add that ALOs may only be submitted when an options series is open for trading to make clear that an ALO would not be accepted during the Opening Process when the order book is not available. The proposed rule text is consistent with current functionality, so the Exchange is codifying current ALO behavior with this change and adding the same level of detail currently in BX's ALO rule.[46]

As amended, Options 3, Section 7(n) will provide:

An Add Liquidity Order is a limit order that is to be executed in whole or in part on the Exchange (i) only after being displayed on the Exchange's limit order book; and (ii) without routing any portion of the order to another market center. Members may specify whether an Add Liquidity Order shall be cancelled or re-priced to the minimum price variation above the national best bid price (for sell orders) or below the national best offer price (for buy orders) if, at the time of entry, the order (i) is executable on the Exchange; or (ii) the order is not executable on the Exchange, but would lock or cross the national best bid or offer. If at the time of entry, an Add Liquidity Order would lock or cross one or more non-displayed orders or quotes on the Exchange, the Add Liquidity Order shall be cancelled or re-priced to the minimum price variation above the best non-displayed bid price (for sell orders) or below the best non-displayed offer price (for buy orders). Notwithstanding the aforementioned, if an Add Liquidity Order would not lock or cross an order or quote on the System but would lock or cross the NBBO, the order will be handled pursuant to Options 3, Section 5(d). An Add Liquidity Order will be ranked in the Exchange's limit order book in accordance with Options 3, Section 10. Add Liquidity Orders may only be submitted when an options series is open for trading.

QCC With Stock Orders

The Exchange proposes a non-substantive change to correct a cross-cite in the QCC with Stock Order rule in Options 3, Section 7(t). The current citation to Options 3, Section 12(c) in the description of this order type should instead be Options 3, Section 12(e).

Opening Sweep

Opening Sweeps are currently defined in Options 3, Section 7(u) as a Market Maker order submitted for execution against eligible interest in the System during the Opening Process pursuant to Options 3, Section 8(b)(1). The Exchange proposes to replace the current definition with the following: ''An Opening Sweep is a one-sided order entered by a Market Maker through SQF for execution against eligible interest in the System during the Opening Process. This order type is not subject to any protections listed in Options 3, Section 15, except for Automated Quotation Adjustments. The Opening Sweep will only participate in the Opening Process pursuant to Options 3, Section 8(b)(1) and will be cancelled upon the open if not executed.''

The proposed rule text is consistent with current functionality, so the Exchange is providing additional context to the Opening Sweep as currently described in Options 3, Section 8(b) and codifying current Opening Sweep behavior with this change. Specifically, because an Opening Sweep is an IOC order submitted by a Market Maker during the Opening Process, the Exchange is making clear in the proposed rule text that this order type is entered through SQF.[47] The Exchange is also specifying that Opening Sweeps are not subject to any risk protections in Options 3, Section 15 (except Automated Quotation Adjustments) because the Opening Process itself has boundaries (notably, the Quality Opening Market[48] and the Opening Quote Range[49]) within which orders will be executed. As it relates to the proposed language relating to Opening Sweep participation in the Opening Process and cancellation upon the open, the Exchange notes that this concept is not new as Opening Sweeps are already described in Options 3, Section 8 today and apply only during the Opening Process. The language merely provides additional context to the order type.

The Exchange notes that the Opening Sweep is functionally identical to the Opening Sweep on Phlx,[50] so the proposed language will harmonize the Exchange's rule with the current Phlx rule.

Time in Force

Today, the Exchange notes that certain functionality is described as an ''order type'' in Options 3, Section 7, but would be more precisely described as a TIF attribute that may be added to a particular order type. Accordingly, the Exchange proposes to codify the term ''TIF'' in proposed Supplementary Material .02 to Options 3, Section 7. The proposed TIF definition will be identical to the TIF definition in BX Options 3, Section 7(b). The Exchange also proposes to relocate various rules into Supplementary Material .02 to centralize the TIFs that are available on the Exchange today. As proposed, the rule text will provide:

.02 **Time in Force.** The term ''Time in Force'' or ''TIF'' shall mean the period of time that the System will hold an order for potential execution, and shall include:

(a) **Day.** An order to buy or sell entered with a TIF of ''DAY,'' which, if not executed, expires at the end of the day on which it was entered. All orders by their terms are Day orders unless otherwise specified. Day orders may be entered through FIX or OTTO.

(b) **Good-Till-Canceled.** An order to buy or sell entered with a TIF of ''GTC'' that remains in force until the order is filled, canceled or the option contract expires; provided, however, that GTC orders will be canceled in the event of a corporate action that results in an adjustment to the terms of an option contract. GTC orders may be entered through FIX.

(c) **Good-Till-Date.** An order to buy or sell entered with a TIF of ''GTD,'' which, if not executed, will be cancelled at the sooner of the end of the expiration date assigned to the order, or the expiration of the series; provided, however, that GTD orders will be canceled in the event of a corporate action that results in an adjustment to the terms of an option contract. GTD orders may be entered through FIX.

[45] *See* BX Options 3, Section 7(a)(12). *See also* Securities Exchange Act Release No. 93896 (January 4, 2022), 87 FR 1231 (January 10, 2022) (SR–BX–2021–054), which introduced ALOs on BX.

[46] *Id.*

[47] *See* Supplementary Material .03(c) of Options 3, Section 7, which notes that SQF is an interface that allows Market Makers to submit IOC orders.

[48] A ''Quality Opening Market'' is a bid/ask differential applicable to the best bid and offer from all Valid Width Quotes defined in a table to be determined by the Exchange and published on the Exchange's website. The calculation of Quality Opening Market is based on the best bid and offer of Valid Width Quotes. The differential between the best bid and offer are compared to reach this determination. The allowable differential, as determined by the Exchange, takes into account the type of security (for example, Penny versus non-Penny Interval Program issue), volatility, option premium, and liquidity. The Quality Opening Market differential is intended to ensure the price at which the Exchange opens reflects current market conditions. *See* Options 3, Section 8(a)(7).

[49] The Opening Quote Range represents the outer boundaries at which the Exchange may open. See Options 3, Section 8(i).

[50] *See* Phlx Options 3, Section 7(b)(6).

(d) **Immediate-or-Cancel.** An order entered with a TIF of ''IOC'' that is to be executed in whole or in part upon receipt. Any portion not so executed is to be treated as cancelled.

(1) Orders entered with a TIF of IOC are not eligible for routing.

(2) IOC orders may be entered through FIX, OTTO or SQF, provided that an IOC order entered by a Market Maker through the SQF protocol will not be subject to the (A) Order Price Protection, Market Order Spread Protection, and Size Limitation Protection as defined in Options 3, Section 15(a)(1)(A), (1)(B), and (2)(B) respectively, for single leg orders, or (B) Complex Order Price Protection as defined in Options 3, Section 16(c)(1) for Complex Orders.

(3) Block Orders, Facilitation Orders, Complex Facilitation Orders, SOM Orders, Complex SOM Orders, PIM Orders, Complex PIM Orders, QCC Orders, QCC Complex Orders, Customer Cross Orders, and Customer Cross Complex Orders are considered to have a TIF of IOC. By their terms, these orders will be: (1) executed either on entry or after an exposure period, or (2) cancelled.

(e) **Opening Only.** An Opening Only (''OPG'') order is entered with a TIF of ''OPG.'' This order can only be executed in the Opening Process pursuant to Options 3, Section 8. Any portion of the order that is not executed during the Opening Process is cancelled. OPG orders may not route. This order type is not subject to any protections listed in Options 3, Section 15, except Size Limitation.

The Exchange is relocating rule text governing Day orders from Options 3, Section 7(l) into Supplementary Material .02(a) to specify that orders may be entered with a TIF of DAY. The Exchange also proposes to include additional detail that Day orders may be entered through FIX or OTTO. This is how Day orders operate today, and the proposed rule text merely adds the same level of detail currently in BX's Day order rule.[51]

The Exchange is relocating rule text governing Good-Till-Canceled (''GTC'') orders from Options 3, Section 7(r) into Supplementary Material .02(b) to specify that orders may be entered with a TIF of GTC. The Exchange also proposes to include additional detail that GTC orders may be entered through FIX. This articulates current GTC behavior.

The Exchange is relocating rule text governing Good-Till-Date (''GTD'') orders from Options 3, Section 7(p) into Supplementary Material .02(c) to specify that orders may be entered with a TIF of GTD. The Exchange also proposes a number of changes that do not modify current GTD functionality, but are intended to align to the GTC rule described above. Today, GTC and GTD orders are intended to be functionally similar except GTC generally persists until it is cancelled by the Member and GTD generally persists until the assigned date. Accordingly, the Exchange seeks to add a similar level of detail to the GTD rule as it is proposing in the GTC rule above. First, the Exchange proposes to remove the word ''limit'' from the relocated GTD rule text. Similar to GTC orders, GTD orders can also be sent as Market Orders (in addition to Limit Orders) today. The proposed changes will therefore align the rule text with current functionality. Second, the Exchange proposes to add that GTD orders will be canceled in the event of a corporate action that results in an adjustment to the terms of an option contract. This language is copied from current GTC rule text and articulates current GTD behavior. Third, the Exchange proposes to include additional detail that GTD orders may be entered through FIX. This mirrors the proposed changes for GTC orders and articulates current GTD behavior.

The Exchange is relocating rule text governing IOC orders from Options 3, Section 7(b)(3) into Supplementary Material .02(d) to Options 3, Section 7 to specify that orders may be entered with a TIF of IOC. The Exchange also proposes a number of changes to conform the Exchange's IOC rule with that of BX. None of the proposed changes modify current Exchange IOC functionality. First, the Exchange proposes to remove the word ''limit'' from the relocated IOC rule text in Supplementary Material .02(d). Today, IOC orders may be sent as either a Market Order or Limit Order. Eliminating the word ''limit'' from the proposed IOC rule will therefore align the rule text with current functionality.[52] Second, the Exchange proposes to memorialize current IOC behavior in Supplementary Material .02(d)(1) by stating that orders entered with a TIF of IOC are not eligible for routing.[53] Third, the Exchange proposes to codify current IOC behavior in Supplementary Material .02(d)(2) by stating that IOC orders may be entered through FIX, OTTO or SQF.[54]

Fourth, the Exchange proposes to note in the same section that an IOC order entered by a Market Maker through SQF will not be subject to the (A) Order Price Protection,[55] Market Order Spread Protection,[56] and Size Limitation Protection [57] as defined in Options 3, Section 15(a)(1)(A), (1)(B), and (2)(B), respectively, for single leg orders, or (B) Complex Order Price Protection [58] as defined in Options 3, Section 16(c)(1) for Complex Orders.[59] Today, the IOC rule explicitly excludes the Limit Order Price Protection and Size Limitation Protection from applying to IOC orders entered through SQF. As discussed later in this filing, the current Limit Order Price Protection will be replaced by a similar risk management tool called the Order Price Protection that will be identical to BX, so the Exchange will likewise reflect that change in the proposed IOC rule. The proposed change to exclude the Market Order Spread Protection from applying to IOC orders entered through SQF is not a change to IOC current functionality, but rather, a change to align the rule with current System behavior and with BX IOC rule.[60]

The Exchange notes while it generally only permits orders (including IOC orders) to be entered into its two order entry protocols, FIX and OTTO, it does permit the entry of IOC orders by Market Makers into its quote protocol, SQF. The Exchange has elected not to apply the specified risk protections on IOC orders entered through SQF as it does for IOC orders entered through FIX and OTTO because only Market Makers

[51] *See* BX Options 3, Section 7(b)(3). BX's rule does not refer to OTTO because BX does not offer OTTO functionality today.

[52] BX similarly allows both Market Orders and Limit Orders to be entered as IOC. *See* BX Options 3, Section 7(b)(2). The Exchange is not specifying Market and Limit Orders in the relocated IOC rule text for consistency with the other TIFs in proposed Supplementary Material .02 to Options 3, Section 7.

[53] *See* BX Options 3, Section 7(b)(2)(A) for identical language.

[54] *See* BX Options 3, Section 7(b)(2)(B) for substantially similar language. BX's rule does not refer to OTTO because BX does not offer OTTO ports today.

[55] The current IOC rule references the Limit Order Price Protection as set forth in Options 3, Section 15(a)(1)(A). As discussed later in this filing, the Exchange is proposing to replace the existing Limit Order Price Protection with a similar risk management tool called Order Price Protection. *See* proposed Options 3, Section 15(a)(1)(A).

[56] Market Orders will be rejected if the NBBO is wider than a preset threshold at the time the order is received by the System. Market Order Spread Protection shall not apply to the Opening Process or during a trading halt. The Exchange may establish different thresholds for one or more series or classes of options. *See* Options 3, Section 15(a)(1)(B).

[57] There is a limit on the number of contracts an incoming order or quote may specify. Orders or quotes that exceed the maximum number of contracts are rejected. The maximum number of contracts, which shall not be less than 10,000, is established by the Exchange from time-to-time. *See* Options 3, Section 15(a)(2)(B).

[58] This risk protection is currently called the Limit Order Price Protection in Options 3, Section 16(c)(1). The Exchange is renaming this risk protection in a concurrent filing to the Complex Order Price Protection. *See* SR–MRX–2022–3P.

[59] *See* BX Options 3, Section 7(b)(2)(B) for substantially similar language. BX's rule does not refer to the Complex Order Price Protection because BX does not offer complex functionality today.

[60] *See* BX Options 3, Section 7(b)(2)(B).

utilize SQF to enter IOC orders. Market Makers are professional traders with their own risk settings. FIX and OTTO, on the other hand, are utilized by all market participants who may not have their own risk settings, unlike Market Makers. Market Makers utilize IOC orders to trade out of accumulated positions and manage their risk when providing liquidity on the Exchange. The Exchange understands that proper risk management, including using these IOC orders to offload risk, is vital for Market Makers, and allows them to maintain tight markets and meet their quoting and other obligations to the market. Market Makers handle a large amount of risk when quoting and in addition to the risk protections required by the Exchange, Market Makers utilize their own risk management parameters when entering orders, minimizing the likelihood of a Market Maker's erroneous order from being entered. The Exchange believes that Market Makers, unlike other market participants, have the ability to manage their risk when submitting IOC orders through SQF and should be permitted to elect this method of order entry to obtain efficiency and speed of order entry, particularly in light of the quoting obligations that the Exchange imposes on these participants, unlike other market participants.[61] The Exchange believes that allowing Market Makers to submit IOC orders through their preferred protocol increases their efficiency in submitting such orders and thereby allows them to maintain quality markets to the benefit of all market participants that trade on the Exchange. For the foregoing reasons, the Exchange has opted to not offer the Order Price Protection, Market Order Spread Protection, and Size Limitation (for single leg orders), or the Complex Order Price Protection (for Complex Orders), for IOC orders entered through SQF because Market Makers have more sophisticated infrastructures than other market participants and are able to manage their risk.

The Exchange also proposes to add substantially similar language in Supplementary Material .03(c), which governs the SQF protocol. Specifically, the Exchange proposes to add: ''Immediate-or-Cancel Orders entered into SQF are not subject to the (i) Order Price Protection, Market Order Spread Protection, and Size Limitation Protection in Options 3, Section 15(a)(1)(A), (1)(B), and (2)(B) respectively, for single leg orders, or (ii) Complex Order Price Protection as defined in Options 3, Section 16(c)(1) for Complex Orders.'' Adding these exceptions to the SQF rule as well as the IOC rule will make clear that these order protections will not apply to IOC orders entered through SQF.

The Exchange further proposes to specify in Supplementary Material .02(d)(3) that Block Orders, Facilitation Orders, Complex Facilitation Orders, SOM Orders, Complex SOM Orders, PIM Orders, Complex PIM Orders, QCC Orders, QCC Complex Orders, Customer Cross Orders, and Customer Cross Complex Orders are considered to have a TIF of IOC. By their terms, these orders will be: (1) executed either on entry or after an exposure period, or (2) cancelled.[62] The proposed changes in Supplementary Material .02(d)(3) memorialize current System behavior and are intended to bring greater transparency in how these order types operate today.

The Exchange is relocating rule text governing OPG orders from Options 3, Section 7(o) into Supplementary Material .02(e) to specify that orders may be entered with a TIF of OPG. The Exchange also proposes a number of changes to conform the Exchange's OPG rule with that of BX. Other than as specified below, the proposed changes do not modify current Exchange OPG functionality. The Exchange proposes to remove the word ''limit'' from the relocated OPG rule text in Supplementary Material .02(e) in order to reflect that the Exchange will now allow both Market and Limit OPG Orders. As noted above, this is a proposed functionality change to align with current BX OPG functionality.[63] The Exchange also proposes non-substantive changes to replace the current references to the opening rotation with the term ''Opening Process'' as defined in Options 3, Section 8. The Exchange further proposes to codify current OPG behavior by stating that OPG orders may not route.[64] Lastly, the Exchange proposes to memorialize current OPG behavior by indicating that OPG orders are not subject to any protections listed in Options 3, Section 15, except Size Limitation.[65] Today, the Exchange does not apply any of the risk protections in Options 3, Section 15 (except Size Limitation) because the Opening Process itself has boundaries within which orders will be executed.[66]

Opening Process

In connection with the technology migration, the Exchange proposes several enhancements to its Opening Process in Options 3, Section 8. The Exchange first proposes to remove the current limitation that only allows routable Public Customer[67] interest to route during the Opening Process. Instead, all routable market participant interest will be allowed to route to align the Exchange's opening functionality with BX.[68] Like BX, the Exchange believes that it will be beneficial to provide all market participants with the opportunity to have their interest executed on away markets during the Opening Process. To effectuate the foregoing, the Exchange proposes to amend Options 3, Section 8(b) to remove the sentence providing that only Public Customer interest is routable during the Opening Process. The Exchange will also make a corrective change within this rule to ''non-displayed portions.'' The Exchange further proposes to make a related change in Options 3, Section 8(i)(7), which currently provides that the System will route routable Public Customer interest pursuant to Options 3, Section 10(c)(1)(A). Specifically, the Exchange proposes to remove the reference to Public Customer to indicate all routable interest will route in accordance with the Exchange's priority rule. The Exchange will also update the cross-cite to Options 3, Section 10(c)(1)(A), currently pointing to the Priority Customer priority overlay, to the more general priority rule in Options 3, Section 10(c). The Exchange further proposes to amend Options 3, Section 8(j)(6) to remove the references to ''Public Customer.'' As amended,

[61] *See* Options 2, Section 5(e).

[62] *See* BX Options 3, Section 7(b)(2)(C) for substantially similar language for PRISM orders.

[63] *See* BX Options 3, Section 7(b)(1).

[64] *See* BX Options 3, Section 7(b)(1) for identical language.

[65] *Id.*

[66] *See* Options 3, Section 8.

[67] The term ''Public Customer'' means a person or entity that is not a broker or dealer in securities. *See* Option 1, Section 1(a)(41).

[68] *See* BX Options 3, Section 8. *See also* Securities Exchange Act Release No. 89731 (September 1, 2020), 85 FR 55524 (September 8, 2020) (SR–BX–2020–016) (noting throughout that BX permits all market participants to route during its Opening Process). At the end of the Opening Process, pursuant to MRX Options 3, Section 8(j)(6) and subsection (i), the System will execute orders at the Opening Price that have contingencies (such as, without limitation, Reserve Orders) and non-routable orders, such as a 'Do-Not-Route' or 'DNR' Orders, to the extent possible. The System will only route non-contingency Public Customer orders, except that Public Customer Reserve Orders may route up to their full volume. For contracts that are not routable, pursuant to MRX Options 3, Section 8(j)(6), such as DNR Orders and orders priced through the Opening Price, the System will cancel (1) any portion of a Do-Not-Route order that would otherwise have to be routed to the exchange(s) disseminating the ABBO for an opening to occur, or (2) any order or quote that is priced through the Opening Price. All other interest will be eligible for trading after opening.

Section 8(j)(6) will provide: ''The System will execute orders at the Opening Price that have contingencies (such as, without limitation, Reserve Orders) and non-routable orders, such as ''Do-Not-Route'' or ''DNR'' Orders, to the extent possible. The System will only route non-contingency orders, except that Reserve Orders may route up to their full volume.''

In addition, the Exchange proposes to amend Options 3, Section 8(g)(1), which currently describes how the Potential Opening Price would be calculated when there is more than one Potential Opening Price.[69] Today, Section 8(g)(1) provides that when two or more Potential Opening Prices would satisfy the maximum quantity criterion and leave no contracts unexecuted, the System takes the highest and lowest of those prices and takes the mid-point; if such mid-point is not expressed as a permitted minimum price variation, it will be rounded to the minimum price variation that is closest to the closing price for the affected series from the immediately prior trading session. If there is no closing price from the immediately prior trading session, the System will round up to the minimum price variation to determine the Opening Price. The Exchange now proposes to no longer round in the direction of the previous trading day's closing price and simply round up to the minimum price variation if the mid-point of the high/low is not expressed as a permitted minimum price variation. The proposed changes are intended to simplify and bring greater transparency to the Opening Process, as market participants can now have a better sense of how the Potential Opening Price will be calculated without having to account for the closing price of each options series.

The Exchange further proposes to amend Options 3, Section 8(i)(3), which currently describes the determination of Opening Quote Range (''OQR'') boundaries in certain scenarios.[70] Specifically, the Exchange proposes to replace ''are marketable against the ABBO'' with ''cross the ABBO'' to more precisely describe the specified scenario within in this rule. The Exchange notes that this is not a System change, but rather a clarifying change around the applicability of the rule text.

Auction Mechanisms

Facilitation and Solicited Order Mechanisms

The Exchange first proposes to make clarifying changes in Options 3, Section 11 (Auction Mechanisms). Today, Supplementary Material .02 to Options 3, Section 11 states that Responses[71] represent non-firm interest that can be canceled at any time prior to execution, and that Responses are not displayed to any market participants. The Exchange now proposes a non-substantive change to relocate this language into the introductory paragraph of Options 3, Section 11 after the definition of ''Response'' for better readability. The Exchange also proposes to add ''or modified'' after the ''canceled'' to indicate that auction Responses may be canceled or modified at any time prior to execution. This is not a change to current System behavior, but rather a clarification that better aligns the rule text to existing functionality. The Exchange also notes that the rules for the complex Facilitation and Solicited Order Mechanisms in Options 3, Sections 11(c)(7) and (e)(4), respectively, already provide for this concept.[72]

Price Improvement Mechanism

The Exchange proposes a number of changes to Options 3, Section 13 (Price Improvement Mechanism for Crossing Transactions), some of which are System changes to align with existing BX Price Improvement Mechanism (''BX PRISM'') functionality and others that are non-System changes that add greater clarity to current PIM behavior. The Exchange proposes to amend Options 3, Section 13(b)(4) to add clarifying rule text to the current sentence, which states, ''The Crossing Transaction[73] may not be canceled, but the price of the Counter-Side Order may be improved during the exposure period.'' The Exchange proposes to add ''or modified'' after the word ''canceled'' to make clear that the Crossing Transaction may not be canceled or modified, but the Counter-Side Order may be improved during the exposure period. This proposed change would not amend the current System, rather it would bring greater clarity to the rule text that modifications are not permitted unless the Counter-Side Order is being improved during the exposure period.

The Exchange proposes to add rule text within Options 3, Section 13(b)(5) which states, ''Crossing Transactions submitted at or before the opening of trading are not eligible to initiate an auction and will be rejected.'' The Exchange notes that this rule text represents current System behavior. BX has a similar provision within BX Options 3, Section 13(i)(E). The Exchange notes that this rule text will bring greater clarity to when a Crossing Transaction would be eligible to initiate a PIM.

The Exchange proposes to amend the current PIM functionality within Options 3, Section 13(c)(3). Today, during the exposure period, Improvement Orders[74] may not be canceled, however, Improvement Orders may be modified to (i) increase the size at the same price, or (ii) improve the price of the Improvement Order for any size up to the size of the Agency Order. The Exchange proposes to amend this functionality so that Improvement Orders may be canceled or modified similar to functionality on BX PRISM today within BX Options 3, Section 13(ii)(A)(8). The modification and cancellation of an Improvement Order through OTTO will be similar to the manner in which a Cancel and Replace Order[75] would be handled outside of the auction process. For Improvement Orders through SQF, the modification and cancellation of such orders will be handled by sending new Improvement Orders that overwrite the existing

[69] The Potential Opening Price indicates a price where the System may open once all other Opening Process criteria is met.

[70] OQR is an additional type of boundary used in the Opening Process, and is intended to limit the opening price to a reasonable, middle ground price, thus reducing the potential for erroneous trades during the Opening Process.

[71] For purposes of Options 3, Section 11, a ''Response'' means an electronic message that is sent by Members in response to a broadcast message. A ''broadcast message'' is an electronic message sent by the Exchange to all Members upon entry of an order into one of the auction mechanisms listed within Options 3, Section 11 (*i.e.,* Block, Facilitation, or Solicited Order Mechanisms).

[72] Specifically, these provisions state that Responses submitted by Members shall not be visible to other auction participants during the exposure period and can be modified or deleted before the exposure period has ended.

[73] A ''Crossing Transaction'' is comprised of the order the Electronic Access Member represents as agent (the ''Agency Order'') and a counter-side order for the full size of the Agency Order (the ''Counter-Side Order''). *See* Options 3, Section 13(b).

[74] Improvement Orders are responses entered by Members to indicate the size and price at which they want to participate in the execution of the Agency Order. *See* Options 3, Section 13(c)(1).

[75] Cancel and Replace Orders shall mean a single message for the immediate cancellation of a previously received order and the replacement of that order with a new order. If the previously placed order is already filled partially or in its entirety, the replacement order is automatically canceled or reduced by the number of contracts that were executed. The replacement order will retain the priority of the cancelled order, if the order posts to the Order Book, provided the price is not amended, size is not increased, or in the case of Reserve Orders, size is not changed. If the replacement portion of a Cancel and Replace Order does not satisfy the System's price or other reasonability checks (*e.g.,* Options 3, Section 15(b)(1)(A) and Options 3, Section 15(b)(1)(B)) the existing order shall be cancelled and not replaced. *See* Supplementary Material .02 to Options 3, Section 7.

Improvement Order with updated price/quantity instructions.

Next, the Exchange proposes to amend Options 3, Section 13(d)(5), which currently states, ''If a trading halt is initiated after an order is entered into the Price Improvement Mechanism, such auction will be automatically terminated without execution.'' The Exchange proposes to instead provide, ''If a trading halt is initiated after an order is entered into the Price Improvement Mechanism, such auction will be automatically terminated with execution solely with the Counter-Side Order.'' In the event of a trading halt, since the Counter-Side Order has guaranteed that an execution will occur at the same price as the Crossing Transaction or better, and Improvement Orders offer no such guarantee, the Counter-Side Order is the only valid price at which to execute the Crossing Transaction. This is similar to functionality on BX PRISM at BX Options 3, Section 13(ii)(C).[76]

The Exchange also proposes a System change to adopt a new same side execution price check for PIM, which will be described in new subsection (d)(6) of Options 3, Section 13 and will be functionally identical to BX PRISM. As proposed, Options 3, Section 13(d)(6) will provide that if the PIM execution price would be the same or better than an order on the limit order book on the same side of the market as the Agency Order, the Agency Order may only be executed at a price that is at least $0.01 better than the resting order's limit price. If such resting order's limit price is equal to or crosses the initiating Crossing Transaction price, then the entire Agency Order will trade at the initiating Crossing Transaction price with all better priced counter-side interest being considered for execution at the initiating Crossing Transaction price. As noted above, this price check will be functionally identical to the same side execution price check on BX PRISM today.[77] Like BX, the proposed price check is designed to ensure that the Exchange would not trade at prices that would lock or cross interest on the same side of the market as the Agency Order where limit orders have rested and obtained priority to execute at that price. In the event where a limit order arrives on the same side of the market as the Agency Order and is at the same or better price than the initiating Crossing Transaction price, the Exchange would execute the entire PIM order at the initiating Crossing Transaction price. The execution takes place at this price because the PIM is guaranteed an execution and the PIM agency side instructions would not allow an execution to take place at a higher (lower) price than submitted for a buying (selling) agency side PIM order. Considering that the limit order has arrived either at or better on the same side as the Agency Order than the agency side price, the initiating Crossing Transaction price is the only price at which the guaranteed execution can take place.

The following examples illustrate how the proposed PIM execution price check would work:

Example: PIM Executes With Improvement Order at $0.01 Better Than a Limit Order on the Same Side of the Market as the Agency Order

Firm Limit order to buy @1.40 arrives prior to the PIM auction beginning

MRX BBO: 1.40 × 2.00

PIM Agency Order to buy 20 @1.50 arrives with an auto-match price of 1.50 indicated

PIM Improvement Order[78] to sell 20 @ 1.40 arrives

Auction concludes after timer and PIM Agency Order trades 20 with PIM Improvement Order @1.41; the Counter-Side Order[79] cancels

Example: PIM Executes at Agency Price With All Better Priced Interest When Limit Order on Same Side Equals or Crosses the Initiating Crossing Transaction Price

Assume MRX BBO: 1.00 × 2.00

PIM Agency Order to buy 20 @1.50 arrives with an auto-match price of 1.50 indicated

PIM Improvement Order to sell 20 @1.40 arrives

During the exposure period, Firm Limit order to buy @1.50 arrives

Auction concludes after timer and PIM Agency Order trades 12 with PIM Improvement Order @1.50 and 8 with the Counter-Side Order @1.50 (*i.e.,* the guaranteed execution price) because all better priced interest must trade at the initiating Crossing Transaction price when the limit order on the same side equals or crosses the initiating Crossing Transaction price.[80] The remainder of the Counter-Side Order and the remainder of the PIM Improvement Order cancel. The execution takes place at 1.50 because the PIM is guaranteed an execution, and the PIM agency side instructions would not allow an execution to take place at a higher price than the submitted 1.50 buying price for the agency side PIM order.

Further, the Exchange proposes amendments to Complex PIM, some of which are similar to the amendments proposed for simple PIM. Similar to simple PIM, the Exchange proposes to amend Options 3, Section 13(e)(4)(ii) to state, ''During the exposure period, Improvement Complex Orders may be canceled or modified.''[81] The Exchange proposes to amend this functionality so that Improvement Orders may be canceled or modified similar to functionality on BX today within BX Options 3, Section 13(ii)(A)(8).[82]

The Exchange also proposes to relocate the last sentence of Options 3, Section 13(e)(3) into Options 3, Section

[76] BX Options 3, Section 13(ii)(C) provides that if the situations described in sub-paragraphs (B)(2) or (3) above occur, the entire PRISM Order will be executed at: (1) in the case of the BX BBO crossing the PRISM Order stop price, the best response price(s) or, if the stop price is the best price in the Auction, at the stop price, unless the best response price is equal to or better than the price of a limit order resting on the Order Book on the same side of the market as the PRISM Order, in which case the PRISM Order will be executed against that response, but at a price that is at least $0.01 better than the price of such limit order at the time of the conclusion of the Auction; or (2) in the case of a trading halt on the Exchange in the affected series, the stop price, in which case the PRISM Order will be executed solely against the Initiating Order. Any unexecuted PAN responses will be cancelled.

[77] BX Options 3, Section 13(ii)(I) provides that if the execution price of the PRISM Auction would be the same or better than an order on the limit order book on the same side of the market as the PRISM Order, the PRISM Order may only be executed at a price that is at least $0.01 better than the resting order's limit price. If such resting order's limit price is equal to or crosses the stop price, then the entire PRISM Order will trade at the stop price with all better priced interest being considered for execution at the stop price.

[78] ''Improvement Orders'' are responses sent by Members during the PIM's exposure period in response to the PIM that indicate the size and price at which they want to participate in the execution of the Agency Order. *See* Options 3, Section 13(c)(1).

[79] The ''Counter-Side Order'' is the counter-side order for the full size of the Agency Order that is entered into the PIM by the initiating Electronic Access Member. *See* Options 3, Section 13(b).

[80] The order is allocated pursuant to Options 3, Section 13(d)(3) where the Counter-Side Order will be allocated the greater of 1 contract or 40%, which, in this case, equates to 8 contracts out of the 20 contracts. Thus, in this case, the Improvement Order is allocated 12 contracts to fully execute the 20 contracts of the original PIM Agency Order.

[81] Options 3, Section 13(e)(4)(ii) currently states, ''During the exposure period, Improvement Complex Orders may not be canceled, but may be modified to (1) increase the size at the same price, or (2) improve the price of the Improvement Complex Order for any size.''

[82] BX Options 3, Section 13(ii)(A)(8) provides that a PAN response must be equal to or better than the displayed NBBO at the time of receipt of the PAN response. PAN responses may be modified or cancelled during the Auction. A PAN response submitted with a price that is outside the NBBO will be rejected.

13(e)(4)(iv) at new ''(E)''. The Exchange proposes similar rule text within simple PIM to indicate that an exposure period would automatically terminate if a trading halt is initiated after the order is entered into a Complex PIM. The relocation would add the rule text to a more logical place within the Complex PIM rule.

The Exchange further proposes in the same rule to memorialize another scenario in which the exposure period for a Complex PIM would early terminate today. Specifically, the Exchange proposes to amend Options 3, Section 13(e)(4)(iv) at new ''(D)'' to provide that the exposure period will automatically terminate when a resting Complex Order in the same complex strategy on either side of the market becomes marketable against the Complex Order Book or bids and offers for the individual legs. The Exchange believes that the proposed codification will detail for market participants the situations in which early termination would occur for Complex PIMs today, and align the Exchange's rules with current System behavior. The Exchange notes that the exposure period for a Complex Order Exposure likewise early terminates today when a resting Complex Order becomes marketable against the Complex Order Book or bids and offers for the individual legs.[83] Accordingly, the proposed language closely tracks existing Complex Order Exposure language. The Exchange believes that it is appropriate to early terminate Complex PIM under these circumstances for the following reasons. When the resting Complex Order is on the same side as the Agency Complex Order, interest that becomes marketable against the resting Complex Order would also be marketable against the Complex PIM order. Therefore, early terminating the Complex PIM would allow the Complex PIM order to interact with this interest given that the Complex PIM order is at a superior price compared to the resting Complex Order, thus providing an opportunity for price improvement for the Agency Complex Order. Additionally, when the resting Complex Order is on the opposite side of the Agency Complex Order, interest that arrives marketable against the resting Complex Order is now at a superior price to the Agency Complex Order. The Exchange would therefore early terminate in this scenario and execute the Complex PIM order with its contra side order because it is no longer at top of book.

The Exchange also proposes to codify existing System behavior in the Complex PIM rule at Options 3, Section 13(e)(5), which currently provides that when a marketable Complex Order on the opposite side of the Agency Complex Order ends the exposure period, it will participate in the execution of the Agency Complex Order at the price that is mid-way between the best counter-side interest and the same side best bid or offer on the Complex Order Book or net price from MRX best bid or offer on individual legs, whichever is better, so that both the marketable Complex Order and the Agency Complex Order receive price improvement. Specifically, the Exchange proposes to add that transactions will be rounded, when necessary, to the $0.01 increment that favors the Agency Complex Order. As noted above, this is not a functionality change, but rather is intended to better articulate current System behavior. The Exchange also notes that the simple PIM rule already articulates that the mid-way price will be rounded to the $0.01 increment that favors the Agency Order in Options 3, Section 13(d)(4). The rounding for Complex PIM currently operates the same way as simple PIM in this respect, so the proposed Complex PIM language closely tracks the simple PIM language.

Finally, the Exchange proposes to amend Supplementary Material .02 to Options 3, Section 13 to add the following sentence: ''It will be considered a violation of this Rule and will be deemed conduct inconsistent with just and equitable principles of trade and a violation of Options 9, Section 1 if an Electronic Access Member submits a PIM Order (initiating an auction) and also submits its own Improvement Order in the same auction.'' BX has a similar prohibition within BX Options 3, Section 13(iii). The proposed new rule is intended to provide guidance to Members where certain behavior within a PIM will not be considered a bona fide transaction.

Order Price Protection

The Exchange currently has a Limit Order Price Protection in Options 3, Section 15(a)(1)(A), which is a ''fat finger'' check designed to address risks to market participants of human error in entering certain orders at unintended prices. Specifically, there is a limit on the amount by which incoming limit orders to buy may be priced above the Exchange's best offer and by which incoming limit orders to sell may be priced below the Exchange's best bid. Limit orders that exceed the pricing limit are rejected. The limit is established by the Exchange from time-to-time for orders to buy (sell) as the greater of the Exchange's best offer (bid) plus (minus): (i) an absolute amount not to exceed $2.00, or (ii) a percentage of the Exchange's best bid/offer not to exceed 10%.

The Exchange proposes to replace the existing risk protection with an Order Price Protection (''OPP'') that would similarly prevent the execution of limit orders at prices outside pre-set parameters. The proposed OPP will be functionally similar to the OPP functionality currently offered by BX.[84] In particular, proposed Options 3, Section 15(a)(1)(A) will provide that OPP is a feature of the System that prevents limit orders at prices outside of pre-set standard limits from being accepted by the System. Further, OPP will reject incoming orders that exceed certain parameters according to the following algorithm set forth in proposed Options 3, Section 15(a)(1)(A)(ii):

(a) If the better of the NBBO or the internal market BBO (the ''Reference BBO'') on the contra-side of an incoming order is greater than $1.00, orders with a limit more than the greater of the below will cause the order to be rejected by the System upon receipt.

(1) 50% less (greater) than such contra-side Reference Best Bid (Offer); or

(2) a configurable dollar amount not to exceed $1.00 less (greater) than such contra-side Reference Best Bid (Offer) as specified by the Exchange announced via an Options Trader Alert.

(b) If the Reference BBO on the contra-side of an incoming order is less than or equal to $1.00, orders with a limit more than the greater of the below will cause the order to be rejected by the System upon receipt.

(1) 100% less (greater) than such contra-side Reference Best Bid (Offer); or

(2) a configurable dollar amount not to exceed $1.00 less (greater) than such contra-

[83] Supplementary Material .01(b)(ii) of MRX Options 3, Section 14 provides that the exposure period for a Complex Order will end immediately: (A) upon the receipt of a Complex Order for the same complex strategy on either side of the market that is marketable against the Complex Order Book or bids and offers for the individual legs; (B) upon the receipt of a non-marketable Complex Order for the same complex strategy on the same side of the market that would cause the price of the exposed Complex Order to be outside of the best bid or offer for the same complex strategy on the Complex Order Book; or (C) when a resting Complex Order for the same complex strategy on either side of the market becomes marketable against interest on the Complex Order book or bids and offers for same individual legs of the complex strategy.

[84] BX's OPP is currently memorialized in BX Options 3, Section 15(a)(1), which provides that OPP is a feature of the System that prevents certain day limit, good til cancelled, and immediate or cancel orders at prices outside of pre-set standard limits from being accepted by the System. BX's rule also provides that OPP applies to all options but does not apply to market orders. As described above, the Exchange is proposing to adopt an OPP rule that more accurately describes this functionality than BX's current OPP rule. BX will file a separate rule change to conform its OPP rule with the Exchange's proposed rule text.

side Reference Best Bid (Offer) as specified by the Exchange announced via an Options Trader Alert.

The proposed OPP will be calculated using the better of the NBBO or the internal market BBO (*i.e.,* the Reference BBO) instead of the Exchange BBO as currently used today, which will align to current BX functionality.[85] Like BX, the Exchange believes that calculating OPP on the basis of the better of the NBBO or the internal market BBO protects investors and the public interest where the internal market BBO is better than the NBBO. In addition, the proposed OPP parameters will be the greater of a percentage threshold or fixed dollar amount, similar to today's limit order price protection that uses the greater of a percentage or fixed dollar threshold. The proposed parameters are identical to BX's OPP.[86] The Exchange believes that the proposed algorithm for OPP would continue to provide a reasonable limit to the range where orders will be accepted.

As set forth in proposed Options 3, Section 15(a)(1)(A)(i), OPP will be operational each trading day after the opening until the close of trading, except during trading halts, which will be identical to current functionality.[87] The Exchange also proposes in this paragraph to add identical language as BX, which will provide the Exchange with discretion to temporarily deactivate OPP from time to time on an intra-day basis if it is determined that unusual market conditions warranted deactivation in the interest of a fair and orderly market. Like BX, the Exchange believes that it will be useful to have the flexibility to temporarily disable OPP intra-day in response to an unusual market event (for example, if dissemination of data was delayed and resulted in unreliable underlying values needed for the Reference BBO). Members would be notified of intra-day OPP deactivation and any subsequent reactivation by the Exchange through the issuance of System status messages. Specifically, the Exchange proposes to add in Options 3, Section 15(a)(1)(A)(i) that OPP may be temporarily deactivated on an intra-day basis at the Exchange's discretion.

The following examples illustrate the application of the proposed OPP thresholds:

Example: An Option Priced Less Than or Equal to $1.00

For a penny MPV option with a BBO on MRX of $0.01 × $0.02, consider that the configurable dollar amount is set to $0.05

If the incoming order was less than $1.00, and the Reference BBO is the internal market BBO, the System will reject buy orders priced higher than the greater of (i) $0.04 (100% greater than the contra-side Reference Best Offer of $0.02) or (ii) $0.07 ($0.02 offer + $0.05 configuration)

Example: An Option Priced Greater Than $1.00

For a penny MPV option with a BBO on MRX of $1.01 × $1.02, consider that the configurable dollar amount is set to $0.05

If the incoming order was more than $1.00, and the Reference BBO is the internal market BBO, the System will reject buy orders priced higher than the greater of (i) $1.53 (50% greater than the contra-side Reference Best Offer of $1.02) or (ii) $1.07 ($1.02 offer + $0.05 configuration)

Post-Only Quoting Protection

The Exchange proposes to adopt an optional quoting protection for Market Makers that will be identical to current BX functionality.[88] This optional risk protection would allow Market Makers to prevent their quotes from removing liquidity from the Exchange's order book upon entry.

Specifically, the Exchange proposes to adopt the new risk protection in Options 3, Section 15(a)(3)(C). As proposed, Market Makers may elect to configure their SQF protocols to prevent their quotes from removing liquidity (''Post-Only Quote Configuration''). A Post-Only Quote Configuration would re-price or cancel a Market Maker's quote that would otherwise lock or cross any resting order or quote [89] on the order book upon entry. Market Makers may elect whether to re-price or cancel their quotes with this functionality. When configured for re-price, quotes would be re-priced and displayed by the System to one MPV below the current best offer (for bids) or above the current best bid (for offers). Notwithstanding the aforementioned, if a quote with a Post-Only Quote Configuration would not lock or cross an order or quote on the System but would lock or cross the NBBO, the quote will be handled pursuant to Options 3, Section 4(b)(6).[90] When configured for cancel, Market Makers will have their quotes cancelled whenever the quote would lock or cross the NBBO or be placed on the book at a price other than its limit price. Finally, the Exchange notes that similar to BX, this risk protection will not apply during an Opening Process because the order book is established once options series are open for trading.

Below are some examples of the Post-Only Quote Configuration functionality:

Re-Priced Post-Only Quote Configuration—Penny Interval Program Display and Execution Example

- Penny Interval Program MPV in open trading state
- Market Makers A and C do not have Post-Only Quote Configuration risk protection configured
- Market Maker B is configured for Post-Only Quote Configuration re-price
- Market Maker A quote $0.98 (10) x $1.00 (10)
- ABBO $0.96 × $1.03
- Market Maker B quote $1.00 (10) × $1.01 (10) arrives
  - Bid side of quote re-prices onto order book @0.99 and sets displayed NBBO to 10 quantity
  - Offer side rests at 1.01 without issue
- Market Maker C quote $0.97 (20) × $0.98 (20) arrives

Trades 10 with Market Maker B @$0.99 and 10 with Market Maker A @$0.98

Market Maker B avoids taking liquidity while Market Maker C, who chose not to be configured for such, removes liquidity by interacting with re-priced interest on MRX's order book.

Re-Priced Post-Only Quote Configuration—Non-Penny Interval Program Display and Execution Example

- Non-Penny Interval Program MPV in open trading state
- Market Maker A quote $0.95 (10) × $1.00 (10)
- ABBO $0.85 × $1.05
- Market Maker B (configured for Post-Only Quote Configuration and selection of re-price upon quote) quote arrives $1.00 (5) × $1.05 (5)
  - Bid side quote re-prices on order

[85] *See* BX Options 3, Section 15(a)(1)(B).

[86] *Id.* The Exchange will initially set the fixed dollar configuration at $0.05, identical to BX.

[87] *See* Options 3, Section 15(a)(1)(A) (currently providing that the limit order price protection does not apply to the opening process or during a trading halt).

[88] *See* BX Options 3, Section 15(c)(3).

[89] This would include any re-priced orders as described in the Re-Pricing Filing as proposed Options 3, Section 5(d), ALOs as described in proposed Options 3, Section 7(n), and any re-priced quotes as described in Options 3, Section 4(b)(6). As described above, ALOs may re-price.

[90] Options 3, Section 4(b)(6) provides that a quote will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. If, at the time of entry, a quote would cause a locked or crossed market violation or would cause a trade-through violation, it will either be re-priced and displayed at one minimum price variance above (for offers) or below (for bids) the national best price, or immediately cancelled, as configured by the Member.

book to $0.95
  - Displays on order book @$0.95 (bid), which now shows (15 quantity)
  - Offer side quote books and displays in Depth of Market Feed at $1.05
- Order to sell 10 contracts arrives @ $0.95
  - 7 contracts execute with Market Maker A @$0.95
  - 3 contracts execute with Market Maker B @$0.95

In this example, the Market Maker avoided taking liquidity by deploying the Post-Only Quote Configuration with re-price.

Kill Switch

As set forth in Options 3, Section 17, the Exchange offers an order cancellation Kill Switch, which is an optional tool that allows Members to initiate a message to the System to promptly cancel and restrict their order activity on the Exchange. Members may submit a Kill Switch request to the System for certain identifier(s) (''Identifier'') on either a user or group level.[91] Today, Members can log in through a graphical user interface (''GUI'') to send a message to the Exchange to initiate the order cancellation Kill Switch.[92] As an alternative to the GUI Kill Switch, Members may also send a message through one of the Exchange's order entry ports (*i.e.,* FIX and OTTO) to initiate the order cancellation Kill Switch.[93] Once a Member initiates the Kill Switch (either through the GUI or an order entry port), it will result in the cancellation of all existing orders for the requested Identifier(s). The Member will be unable to enter any additional orders for the affected Identifier(s) until the Member sends a re-entry request to the Exchange.[94]

Due to the lack of demand for the GUI Kill Switch by Members, the Exchange proposes to decommission this optional tool with the planned technology migration.[95] With the proposed changes, the Exchange seeks to streamline its product offerings and to reallocate Exchange resources to other business and risk management initiatives. While the Exchange will no longer offer this optional risk protection to Members through the GUI, it will continue to offer this functionality through FIX and OTTO.

In addition, all Members may contact the Exchange's market operations staff to request that the Exchange cancel any of their existing bids, offers, or orders in any series of options.[96] Furthermore, the Exchange will continue to have System-enforced risk mechanisms that automatically remove orders for the Member once certain pre-set thresholds or conditions are met. This includes risk protections such as the market wide risk protection[97] and cancel on disconnect.[98]

To effect the proposed decommission of the GUI Kill Switch for order cancellation, the Exchange proposes to amend Options 3, Section 17 by eliminating paragraph (a)(2) and related cross-cites within this rule. The Exchange will also renumber the paragraphs in this rule accordingly.

The Exchange notes that it previously amended its rules to decommission the quote removal Kill Switch that was available to Market Makers through the GUI.[99] The Exchange noted in SR–MRX–2021–10 that Market Makers did not use the GUI Kill Switch to remove their quotes, but rather, utilized other means such as the mass purge request through SQF. In this case, the Exchange similarly notes that no Members use the GUI Kill Switch to cancel their orders but rather, utilize other means like the port Kill Switch through FIX and OTTO to purge their existing orders from the System. As such, the Exchange believes that eliminating the GUI Kill Switch all together (including for orders as proposed herein) will streamline the Exchange's risk protection offerings in a manner that reflects Member use.

Data Feeds and TradeInfo

In connection with the technology migration, the Exchange proposes a number of enhancements to its current data feed offerings in Options 3, Section 23(a), many of which are intended to conform with current BX functionality, as specified below.

As set forth in Options 3, Section 23(a)(1), the Exchange offers the Nasdaq MRX Depth of Market Data Feed (''Depth of Market Feed''), which currently provides aggregate quotes and orders at the top five price levels on MRX, and provides subscribers with a consolidated view of tradable prices beyond the BBO, showing additional liquidity and enhancing transparency for MRX traded options. The data provided for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on the Exchange and identifies if the series is available for closing transactions only. In addition, subscribers are provided with total aggregate quantity, Public Customer aggregate quantity, Priority Customer aggregate quantity, price, and side (*i.e.,* bid/ask). This information is provided for each of the top five price levels on the Depth Feed. The feed also provides order imbalances on opening/reopening.

The Exchange now proposes to no longer provide book information for the top five price levels, and instead provide full depth-of-book information. As such, the Exchange will delete language that relates to top five price level information in the rule text. The Exchange also proposes to add more specificity around what would be provided in the opening/reopening order imbalance information (namely, the size of matched contracts and size of the imbalance). The Exchange further proposes a technical change to correct an erroneous reference to ''ISE'' within the rule text. The proposed changes will closely align the information provided on the Exchange's Depth of Market Feed with that of BX's Depth of Market Feed, except the Exchange will not offer auction and exposure notifications on its Depth of Market Feed like BX does today.[100] The Exchange already offers auction and exposure notifications on the Nasdaq MRX Order Feed as described below.[101] As amended,

[91] Identifiers include Exchange accounts, ports, and/or mnemonics. Thus, a Member using Kill Switch may elect to cancel orders for an individual Identifier (*e.g.,* mnemonic) or any group of Identifiers (*e.g.,* all mnemonics within one Member firm). Permissible groups must reside within a single Member firm. *See* Options 3, Section 17(a).

[92] *See* Options 3, Section 17(a)(2)

[93] *See* Options 3, Section 17(a)(1).

[94] *See* Options 3, Section 17(a)(3).

[95] No Members have used the GUI Kill Switch for order cancellation in 2022. The Exchange has provided notice to Members via Options Trader Alert. *See* Options Trader Alert #2022–30.

[96] The market wide risk protection automatically removes Member orders when certain firm-set thresholds are met. Once the thresholds are triggered, the Member must send a re-entry indicator to re-enter the System. *See* Options 3, Section 15(a)(1)(C).

[97] *See* Options 3, Section 19.

[98] When the OTTO or FIX Port detects the loss of communication with a Member's Client Application because the Exchange's server does not receive a Heartbeat message for a certain time period (''nn'' seconds), the Exchange will automatically logoff the Member's affected Client Application and if the Member has elected to have its orders cancelled pursuant to Section 18(f) (for OTTO) or Section 18(g) (for FIX) automatically cancel all orders. *See* Options 3, Section 18(c) and (d).

[99] *See* Securities Exchange Act Release No. 93004 (September 15, 2021), 86 FR 52516 (September 21, 2021) (SR–MRX–2021–10).

[100] *See* BX Options 3, Section 23(a)(1). As discussed below, the Exchange is instead proposing to offer these notifications on the Nasdaq MRX Order Feed. BX does not have a comparable order feed today.

[101] BX does not have a comparable order feed today. However, the proposed data elements in the MRX Order Feed already exist in the rules or technical specifications (for the Attributable Order content) of other options exchanges, as described below.

Options 3, Section 23(a)(1) would provide:

Nasdaq MRX Depth of Market Data Feed (''Depth of Market Feed'') is a data feed that provides full order and quote depth information for individual orders and quotes on the Exchange book and last sale information for trades executed on the Exchange. The data provided for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on the Exchange and identifies if the series is available for closing transactions only. The feed also provides order imbalances on opening/reopening (size of matched contracts and size of the imbalance).

As set forth in Options 3, Section 23(a)(2), the Exchange offers the Nasdaq MRX Order Feed (''Order Feed''), which currently provides information on new orders resting on the book (*e.g.,* price, quantity and market participant capacity). In addition, the feed also announces all auctions. The data provided for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on MRX and identifies if the series is available for closing transactions only. The feed also provides order imbalances on opening/reopening.

The Exchange now proposes to update the information that would be available on the Order Feed. In particular, the Exchange would include Attributable Order tags [102] (as provided by the Member) and related data content around displayed order types and specified order attributes (*e.g.,* OCC account number, give-up information, CMTA information).[103] The Exchange also proposes to add more specificity around what would be provided in the opening/reopening order imbalance information (namely, the size of matched contracts and size of the imbalance). This specifically aligns to the data elements in both BX's Depth of Market Feed in BX Options 3, Section 23(a)(1) and the Exchange's proposed Depth of Market Feed in proposed Options 3, Section 23(a)(1). The Exchange will continue to provide auction notifications on the Order Feed, but will relocate the existing language to the end of the rule and adopt new content by providing that the proposed Order Feed will provide exposure notifications as well.[104] As amended, Options 3, Section 23(a)(2) would provide:

Nasdaq MRX Order Feed (''Order Feed'') provides information on new orders resting on the book (*e.g.,* price, quantity, market participant capacity and Attributable Order tags when provided by a Member). The data provided for each option series includes the symbols (series and underlying security), displayed order types, order attributes (*e.g.,* OCC account number, give-up information, CMTA information), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on MRX and identifies if the series is available for closing transactions only. The feed also provides order imbalances on opening/reopening (size of matched contracts and size of the imbalance), auction and exposure notifications.

As set forth in Options 3, Section 23(a)(3), the Exchange offers the Nasdaq MRX Top Quote Feed, which currently calculates and disseminates MRX's best bid and offer position, with aggregated size (including total size in aggregate, for Professional Order size in the aggregate and Priority Customer Order size in the aggregate), based on displayable order and quote interest in the System. The feed also provides last trade information along with opening price, daily trading volume, high and low prices for the day. The data provided for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on MRX and identifies if the series is available for closing transactions only. The feed also provides order imbalances on opening/reopening.

The Exchange now proposes to harmonize certain features of this feed with BX's Top of Market Feed while retaining certain intended differences as specified below.[105] The Exchange first proposes to rename the Nasdaq MRX Top Quote Feed to the Nasdaq MRX Top of Market Feed (''Top Feed'') to match the BX feed name. The Exchange further proposes to no longer provide information for opening price, daily trading volume, high and low prices for the day. These are conforming changes that would align the information provided on the Exchange's Top Feed with information on BX's Top Feed.[106] The Exchange will continue to provide aggregated size information as a legacy holdover, which will be different than current BX functionality. Similarly, the Exchange will continue to provide opening/reopening order imbalance information on its Top Feed unlike BX. As amended, Options 3, Section 23(a)(3) will provide:

Nasdaq MRX Top of Market Feed (''Top Feed'') calculates and disseminates MRX's best bid and offer position, with aggregated size (including total size in aggregate, for Professional Order size in the aggregate and Priority Customer Order size in the aggregate), based on displayable order and quote interest in the System. The feed also provides last trade information and for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on MRX and identifies if the series is available for closing transactions only. The feed also provides order imbalances on opening/reopening.

As set forth in Options 3, Section 23(a)(4), the Exchange offers the Nasdaq MRX Trades Feed (''Trades Feed''), which currently displays last trade information along with opening price, daily trading volume, high and low prices for the day. The data provided for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on MRX and identifies if the series is available for closing transactions only. The Exchange proposes to no longer provide information for opening price, daily trading volume, high and low prices for the day to align to the changes proposed for the Top Feed described above. As amended, Options 3, Section 23(a)(4) will provide:

Nasdaq MRX Trades Feed (''Trades Feed'') displays last trade information. The data provided for each option series includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and whether the option series is available for trading on MRX and

[102] As discussed above, an Attributable Order is a market or limit order which displays the user firm ID for purposes of electronic trading on the Exchange. *See* Options 3, Section 7(h).

[103] The Exchange notes that Cboe has similar attributable order functionality in Cboe Rule 5.6(c) as an order a user designates for display (price and size) that includes the user's executing firm ID or other unique identifier. While Cboe does not have a comparable data feed rule, Cboe's technical specifications indicate that it currently has Participant ID and Client ID tags available on its Multicast PITCH data feed. *See* Section 4.6 in *https://cdn.cboe.com/resources/membership/US_EQUITIES_OPTIONS_MULTICAST_PITCH_SPECIFICATION.pdf* (relating to Participant ID or Client ID as optionally specified values).

[104] BX's Depth of Market Feed currently has identical content relating to auction and exposure notifications in BX Options 3, Section 23(a)(1). Exposure notifications are new with the introduction of routing and the removal of flash functionality in the Routing Filing. An exposure notification informs the market of an order that has arrived marketable against an ABBO and has a routing timer pursuant to the changes introduced to Options 5, Section 4 in the Routing Filing, while an auction notification is the notification of an auction for a Block, simple/complex Facilitation, simple/complex Solicited Order, simple/complex PIM auction, or a complex exposure auction pursuant to Supplementary Material .01 to Options 3, Section 14.

[105] *See* BX Options 3, Section 23(a)(2).

[106] *Id.*

identifies if the series is available for closing transactions only.

As set forth in Options 3, Section 23(a)(5), the Exchange offers the Nasdaq MRX Spread Feed (''Spread Feed''), which currently is a feed that consists of: (1) options orders for all Complex Orders (*i.e.,* spreads, buy-writes, delta neutral strategies, etc.); (2) data aggregated at the top five price levels (BBO) on both the bid and offer side of the market; (3) last trades information. The Spread Feed provides updates, including prices, side, size, and capacity, for every Complex Order placed on the MRX Complex Order Book. The Spread Feed shows: (1) aggregate bid/ask quote size; (2) aggregate bid/ask quote size for Professional Customer Orders; and (3) aggregate bid/ask quote size for Priority Customer Orders for MRX traded options. The feed also provides Complex Order auction notifications.

Similar to the proposed changes to the Depth of Market Feed above, the Exchange now proposes in the Spread Feed to no longer provide book information for the top five price levels, and instead provide full depth-of-book information. As such, the Exchange will delete language that relates to top five price level information in the rule text, and replace it with full depth language that is substantively similar to the language in the current BX Depth of Market Feed in BX Options 3, Section 23(a)(1) and in the Exchange's proposed Depth of Market Feed in Options 3, Section 23(a)(1), except the proposed language herein will be tailored to complex functionality. The Exchange also proposes to add Attributable Complex Order [107] tags (when provided by the Member) into the Spread Feed.[108] The Exchange also proposes to delete the following sentence: ''The Spread Feed provides updates, including prices, side, size, and capacity, for every Complex Order placed on the MRX Complex Order Book. The Spread Feed shows: (1) aggregate bid/ask quote size; (2) aggregate bid/ask quote size for Professional Customer Orders; and (3) aggregate bid/ask quote size for Priority Customer Orders for MRX traded options.'' The Exchange proposes instead to incorporate these concepts into the amended Spread Feed rule in a manner that is more consistent with the other amended rules in Options 3, Section 23(a).

As amended, Options 3, Section 23(a)(5) will provide:

Nasdaq MRX Spread Feed (''Spread Feed'') is a feed that consists of: (1) options orders for all Complex Orders (*i.e.,* spreads, buy-writes, delta neutral strategies, etc.); (2) full Complex Order depth information, including prices, side, size, capacity, Attributable Complex Order tags when provided by a Member, and order attributes (*e.g.,* OCC account number, give-up information, CMTA information), for individual Complex Orders on the Exchange book; (3) last trades information; and (4) calculating and disseminating MRX's complex best bid and offer position, with aggregated size (including total size in aggregate, for Professional Order size in the aggregate and Priority Customer Order size in the aggregate), based on displayable Complex Order interest in the System. The feed also provides Complex Order auction notifications.

In addition, the Exchange proposes to no longer offer TradeInfo, which is a user interface set forth in Options 3, Section 23(b)(2) that permits Members to: (i) search all orders submitted in a particular security or all orders of a particular type, regardless of their status (open, canceled, executed, etc.); (ii) view orders and executions; and (iii) download orders and executions for recordkeeping purposes. TradeInfo users may also cancel open orders at the order, port, or firm mnemonic level through TradeInfo. Due to the lack of demand for this interface by Members,[109] the Exchange seeks to decommission the TradeInfo interface when the Exchange migrates over to the enhanced Nasdaq platform with the technology migration.[110] The Exchange notes that FIX, FIX DROP,[111] and the Clearing Trade Interface (''CTI''),[112] which are available to all Members, can be used today to obtain order information that is currently available within TradeInfo, and FIX can be used to cancel orders today.

In connection with its proposal to retire TradeInfo, the Exchange also proposes to eliminate all references to TradeInfo in Options 7 (Pricing Schedule). Today, as set forth in Options 7, Section 6(ii)(3), the Exchange does not charge any fees for TradeInfo. With the proposed changes, the Exchange will amend Options 7 to delete Section 6(ii)(3) in its entirety.

Optional Risk Protections

The Exchange proposes to introduce optional quantity and notional value checks in new Options 3, Section 28, entitled ''Optional Risk Protections.'' The proposed optional order risk protections will be functionally identical to the protections currently offered by BX.[113] Members may use this voluntary functionality through their FIX protocols to limit the quantity and notional value they can send per order and on aggregate for the day. Specifically, Members may establish limits for the following parameters, as set forth in proposed subparagraphs (a)(1)–(4):

(1) Notional dollar value per order, which will be calculated as quantity multiplied by limit price multiplied by number of underlying shares;

(2) Daily aggregate notional dollar value;

(3) Quantity per order; and

(4) Daily aggregate quantity

Proposed paragraph (b) will provide that Members may elect one or more of the above optional risk protections by contacting Market Operations and providing a per order value (for (a)(1) and (a)(3)) or daily aggregate value (for (a)(2) and (a)(4)) for each order protection. Members may modify their settings through Market Operations. Proposed paragraph (c) will provide that the System will reject all incoming aggregated Member orders for any of the (a)(2) and (a)(4) risk protections after the value configured by the Member is exceeded. Proposed paragraph (d) will provide that the System will reject all incoming Member orders for any of the (a)(1) and (a)(3) risk protections upon

[107] An Attributable Complex Order is a Market or Limit Complex Order that is designated as an Attributable Order as provided in Options 3, Section 7(h). *See* Options 3, Section 14(b)(4).

[108] Cboe currently allows complex orders to be designated as Attributable. *See* Cboe Rule 5.33(b)(3). While Cboe does not have a comparable data feed rule, Cboe's technical specifications indicate that it currently has Participant ID and Client ID tags available on its Complex Multicast PITCH data feed. *See* Section 3.8 in *https://cdn.cboe.com/resources/membership/US_OPTIONS_COMPLEX_MULTICAST_PITCH_SPECIFICATION.pdf* (relating to Participant ID or Client ID as optionally specified values).

[109] No Members logged into TradeInfo in 2022.

[110] The Exchange provided notice to all Members through an Options Trader Alert. See Options Trader Alert #2022–29.

[111] FIX DROP is a real-time order and execution update message that is sent to a Member after an order been received/modified or an execution has occurred and contains trade details specific to that Member. The information includes, among other things, the following: (i) executions; (ii) cancellations; (iii) modifications to an existing order; and (iv) busts or post-trade corrections. *See* Options 3, Section 23(b)(3).

[112] CTI is a real-time cleared trade update message that is sent to a Member after an execution has occurred and contains trade details specific to that Member. The information includes, among other things, the following: (i) The Clearing Member Trade Agreement (''CMTA'') or The Options Clearing Corporation (''OCC'') number; (ii) badge or mnemonic; (iii) account number; (iv) information which identifies the transaction type (*e.g.,* auction type) for billing purposes; and (v) market participant capacity. *See* Options 3, Section 23(b)(1).

[113] *See* BX Options 3, Section 28. While BX's rule does not contain the level of granularity as proposed in the Exchange's rule, including how orders are rejected if any of the optional risk protection values are exceeded, the Exchange understands that BX's optional risk protections operate in the same manner.

arrival if the value configured by the Member is exceeded by the incoming order. The Exchange notes that the difference in handling between aggregate and individual order protections is necessary to allow for complete processing of the final order that puts a Member's configured value over the aggregate values configured. While individual orders can be directly measured against the configured values for (a)(1) and (a)(3), the aggregate values must be calculated after complete processing of an order and thus the rejection of orders begins upon the arrival of the next order after the aggregate values in (a)(2) or (a)(4) have been exceeded.

The following example shows how the System will reject all subsequent incoming aggregated orders after the (a)(2) or (a)(4) values configured by the Member have been exceeded:

Aggregate Quantity Limit = 800.

1. Member enters an Order to Buy 500—Accepted
2. Member enters an Order to Buy 400—Accepted (Member did not meet the configured limit of 800 with the first order of 500 at the time Member entered the second order)
3. Member enters an Order to Buy 1—Rejected (Member already exceeded the configured limit of 800 with the second order of 400)

The following example shows how the System will reject all incoming orders upon arrival if the (a)(1) or (a)(3) values configured by the Member have been exceeded by the arriving order:

Quantity per Order Limit = 800.

1. Member enters an Order to Buy 801—Rejected (Member exceeded the Quantity per order limit upon arrival with the order to buy 801 contracts)

Proposed paragraph (e) will provide that if a Member sets a notional dollar value, a Market Order would not be accepted from that Member. This is because notional dollar value is calculated by using an order's specified limit price, and Market Orders by definition are priced at the best available price upon execution. Lastly, proposed paragraph (f) will provide that the proposed risk protections are only available for orders entered through FIX. Additionally, all of the proposed settings will be firm-level.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[114] in general, and furthers the objectives of Section 6(b)(5) of the Act,[115] in particular, in that it is designed 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. As it relates to the elimination of fees for flash functionality and TradeInfo, the Exchange believes that its proposal is consistent with Section 6(b) of the Act,[116] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[117] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Generally, the Exchange's proposal is intended to add or align certain System functionality with functionality currently offered on BX in order to provide a more consistent technology offering across affiliated Nasdaq options exchanges. A more harmonized technology offering, in turn, will simplify technology implementation, changes, and maintenance by market participants of the Exchange that are also participants on Nasdaq affiliated options exchanges. The Exchange's proposal also seeks to provide greater harmonization between the rules of the Exchange and its affiliates, which would result in greater uniformity, and less burdensome and more efficient regulatory compliance by market participants. As such, the proposal 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. The Exchange believes that more consistent rules will increase the understanding of the Exchange's operations for market participants that are also participants on the Nasdaq affiliated options exchanges, thereby contributing to the protection of investors and the public interest. The proposal also seeks to memorialize existing functionality and add more granularity in the Exchange's rules to describe how existing functionality operates today. The Exchange believes that such changes would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed changes would promote transparency in Exchange rules and reducing potential confusion, thereby ensuring that Members, regulators, and the public can more easily navigate the Exchange's rulebook and better understand how options trading is conducted on the Exchange.

Routing Changes

The Exchange believes that the proposed amendments throughout Options 3 and Options 7 to conform to the Routing Filing is consistent with the Act. As discussed above, the Routing Filing harmonizes the Exchange's routing functionality with that of BX.[118] As part of this harmonization, the Routing Filing adopts or harmonizes routing strategies on the Exchange that are substantially identical to BX, (DNR, FIND, and SRCH), and eliminates existing Exchange routing functionality that BX does not offer today (flash functionality and Sweep Orders). The proposed changes to Options 3 and Options 7 herein will therefore ensure that the Rules conform to the amendments in the Routing Filing by removing references to flash functionality and Sweep Orders, eliminating do-not-route orders as an order type and describing it instead as a DNR routing strategy to harmonize with BX, and also making clear which routing strategies may now be utilized when submitting an order type. The Exchange believes that the proposed changes will bring greater clarity to the Rulebook, which would benefit market participants and investors by reducing potential confusion.

The Exchange's proposal to remove pricing related to flash functionality from Options 7 is reasonable, equitable, and not unfairly discriminatory because flash functionality would no longer be available to any Member. It is reasonable to remove the fees related to flash orders and the references to flash orders from the Exchange's Pricing Schedule as the Exchange is removing this functionality from its Rulebook. Additionally, it is equitable and not unfairly discriminatory to remove the fees related to flash orders and the references to flash orders from the Pricing Schedule because no Member would be able to utilize the flash functionality once it is removed from the System.

[114] 15 U.S.C. 78f(b).

[115] 15 U.S.C. 78f(b)(5).

[116] 15 U.S.C. 78f(b).

[117] 15 U.S.C. 78f(b)(4) and (5).

[118] As discussed above, the Routing Filing was filed by ISE to amend ISE Options 5. Because MRX Options 5 incorporates ISE Options 5 by reference, amendments to ISE Options 5 are accordingly integrated as amendments to MRX Options 5. *See supra* note 3.

Bulk Message

The Exchange believes that its proposal to memorialize its bulk message functionality is consistent with the Act as it will codify existing functionality, thereby promoting transparency in the Exchange's rules and reducing any potential confusion.[119] This functionality provides Market Makers with an additional tool to meet their various quoting obligations in a manner they deem appropriate, consistent with the purpose of the bulk message functionality to facilitate Market Makers' provision of liquidity. By providing Market Makers with additional control over the quotes they use to provide liquidity to the Exchange, this tool may benefit all investors through additional execution opportunities at potentially improved prices. As noted above, other options exchanges like Cboe currently offer similar bulk messaging functionality that allow their market participants to submit block quantity quotes in a single electronic message.[120]

The Exchange does not believe that the offering the bulk message functionality to only Market Makers would permit unfair discrimination. Market Makers play a unique and critical role in the options market by providing liquidity and active markets, and are subject to various quoting obligations (which other market participants are not, including obligations to maintain active markets, update quotes in response to changed market conditions, to compete with other Market Makers in its appointed classes, and to provide intra-day quotes in its appointed classes.[121] Bulk message functionality provides Market Makers with a means to help them satisfy these obligations.

Order Types

The Exchange believes that the proposed changes to the rules governing Exchange order types are consistent with the Act. As discussed above, the proposed changes consist of several functional enhancements to align the Exchange's order types to existing BX order types, and rule adjustments that add more specificity and clarity to existing order types.

Market Orders

The Exchange believes that the proposed changes to the definition of Market Orders in Options 3, Section 7(a) are consistent with the Act. The proposed intra-day cancel timer feature mirrors existing BX functionality in BX Options 3, Section 7(a)(5), and would provide Members with additional flexibility and control to bring the Market Order back to the Member so they can get an execution on another venue by canceling unexecuted Market Orders after a certain period of time. The Exchange believes it is appropriate to offer this feature intra-day because the Exchange already has a separate opening delay timer that provides protection to the market during the Opening Process as discussed above.

Intermarket Sweep Orders

The Exchange believes that the proposed changes to the definition of ISOs in Options 3, Section 7(b)(5) are consistent with the Act. As discussed above, the proposed changes are intended to add more granularity and more closely align the level of detail in the ISO rule with BX's ISO rule in BX Options 3, Section 7(a)(6) by specifying how the Exchange would handle ISOs, including how ISOs may be submitted and when. As such, the Exchange believes that its proposal will promote transparency in the Exchange's rules and consistency across the rules of the Nasdaq affiliated options exchanges.[122]

Furthermore, the proposed changes do not amend current ISO functionality except for the proposed stipulation that ISOs must have a TIF designation of IOC. Today, Options 5, Section 1(h) provides that ISOs may be either an IOC or an order that expires on the day it is entered. The Exchange believes it is appropriate to no longer allow non-IOC ISOs, as an ISO is generally used when trying to sweep a price level across multiple exchanges in an effort to post the balance of an order without locking an away market. The Exchange therefore believes that ISOs have a limited purpose and should be cancelled if they do not execute or do not entirely execute. This is also consistent with how BX currently handles ISOs in that BX only allows ISOs to be entered as IOC.

All-or-None Orders

The Exchange believes that the proposed changes to the definition of AON Orders in Options 3, Section 7(c) are consistent with the Act. As discussed above, the Exchange is memorializing current System behavior by specifying how AON Orders will execute against multiple, aggregated orders to align with the level of detail in BX Options 3, Section 7(a)(4)(A). The proposed description of the handling of AON Orders is consistent with the Exchange's allocation methodology in Options 3, Section 10 by making clear that because of the size contingency of the AON Order (*i.e.,* executed in its entirety or not at all), those orders must be satisfied simultaneously to avoid any priority conflict on the order book, which considers current displayed NBBO prices to avoid locked and crossed markets as well as trade-throughs. Finally, the proposed changes to add that AON Orders may not be submitted during the Opening Process will better articulate current System behavior, and aligns to the level of detail currently in BX's AON rule at BX Options 3, Section 7(a)(7).

Stop and Stop Limit Orders

The Exchange believes that the proposed changes to the definition of Stop Orders and Stop Limit Orders in Options 3, Sections 7(d) and 7(e), respectively, are consistent with the Act. The Exchange is proposing to codify current System behavior by adding that Stop Orders and Stop Limit Orders will be cancelled if they are immediately electable upon receipt. As discussed above, the purpose of each of these order types is to not execute upon entry, and instead rest in the System until the market reaches a certain price level, at which time the order could be executed. A Stop Order or Stop Limit Order that is immediately electable upon receipt would therefore negate the purpose of this order type, so the Exchange believes it is appropriate to cancel such orders to ensure that Members are able to use these order types to achieve their intended purpose. As noted above, the proposed changes to codify current Stop and Stop Limit Order handling will align the Exchange's rules with Phlx's Stop and Stop Limit Order rules.[123]

The Exchange believes that the proposed changes to specify current System functionality that Stop and Stop Limit Orders may only be entered into FIX will make clear that these order types are only available to be entered

[119] As discussed above, this existing functionality is currently described in the Exchange's publicly available technical specifications. *See supra* note 13.

[120] *See supra* note 16.

[121] *See* Options 2, Sections 4 and 5.

[122] As noted above, BX's ISO rule also currently states that ''ISOs may be entered on the Order Book or into the PRISM Mechanism pursuant to Options 3, Section 13(ii)(K).'' The Exchange will file a separate rule change to add similar language as BX relating to how ISOs may be entered on the Exchange.

[123] *See supra* notes 34 and 36.

through one of the two order entry protocols offered by the Exchange (*i.e.,* FIX and OTTO). As such, the proposed changes will promote transparency in the Exchange's rules and reduce any potential confusion.

Cancel and Replace Orders

The Exchange believes that the proposed changes to the rule governing Cancel and Replace Orders would promote clarity and make the rules easier to navigate. As discussed above, these are non-substantive changes to relocate the rule from Supplementary Material .02 to Options 3, Section 7 into the main body of the order types rule at Options 3, Section 7(f), updating incorrect cross-cites therein, and adding more granularity around how the Exchange will treat the cancellation and replacement of Reserve Orders.

Reserve Orders

The Exchange believes that the proposed changes to the Reserve Order rule at Options 3, Section 7(g) are consistent with the Act. The Exchange is proposing to add more granularity around how Members may elect to refresh the display quantity for the Reserve Order. The Exchange notes that the new rule text does not have any impact on the priority rules of the displayed or non-displayed portion of the Reserve Order. This refresh feature for Reserve Orders is intended to provide more flexibility and opportunities for Members to add displayed liquidity to the Exchange, which, in turn, benefits all market participants through more trading opportunities and enhanced price discovery. As discussed above, the proposed changes do not amend current functionality, but rather is intended to promote transparency around the current operation of Reserve Orders. Further, the Exchange believes that the non-substantive changes in the Reserve Order rule to renumber and reformat the paragraphs therein, and make corrective changes as described above, are consistent with the protection of investors and the public interest because they will simply make the Exchange's rules easier to navigate, thereby reducing any potential confusion. As noted above, other options exchanges like Cboe currently offer Reserve Orders that have similar refresh features.[124]

Attributable Orders

The Exchange believes that it is consistent with the Act to delete existing rule text in Options 3, Section 7(h), which currently indicates that Attributable Orders may be available for specified classes of securities, and to make a corrective change to ''a*n* Options Trader Alert.'' Because Attributable Orders are available for all classes of securities today, the Exchange is deleting this language as inaccurate. The Exchange believes that the proposed changes will promote transparency in the Exchange's rules.

Customer Cross Orders

The Exchange believes that the non-substantive amendment in Options 3, Section 7(i) to add that Customer Cross Orders may trade in accordance with Options 3, Section 12(a) is consistent with the protection of investors and the public interest because the proposal will simply add a cross reference in the Customer Cross Order rule to Section 12(a), which currently describes in detail how this order type would execute on the Exchange, thereby adding clarity to how Customer Cross Orders function today.

Qualified Contingent Cross Orders

The Exchange believes that the proposed changes to the QCC Order rule in Options 3, Section 7(j) to add a reference to ''QCC'' and to provide that QCC Orders will trade in accordance with Options 3, Section 12(c) are consistent with the Act because the changes are merely intended to add greater clarity to how QCC Orders function today. The Exchange further believes that specifying that QCC Orders may only be entered through FIX will better articulate current System behavior, and will make clear that QCC Orders are available to be entered through only one of the two order entry protocols currently offered by the Exchange (*i.e.,* FIX and OTTO), thereby reducing any potential confusion.

Preferenced Orders

The Exchange believes that its proposal to add a definition of Preferenced Orders in Options 3, Section 7(l) is consistent with the Act. While Preferenced Orders are currently described in Options 2, Section 10, the Exchange believes that it would be useful to have order types centralized within one rule to make the Rulebook easier to navigate for market participants. As noted above, Phlx similarly lists out Directed Orders (akin to Preferenced Orders) in its order types rule at Phlx Options 3, Section 7(b)(11).

Add Liquidity Orders

The Exchange believes that the proposed changes to the ALO rule in Options 3, Section 7(n) are consistent with the Act. As discussed above, the Exchange is enhancing current ALO functionality to reflect that the Exchange will handle ALOs in a consistent manner with the new continuous re-pricing mechanism that is being proposed concurrently in the Re-Pricing Filing as proposed Options 3, Section 5(d) in situations where the ALO would not lock or cross an order or quote on the System, but would lock or cross the NBBO.[125] The Exchange therefore believes that the proposed changes will make clear how the Exchange will handle ALOs under the new re-pricing mechanism. The ALO order type was adopted to provide market participants greater control over the circumstances in which their orders are executed. As noted above, the purpose of an ALO is to provide liquidity. For investors and market participants that elect only to provide liquidity in certain circumstances, such as to receive a maker fee (or rebate) upon execution of an order, the Exchange continues to believe that ALOs, as amended under this proposal, will continue to accommodate this strategy. The proposed order handling for ALOs is consistent with how ALOs are handled on BX today.[126]

The Exchange also believes that adding ''or quotes'' in the ALO rule at Options 3, Section 7(n) is consistent with the Act. Today, if at the time of entry, an ALO would lock or cross one or more non-displayed orders or quotes on the Exchange, the ALO will be cancelled or re-priced in the manner specified within the ALO rule. Adding this rule text will bring greater clarity around current ALO behavior.

The Exchange further believes that the proposed addition that ALOs may only be submitted when an options series is open for trading will make clear ALOs will not be accepted during the Opening Process as the order book is not available. The proposed changes codify existing System behavior, and will therefore promote transparency in the Exchange's rules.

QCC With Stock Orders

The Exchange believes that the non-substantive change to correct a cross-cite in the QCC with Stock Order rule in Options 3, Section 7(t) will promote clarity in the Exchange's rules.

Opening Sweep

The Exchange believes that the proposed changes to the Opening Sweep rule in Options 3, Section 7(u) are consistent with the Act. As discussed

[124] *See supra* note 39.

[125] *See supra* note 45.

[126] *See* BX Options 3, Section 7(a)(12).

above, the Exchange is codifying current System behavior and providing additional context to the rule in a manner that is consistent with Phlx's Opening Sweep rule in Phlx Options 3, Section 7(b)(6). The Exchange therefore believes that the proposed changes promote greater transparency in the Exchange's rules and consistency across the rules of the Nasdaq affiliated options exchanges. Specifically, because an Opening Sweep is an IOC order submitted by a Market Maker during the Opening Process, the Exchange is making clear that Opening Sweeps are entered though SQF in the proposed rule text. The Exchange also believes that it is appropriate to specify that Opening Sweeps are not subject to any risk protections in Options 3, Section 15 (except Automated Quotation Adjustments) because the Opening Process itself has boundaries (notably, the Quality Opening Market and the Opening Quote Range) within which orders will be executed. Finally, the proposed language relating to Opening Sweep participation in the Opening Process and cancellation upon the open merely provides additional context in the order type rule. As noted above, Opening Sweeps are already described in the opening rule today in Options 3, Section 8, and apply only during the Opening Process.

Time in Force

The Exchange believes that the proposed changes to the TIF rules are consistent with the Act. As discussed above, the Exchange believes that certain existing functionality currently described as an ''order type'' in Options 3, Section 7 would be more precisely described as a TIF attribute that designates the basic parameters of an order type. Relocating and centralizing the existing TIF rules into proposed Supplementary Material .02 to Options 3, Section 7 will therefore clearly delineate these order attributes and make the proposed rules easier to navigate. Codifying the definition of ''TIF'' in proposed Supplementary Material .02 will add greater clarity and transparency to the Exchange's rules in a manner consistent with BX Options 3, Section 7(b).

The Exchange believes that the adjustments in proposed Supplementary Material .02(a) to Options 3, Section 7 to add that Day orders may be entered through FIX or OTTO will add further granularity and clarity to the Exchange's rules. The proposed changes provide additional detail about current functionality in a manner that is consistent with the level of detail in BX's Day order.[127]

The Exchange believes that the adjustments to the relocated GTC and GTD rules in proposed Supplementary Material .02(b) and (c) will add further granularity and clarity to how these TIFs operate today. The Exchange further believes that aligning the level of detail in the GTD rule to the GTC rule, as described above, is appropriate because these two TIFs are meant to be functionally similar except the manner in which they persist in the System.

The Exchange believes that the proposed changes to the relocated IOC rule in proposed Supplementary Material .02(d) will promote greater transparency in the Exchange's rules by providing more granularity to current IOC functionality. Further, the changes conform the Exchange's IOC rule to BX's IOC rule, thereby promoting consistency across the rules of the Nasdaq affiliated options exchanges. Specifically, the proposed changes to remove the word ''limit'' will make clear that IOC orders may be sent as either a Market or Limit Order today, identical to BX IOC orders.[128] The proposed changes to state that IOC orders are not eligible for routing, and that IOC orders may be entered through FIX, OTTO, or SQF, will codify current IOC behavior in a manner that is consistent with BX's IOC rule.[129]

As it relates to the proposed changes to memorialize the various risk protections that are excluded from applying to Market Maker IOC orders entered through SQF, the Exchange believes this is appropriate because only Market Makers utilize SQF to enter IOC orders. As discussed above, Market Makers are professional traders with more sophisticated infrastructures than other market participants, and are able to manage their risk through their own risk settings in addition to the risk protections required by the Exchange. The Exchange will continue to apply the specified risk protections on IOC orders entered through FIX and OTTO, which are used by the other market participants. The proposed changes will harmonize the Exchange's IOC rule with BX's IOC rule.[130] Further, the proposal to add substantially similar exclusionary language into the SQF rule itself at Supplementary Material .03(c) to Options 3, Section 7 will make clear that these risk protections will not apply to IOC orders entered through SQF.

Specifying in the proposed IOC rule that orders entered into the Exchange's various auction and crossing mechanisms are considered to have a TIF of IOC memorializes current System behavior, and is intended to bring greater transparency in how these order types are handled today. As noted above, BX currently has substantially similar language in its IOC rule for BX PRISM orders in BX Options 3, Section 7(b)(2).

Lastly, the Exchange believes that the adjustments to the relocated OPG rule in proposed Supplementary Material .02(e) to Options 3, Section 7 will add granularity and clarity to how OPG orders operate, and will conform the OPG rule with the level of detail currently in BX's OPG rule in BX Options 3, Section 7(b)(1). As discussed above, the Exchange is proposing to enhance OPG functionality to allow both Market and Limit OPG orders whereas today, only Limit OPG orders are allowed. This harmonizes OPG functionality with BX OPG functionality. The other modifications to replace ''opening rotation'' with ''Opening Process,'' stating OPG orders may not route, and indicating that OPG orders are not subject to the protections listed in Options 3, Section 15 (except Size Limitation) all memorialize current OPG behavior, and align to the current BX OPG rule. As discussed above, the Exchange does not apply any of the risk protections in Options 3, Section 15 (except Size Limitation) because the Opening Process itself has boundaries within which orders will be executed.

Opening Process

The Exchange believes that the proposed changes to the Opening Process in Options 3, Section 8 are consistent with the Act. As discussed above, the Exchange is proposing to remove the current limitation that only allows Public Customers interest to route during the opening, and will instead allow all market participant interest to route. The proposed changes will serve to more closely align the Exchange's Opening Process with BX's Opening Process. Like BX, the Exchange believes that it will be beneficial to provide all market participants with the opportunity to have their interest executed on away markets during the Opening Process. The Exchange further believes that the related changes to remove references to ''Public Customer'' throughout Options 3, Section 8, and to update the cross-cite currently pointing to the Priority Customer priority overlay to the more general priority rule, will add clarity, transparency, and internal consistency to Exchange rules regarding

[127] *See supra* note 51.

[128] *See supra* note 52.

[129] *See supra* notes 53—54.

[130] *See supra* notes 59—60.

the proposed handling of routable interest during the Opening Process.

The Exchange believes that its proposal to no longer round in the direction of the previous trading day's closing price and simply round up to the MPV, if the mid-point of the highest and lowest of the Potential Opening Prices is not expressed as a permitted MPV, will simplify and bring greater transparency to the Opening Process, to the benefit of investors. Market participants can now have a better sense of how the Potential Opening Price will be calculated without having to account for the closing price of each options series. The Exchange believes this may promote greater efficiency in the marketplace especially in view of the continued growth in the number of options today.

The Exchange further believes that the proposed changes to replace ''are marketable against the ABBO'' with ''cross the ABBO'' will better articulate how the Exchange currently determines the OQR boundaries in the scenario specified in Options 3, Section 8(i)(3).

Auction Mechanisms

Facilitation and Solicited Order Mechanisms

The Exchange believes that its proposal to relocate the rule text relating to Responses from Supplementary Material .02 to Options 3, Section 11 into the introductory paragraph of Options 3, Section 11, and adding that Responses can be modified, is consistent with the Act. The Exchange is relocating this language into the introductory paragraph of Options 3, Section 11 after the definition of ''Response'' for better readability. The proposed change to add ''or modified'' to indicate that Responses may be canceled or modified any time prior to execution better aligns the rule text to current System behavior. As noted above, the rules for the complex Facilitation and Solicited Order Mechanisms in Options 3, Sections 11(c)(7) and (e)(4), respectively, already provide for this concept.

Price Improvement Mechanism

The Exchange's proposal to amend Options 3, Section 13(b)(4) to clarify the current rule text by adding the words ''or modified'' after ''canceled'' is consistent with the Act because the additional text will make clear that a Crossing Transaction may not be modified unless the Counter-Side Order is being improved during the exposure period.

The Exchange's proposal to add clarifying rule text within Options 3, Section 13(b)(5) which states, ''Crossing Transactions submitted at or before the opening of trading are not eligible to initiate an Auction and will be rejected'' is consistent with the Act because it will bring greater clarity to when a Crossing Transaction is currently eligible to initiate a PIM. The PIM considers both the NBBO and local book for its entry price validation and therefore requires an opening for the PIM to begin.

The Exchange's proposal to amend the current PIM functionality within Options 3, Section 13(c)(3) to permit Improvement Orders to be canceled or modified is consistent with the Act. The Exchange proposes to amend this functionality so that Improvement Orders may be canceled or modified similar to functionality on BX today within Options 3, Section 13(ii)(a)(8). Today, during the exposure period, Improvement Orders may not be canceled and Improvement Orders may be modified to (i) increase the size at the same price, or (ii) improve the price of the Improvement Order for any size up to the size of the Agency Order. The modification and cancellation of an Improvement Order through OTTO will be similar to the manner in which a Cancel and Replace Order would be handled outside of the auction process. For Improvement Orders through SQF, the modification and cancellation of such orders will be handled by sending new Improvement Orders that overwrite the existing Improvement Order with updated price/quantity instructions. Improvement Orders are not visible to other auction participants, including the Agency Order. The Exchange believes that providing responders with flexibility to cancel or modify their Improvement Orders may encourage market participants to respond to more auctions, including PIM.

The proposal to amend Options 3, Section 13(d)(5) to permit an auction to automatically terminate upon the occurrence of a trading halt with execution solely with the Counter-Side Order is consistent with the Act. This functionality would be similar to rule text within BX Options 3, Section 13(ii)(C). The Exchange believes that utilizing the price of the Counter-Side Order to execute the Crossing Transaction promotes just and equitable principles of trade, and fosters cooperation and coordination with persons engaged in facilitating transactions in securities since the Counter-Side Order has guaranteed that an execution will occur at the same price as the Crossing Transaction, or better, prior to the trading halt, and Improvement Orders offer no such guarantee, the Counter-Side Order is the only valid price at which to execute the Crossing Transactions, and the Counter-Side Order is the appropriate contra-side.[131]

The Exchange believes that the proposed System change to adopt a new same side execution price check for PIM in new subsection (d)(6) of Options 3, Section 13 is consistent with the Act. As discussed above, this feature would be functionally identical to BX PRISM in BX Options 3, Section 13(ii)(I). Like BX, the proposed price check is designed to ensure that the Exchange would not trade at prices that would lock or cross interest on the same side of the market as the Agency Order where limit orders have rested and obtained priority to execute at that price. In the event where a limit order arrives on the same side of the market as the Agency Order and is at the same or better price than the initiating Crossing Transaction price, the Exchange would execute the entire PIM transaction at the initiating Crossing Transaction price. The execution takes place at this price because the PIM is guaranteed an execution and the PIM agency side instructions would not allow an execution to take place at a higher (lower) price than submitted for a buying (selling) agency side PIM order. Considering that the limit order has arrived either at or better on the same side as the Agency Order than the agency side price, the initiating Crossing Transaction price is the only price at which the guaranteed execution can take place.

The Exchange's proposal to amend Options 3, Section 13(e)(4)(ii) to permit Improvement Complex Orders to be canceled or modified is consistent with the Act. Further, similar to the proposed change for simple PIM, the Exchange notes that the modification and cancellation of an Improvement Complex Order will be similar to the manner in which a Cancel and Replace Order would be handled outside of the auction process. Improvement Complex Orders are not visible to other auction participants, including the Agency Complex Order. Further, similar to the proposed changes for simple PIM, the Exchange believes that providing responders with flexibility to cancel or modify their Improvement Complex Orders may encourage market participants to respond to more auctions, including Complex PIM.

The Exchange's proposal to amend Options 3, Section 13(e)(4)(iv) at new

[131] The Exchange notes that trading on the Exchange in any option contract will be halted whenever trading in the underlying security has been paused or halted by the primary listing market.

''(D)'' to provide that the exposure period for a Complex PIM will automatically terminate when a resting Complex Order in the same complex strategy on either side of the market becomes marketable against the Complex Order Book or bids and offers for the individual legs is consistent with the Act. The proposed changes will codify current System behavior and will provide greater transparency to market participants for situations in which early termination would occur for Complex PIMs today. As noted above, Complex Order Exposure currently early terminates in similar situations, so the proposed language for Complex PIM closely tracks existing Complex Exposure language in Supplementary Material .01(b)(ii) to Options 3, Section 14.[132] The Exchange believes that it is appropriate to early terminate Complex PIM under these circumstances for the following reasons. When the resting Complex Order is on the same side as the Agency Complex Order, interest that becomes marketable against the resting Complex Order would also be marketable against the Complex PIM order. Therefore, early terminating the Complex PIM would allow the Complex PIM order to interact with this interest given that the Complex PIM order is at a superior price compared to the resting Complex Order, thus providing an opportunity for price improvement for the Agency Complex Order. Additionally, when the resting Complex Order is on the opposite side of the Agency Complex Order, interest that arrives marketable against the resting Complex Order is now at a superior price to the Agency Complex Order. The Exchange would therefore early terminate in this scenario and execute the Complex PIM order with its contra side order because it is no longer at top of book.

The Exchange's proposal to relocate the last sentence of Options 3, Section 13(e)(3) into Options 3, Section 13(e)(4)(iv) at new ''(E)'' is consistent with the Act. This non-substantive amendment will relocate the rule text to a more logical place within the Complex PIM rule.

The Exchange believes that its proposal to codify existing Complex PIM behavior in Options 3, Section 13(e)(5) to articulate that the complex mid-way price will be rounded to the $0.01 increment that favors the Agency Complex Order will promote clarity and transparency in the Exchange's rules by better aligning the rule text with the current operation of the System. As noted above, the simple PIM rule already articulates that the mid-way price will be rounded to the $0.01 increment that favors the Agency Order in Options 3, Section 13(d)(4). The rounding for Complex PIM currently operates the same way as simple PIM in this respect, so the proposed Complex PIM language closely tracks the simple PIM language.

Finally, the proposal to amend Supplementary Material .02 to Options 3, Section 15 to add a sentence which provides, ''It will be considered a violation of this Rule and will be deemed conduct inconsistent with just and equitable principles of trade and a violation of Options 9, Section 1 if an Electronic Access Member submits a PIM Order (initiating an auction) and also submits its own Improvement Order in the same auction,'' is consistent with the Act. BX has a similar prohibition within Options 3, Section 13(iii). The proposed new rule is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, by providing guidance to Members where certain behavior within a PIM will not be considered a bona fide transaction.

Order Price Protection

The Exchange believes that its proposal to replace its current Limit Order Price Protection with a similar ''fat finger'' check called Order Price Protection in Options 3, Section 15(a)(1)(A) is consistent with the Act. The proposed OPP would similarly prevent the execution of limit orders at prices outside pre-set numerical or percentage parameters, and is designed to prevent limit orders entered at clearly unintended prices from executing in the System to the detriment of market participants. The proposed risk protection is also functionally similar to BX's OPP in BX Options 3, Section 15(a)(1), and therefore is not novel.[133] Similar to BX, the Exchange believes that the proposed fixed dollar amount and percentage parameters will protect against erroneous executions, while also allowing orders to execute within a reasonable range.

The Exchange believes that using the Reference BBO (*i.e.,* better of the NBBO or the internal market BBO) to calculate the proposed OPP, identical to current BX OPP functionality, will similarly protect investors and the public interest where the internal market BBO is better than the NBBO.

The Exchange further believes that its proposal to add language allowing Exchange discretion to temporarily deactivate OPP on an intra-day basis is consistent with the Act. BX has identical language today in BX Options 3, Section 15(a)(1)(A)(i), and similar to BX, the Exchange believes that having this discretion will be useful if the Exchange determined that unusual market conditions warranted deactivation in the interest of a fair and orderly market. Like BX, the Exchange believes that it will be useful to have the flexibility to temporarily disable OPP intra-day in response to an unusual market event (*e.g.,* if dissemination of data was delayed and resulted in unreliable underlying values needed for the Reference BBO) to maintain a fair and orderly market. This will promote just and equitable principles of trade and ultimately protect investors.

Post-Only Quoting Protection

The Exchange's proposal to adopt a new Post-Only Quote Configuration in Options 3, Section 15(a)(3)(C) to permit Market Makers to prevent their quotes from removing liquidity from the Exchange's order book promotes equitable principles of trade and protects investors and the public interest by enhancing the risk protections available to Market Makers. This optional risk protection would enable Market Maker to better manage their risk when quoting on the Exchange. As noted above, BX offers identical functionality today in BX Options 3, Section 15(c)(3).

The proposed risk protection allows Market Makers the ability to avoid removing liquidity from the Exchange's order book if their quote would otherwise lock or cross any resting order or quote on the Exchange's order book upon entry, thereby protecting investors and the general public as Market Makers transact a large number of orders on the Exchange and bring liquidity to the marketplace. Market Makers would utilize the proposed risk protection to avoid unintentionally taking liquidity

[132] Supplementary Material .01(b)(ii) of MRX Options 3, Section 14 provides: ''The exposure period for a Complex Order will end immediately: (A) upon the receipt of a Complex Order for the same complex strategy on either side of the market that is marketable against the Complex Order Book or bids and offers for the individual legs; (B) upon the receipt of a non-marketable Complex Order for the same complex strategy on the same side of the market that would cause the price of the exposed Complex Order to be outside of the best bid or offer for the same complex strategy on the Complex Order Book; or (C) when a resting Complex Order for the same complex strategy on either side of the market becomes marketable against interest on the Complex Order book or bids and offers for same individual legs of the complex strategy.''

[133] As noted above, the Exchange is proposing to adopt an OPP rule that more accurately describes the proposed functionality than BX's current OPP rule, so BX will align its current OPP rule to the Exchange's proposed rule text in a separate rule filing.

with resting interest [134] on the order book. As a result of taking liquidity, Market Makers would incur a taker fee that may impact the Market Maker's ability to provide liquidity and meet quoting obligations. Market Makers are required to add liquidity on the Exchange and, in turn, are rewarded with lower pricing [135] and enhanced allocations.[136] Specifically, the risk protection would permit Market Makers to add liquidity only and avoid removing resting interest on the order book, which will lead to enhanced liquidity on the Exchange and in turn will benefit and protect investors and the public interest through the potential for greater volumes of orders and executions on the Exchange.

The Exchange does not believe that introducing this Post-Only Quote Configuration will unfairly discriminate among market participants. Today, all Members may utilize the existing Add Liquidity Order type to prevent orders from removing liquidity from the Exchange's order book upon entry. The Post-Only Quote Configuration is available to Market Makers only as a risk protection. Unlike other market participants, Market Makers have certain obligations on the market, such as requirements to provide continuous two-sided quotes on a daily basis [137] and are subject to various obligations associated with providing liquidity on the market.[138] Market Makers are liquidity providers on the Exchange and, therefore, are offered certain quote risk protections noted to allow them to manage their risk more effectively.[139] The proposed Post-Only Quote Configuration is another risk protection afforded to Market Makers to assist them in managing their risk while continuing to comply with their obligations. The Exchange notes that enhancing the ability of Market Makers to add liquidity and avoid taking liquidity from the order book promotes just and equitable principles of trade on the Exchange and protects investors and the public interest, thereby enhancing market structure by allowing Market Makers to add liquidity only. Greater liquidity benefits all market participants by providing more trading opportunities and attracting greater participation by Market Makers. Also, an increase in the activity of Market Makers in turn facilitates tighter spreads.

Kill Switch

The Exchange does not believe that the proposed decommission of the GUI Kill Switch for order cancellation will affect the protection of investors or the public interest or the maintenance of a fair and orderly market because no Members have used the GUI Kill Switch risk protection in 2022.[140] The Exchange does not charge any fees for the GUI Kill Switch. In addition, the Exchange notes that the use of this tool is completely optional, and the Exchange will continue to offer substantially similar Kill Switch functionality through FIX and OTTO. As set forth in the Kill Switch rule, the GUI Kill Switch allows for the cancellation and restriction of orders for the requested Identifier(s) on a user or group level, whereas the port Kill Switch allows for cancellation and restriction of orders for the requested Identifier(s) on a user level.[141] While the GUI Kill Switch had more optionality around how Members may combine the Kill Switch request by Identifier(s), no Members have used the GUI Kill Switch risk protection this year. Furthermore, Members will retain the ability to contact market operations staff to manually purge their orders from the market. In addition, the Exchange will continue to implement System-enforced risk mechanisms that automatically remove orders for the Member once certain pre-set thresholds or conditions are met (*i.e.,* market wide risk protection and cancel on disconnect).

Also, the Exchange believes that the low usage rate for the GUI Kill Switch does not warrant the continuous resources necessary for System support of such tools. As a result, the Exchange believes that the proposal will remove impediments to and perfect the mechanism of a free and open market and a national market system by allowing the Exchange to reallocate System capacity and resources currently used to maintain this functionality to the development and maintenance of other business initiatives and risk management products.

As noted above, the Exchange previously amended its rules to decommission the quote removal Kill Switch that was available to Market Makers through the GUI.[142] Similar to the GUI Kill Switch for quote removal, the Exchange has found that no Members use the GUI Kill Switch to cancel their orders, but rather, utilize other means to purge their existing orders from the System. The Exchange therefore believes that eliminating the GUI Kill Switch all together (including for orders as proposed herein) will streamline the Exchange's risk protection offerings in a manner that reflects Member use.

Data Feeds and Trade Information

The Exchange believes that the proposed changes to the current data feed offerings in Options 3, Section 23(a) are consistent with the Act. Specifically, the Exchange believes that the proposed changes to its Depth of Market Feed to provide full depth-of-market information will serve to more closely align the information provided on the Exchange's Depth of Market Feed with that of BX's Depth of Market Feed in BX Options 3, Section 23(a)(1), thereby ensuring a more consistent technology offering across the Nasdaq affiliated options exchanges. The Exchange also believes that the modified Depth of Market Feed will help to protect a free and open market by providing additional data to the marketplace. The Exchange further believes that the proposed changes to add more specificity around what would be provided in the opening/reopening order imbalance information, and to correct an erroneous reference to ''ISE'' in the Depth of Market Feed rule will promote transparency and clarity in the Exchange's rules.

The Exchange believes that the proposed changes to the Order Feed around what type of information would be available on this data feed offering, as further described above, will promote clarity and transparency in the Exchange's rules. Furthermore, the proposed data elements in the Order Feed are based on data elements that currently exist on other markets. For instance, the specificity around what would be provided in the opening/reopening order imbalance information, as well as the auction and exposure notifications are identical to the content within BX's Depth of Market Feed in BX Options 3, Section 23(a)(1). As noted above, the Attributable Order content is similar to the data elements on Cboe's current multicast PITCH feed.[143]

The Exchange believes that the proposed changes to the existing Top

[134] As noted above, this would include any re-priced orders as described in the Re-Pricing Filing as proposed Options 3, Section 5(d), ALOs as described in proposed Options 3, Section 7(n), and any re-priced quotes as described in Options 3, Section 4(b)(6). As discussed above, ALOs may re-price.

[135] *See* Options 7, Section 3.

[136] *See* Options 3, Section 10.

[137] *See* Options 2, Section 5(e).

[138] *See* Options 2, Section 4.

[139] Options 3, Section 15(a)(3) currently sets forth the Anti-Internalization and Quotation Adjustments Protections that are available today to Market Makers.

[140] As noted above, the Exchange has provided notice of the decommission to all Members via Options Trader Alert. See Options Trader Alert #2022–30.

[141] *See* Options 3, Section 17(a)(1) and (2).

[142] *See supra* note 99.

[143] *See supra* note 103.

Quote Feed to rebrand into the Top Feed, to no longer provide information for opening price, daily trading volume, and high and low prices for the day, will serve to further align the Exchange's Top Feed with BX's Top Feed in BX Options 3, Section 23(a)(2), thereby ensuring a more consistent technology offering across the Nasdaq affiliated options exchanges.

The proposed changes to the Trades Feed to no longer provide information for opening price, daily trading volume, and high and low prices for the day are intended to align to the proposed changes to the Top Feed described above. The Exchange believes that removing this language will promote clarity and transparency in the Exchange's rules.

The proposed changes to the Spread Feed to provide full depth-of-book information rather than at the first five price levels are intended to align to the proposed changes to the Depth of Market Feed described above. The proposed full depth language will also be substantially similar to the full depth language in BX's Depth of Market Feed in BX Options 3, Section 23(a)(1) and in the Exchange's proposed Depth of Market Feed in proposed Options 3, Section 23(a)(1), except the proposed language herein will be tailored to complex functionality. Furthermore, the proposed Attributable Complex Order content is similar to the content currently on Cboe's Complex Multicast PITCH feed.[144] The Exchange believes that the modified Spread Feed will help to protect a free and open market by providing additional data to the marketplace. The Exchange also believes that the proposed changes to reorganize and incorporate existing concepts in the Spread Feed rule a manner that is more consistent with the other amended data feed rules in Options 3, Section 23(a) will make the rules easier to navigate for market participants.

The Exchange believes that it is consistent with the Act to no longer offer TradeInfo when the Exchange migrates over the enhanced Nasdaq functionality, as there is a lack of demand from Members.[145] The Exchange does not assess a fee for TradeInfo. As noted above, Members use FIX, FIX DROP, and CTI to obtain order information currently available in TradeInfo, and to cancel orders through FIX. The Exchange further believes that the proposed decommission of TradeInfo will remove impediments to and perfect the mechanism of a free and open market and a national market system by allowing the Exchange to reallocate System capacity and resources currently used to maintain this functionality to the development and maintenance of other business initiatives and risk management products.

The Exchange's proposal to eliminate TradeInfo pricing from Options 7, Section 6(ii)(3) in its entirety is reasonable, equitable, and not unfairly discriminatory because TradeInfo would no longer be available to any Member. It is reasonable to remove all references to TradeInfo pricing from the Exchange's Pricing Schedule as the Exchange is removing this functionality from its Rulebook. As discussed above, the Exchange does not assess a fee for TradeInfo today. Additionally, it is equitable and not unfairly discriminatory to remove the references to TradeInfo pricing from the Pricing Schedule because no Member would be able to utilize this functionality once it is removed from the System.

Optional Risk Protections

The Exchange believes that introducing the optional quantity and notional value risk protections as described above will protect investors and the public interest, and maintain fair and orderly markets, by providing market participants with another tool to manage their order risk. As noted above, BX offers functionally identical optional risk protections in BX Options 3, Section 28.[146] In addition, providing Members with more tools for managing risk will facilitate transactions in securities because Members will have more confidence that risk protections are in place. As a result, the new functionality has the potential to promote just and equitable principles of trade.

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 not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a competitive market and regularly competes with other options exchanges for order flow. As discussed above, the Exchange is re-platforming its System in connection with the technology migration to enhanced Nasdaq functionality, which the Exchange believes would promote competition among options exchanges by potentially attracting additional order flow to the Exchange with the enhanced trading platform.

As it relates to the elimination of fees for flash functionality and TradeInfo from Options 7, the Exchange believes that its proposal does not impose an undue burden on competition because the flash functionality and TradeInfo would no longer be available to any Members.

The basis for the majority of the proposed rule changes are the rules of the Nasdaq affiliated options exchanges, which have been previously filed with the Commission as consistent with the Act. As it relates to bulk messaging for quotes as proposed in Options 3, Section 4(b)(3), the Exchange notes that Cboe similarly allows for bulk messaging in Cboe Rule 1.1, except Cboe also allows bulk messaging for orders, unlike the Exchange. As it relates to the proposal in Options 3, Section 7(g)(4) to codify the refresh features into the Exchange's Reserve Order rule, the Exchange notes that Cboe's Reserve Order functionality has similar refresh features in Cboe Rule 5.6(c). As it relates to the proposal in Options 3, Section 23(a) to add Attributable Order and Attributable Complex Order content in the Order Feed and Spread Feed, respectively, Cboe currently has similar data elements available on its Multicast PITCH feed and Complex Multicast PITCH feed.[147]

The proposed rule changes are based on the following rules of the Nasdaq affiliated exchanges:

- The Market Order proposal in Options 3, Section 7(a) will be materially identical to BX's Market Orders in BX Options 3, Section 7(a)(5).
- The ISO proposal in Options 3, Section 7(b)(5) will be substantially similar to BX's ISO in BX Option 3, Section 7(a)(6). Unlike BX, the Exchange's ISO proposal will not refer to how ISOs may be entered on the Exchange as the Exchange intends address that in a separate rule filing.
- The Exchange's AON proposal will be substantially similar to BX's Contingency Order rule in BX Options 3, Section 7(a)(4)(A) (except BX's rule also describes Minimum Quantity Orders, which the Exchange does not offer today) and BX's AON rule in BX Options 3, Section 7(a)(7).

[144] *See supra* note 108.

[145] As noted above, the Exchange provided notice of the decommission to all Members through an Options Trader Alert. *See* Options Trader Alert #2022–29.

[146] As noted above, while the proposed rule text in Options 3, Section 28 adds more granularity, including around how orders are rejected when the value thresholds for the options risk protections are exceeded, the Exchange understands that the BX optional risk protections operate in the same manner.

[147] *See supra* notes 103 and 108.

• The Stop Order proposal in Options 3, Section 7(d) will be substantially similar to Phlx Options 3, Section 7(b)(4), except Phlx does not currently explicitly state that Phlx Stop Orders may only be entered through FIX because Phlx only offers one order entry protocol (FIX), unlike the Exchange, which offers two (FIX and OTTO).

• The Stop Limit Order proposal in Options 3, Section 7(e) will be substantially similar to Phlx Options 3, Section 7(b)(4)(A), except Phlx does not currently explicitly state that Phlx Stop Limit Orders may only be entered through FIX for the same reasons stated for Stop Orders above.

• The Preferenced Order proposal in Options 3, Section 7(l) will be materially identical to Phlx's Directed Order rule in Phlx Options 3, Section 7(b)(11).

• The ALO proposal in Options 3, Section 7(n) will be materially identical to BX ALOs in BX Options 3, Section 7(a)(12).

• The Opening Sweep proposal in Options 3, Section 7(u) will be materially identical to the Phlx Opening Sweep in Phlx Options 3, Section 7(b)(6).

• The Day order proposal in Supplementary Material .02(a) to Options 3, Section 7 will be substantially similar to BX Options 3, Section 7(b)(3), except BX's rule does not refer to OTTO because BX does not offer OTTO functionality today.

• The IOC proposal in Supplementary Material .02(d) to Options 3, Section 7 will be substantially similar to BX's IOC in BX Options 3, Section 7(b)(2), except the BX rule does not refer to OTTO or Complex Order Price Protection as BX does not offer these features today.

• The OPG proposal in Supplementary Material .02(e) to Options 3, Section 7 will be materially identical to BX's OPG in BX Options 3, Section 7(b)(1).

• The Opening Process proposal in Options 3, Section 8 to allow all market participant interest to route will be identical to BX's Opening Process in BX Options 3, Section 8.

• The following proposed changes to PIM are based on BX PRISM: (1) proposed Options 3, Section 13(b)(5) will be materially identical to BX Options 3, Section 13(i)(E); (2) proposed Options 3, Section 13(c)(3) will be materially identical to BX Options 3, Section 13(ii)(A)(8); (3) proposed Options 3, Section 13(d)(5) will be functionally similar to BX Options 3, Section 13(ii)(C); (4) proposed Options 3, Section 13(d)(6) will be functionally similar to BX Options 3, Section 13(ii)(I); (5) proposed Options 3, Section 13(e)(4)(ii) will be functionally similar to BX Options 3, Section 13(ii)(A)(8) with respect to the ability to cancel or modify PIM responses (Improvement Orders); and (6) proposed Supplementary Material .02 to Options 3, Section 13 will be materially identical to BX Options 3, Section 13(iii).

• The proposed OPP risk protection in Options 3, Section 15(a)(1)(A) will be functionally similar to BX OPP in BX Options 3, Section 15(a)(1).[148]

• The proposed Post-Only Quote Configuration in Options 3, Section 15(a)(3)(C) will be functionally identical to the BX Post-Only Quote Configuration in BX Options 3, Section 15(c)(3).

• The Depth of Market Feed proposal in Option 3, Section 23(a)(1) will be substantially similar to the BX Depth of Market Feed in BX Options 3, Section 23(a)(1), except the Exchange will not offer auction and exposure notifications on its Depth of Market Feed like BX does today.

• The Order Feed proposal in Options 3, Section 23(a)(2) will contain data elements that are identical to those on BX's Depth of Market Feed in BX Options 3, Section 23(a)(1), specifically around what would be provided in the opening/reopening order imbalance information (*i.e.,* the size of matched contracts and size of the imbalance), and auction and exposure notifications.

• The Top Feed proposal in Options 3, Section 23(a)(3) will be substantially similar to the BX Top Feed in BX Options 3, Section 23(a)(2), except the Exchange will continue to provide aggregated size information unlike BX.

• The Spread Feed proposal in Options 3, Section 23(a)(5) will contain full depth language that is substantially similar to BX's Depth of Market Feed in BX Options 3, Section 23(a)(1), except the proposed language in the Spread Feed will be tailored to complex functionality.

• The proposed optional quantity and notional value risk protections in Options 3, Section 28 will be functionally identical to the protections in BX Options 3, Section 28.[149]

The Exchange reiterates that the proposed rule change is being proposed in the context of the technology migration to enhanced Nasdaq functionality. The Exchange further believes the proposed rule change will benefit Members by providing a more consistent technology offering, as well as consistent rules, for market participants on the Nasdaq affiliated options exchanges. In addition, the proposed rule change relates to adding clarity and consistency in the Exchange's Rulebook, and are designed to reduce any potential investor confusion as to the features and applicability of certain functionality presently available on the Exchange.

The Exchange does not believe that the proposed rule change will impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act, as the majority of the proposed changes will apply to all Members. As it relates to the proposed rule change relating to bulk message functionality, while the Exchange currently offers this functionality to Market Makers only, bulk messaging is intended to provide Market Makers with an additional tool to meet their various quoting obligations in a manner they deem appropriate. As such, the Exchange believes that this functionality may facilitate Market Makers' provision of liquidity, thereby benefiting all market participants through additional execution opportunities at potentially improved prices. Furthermore, while the Exchange will offer the proposed Post-Only Quote Configuration to Market Makers only, the proposed risk protection will enhance the ability of Market Makers to add liquidity and avoid removing liquidity from the Exchange's order book in the manner described above. Greater liquidity benefits all market participants by providing more trading opportunities and attracting greater participation by Market Makers. The Exchange also does not believe that the proposed decommission of the GUI Kill Switch for order cancellation will impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, the Exchange previously amended its rules to decommission the quote removal Kill Switch that was available to Market Makers through the GUI.[150] The Exchange therefore believes that eliminating the GUI Kill Switch for order cancellation will streamline the Exchange's risk protection offerings in a manner that reflects Member use. The Exchange will continue to offer substantially similar Kill Switch functionality through FIX and OTTO.

[148] As noted above, BX will file a separate rule change to conform its OPP rule to the Exchange's proposed rule.

[149] As noted above, while the proposed rule text in Options 3, Section 28 adds more granularity, including around how orders are rejected when the value thresholds for the options risk protections are exceeded, the Exchange understands that the BX optional risk protections operate in the same manner.

[150] *See supra* note 99.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing 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)(iii) of the Act[151] and subparagraph (f)(6) of Rule 19b–4 thereunder.[152]

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 to determine whether the proposed rule 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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MRX–2022–18 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–MRX–2022–18. 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 (*http://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 10:00 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. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MRX–2022–18 and should be submitted on or before November 1, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[153]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–21984 Filed 10–7–22; 8:45 am]

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[151] 15 U.S.C. 78s(b)(3)(A)(iii).

[152] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[153] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95972; File No. SR–NYSENAT–2022–22]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Connectivity Fee Schedule

October 4, 2022.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 21, 2022, NYSE National, Inc. (''NYSE National'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Connectivity Fee Schedule related to colocation to remove obsolete text. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Connectivity Fee Schedule related to colocation to remove Partial Cabinet Solution bundles Options A and B as obsolete.[4]

The Exchange recently deleted the service ''LCN Access—1 Gb Circuit'' from the list of types of services available in colocation, due to the lack of User demand for 1 Gb LCN ports.[5] In

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange is an indirect subsidiary of Intercontinental Exchange, Inc. (''ICE''). Each of the Exchange's affiliates New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., and NYSE Chicago, Inc. (the ''Affiliate SROs'') has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2022–45, SR–NYSEAMER–2022–43, SR–NYSEARCA–2022–64, and SR–NYSECHX–2022–22.

[5] *See* Securities Exchange Act Release No. 95362 (July 25, 2022), 87 FR 45828 (July 29, 2022) (SR–NYSENAT–2022–12).

making that change, the Exchange explained that the number of 1 Gb LCN ports purchased by Users had steadily declined from 4 in 2017, to 2 in 2018, to 1 in 2021, to zero in 2022. The Exchange understands that this fall-off in demand for the 1 Gb LCN port is due to the fact that market data feeds continue to increase in bandwidth, such that Users prefer to purchase larger port sizes. Based on this trend, the Exchange explained that it believes that there is no remaining User demand for the 1 Gb LCN port, and discontinued the service as obsolete.

The same rationale applies equally to two of the Exchange's Partial Cabinet Solution (''PCS'') bundles: Options A and B. Options A and B each include various bundled services, including, among other things, a 1 Gb LCN connection. Although Options A and B have been offered by the Exchange and its Affiliate SROs since 2016,[6] no Users ever purchased an Option B bundle, and only one User purchased an Option A bundle, which it canceled in July 2021. There are currently no Users purchasing either an Option A or B bundle. Accordingly, the Exchange believes that there is no remaining User demand for Options A or B, and proposes to discontinue them as obsolete.

Application and Impact of the Proposed Changes

The Exchange does not expect that the proposed changes would have any impact. As noted above, there was only ever one User that purchased either an Option A or B bundle, and that User canceled its bundled service over a year ago, in July 2021. There are currently no purchasers of either Option A or B bundles.

The proposed changes would not have any affect on the two remaining PCS bundles, Options C and D, which include 10 Gb ports.

In addition, the proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users[7] equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Connectivity Fee Schedule is applied uniformly to all Users.

Competitive Environment

The proposed changes are not otherwise intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that discontinuing offering the Option A and B PCS bundles would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. There was only ever one User that purchased either an Option A or B bundle, and that User canceled its bundled service over a year ago, in July 2021. There are currently no purchasers of either Option A or B bundles. The Exchange does not expect demand for Options A and B to rebound given Users' overall preference for larger port sizes to accommodate larger market data feeds. Removing references to the fees for these obsolete options from the Connectivity Fee Schedule would make the Connectivity Fee Schedule easier to read, understand, and administer.

The Exchange believes that the proposed rule change does not significantly affect the protection of investors or the public interest. The proposed rule change would delete obsolete services from the Connectivity Fee Schedule in order to enhance transparency and alleviate potential customer confusion.

The Exchange believes that deleting obsolete services from the Connectivity Fee Schedule would not permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed changes would apply equally to all Users.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[10] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed rule change would not place 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 issues but rather is designed to enhance the clarity and transparency of the Connectivity Fee Schedule and alleviate possible customer confusion that may arise from the inclusion of obsolete services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the

[6] *See, e.g.,* Securities Exchange Act Release No. 77072 (February 5, 2016), 81 FR 7394 (Feb. 11, 2016) (SR–NYSE–2015–53).

[7] For purposes of the Exchange's colocation services, a ''User'' means any market participant that requests to receive colocation services directly from the Exchange. *See* Securities Exchange Act Release No. 83351 (May 31, 2018), 83 FR 26314 at n.9 (June 6, 2018) (SR–NYSENAT–2018–07). As specified in the Connectivity Fee Schedule, a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Affiliate SROs.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(8).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

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) [13] 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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSENAT–2022–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSENAT–2022–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://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 10:00 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. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSENAT–2022–22 and should be submitted on or before November 1, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–21980 Filed 10–7–22; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–069, OMB Control No. 3235–0069]

Submission for OMB Review; Comment Request; Extension: Industry Guide

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 (''Commission'') has submitted to the Office of Management and Budget this requests for extension of the previously approved collection of information discussed below.

Industries Guides are used by registrants in certain industries as disclosure guidelines to be followed in presenting information to investors in registration statements and reports under the Securities Act (15 U.S.C. 77a *et seq.*) and Exchange Act (15 U.S.C. 78a *et seq.*). The paperwork burden from the Industry Guides is imposed through the forms that are subject to the disclosure requirements in the Industry Guides and is reflected in the analysis of these documents. To avoid a Paperwork Reduction Act inventory reflecting duplicative burdens and for administrative convenience, the Commission estimates the total annual burden imposed by the Industry Guides to be one hour. The information required by the Industry Guides is filed on occasion and is mandatory. All information is provided to the public. The Industry Guides do not directly impose any disclosure burden.

An agency may conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid 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 November 10, 2022 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: October 4, 2022.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–21955 Filed 10–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95978; File No. SR–CboeBZX–2022–035]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade Shares of the VanEck Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

October 4, 2022.

On June 24, 2022, Cboe BZX Exchange, Inc. (''BZX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the VanEck Bitcoin Trust (''Trust'') under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The proposed rule change was published for comment in the **Federal Register** on July 13, 2022.[3] The Commission has received no comments on the proposed rule change.

On August 24, 2022, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 95218 (July 7, 2022), 87 FR 41755 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

determine whether to disapprove the proposed rule change.[5] This order institutes proceedings under Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.

I. Summary of the Proposal

As described in more detail in the Notice,[7] the Exchange proposes to list and trade the Shares of the Trust under BZX Rule 14.11(e)(4), which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.

The investment objective of the Trust would be for the Shares to reflect the performance of the MVIS® CryptoCompare Bitcoin Benchmark Rate (''Benchmark''), less the expenses of the Trust's operations.[8] The Benchmark will be used to calculate the Trust's net asset value (''NAV''). The Benchmark is designed to be a price for bitcoin in USD, and there is no component other than bitcoin in the Benchmark. The current platform composition of the Benchmark is Bitstamp, Coinbase, Gemini, itBit, and Kraken. In calculating the Benchmark, the methodology captures trade prices and sizes from platforms and examines twenty three-minute periods leading up to 4:00 p.m. E.T. It then calculates an equal-weighted average of the volume-weighted median price of these twenty three-minute periods, removing the highest and lowest contributed prices.[9]

Each Share will represent a fractional undivided beneficial interest in the Trust's net assets. The Trust's assets will consist of bitcoin held by the Custodian on behalf of the Trust. The Trust generally does not intend to hold cash or cash equivalents. However, there may be situations where the Trust will unexpectedly hold cash on a temporary basis.[10]

The Administrator will determine the NAV and NAV per Share of the Trust on each day that the Exchange is open for regular trading, as promptly as practical after 4:00 p.m. E.T. The NAV of the Trust is the aggregate value of the Trust's assets less its estimated accrued but unpaid liabilities (which include accrued expenses). In determining the Trust's NAV, the Administrator values the bitcoin held by the Trust based on the price set by the Benchmark as of 4:00 p.m. E.T.[11]

The Trust will provide information regarding the Trust's bitcoin holdings, as well as an Intraday Indicative Value (''IIV'') per Share updated every 15 seconds, as calculated by the Exchange or a third-party financial data provider during the Exchange's Regular Trading Hours (9:30 a.m. to 4:00 p.m. E.T.). The IIV will be calculated by using the prior day's closing NAV per Share as a base and updating that value during Regular Trading Hours to reflect changes in the value of the Trust's bitcoin holdings during the trading day.[12]

When the Trust sells or redeems its Shares, it will do so in ''in-kind'' transactions in blocks of 50,000 Shares at the Trust's NAV. Authorized participants will deliver, or facilitate the delivery of, bitcoin to the Trust's account with the Custodian in exchange for Shares when they purchase Shares, and the Trust, through the Custodian, will deliver bitcoin to such authorized participants when they redeem Shares with the Trust.[13]

II. Proceedings To Determine Whether To Approve or Disapprove SR–CboeBZX–2022–035 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[14] to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[15] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices'' and ''to protect investors and the public interest.'' [16]

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,[17] in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on the following questions and asks commenters to submit data where appropriate to support their views:

1. What are commenters' views on whether the proposed Trust and Shares would be susceptible to manipulation? What are commenters' views generally on whether the Exchange's proposal is designed to prevent fraudulent and manipulative acts and practices? What are commenters' views generally with respect to the liquidity and transparency of the bitcoin markets, the bitcoin markets' susceptibility to manipulation, and thus the suitability of bitcoin as an underlying asset for an exchange-traded product?

2. Based on data and analysis provided and the academic research cited by the Exchange,[18] do commenters agree with the Exchange that the Chicago Mercantile Exchange (''CME'') on which bitcoin futures contracts trade (''CME Bitcoin Futures'') represents a regulated market of significant size related to spot bitcoin? [19] What are commenters' views on whether there is a reasonable likelihood that a person attempting to manipulate the Shares would also have to trade on the CME to manipulate the Shares? Do commenters agree with the Exchange's assertion that the combination of (a) the in-kind creation and redemption process; (b) CME Bitcoin Futures leading price discovery; (c) the overall size of the bitcoin market; and (d) the ability for market participants to buy or sell large amounts of bitcoin without significant market impact, helps to prevent the Shares from becoming the predominant force on pricing in either the spot bitcoin or CME Bitcoin Futures markets? [20]

[5] *See* Securities Exchange Act Release No. 95596, 87 FR 53038 (Aug. 30, 2022). The Commission designated October 11, 2022, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Notice, *supra* note 3.

[8] *See* Notice, *supra* note 3, 87 FR at 41765. VanEck Digital Assets, LLC is the sponsor of the Trust, and Delaware Trust Company is the trustee. The State Street Bank and Trust Company will be the administrator (''Administrator'') and transfer agent. Van Eck Securities Corporation will be the marketing agent in connection with the creation and redemption of Shares. Van Eck Securities Corporation provides assistance in the marketing of the Shares. *See id.* at 41764. A third-party regulated custodian (''Custodian'') will be responsible for custody of the Trust's bitcoin. *See id.* at 41755.

[9] *See id.* at 41765.

[10] *See id.* at 41764.

[11] *See id.* at 41766.

[12] *See id.* at 41765.

[13] *See id.* at 41764–65.

[14] 15 U.S.C. 78s(b)(2)(B).

[15] *Id.*

[16] 15 U.S.C. 78f(b)(5).

[17] *See* Notice, *supra* note 3.

[18] *See id.* at 41761–62, 41763 n.51.

[19] *See id.* at 41763.

[20] *See id.* at 41764.

3. The Exchange states that bitcoin is resistant to price manipulation and that other means to prevent fraudulent and manipulative acts and practices exist to justify dispensing with the requirement to enter into a comprehensive surveillance-sharing agreement with a regulated market of significant size related to spot bitcoin.[21] Do commenters believe the Exchange has shown that the bitcoin market is resistant to price manipulation or that other means to prevent fraudulent and manipulative acts and practices exist to justify dispensing with the relevant surveillance-sharing agreement?

III. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, and the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[22]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by November 1, 2022. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by November 15, 2022.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2022–035 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–CboeBZX–2022–035. 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 (*http://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 10:00 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. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2022–035 and should be submitted by November 1, 2022. Rebuttal comments should be submitted by November 15, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–21982 Filed 10–7–22; 8:45 am]

BILLING CODE 8011–01–P

[21] *See id.* at 41763 n.54.

[22] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[23] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–116, OMB Control No. 3235–0109]

Submission for OMB Review; Comment Request; Extension: Rule 12d1–3

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 (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Exchange Act Rule 12d1–3 (17 CFR 240.12d1–3) requires a certification that a security has been approved by an exchange for listing and registration pursuant to Section 12(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(d)) to be filed with the Commission. The information required under Rule 12d1–3 must be filed with the Commission and is publicly available. We estimate that it takes approximately one-half hour to provide the information required under Rule 12d1–3 and that the information is filed by approximately 688 respondents annually for a total annual reporting burden of 344 burden hours (0.5 hours per response × 688 responses). An agency may conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid 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 November 10, 2022 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: October 4, 2022.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–21959 Filed 10–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95968; File No. SR–NYSE–2022–45]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Connectivity Fee Schedule

October 4, 2022.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 21, 2022, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Connectivity Fee Schedule related to colocation to remove obsolete text. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Connectivity Fee Schedule related to colocation to remove Partial Cabinet Solution bundles Options A and B as obsolete.[4]

The Exchange recently deleted the service ''LCN Access—1 Gb Circuit'' from the list of types of services available in colocation, due to the lack of User demand for 1 Gb LCN ports.[5] In making that change, the Exchange explained that the number of 1 Gb LCN ports purchased by Users had steadily declined from 4 in 2017, to 2 in 2018, to 1 in 2021, to zero in 2022. The Exchange understands that this fall-off in demand for the 1 Gb LCN port is due to the fact that market data feeds continue to increase in bandwidth, such that Users prefer to purchase larger port sizes. Based on this trend, the Exchange explained that it believes that there is no remaining User demand for the 1 Gb LCN port, and discontinued the service as obsolete.

The same rationale applies equally to two of the Exchange's Partial Cabinet Solution (''PCS'') bundles: Options A and B. Options A and B each include various bundled services, including, among other things, a 1 Gb LCN connection. Although Options A and B have been offered by the Exchange and its Affiliate SROs since 2016,[6] no Users ever purchased an Option B bundle, and only one User purchased an Option A bundle, which it canceled in July 2021. There are currently no Users purchasing either an Option A or B bundle. Accordingly, the Exchange believes that there is no remaining User demand for Options A or B, and proposes to discontinue them as obsolete.

Application and Impact of the Proposed Changes

The Exchange does not expect that the proposed changes would have any impact. As noted above, there was only ever one User that purchased either an Option A or B bundle, and that User canceled its bundled service over a year ago, in July 2021. There are currently no purchasers of either Option A or B bundles.

The proposed changes would not have any effect on the two remaining PCS bundles, Options C and D, which include 10 Gb ports.

In addition, the proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users [7] equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Connectivity Fee Schedule is applied uniformly to all Users.

Competitive Environment

The proposed changes are not otherwise intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that discontinuing offering the Option A and B PCS bundles would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public

[4] The Exchange is an indirect subsidiary of Intercontinental Exchange, Inc. (''ICE''). Each of the Exchange's affiliates NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (the ''Affiliate SROs'') has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSEAMER–2022–43, SR–NYSEARCA–2022–64, SR–NYSECHX–2022–22, and SR–NYSENAT–2022–22.

[5] *See* Securities Exchange Act Release No. 95358 (July 25, 2022), 87 FR 45837 (July 29, 2022) (SR–NYSE–2022–30).

[6] *See, e.g.,* Securities Exchange Act Release No. 77072 (February 5, 2016), 81 FR 7394 (Feb. 11, 2016) (SR–NYSE–2015–53).

[7] For purposes of the Exchange's colocation services, a ''User'' means any market participant that requests to receive colocation services directly from the Exchange. *See* Securities Exchange Act Release No. 76008 (September 29, 2015), 80 FR 60190 (October 5, 2015) (SR–NYSE–2015–40). As specified in the Connectivity Fee Schedule, a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Affiliate SROs.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

interest. There was only ever one User that purchased either an Option A or B bundle, and that User canceled its bundled service over a year ago, in July 2021. There are currently no purchasers of either Option A or B bundles. The Exchange does not expect demand for Options A and B to rebound given Users' overall preference for larger port sizes to accommodate larger market data feeds. Removing references to the fees for these obsolete options from the Connectivity Fee Schedule would make the Connectivity Fee Schedule easier to read, understand, and administer.

The Exchange believes that the proposed rule change does not significantly affect the protection of investors or the public interest. The proposed rule change would delete obsolete services from the Connectivity Fee Schedule in order to enhance transparency and alleviate potential customer confusion.

The Exchange believes that deleting obsolete services from the Connectivity Fee Schedule would not permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed changes would apply equally to all Users.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[10] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed rule change would not place 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 issues but rather is designed to enhance the clarity and transparency of the Connectivity Fee Schedule and alleviate possible customer confusion that may arise from the inclusion of obsolete services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[10] 15 U.S.C. 78f(b)(8).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [13] 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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2022–45 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2022–45. 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 (*http://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 10:00 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. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2022–45 and should be submitted on or before November 1, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–21988 Filed 10–7–22; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–156, OMB Control No. 3235–0288]

Submission for OMB Review; Comment Request; Extension: Form 20–F

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 (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously

approved collection of information discussed below.

Form 20–F (17 CFR 249.220f) is used to register securities of foreign private issuers pursuant to Section 12 of the Securities Exchange Act of 1934 (''Exchange Act'') (15 U.S.C. 78*l*) or as annual and transitional reports pursuant to Sections 13 and 15(d) of the Exchange Act (15 U.S.C. 78m(a) and 78o(d)). The information required in the Form 20–F is used by investors in making investment decisions with respect to the securities of such foreign private issuers. We estimate that Form 20–F takes approximately 2,630.17 hours per response and is filed by approximately 729 respondents. We estimate that 25% of the 2,630.17 hours per response (657.542 hours) is prepared by the issuer for a total reporting burden of 479,348 (657.542 hours per response × 729 responses).

An agency may conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid 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 November 10, 2022 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: October 4, 2022.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–21954 Filed 10–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95969; File No. SR–NYSEArca–2022–64]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Connectivity Fee Schedule

October 4, 2022.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 21, 2022, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Connectivity Fee Schedule related to colocation to remove obsolete text. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Connectivity Fee Schedule related to colocation to remove Partial Cabinet Solution bundles Options A and B as obsolete.[4]

The Exchange recently deleted the service ''LCN Access—1 Gb Circuit'' from the list of types of services available in colocation, due to the lack of User demand for 1 Gb LCN ports.[5] In making that change, the Exchange explained that the number of 1 Gb LCN ports purchased by Users had steadily declined from 4 in 2017, to 2 in 2018, to 1 in 2021, to zero in 2022. The Exchange understands that this fall-off in demand for the 1 Gb LCN port is due to the fact that market data feeds continue to increase in bandwidth, such that Users prefer to purchase larger port sizes. Based on this trend, the Exchange explained that it believes that there is no remaining User demand for the 1 Gb LCN port, and discontinued the service as obsolete.

The same rationale applies equally to two of the Exchange's Partial Cabinet Solution (''PCS'') bundles: Options A and B. Options A and B each include various bundled services, including, among other things, a 1 Gb LCN connection. Although Options A and B have been offered by the Exchange and its Affiliate SROs since 2016,[6] no Users ever purchased an Option B bundle, and only one User purchased an Option A bundle, which it canceled in July 2021. There are currently no Users purchasing either an Option A or B bundle. Accordingly, the Exchange believes that there is no remaining User demand for Options A or B, and proposes to discontinue them as obsolete.

Application and Impact of the Proposed Changes

The Exchange does not expect that the proposed changes would have any impact. As noted above, there was only ever one User that purchased either an Option A or B bundle, and that User canceled its bundled service over a year ago, in July 2021. There are currently no purchasers of either Option A or B bundles.

The proposed changes would not have any affect on the two remaining

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange is an indirect subsidiary of Intercontinental Exchange, Inc. (''ICE''). Each of the Exchange's affiliates New York Stock Exchange LLC, NYSE American LLC, NYSE Chicago, Inc., and NYSE National, Inc. (the ''Affiliate SROs'') has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2022–45, SR–NYSEAMER–2022–43, SR–NYSECHX–2022–22, and SR–NYSENAT–2022–22.

[5] *See* Securities Exchange Act Release No. 95360 (July 25, 2022), 87 FR 45831 (July 29, 2022) (SR–NYSEArca–2022–41).

[6] *See, e.g.,* Securities Exchange Act Release No. 77072 (February 5, 2016), 81 FR 7394 (Feb. 11, 2016) (SR–NYSE–2015–53).

PCS bundles, Options C and D, which include 10 Gb ports.

In addition, the proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users [7] equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Connectivity Fee Schedule is applied uniformly to all Users.

Competitive Environment

The proposed changes are not otherwise intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that discontinuing offering the Option A and B PCS bundles would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. There was only ever one User that purchased either an Option A or B bundle, and that User canceled its bundled service over a year ago, in July 2021. There are currently no purchasers of either Option A or B bundles. The Exchange does not expect demand for Options A and B to rebound given Users' overall preference for larger port sizes to accommodate larger market data feeds. Removing references to the fees for these obsolete options from the Connectivity Fee Schedule would make the Connectivity Fee Schedule easier to read, understand, and administer.

The Exchange believes that the proposed rule change does not significantly affect the protection of investors or the public interest. The proposed rule change would delete obsolete services from the Connectivity Fee Schedule in order to enhance transparency and alleviate potential customer confusion.

The Exchange believes that deleting obsolete services from the Connectivity Fee Schedule would not permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed changes would apply equally to all Users.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[10] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed rule change would not place 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 issues but rather is designed to enhance the clarity and transparency of the Connectivity Fee Schedule and alleviate possible customer confusion that may arise from the inclusion of obsolete services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [13] 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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2022–64 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2022–64. 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 (*http://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

[7] For purposes of the Exchange's colocation services, a ''User'' means any market participant that requests to receive colocation services directly from the Exchange. *See* Securities Exchange Act Release No. 76010 (September 29, 2015), 80 FR 60197 (October 5, 2015) (SR–NYSEArca–2015–82). As specified in the Connectivity Fee Schedule, a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Affiliate SROs.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(8).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(2)(B).

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. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2022–64 and should be submitted on or before November 1, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–21983 Filed 10–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–051, OMB Control No. 3235–0064]

Submission for OMB Review; Comment Request; Extension: Form 10

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 (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form 10 (17 CFR 249.210) is used by issuers to register a class of securities pursuant to Section 12(b) or Section 12(g) (15 U.S.C. 78*l*(b) and 78*l*(g)) of the Exchange Act of 1934. Form 10 requires financial and other information about such matters as the issuer's business, properties, identity and remuneration of management, outstanding securities and securities to be registered and financial condition. The information provided by Form 10 is intended to ensure the adequacy of information available to investors about a company. Form 10 takes approximately 215.55 hours per response to prepare and is filed by approximately 216 respondents. We estimate that 25% of the 215.537 hours per response (53.89 hours) is prepared by the company for an annual reporting burden of 11,640 hours (53.89 hours per response × 216 responses).

An agency may conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid 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 November 10, 2022 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: October 4, 2022.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–21956 Filed 10–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–108, OMB Control No. 3235–0120]

Submission for OMB Review; Comment Request; Extension: Form 18–K

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 (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form 18–K (17 CFR 249.318) is an annual report form used by foreign governments or political subdivisions of foreign governments with securities listed on a United States exchange. The information to be collected is intended to ensure the adequacy and public availability of information available to investors. The information provided is mandatory. Form 18–K is a public document. We estimate that Form 18–K takes approximately 8 hours to prepare and is filed by approximately 38 respondents for a total annual reporting burden of 304 hours (8 hours per response × 38 responses).

An agency may conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid 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 November 10, 2022 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: October 4, 2022.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–21960 Filed 10–7–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95967; File No. SR–CboeBZX–2022–038]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend BZX Rule 11.28(a) To Extend the MOC Cut-Off Time

October 4, 2022.

On August 5, 2022, Cboe BZX Exchange, Inc. (''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

thereunder,[2] a proposed rule change to amend BZX Rule 11.28(a) to extend the Market-on-Close (''MOC'') Cut-Off Time from 3:35 p.m. to 3:49 p.m. The proposed rule change was published for comment in the **Federal Register** on August 24, 2022.[3] The Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is October 8, 2022. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the issues raised therein. Accordingly, pursuant to Section 19(b)(2) of the Act,[5] the Commission designates November 22, 2022, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–CboeBZX–2022–038).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–21981 Filed 10–7–22; 8:45 am]

BILLING CODE 8011–01–P

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 95529 (Aug. 17, 2022), 87 FR 52092.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95970; File No. SR–NYSEAMER–2022–43]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Connectivity Fee Schedule

October 4, 2022.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 21, 2022, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Connectivity Fee Schedule related to colocation to remove obsolete text. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Connectivity Fee Schedule related to colocation to remove Partial Cabinet Solution bundles Options A and B as obsolete.[4]

The Exchange recently deleted the service ''LCN Access—1 Gb Circuit'' from the list of types of services available in colocation, due to the lack of User demand for 1 Gb LCN ports.[5] In making that change, the Exchange explained that the number of 1 Gb LCN ports purchased by Users had steadily declined from 4 in 2017, to 2 in 2018, to 1 in 2021, to zero in 2022. The Exchange understands that this fall-off in demand for the 1 Gb LCN port is due to the fact that market data feeds continue to increase in bandwidth, such that Users prefer to purchase larger port sizes. Based on this trend, the Exchange explained that it believes that there is no remaining User demand for the 1 Gb LCN port, and discontinued the service as obsolete.

The same rationale applies equally to two of the Exchange's Partial Cabinet Solution (''PCS'') bundles: Options A and B. Options A and B each include various bundled services, including, among other things, a 1 Gb LCN connection. Although Options A and B have been offered by the Exchange and its Affiliate SROs since 2016,[6] no Users ever purchased an Option B bundle, and only one User purchased an Option A bundle, which it canceled in July 2021. There are currently no Users purchasing either an Option A or B bundle. Accordingly, the Exchange believes that there is no remaining User demand for Options A or B, and proposes to discontinue them as obsolete.

Application and Impact of the Proposed Changes

The Exchange does not expect that the proposed changes would have any impact. As noted above, there was only ever one User that purchased either an Option A or B bundle, and that User canceled its bundled service over a year ago, in July 2021. There are currently no purchasers of either Option A or B bundles.

The proposed changes would not have any affect on the two remaining

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange is an indirect subsidiary of Intercontinental Exchange, Inc. (''ICE''). Each of the Exchange's affiliates New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (the ''Affiliate SROs'') has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2022–45, SR–NYSEARCA–2022–64, SR–NYSECHX–2022–22, and SR–NYSENAT–2022–22.

[5] *See* Securities Exchange Act Release No. 95359 (July 25, 2022), 87 FR 45834 (July 29, 2022) (SR–NYSEAMER–2022–31).

[6] *See, e.g.,* Securities Exchange Act Release No. 77072 (February 5, 2016), 81 FR 7394 (Feb. 11, 2016) (SR–NYSE–2015–53).

PCS bundles, Options C and D, which include 10 Gb ports.

In addition, the proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users [7] equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Connectivity Fee Schedule is applied uniformly to all Users.

Competitive Environment

The proposed changes are not otherwise intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that discontinuing offering the Option A and B PCS bundles would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. There was only ever one User that purchased either an Option A or B bundle, and that User canceled its bundled service over a year ago, in July 2021. There are currently no purchasers of either Option A or B bundles. The Exchange does not expect demand for Options A and B to rebound given Users' overall preference for larger port sizes to accommodate larger market data feeds. Removing references to the fees for these obsolete options from the Connectivity Fee Schedule would make the Connectivity Fee Schedule easier to read, understand, and administer.

The Exchange believes that the proposed rule change does not significantly affect the protection of investors or the public interest. The proposed rule change would delete obsolete services from the Connectivity Fee Schedule in order to enhance transparency and alleviate potential customer confusion.

The Exchange believes that deleting obsolete services from the Connectivity Fee Schedule would not permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed changes would apply equally to all Users.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[10] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed rule change would not place 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 issues but rather is designed to enhance the clarity and transparency of the Connectivity Fee Schedule and alleviate possible customer confusion that may arise from the inclusion of obsolete services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [13] 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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2022–43 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2022–43. 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 (*http://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

[7] For purposes of the Exchange's colocation services, a ''User'' means any market participant that requests to receive colocation services directly from the Exchange. *See* Securities Exchange Act Release No. 76009 (September 29, 2015), 80 FR 60213 (October 5, 2015) (SR–NYSEMKT–2015–67). As specified in the Connectivity Fee Schedule, a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Affiliate SROs.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(8).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(2)(B).

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. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2022–43 and should be submitted on or before November 1, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–21986 Filed 10–7–22; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on a Land Release Request at Malden Regional Airport & Industrial Park (MAW), Malden, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release of airport land.

SUMMARY: The FAA proposes to rule and invites public comment on the request to release and sell a 3.62 acre parcel of federally obligated airport property at the Malden Regional Airport & Industrial Park (MAW), Malden, Missouri.

DATES: Comments must be received on or before November 10, 2022.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Amy J. Walter, Airports Land Specialist, Federal Aviation Administration, Airports Division, ACE–620G, 901 Locust, Room 364, Kansas City, MO 64106. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: David Blalock, Airport Manager, City of Malden Regional Airport & Industrial Park, 3077 Mitchell Drive, P.O. Box 411, Malden, MO 63863–0411, (573) 276–2279.

FOR FURTHER INFORMATION CONTACT: Amy J. Walter, Airports Land Specialist, Federal Aviation Administration, Airports Division, ACE–620G, 901 Locust, Room 364, Kansas City, MO 64106, (816) 329–2603, *amy.walter@faa.gov.* The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release a 3.62 acre parcel of airport property at the Malden Regional Airport & Industrial Park (MAW) under the provisions of 49 U.S.C. 47107(h)(2). This is a Surplus Property Airport. The City of Malden requested a release from the FAA to sell a 3.62 acre parcel to Chad Fullerton for commercial development. The FAA determined this request to release and sell property at the Malden Regional Airport & Industrial Park (MAW) submitted by the Sponsor meets the procedural requirements of the FAA and the release and sale of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this notice.

The following is a brief overview of the request:

The Malden Regional Airport & Industrial Park (MAW) is proposing the release from obligations and sale of a 3.62 acre parcel of airport property. The release of land is necessary to comply with Federal Aviation Administration Grant Assurances that do not allow federally acquired airport property to be used for non-aviation purposes. The sale of the subject property will result in the land at the Malden Regional Airport & Industrial Park (MAW) being changed from aeronautical to non-aeronautical use and release the lands from the conditions of the Airport Improvement Program Grant Agreement Grant Assurances in order to sell the land. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project for general aviation use.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may request an appointment to inspect the application, notice and other documents determined by the FAA to be related to the application in person at the Malden City Hall.

Issued in Kansas City, MO, on October 4, 2022.

James A. Johnson,

Director, FAA Central Region, Airports Division.

[FR Doc. 2022–22009 Filed 10–7–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0170]

Agency Information Collection Activities; Renewal of an Approved Information Collection: Training Certification for Drivers of Longer Combination Vehicles

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 its review and approval and invites public comment. FMCSA requests approval to renew an ICR titled, ''Training Certification for Drivers of Longer Combination Vehicles'' OMB Control No. 2126–0026. This ICR relates to Agency requirements for drivers to be certified to operate longer combination vehicles (LCVs), and associated recordkeeping requirements that motor carriers must satisfy before permitting their drivers to operate LCVs. Motor carriers, upon inquiry by authorized Federal, State, or local officials, must produce an LCV Driver-Training Certificate for each of their LCV drivers.

DATES: Comments on this notice must be received on or before December 12, 2022.

ADDRESSES: You may submit comments identified by Federal Docket Management System Docket Number FMCSA–2022–0170 using any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.

[14] 17 CFR 200.30–3(a)(12).

• *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, 20590–0001.

• *Hand Delivery or Courier:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and docket number. For detailed instructions on submitting comments, see the Public Participation heading below. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

Privacy Act: 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 *https://www.dot.gov/privacy,* the comments are searchable by the name of the submitter.

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''FAQ'' section of the Federal eRulemaking Portal website. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division, DOT, FMCSA, West Building, 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590; (202) 366–4225 or by email at *pearlie.robinson@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Background

An LCV is any combination of a truck-tractor and two or more semi-trailers or trailers that operates on the National System of Interstate and Defense Highways (according to 23 CFR part 470.107) and has a gross vehicle weight greater than 80,000 pounds. To enhance the safety of LCV operations on our Nation's highways, section 4007(b) of the Motor Carrier Act of 1991 directed the Secretary of Transportation to establish Federal minimum training requirements for drivers of LCVs (Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102–240, 105 Stat. 1914, 2152). The Secretary of Transportation delegated responsibility for establishing these requirements to FMCSA (49 CFR part 1.87), and on March 30, 2004, after appropriate notice and solicitation of public comment, FMCSA established the current training requirements for operators of LCVs (69 FR 16722). The regulations bar motor carriers from permitting their drivers to operate an LCV if they have not been properly trained in accordance with the requirements of § 380.113. Drivers receive an LCV Driver-Training Certificate upon successful completion of these training requirements. Motor carriers employing an LCV driver must verify the driver's qualifications to operate an LCV and must maintain a copy of the LCV Driver-Training Certificate and present it to authorized Federal, State, or local officials upon request.

Renewal of This Information Collection (IC)

The current burden estimate associated with this IC, approved by OMB on June 26, 2020, is 4,200 hours. The expiration date of the current ICR is June 30, 2023. Through this ICR renewal, the Agency requests an increase in the burden hours from 4,200 hours to 4,360 hours. The increase is the result of the increase in estimated driver population as well as the increase in expected industry growth rate for drivers from 2020 to 2030.

Title: Training Certification for Drivers of LCVs.

OMB Control Number: 2126–0026.

Type of Request: Renewal of an information collection.

Respondents: LCV training providers, drivers, and motor carriers employing LCV drivers.

Estimated Number of Respondents: 52,082, consisting of 240 LCV training providers, plus 240 newly-certified LCV drivers seeking employment, plus 25,681 currently certified LCV drivers seeking employment plus 25,921 motor carriers employing LCV drivers.

Estimated Time per Response: 10 minutes for preparation of LCV Driver-Training Certificates for drivers who successfully complete the LCV training, and 10 minutes for activities associated with the LCV Driver-Training Certificate during the hiring process.

Expiration Date: June 30, 2023.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 4,360 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 performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for the 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 information collected. The agency will summarize or include your comments in the request for OMB's clearance of this ICR.

Issued under the authority of 49 CFR 1.87.

Thomas P. Keane,

Associate Administrator, Office of Research and Registration.

[FR Doc. 2022–21977 Filed 10–7–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0080]

Agency Information Collection Activities; Renewal of an Approved Information Collection: Lease and Interchange of Vehicles

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 will enable FMCSA to document the burden associated with the for-hire truck leasing regulations and passenger carrier regulations. These regulations require certain for-hire property carriers and certain for-hire and private passenger

carriers to have a formal lease when leasing equipment from other motor carriers. FMCSA requests approval to renew an ICR titled, ''Lease and Interchange of Vehicles.''

DATES: Comments on this notice must be received on or before November 10, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Stacy Ropp, Compliance Division, DOT, FMCSA, West Building 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (609) 661–2062; *Stacy.Ropp@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Lease and Interchange of Vehicles.

OMB Control Number: 2126–0056.

Type of Request: Renewal of a currently approved ICR.

Respondents: Motor carriers authorized by the Secretary of Transportation (Secretary) to transport property and passengers that use leased equipment.

Estimated Number of Respondents: 48,046 [45,536 property carriers (lessees and lessors) + 2,510 passenger-carrying motor carriers (lessees and lessors)].

Estimated Time per Response: Varies from 5 to 30 minutes.

Expiration Date: October 31, 2022.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 212,256 hours.

Background

Property transportation. Under 49 U.S.C. 14102(a), The Secretary ''may require a motor carrier providing for-hire transportation that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

(1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

(3) inspect the motor vehicles and obtain liability and cargo insurance on them; and

(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.''

The Secretary has delegated authority pertaining to leased motor vehicles to FMCSA pursuant to 49 CFR 1.87(a)(6). The Agency's regulations governing leased motor vehicles are at 49 CFR part 376.

The regulations were adopted to ensure that small trucking companies were protected when they agreed to lease their equipment and drivers to larger for-hire carriers. They also ensure the government and members of the public can determine who is responsible for a property-carrying commercial motor vehicle. Prior to adoption of the regulations, some equipment was leased without written agreements, leading to disputes over which party to the lease was responsible for charges and actions and, at times, who was legally responsible for the vehicle.

The regulations specify what must be covered in the lease, but leave open how many responsibilities must be divided. The parties to the lease determine numerous details between themselves.

Part 376 applies only to certain motor carriers in interstate commerce and only to certain leasing situations based on exemptions set forth in § 376.11, which cross references other provisions in part 376. Section 376.11 provides that an authorized carrier (a person or persons authorized to engage in the transportation of property as a motor carrier under the provisions of 49 U.S.C. 13901 and 13902) may perform authorized transportation using equipment it does not own only when the following conditions are met:

(1) There shall be a written lease granting the use of the equipment and meeting the requirements contained in § 376.12;

(2) Receipts, specifically identifying the equipment to be leased and stating the date and time of day possession is transferred, shall be given; and

(3) The authorized carrier acquiring the use of equipment under this section shall identify the equipment as being in its service.

Passenger transportation. FMCSA can regulate the lease and interchange of passenger-carrying commercial motor vehicles based on the authority of the Motor Carrier Act of 1935 and the Motor Carrier Safety Act of 1984, as amended. FMCSA's regulations about the lease and interchange of passenger-carrying commercial motor vehicles in subpart G of 49 CFR part 390 help ensure that passenger carriers cannot evade FMCSA oversight and enforcement by entering into lease agreements to operate under the authority of another carrier that exercises no control over these operations. Motor carriers that (1) operate passenger-carrying commercial motor vehicles, (2) have active operating authority registration with FMCSA to transport passengers, and (3) engage in the lease or interchange of passenger-carrying commercial motor vehicles with other motor carriers that have active operating authority registration with FMCSA to transport passengers, are not subject to the regulations in subpart G of 49 CFR part 390 and the recordkeeping requirements therein. Such regulations and requirements also do not apply to financial leases (such as a closed-end lease, hire purchase, lease purchase, purchase agreement, installment plan, demonstration or loaner vehicle, etc.) between a motor carrier and a bank or similar financial organization or a manufacturer or dealer of passenger-carrying commercial motor vehicles.

Section 390.403(b) specifies the four required items of information that any lease or interchange record document for passenger-carrying commercial motor vehicles is required to contain. These are (1) vehicle identification information; (2) information about and signatures of the involved motor carriers of passengers [the lessor and the lessee]; (3) specific duration of the lease or interchange agreement; and (4) a clear statement about exclusive possession and responsibilities. Section 390.403(c) requires a copy of the lease or interchange agreement be on the passenger-carrying commercial motor vehicle during the period of the lease or interchange agreement. Both the lessee and lessor must retain a copy of the lease or interchange agreement for one year after the expiration date.

These property carrier and passenger carrier provisions account for the burden in this information collection. The program change increase of 75,968 estimated annual burden hours (212,256 proposed estimated annual burden hours—136,288 currently approved estimated annual burden hours) is due to the availability of new or improved data, the use of enhanced analysis or estimation methodologies, and/or the correction of arithmetic or other errors made previously when calculating the burden for the currently approved information collection. Previous estimates were based on 2017 data. Current passenger carrier-related estimates are based on the October 29, 2021, Licensing and Insurance, Motor Carrier Management Information System, and Safety Measurement System snapshots. Current property

carrier related estimates are based on the November 26, 2021, Licensing and Insurance, Motor Carrier Management Information System, and Safety Measurement System snapshots. The data pulled for the current ICR shows an increase in the overall number of affected property carriers and a decrease in the overall number of affected passenger carriers from the data used in the previous ICR. The increase in the number of affected property carriers was greater than the decrease in the overall number of affected passenger carriers which resulted in an increase in the overall burden hours associated with this ICR.

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. 2022–21978 Filed 10–7–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Nos. NHTSA–2019–0095; NHTSA–2019–0134; Notice 2]

Specialty Tires of America, Inc., Grant of Petitions for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petitions.

SUMMARY: Specialty Tires of America, Inc. (STA) has determined that certain STA light truck tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Motor Vehicles with a GVWR of More than 4,536 kilograms (10,000 pounds) and Motorcycles,* or FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles.* STA filed noncompliance reports dated August 27, 2019, November 15, 2019, and November 18, 2019. STA also petitioned NHTSA on September 16, 2019, and December 13, 2019, and later amended the former on March 3, 2020, for a decision that the subject noncompliances are inconsequential as they relate to motor vehicle safety. This document announces the grant of STA's petitions.

FOR FURTHER INFORMATION CONTACT: Jayton Lindley, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (325)–655–0547, *Jayton.Lindley@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Overview: STA has determined that certain STA light truck tires do not fully comply with paragraph S6.5(f) of FMVSS No. 119, *New Pneumatic Tires for Motor Vehicles with a GVWR of More than 4,536 kilograms (10,000 pounds) and Motorcycles* (49 CFR 571.119) or paragraphs S5.5(e) and (f) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). STA filed noncompliance reports dated August 27, 2019, November 15, 2019, and November 18, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* STA also petitioned NHTSA on September 16, 2019, and December 13, 2019, and later amended the former on March 3, 2020, for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

Notice of receipt of STA's petitions was published with a 30-day public comment period, on October 6, 2020, in the **Federal Register** (85 FR 63161). NHTSA received one comment from the general public. While the Agency takes great interest in the public's concerns and appreciates the commenter's feedback, the comment does not address the purpose of this particular petitions. To view the petitions and all supporting documents, log onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Then follow the online search instructions to locate docket numbers ''NHTSA–2019–0095 and NHTSA–2019–0134.''

II. Tires Involved: Approximately 5,489 of the following STA light truck tires, manufactured between January 1, 2009, and October 27, 2019, and certified to FMVSS No. 119, are potentially involved:

- 8–17.5 LT STA Super Traxion
- 8–17.5 STA Super Transport
- 8–14.5LT G/14 STA Super Transport
- 8–14.5LT F 12 STA Super Transport
- 7.50–18 STA Super Traxion
- 7.50–17 STA Super Transport
- 10.00–20 STA Super Transport

Approximately 2,887 of the following STA light truck tires, manufactured between February 2, 2014, and September 1, 2019, and certified to FMVSS No. 139, are potentially involved:

- 37x12.50R20LT Interco SSR
- 37x12.50R17LT Interco SSR
- 35x12.50–16LT Interco Thornbird
- 33x13.50R17LT Interco Irok

III. Noncompliance: STA explains that in both cases, the noncompliance is that the sidewalls of the subject tires incorrectly state the ply material and number of plies and, therefore, do not meet the applicable requirement specified in either paragraph S6.5 of FMVSS No. 119 or paragraphs S5.5(e) and (f) of FMVSS No. 139. Specifically, the subject tires were incorrectly marked in the following ways:

- 8–17.5LT STA Super Traxion
  Sidewall marked as Tread: 6 Ply Nylon, Sidewall: 4 Ply Nylon
  Correct marking should be Tread: 4 Ply Nylon, Sidewall: 4 Ply Nylon
- 8–17.5 STA Super Transport
  Sidewall marked as Tread: 6 Ply Nylon, Sidewall: 4 Ply Nylon
  Correct marking should be Tread: 4 Ply Nylon, Sidewall: 4 Ply Nylon
- 8–14.5LT G/14STA Super Transport
  Sidewall marked as Tread: 6 Ply Nylon, Sidewall: 6 Ply Nylon
  Correct marking should be Tread: 8 Ply Nylon, Sidewall: 6 Ply Nylon
- 8–14.5LT F 12 STA Super Transport
  Sidewall marked as Tread: 6 Ply Nylon, Sidewall: 6 Ply Nylon
  Correct marking should be Tread: 8 Ply Nylon, Sidewall: 6 Ply Nylon
- 7.50–18 STA Super Traxion
  Sidewall marked as Tread: 4 Ply Nylon, Sidewall: 4 Ply Nylon
  Correct marking should be Tread: 6 Ply Nylon, Sidewall: 4 Ply Nylon
- 7.50–17 STA Super Transport
  Sidewall marked as Tread: 4 Ply Nylon, Sidewall: 4 Ply Nylon
  Correct marking should be Tread: 6 Ply Nylon, Sidewall: 6 Ply Nylon
- 10.00–20 STA Super Transport
  Sidewall marked as Tread: 10 Ply Nylon, Sidewall: 10 Ply Nylon
  Correct marking should be Tread: 8 Ply Nylon, Sidewall: 6 Ply Nylon
- 37x12.50R20LT Interco SSR
  Sidewall marked as Tread: 3 Poly + 2 Steel + 1 Nylon, Sidewall: 3 Poly
  Correct marking should be Tread: 2 Poly + 2 Steel + 2 Nylon, Sidewall: 2 Poly
- 37x12.50R17LT Interco SSR
  Sidewall marked as Tread: 3 Poly + 2

Steel + 1 Nylon, Sidewall: 3 Poly
Correct marking should be Tread: 2 Poly + 2 Steel + 2 Nylon, Sidewall: 2 Poly

- 35x12.50–16LT Interco Thornbird
Sidewall marked as Tread: 4 Ply Nylon, Sidewall: 4 Ply Nylon
Correct marking should be Tread: 4 Poly + 2 Nylon, Sidewall: 4 Ply Poly
- 33x13.50R17LT Interco Irok
Sidewall marked as Tread: 3 Poly + 2 Steel + 1 Nylon, Sidewall: 3 Poly
Correct marking should be Tread: 2 Poly + 2 Steel + 1 Nylon, Sidewall: 2 Poly

IV. Rule Requirements: Paragraph S6.5(f) of FMVSS No. 119 and paragraphs S5.5(e) and (f) of FMVSS No. 139 include the requirements relevant to these petitions. Paragraph S6.5(f) of FMVSS No. 119 requires that each tire shall be marked on each sidewall with the actual number of plies and the composition of the ply cord material in the sidewall and, if different, in the tread area. Paragraphs 5.5(e) and (f) of FMVSS No. 139 require that each tire must be marked on one sidewall with the generic name of each cord material used in the plies (both sidewall and tread area) of the tire, the actual number of plies in the sidewall, and the actual number of plies in the tread area, if different.

V. Summary of STA's Petitions: The following views and arguments presented in this section, ''V. Summary of STA's Petitions,'' are the views and arguments provided by STA. They do not reflect the views of the Agency.

STA described the subject noncompliances and stated that the noncompliances are inconsequential as they relate to motor vehicle safety. In support of its petitions, STA offers the following reasoning:

1. The subject tires were manufactured as designed and meet or exceed all other marking and performance requirements of FMVSS No. 119 or 139, as applicable.

2. The noncompliance is not a safety concern, having no effect on operation of the tire and no impact on the retreading, repairing, or recycling industries.

3. All the tires in inventory and the mold information are being corrected and all future production and sales by STA of these tires will have the correct information on both sidewalls.

4. STA stated that they are not aware of any warranty claims, adjustments, field reports, customer complaints, legal claims, or any incidents, accidents, or injuries related to the subject condition.

5. STA says that NHTSA has granted a number of similar petitions relating to incorrectly identifying the actual number of plies in the tread area. STA went on to cite the following petitions in which the Agency has previously granted:

a. Continental Tire the Americas, LLC, Grant of Petition for Decision of Inconsequential noncompliance, 83 FR 36668 (July 30, 2018).

b. Sumitomo Rubber Industries, Ltd., Grant of Petition for Decision of Inconsequential Noncompliance, 83 FR 13002 (March 26, 2018).

c. Bridgestone Americas Tire Operations, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 47049 (August 2, 2013).

d. Goodyear Tire & Rubber Co. Grant of Petition for Decision of Inconsequential Noncompliance, 74 FR 10804 (March 12, 2009).

e. Nitto Tire U.S.A., Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 81 FR 17764 (March 30, 2016).

f. Hankook Tire America Corp., Grant of Petition for Decision of Inconsequential Noncompliance, 79 FR 30688 (May 28, 2014).

STA concluded by again contending that the subject noncompliances are inconsequential as they relate to motor vehicle safety, and that its petitions to be exempted from providing notification of the noncompliances, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, be granted.

STA's complete petitions and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov* and by following the online search instructions to locate the docket number as listed in the title of this notice.

VI. NHTSA's Analysis: The Agency agrees with STA that the noncompliance is inconsequential to motor vehicle safety. The Agency believes that one measure of inconsequentiality to motor vehicle safety is that there is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. Another measure of inconsequentiality which is relevant to these petitions is the safety of people working in the tire retread, repair and recycling industries.

Although tire construction affects the strength and durability of tires, neither the Agency nor the tire industry provides information establishing a relationship between tire strength and durability to the number of plies and types of ply cord material in the tread sidewall. Therefore, tire dealers and customers should consider the tire construction information along with other information such as the load capacity, maximum inflation pressure, tread wear, temperature, and traction ratings, to assess performance capabilities of various tires. In the Agency's judgement, the incorrect labeling of the tire construction information will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on the number of plies in a tire.

The Agency also believes the noncompliance will have no measurable effect on the safety of the tire retread, repair, and recycling industries. The use of steel in the sidewall and tread is the primary safety concern of these industries. In this case, because the sidewall markings indicate correctly that the steel plies exist, and their number, the industry will be reasonably notified of this potential safety concern.

VII. NHTSA's Decision: In consideration of the foregoing, NHTSA finds that STA has met its burden of persuasion that the FMVSS No. 139 and FMVSS No. 119 noncompliances are inconsequential as they relate to motor vehicle safety. Accordingly, STA's petitions are hereby granted, and STA is exempted from the obligation of providing notification of, and a remedy for, the noncompliance under 49 U.S.C. 30118 and 30120.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2022–21997 Filed 10–7–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2020–0112; Notice 2]

FCA US LLC, Denial of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition.

SUMMARY: FCA US LLC (f/k/a Chrysler Group LLC) (''FCA US'') has determined that certain model year (MY) 2019–2020 Ram 4500/5500 Cab Chassis motor vehicles equipped with Mopar rear brake hoses and replacement brake

hoses sold to FCA US dealers do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 106, *Brake Hoses.* FCA US filed two noncompliance reports with NHTSA (the ''Agency''), both dated October 22, 2020. FCA US subsequently petitioned NHTSA on November 13, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces and explains the denial of FCA US's petition.

FOR FURTHER INFORMATION CONTACT: Manuel Maldonado, Compliance Engineer, Office of Vehicle Safety Compliance, NHTSA, Tel. (202) 366–8731.

SUPPLEMENTARY INFORMATION:

I. Overview

FCA US has determined that certain model year (MY) 2019–2020 Ram 4500/5500 Cab Chassis motor vehicles equipped with Mopar rear brake hoses and replacement brake hoses sold to FCA US dealers as replacement parts do not fully comply with paragraph S5.3.1 of FMVSS No. 106, *Brake Hoses* (49 CFR 571.106). FCA US filed two noncompliance reports, both dated October 22, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* FCA US subsequently petitioned NHTSA on November 13, 2020, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d), 49 U.S.C. 30120(h), and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

Notice of receipt of FCA US's petition was published in the **Federal Register** (86 FR 15548), pursuant to 49 U.S.C. 30118 and 30120, with a 30-day public comment period that began on March 23, 2021. No comments were received. The petition, and all supporting documents, can be found in docket NHTSA–2020–0112 on the Docket Management System's (FDMS) website at *https://www.regulations.gov/.*

II. Vehicles and Equipment Involved

Approximately 26,961 MY 2019–2020 Ram 4500/5500 Cab Chassis motor vehicles, manufactured between February 10, 2019, and August 26, 2020, are potentially involved. Approximately 182 Mopar right rear brake hose replacement parts, with part numbers 68371722AA and 68371722AB, and left rear brake hose replacement parts, with part numbers 68371723AA and 68371723AB, which were manufactured between January 29, 2019, and August 20, 2020, are potentially involved.

III. Noncompliance

FCA US states that the inside diameter of certain Mopar rear brake hoses equipped in certain model year (MY) 2019–2020 Ram 4500/5500 Cab Chassis motor vehicles and sold to FCA US dealers as replacement parts do not meet the FMVSS No. 106 requirement that every inside diameter of any section of a hydraulic brake hose assembly is not less than 64 percent of the nominal inside diameter of the brake hose, and therefore the parts do not comply with paragraph S5.3.1 of FMVSS No. 106. FCA US explains that this noncompliance is due to crimping of the hose without use of a mandrel, resulting in the inside diameter of the hose at the fitting being smaller than designed. Additionally, FCA US states that, in the worst-case scenario, some of these brake hoses measured 52.8 percent of the nominal inside diameter.

IV. Rule Requirements

Paragraph S5.3.1 of FMVSS No. 106 provides that ''[e]xcept for that part of an end fitting which does not contain hose, every inside diameter of any section of a hydraulic brake hose assembly shall be not less than 64 percent of the nominal inside diameter of the brake hose (S6.12).''

V. Summary of FCA US's Petition

The following views and arguments presented in this section, ''V. Summary of FCA US's Petition,'' are the views and arguments provided by FCA US and do not reflect the views of the Agency.

FCA US described the subject noncompliance and contended that the noncompliance is inconsequential as it relates to motor vehicle safety.

FCA US states that it ''has completed testing showing that, in this particular circumstance, there is no safety concern with the noncompliant brake hose assemblies'' that were built with an under-specification inside diameter (ID) size. FCA US claims that ''the testing shows there is no concern for hose rupture and no risk of brake system failure due to pressure loss.'' FCA US says its testing also ''shows there is no meaningful effect on vehicle braking performance'' for the subject vehicles.

FCA US claims that the subject vehicle ''achieves no more than 2,500 pounds per square inch (PSI) in the brake hose assemblies when performing FMVSS. 105 testing for stopping distance.'' According to FCA US, ''FMVSS 106 specifies a minimum burst strength requirement of 7,000 PSI for brake hoses of ⅛″ or smaller diameter'' and ''the subject brake hoses have a diameter of ⅛″.'' The FCA US says its ''internal specification requires the supplier to perform burst testing daily, and the minimum requirement that all hose assemblies must meet is 9,000 PSI under the FMVSS. 106 test conditions.'' FCA US says ''[t]he brake hose assemblies containing an out of specification ID all surpassed the requirement and showed no difference from those containing a compliant ID.''

FCA US believes that because the ''viscosity of brake fluid at colder temperatures increases, the flow rate of brake fluid will be reduced at colder temperatures,'' therefore FCA US characterizes the cold temperature testing as the worst-case scenario. FCA US tested noncompliant brake hose assemblies equipped in the subject vehicles and compliant brake hose assemblies for flow at ambient and at cold temperature, which included an overnight soak at −30 °C. FCA US says ''[t]he test was conducted using a panic brake application of 500 Newtons in 0.5 seconds per FMVSS 105 pedal force requirements and then held for an additional 5 seconds to ensure fluid flow to the wheel end.'' FCA US found that the ''compliant and noncompliant brake hose assemblies showed no meaningful difference in the time they each took to reach 50 bar and 100 bar at either ambient or cold.''

FCA US tested the subject vehicle for stopping distance according to FMVSS 105 testing procedures for vehicles over 10,000 pounds (lbs.) Gross Vehicle Weight Rating (GVWR), which FCA US characterizes as the worst-case scenario. FCA US explains that the test was conducted 6 times ''on a vehicle that was slowed from a speed of 60 mph with a maximum pedal effort of 150 lbs. to determine if it could meet the required stopping distance requirements.'' FCA US says it focused on the ''2nd effectiveness and 3rd effectiveness results'' and used the best distance to calculate the Best Stop Percentage Margin. FCA US found that there was ''no meaningful difference between the 2nd effectiveness and the 3rd effectiveness government specifications or the more stringent FCA US internal stopping requirements between a brake hose with an out of specification'' ID and a brake hose with a compliant ID. FCA US completed two tests with brake hose assemblies with compliant ID sizes and one test with the subject out of specification ID size.

FCA US states it is not aware of any crashes, injuries, or customer complaints associated with the condition.

FCA US concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

VI. NHTSA's Analysis

The burden of establishing the inconsequentiality of a failure to comply with a performance requirement in a standard—as opposed to a labeling requirement with no performance implications—is more substantial and difficult to meet. Accordingly, the Agency has not found many such noncompliances inconsequential.[1]

In determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which a recall would otherwise protect.[2] In general, NHTSA does not consider the absence of complaints or injuries when determining if a noncompliance is inconsequential to safety. The absence of complaints does not mean vehicle occupants have not experienced a safety issue, nor does it mean that there will not be safety issues in the future.[3]

The main purpose of the vehicle brake hose and its connected systems is to allow a motor vehicle operator to safely bring the vehicle to a complete stop. FMVSS No. 106 states that the purpose of the standard is to reduce deaths and injuries occurring as a result of brake system failure from pressure or vacuum loss due to hose or hose assembly rupture, and FMVSS No. 106 contains the constriction requirement in S5.3.1 to help facilitate that outcome.

NHTSA does not find FCA US's arguments persuasive that failure to meet the minimum safety requirements of FMVSS No. 106 is inconsequential to safety. FMVSS No. 105 establishes minimum requirements related to motor vehicle braking under certain specified braking conditions, whereas FMVSS No. 106 describes, more broadly, minimum performance that pertain to brake hoses and brake hose assemblies to reduce deaths and injuries occurring as a result of brake system failure from pressure or vacuum loss due to rupture. For example, FMVSS No. 106 includes tests for constriction, whip resistance, and tensile strength, among others, that are intended to ensure a minimum level of safety beyond testing to the specific limited braking scenarios found in FMVSS No. 105.

FCA US explained that the root cause of the noncompliance is due to crimping of the hose without use of a mandrel that caused the inside diameter of the hose at the fitting to be smaller than designed. FCA US acknowledged in its petition that the hoses do not meet the requirements of paragraph S5.3.1 of FMVSS No. 106, stating that the worst cases of noncompliance only have 53% of the nominal inside diameter. This represents a significant decrease from FMVSS No. 106's 64% minimum safety requirement. NHTSA finds that any potential safety consequence resulting from FCA US's noncompliance may not present itself initially, but can emerge over the service life of the product. Furthermore, over-crimping a brake hose, which FCA US stated caused the noncompliance, is a common cause of brake hose failure in motor vehicles, and it can lead to cyclical fatigue that causes a shorter lifespan than a correctly crimped brake hose. Even if the subject noncompliant hoses passed a burst test when they were new, the over-crimping can result in higher stresses on the inside of the hose than designed and reduce the strength and cycle life of the hose.

In summary, the increased material stress and the loss of strength and cycle life due to over-crimping can lead to premature failure of the brake hose assemblies which negatively affects the vehicle's braking performance and creates a risk to motor vehicle safety.

VII. NHTSA's Decision

NHTSA has determined that FCA US has not met its burden of persuasion needed for the noncompliance with FMVSS No. 106 to be considered inconsequential to motor vehicle safety. FCA US's petition is hereby denied, and FCA US is therefore obligated to provide notification of, and free remedy for, the aforementioned noncompliances, pursuant to 49 U.S.C. 30118 and 30120.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Anne L. Collins,

Associate Administrator for Enforcement.

[FR Doc. 2022–22050 Filed 10–7–22; 8:45 am]

BILLING CODE 4910–59–P

[1] *Cf. Gen. Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897, 19899 (Apr. 14, 2004) (citing prior cases where noncompliance was expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers).

[2] *See Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

[3] *See Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 21663, 21666 (Apr. 12, 2016); *see also United States* v. *Gen. Motors Corp.,* 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it ''results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future'').

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Requesting Comments on Declarations and Authorizations for Electronic Filing

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 e-file declarations using Forms 8453–EMP, 8453–FE, and 8453–WH, as well as e-file authorizations using Forms 8879–EMP, 8879–F, and 8879–WH.

DATES: Written comments should be received on or before December 12, 2022 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. 1545–1276 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Jon Callahan, (737) 800–7639, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *jon.r.callahan@irs.gov.*

SUPPLEMENTARY INFORMATION: The IRS is currently seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: Declarations and Authorizations for Electronic Filing.

OMB Number: 1545–0967.

Form Number: 8453–EMP, 8453–FE, 8453–WH, 8879–EMP, 8879–F, and 8879–WH.

Abstract: The IRS is actively engaged in encouraging e-filing and electronic documentation. The Form 8453 series is used to authenticate the electronically filed tax return, authorize the electronic return originator (ERO) or intermediate service provider (ISP) to transmit the return, and provide the taxpayer's consent to authorize electronic funds withdrawal for payment of taxes owed. Form 8453–FE is used to electronically file Form 1041, U.S. Income Tax Return for Estates and Trusts. Form 8453–EMP is used to electronically file an employment tax return on Forms 940 series, 941 series, 943 series, 944, and 945. Form 8453–WH is used to electronically file Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons. The Form 8879 series is used authorize the taxpayer and ERO to sign the return using a personal identification number (PIN) and consent to an electronic funds withdrawal. Form 8879–F is used to electronically file Form 1041, U.S. Income Tax Return for Estates and Trusts. Form 8879–EMP is used to electronically file an employment tax return on Forms 940 series, 941 series, 943 series, 944, and 945. Form 8879–WH is used to electronically file Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons.

Current Actions: There is a change to the existing collection. Forms 8453–WH and 8879–WH were developed to enable electronic filing of Form 1042.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 21,103,781.

Estimated Time per Respondent: 2.56 hours.

Estimated Total Annual Burden Hours: 54,018,359.

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: October 5, 2022.

Jon R. Callahan,

Tax Analyst.

[FR Doc. 2022–22044 Filed 10–7–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Privacy Act of 1974; System of Records

AGENCY: Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB).

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, proposes to modify a current Treasury system of records titled ''Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB) .001—Regulatory Enforcement System of Records.''

DATES: Submit comments on or before November 10, 2022. The modified routine uses will be effective on November 10, 2022.

ADDRESSES: You may submit comments on this System of Records Notice (SORN) as an individual or on behalf of a business or other organization. You may submit comments electronically via the *Regulations.gov* website at *https://www.regulations.gov,* using the comment form posted for this document within Docket No. TTB–20XX–XXXX. Alternatively, you may submit written comments via postal mail to the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005, Attention—Revisions to Privacy Act Systems of Records. You may upload or include attachments with your comments. Please submit or have your comments postmarked by the closing date shown in the **DATES** section of this document.

The Bureau will post all comments received, including any personal information you provide, along with any attachments or other supporting disclosures, without change on the *Regulations.gov* website. Therefore, you should submit only information you wish to make publicly available. Please contact TTB's Regulations and Rulings division by email using the web form available at *https://www.ttb.gov/contact-rrd,* or by telephone at 202–453–2265, if you have any questions regarding how to comment on this SORN or to request copies of this document, its supporting materials, or the comments received in response.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact Michael Hoover at 202–453–1039, ext. 135. For privacy issues, please contact Amy Henke at 513–684–2301.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury (''Treasury'' or the ''Department''), Alcohol and Tobacco Tax and Trade Bureau (TTB), proposes to modify an existing Treasury system of records titled ''Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB) .001—Regulatory Enforcement System of Records.'' This is the only system of records adopted by TTB as of August 25, 2022.

TTB administers the Internal Revenue Code of 1986 (IRC), as amended, at 26 U.S.C. chapter 51 (distilled spirits, wine, and beer), chapter 52 (tobacco products, processed tobacco, and cigarette papers and tubes), and sections 4181–4182 (firearms and ammunition excise taxes), and the Federal Alcohol Administration Act (FAA Act, 27 U.S.C. chapter 8). Under its IRC authorities, TTB collects the Federal excise taxes levied on alcohol, tobacco, firearms, and ammunition products and the special occupational taxes levied on certain tobacco industry members. Under these IRC and the FAA Act authorities, TTB also administers the Federal permit, registration, or notice requirements that apply to alcohol and tobacco industry members, as well the Federal requirements that apply to the production, labeling, and marketing of alcohol beverage products.

Under this system of records, TTB collects certain personal information

about individuals who file tax returns with or submit return information to TTB regarding excise taxes on alcohol, tobacco, firearms, and ammunition, and about individuals who file special occupational tax returns or information. Also under this system of records, TTB collects certain personal information about individuals who are associated with operations and businesses that are the subject of permit applications, notices, or registrations under the IRC or FAA Act or activity undertaken under such permits, notices, or registrations. Information collected may include information related to alcohol and tobacco permittees; alcohol, tobacco, and firearms and ammunition excise taxpayers; special occupational taxpayers; claimants for refund, abatement, credit, allowance, or drawback of excise or special occupational taxes; and those filing offers in compromise.

While there are no significant changes to this system of records, TTB is modifying this system to reflect additional statutory authority and to incorporate new categories of information. Specifically:

- Section 107(d)(1) of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (the ''Act''), Division EE of the Consolidated Appropriations Act, 2021 (Pub. L. 116–260), added a new section to the Internal Revenue Code (IRC), at 26 U.S.C. 6038E. That new section requires foreign alcohol producers electing to assign certain tax benefits to U.S. importers to ''provide such information, at such time and in such manner, as the Secretary may prescribe in order to make such assignment, including information about the controlled group structure of such foreign producer.'' Based on this new authority, and the IRC at 26 U.S.C. 5001(c)(3), 5041(c)(6), and 5051(a)(4), TTB will require registration of foreign alcohol producers, and it will collect information from those producers and the importers to which they assign tax benefits, which will be stored in this system.
- In the course of administering IRC provisions concerning foreign producer Federal excise tax benefit assignments and in processing alcohol excise tax refund claims made by U.S. importers based on those assignments, functions that were transferred to the Treasury Department by Section 107(e) of the Act, TTB may obtain from other Federal agencies information about covered persons and store that information in this system.

Federal law protects personally identifiable information (PII) and other information contained in this system from disclosure. Specifically, 5 U.S.C. 552a regulates the collection, maintenance, use, and dissemination of personal information by federal agencies, and 26 U.S.C. 6103 prohibits disclosure of tax returns and related information unless disclosure is specifically authorized by the IRC.

This modified system will be included in Treasury's inventory of record systems. Treasury and TTB have provided a report of this system of records to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget (OMB), pursuant to 5 U.S.C. 552a(r) and OMB Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,'' dated December 23, 2016.

For the reasons set forth above in the preamble, TTB proposes to modify its system of records entitled ''Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB) .001—Regulatory Enforcement System of Records'' as follows:

Ryan Law,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

SYSTEM NAME AND NUMBER:

Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB) .001—Regulatory Enforcement System of Records

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

TTB maintains the system records at its headquarters in Washington, DC, and at its National Revenue Center in Cincinnati, OH, located, respectively, at these addresses:

- Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Washington, DC 20005; and
- Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Suite 8002, Cincinnati, OH 45202.

In addition, components of this system also are geographically dispersed throughout TTB's field offices. A list of TTB's field offices and their addresses is available on the TTB website at *https://www.ttb.gov/about-ttb/district-office-locations.*

SYSTEM MANAGER(S):

Assistant Administrator, Permitting and Taxation, Alcohol and Tobacco Tax and Trade Bureau, 550 Main Street, Suite 8002, Cincinnati, OH 45202.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 5001, 5006(a), 5008, 5041, 5042(a)(2) and (3), 5044, 5051, 5055, 5056, 5061, 5062, 5064, 5101, 5132, 5172, 5179(a), 5181, 5271(b)(1), 5275, 5301(a) and (b), 5312, 5356, 5401, 5417, 5502, 5511(3), 5705, 5712, 6001, 6011(a), 6038E, 6201, 6423, 7011, and 7122; 27 U.S.C. 204, 205, and 207; and section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d).

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to administer the laws under TTB's jurisdiction, including determining eligibility or qualifications of individuals who are engaged or propose to engage in activities regulated by TTB; assuring collection of the revenue due from regulated industry members; preventing improper trade practices in the beverage distilled spirits, malt beverage, and wine industries; and interacting with Federal, State, and local governmental agencies in the resolution of problems relating to revenue protection and other areas of joint jurisdictional concern.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals covered by this system of records include:

(1) Individuals who file tax returns or submit return information to TTB regarding Federal excise taxes on alcohol, tobacco, firearms, and ammunition or tobacco industry-related special occupational taxes; and

(2) Individuals who have filed permit applications with or who have been issued permits by TTB; who have filed notices or registrations with TTB; and/or who are in certain positions of management or control of such regulated businesses, or have specified levels of ownership interest in such regulated businesses.

These individuals include alcohol and tobacco permittees, registrants, or notice holders; alcohol, tobacco, and firearms and ammunition excise taxpayers; special occupational taxpayers; claimants for refund, abatement, credit, allowance, or drawback of excise or special occupational taxes; and those filing offers in compromise.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes records containing investigative material compiled by TTB or provided to it by other Federal agencies required to meet TTB's responsibilities under the Internal Revenue Code of 1986 and the Federal Alcohol Administration Act, which may consist of the following:

- Names of individuals;
- Dates of birth;
- Social Security Numbers (SSN) (if collected);
- Telephone numbers;
- Email addresses;
- Mailing, home, and business premises addresses;
- Employer Identification Numbers (EIN);
- Abstracts of offers in compromise;
- Administrative law judge decisions;
- Assessment records including notices of proposed assessments, notices of shortages or losses, copies of notices from the Internal Revenue Service to assess taxes, and recommendations for assessments;
- Audit and investigation reports;
- Chief Counsel opinions and memoranda;
- Claim records including claims, letters of claim rejection, sample reports, supporting data, and vouchers and schedules of payment;
- Controlled group information;
- Correspondence concerning records in this system and related matters;
- Demands for payment of excise tax liabilities;
- Financial statements;
- Letters of warning;
- Lists of permittees, registrants, notice holders, and licensees;
- Lists of officers, directors, and principal stockholders;
- Mailing lists;
- Notices of delinquent reports;
- Offers in compromise;
- Operational records, such as operating and inventory reports, and transaction records and reports;
- Orders of revocation, suspension, or annulment of permits, notices, registrations or licenses;
- Permit, registration, notice, and licensing histories;
- Reports of violations;
- Qualifying records including access authorizations, advertisement records, applications, business histories, criminal records, educational histories, employment histories, financial data, formula approvals, licenses, notices, permits, personal references, registrations, sample reports, special permissions and authorizations, and statements of process;
- Show cause orders; and
- Tax records relating to periodic payment and prepayment of taxes, tax returns, notices of tax discrepancy or adjustment, and refunds.

RECORD SOURCE CATEGORIES:

This system of records has been determined to be exempt from reporting record source categories pursuant to 5 U.S.C. 552a(j)(2) and (k)(2) and 31 CFR 1.36. Notwithstanding this exemption, the risks justifying the application of this exemption to this system are less pertinent to certain record source categories, including: applications, notices and registrations filed with TTB in the ordinary course.

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 of 1974, 5 U.S.C. 552a(b), records and/or information or portions thereof maintained as part of this system may be disclosed outside Treasury as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) To a Federal, State, local, or foreign agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information necessary or relevant to the requesting agency's official functions; including for the purpose of enforcing administrative, civil, or criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter;

(2) To a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(3) To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906;

(4) To appropriate agencies, entities, and persons when: (1) The Department of the Treasury and/or TTB suspects or has confirmed that there has been a breach of the system of records; (2) the Department of the Treasury and/or TTB has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department of the Treasury and/or TTB (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 of the Treasury's and/or TTB's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the Department of the Treasury and/or TTB 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;

(6) To third parties when such disclosure is required by statute or Executive Order;

(7) To third parties to the extent necessary to collect or verify information pertinent to TTB's decision to grant, deny, or revoke a license or permit; to initiate or complete an investigation of violations or alleged violations of laws and regulations administered by TTB;

(8) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations upon a finding by the Department of the Treasury and/or TTB that the records are relevant and necessary to the proceeding, in response to a subpoena where requested records appear to be relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

(9) To International Criminal Police Organization (INTERPOL) and similar national and international intelligence gathering organizations for the purpose of identifying international and domestic criminals involved in consumer fraud, revenue evasion, crimes, or persons involved in terrorist activities;

(10) To foreign governments in accordance with formal or informal international agreements;

(11) To appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the Department of the Treasury and/or TTB becomes aware of an indication of a violation or potential violation of criminal law or regulation;

(12) To third parties for a purpose consistent with any permissible disclosure of returns or return information under the IRC, as amended;

(13) To a contractor for the purpose of processing administrative records and/or compiling, organizing, analyzing, programming, or otherwise refining records subject to the same limitations

applicable to Department of the Treasury officers and employees under the Privacy Act;

(14) To the Department of Justice when seeking legal advice or when (a) the Department of the Treasury or (b) TTB, or (c) any employee of TTB in his or her official capacity, or (d) any employee of TTB in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (e) the United States, where TTB determines that litigation is likely to affect the Department of the Treasury and/or TTB, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation; and

(15) To the news media to provide information in accordance with guidelines contained in 28 CFR 50.2 that relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

TTB maintains records in this system in a secure computer system that require the use of a personal identity verification (PIV) card and multi-digit personal identification number (PIN) to access, or on paper in secure facilities with controlled access.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by name, by permit, registration, notice, user, claim, or license number, by document locator number, or by Employer Identification Number (EIN).

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

TTB retains and disposes of records in the system in accordance with records disposition schedule DAA–0564–2013–0003, approved by the National Archives and Records Administration (NARA) for TTB.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

TTB safeguards records in this system in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. TTB has imposed strict controls to minimize the risk of compromising the information that is being stored. Records stored on electronic media are protected by controlled access and are encrypted at rest in the system and when transmitted. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances.

RECORD ACCESS PROCEDURES:

See ''Notification Procedures'' below.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records. Other records are exempt from contest as stated in ''Notification Procedures'' below.

NOTIFICATION PROCEDURES:

The Secretary of Treasury has exempted this system from the notification, access, and amendment procedures of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2) because it is a law enforcement system. See 31 CFR 1.36. However, Treasury and TTB will consider individual requests for notification, access, or amendment. Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest the content of any record contained in this system of records, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, Appendix E. Requests may be mailed or delivered in person and addressed to: Director, Regulations and Ruling Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 2005, or faxed to 202–453–2331.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in § 1.26 of 31 CFR part 1. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury. While no specific form is required, you should provide the following:

- An explanation of why you believe the Department would have information on you;
- Identify which bureau(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created;
- Provide any other information that will help the Bureau or FOIA staff determine which Treasury Bureau may have responsive records; and
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information, the Bureau(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

The Secretary of the Treasury has designated this system as exempt from the following provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2): 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f). See 31 CFR 1.36.

HISTORY:

Notice of this system of records was last published in full in the **Federal Register** on February 10, 2021 (86 FR 8988) as Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB) .001—Regulatory Enforcement System of Records.

[FR Doc. 2022–21938 Filed 10–7–22; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Family, Caregiver and Survivor Advisory Committee, Notice of Meeting, Amended

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act (FACA), 5 U.S.C. app. 2, that the Veterans' Family, Caregiver and Survivor Advisory Committee will meet virtually on Friday, October 28, 2022. The meeting session will begin and end as follows:

Date	Time
October 28, 2022 ...	12:00 p.m. to 3:00 p.m. Eastern Standard Time (EST).

The meeting is open to the public and will be conducted using Microsoft Teams. Please email *VEOFACA@va.gov* for an invitation link prior to October 26, 2022 or dial-in by phone (for audio only) 1–872–701–0185, United States, Chicago (Toll), Phone Conference ID: 739 667 947#.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on matters related to: the need of Veterans' families, caregivers and survivors across all generations, relationships and Veterans status; the use of VA care, benefits and memorial services by Veterans' families, caregivers and survivors, and opportunities for improvements to the

experience using such services; VA policies, regulations and administrative requirements related to the transition of Servicemembers from the Department of Defense (DoD) to enrollment in VA that impact Veterans' families, caregivers and survivors; and factors that influence access to, quality of and accountability for services, benefits and memorial services for Veterans' families, caregivers and survivors.

On October 28, 2022, the agenda will include opening remarks from the Committee Chair and the Chief Veterans Experience Officer. There will be presentations to include updates from the Caregiver Support Program, the status of COVID–19 on the military and Veteran families, caregivers and survivors; and, the PACT Act update. The Committee will also discuss suggested recommendations that will be presented by the subcommittee Chairs.

Individuals wishing to share information with the Committee should contact the VEO Federal Advisory Committee Team at *VEOFACA@va.gov* to submit a 1–2 page summary of their comments for inclusion in the official meeting record before October 26, 2022 at 5:00 p.m. (EST). Due to the time limitations of virtual meetings, public comments will be submitted prior to the meeting and distributed to the Committee before the designated meeting time on October 28, 2022.

Any member of the public seeking additional information should contact Betty Moseley Brown (Designated Federal Official) *Betty.MoseleyBrown@va.gov* or 210–392–2505.

Dated: October 5, 2022.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–22074 Filed 10–7–22; 8:45 am]

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FEDERAL REGISTER PAGES AND DATE, OCTOBER

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LIST OF PUBLIC LAWS

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