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Federal Register
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Wednesday, January 3, 2024

Presidential Documents

Title 3—

The President

Proclamation 10690 of December 28, 2023

Adjusting Imports of Aluminum Into the United States

By the President of the United States of America

A Proclamation

1. On January 19, 2018, the Secretary of Commerce (Secretary) transmitted to the President a report on the Secretary's investigation into the effect of imports of aluminum articles on the national security of the United States under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862). The Secretary found and advised the President of his opinion that aluminum articles are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States.

2. In Proclamation 9704 of March 8, 2018 (Adjusting Imports of Aluminum Into the United States), the President concurred in the Secretary's finding that aluminum articles are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States, and decided to adjust the imports of aluminum articles (aluminum articles), by imposing a 10 percent ad valorem tariff on such articles imported from all countries except Canada and Mexico. Proclamation 9704 further stated that any country with which the United States has a security relationship is welcome to discuss alternative ways to address the threatened impairment of the national security caused by imports from that country, and noted that, should the United States and any such country arrive at a satisfactory alternative means to address the threat to the national security such that the President determines that imports from that country no longer threaten to impair the national security, the President may remove or modify the restriction on aluminum articles imports from that country and, if necessary, adjust the tariff as it applies to other countries, as the national security interests of the United States require.

3. In Proclamation 9710 of March 22, 2018 (Adjusting Imports of Aluminum Into the United States), the President noted the continuing discussions with the European Union (EU) on behalf of its member countries on satisfactory alternative means to address the threatened impairment to the national security by aluminum articles imported from the EU. Recognizing that the EU has an important security relationship with the United States, the President determined that the necessary and appropriate means to address the threat to the national security posed by imports of aluminum articles from the member countries of the EU was to continue the ongoing discussions and to exempt aluminum articles imports from these countries from the tariff proclaimed in Proclamation 9704 until May 1, 2018. In Proclamation 9739 of April 30, 2018 (Adjusting Imports of Aluminum Into the United States), the President noted that, unless the President determines by further proclamation that the United States has reached a satisfactory alternative means to remove the threatened impairment to the national security by imports of aluminum articles from the member countries of the EU, the tariff proclaimed in clause 2 of Proclamation 9704 shall be effective June 1, 2018, for these countries.

4. In Proclamation 10327 of December 27, 2021 (Adjusting Imports of Aluminum Into the United States), I noted that the United States successfully concluded discussions with the EU on behalf of the EU's member countries

on satisfactory alternative means to address the threatened impairment of the national security posed by aluminum articles imports from the EU. The United States and the EU agreed to expand coordination involving trade remedies and customs matters, monitor bilateral steel and aluminum trade, cooperate on addressing non-market excess capacity, and annually review their arrangement and their ongoing cooperation. In addition, the United States and the EU agreed to seek to conclude, by October 31, 2023, negotiations on global steel and aluminum arrangements to restore market-oriented conditions and support the reduction of carbon intensity of steel and aluminum across modes of production.

5. Pursuant to the agreement described in Proclamation 10327, the United States implemented a number of actions, including a tariff-rate quota that restricts the quantity of aluminum articles imported into the United States from the EU without the application of the tariff proclaimed in Proclamation 9704. I concluded that these measures provide an effective, long-term alternative means to address any contribution by EU aluminum articles imports to the threatened impairment to the national security by restraining aluminum articles imports to the United States from the EU, limiting transshipment, and discouraging excess aluminum capacity and production. In light of this agreement, I also determined that specified volumes of eligible aluminum articles imports from the EU no longer threaten to impair the national security and decided to exclude such imports from the EU up to a designated quota from the tariff proclaimed in Proclamation 9704 through December 31, 2023. I also found that the agreed-upon aggregate tariff-rate quota volume, totaling 18,000 metric tons of unwrought aluminum and 366,040 metric tons of semi-finished wrought aluminum, is consistent with the objective of reaching and sustaining a sufficient capacity utilization rate in the domestic aluminum industry.

6. During the past 2 years, the United States and the EU have made substantial progress to identify the sources of non-market excess capacity and the actions needed to address distortions resulting from that non-market excess capacity. The United States and the EU are continuing their discussions on global steel and aluminum arrangements to restore market-oriented conditions in their steel and aluminum sectors and support the reduction of the greenhouse gas emissions intensity of steel and aluminum across all modes of production. These discussions are anticipated to include alternative measures to prevent imports of aluminum from the EU from threatening the national security of the United States.

7. In light of the ongoing discussions and joint actions pursuant to the agreement described in Proclamation 10327, I have determined that the necessary and appropriate means to address the threat to the national security posed by imports of aluminum articles from the member countries of the EU is to continue the discussions and joint actions with the EU and to extend the tariff-rate quota that restricts the quantity of aluminum articles imported into the United States from the EU without the application of the tariff proclaimed in Proclamation 9704. In order to be eligible for in-quota treatment, all imports of aluminum articles from the EU must be accompanied by a certificate of analysis. In my judgment, these measures will provide an effective, long-term alternative means to address any contribution by EU aluminum articles imports to the threatened impairment of the national security by restraining aluminum articles imports to the United States from the EU, limiting transshipment, discouraging excess aluminum capacity and production, and strengthening the United States-EU partnership in a fashion that will better enable future arrangements.

8. In light of the ongoing discussions and joint actions taken pursuant to the agreement described in Proclamation 10327, I have determined that specified volumes of eligible aluminum articles imports from the EU will no longer threaten to impair the national security and have decided to exclude such imports from the EU up to a designated quota from the tariff proclaimed in Proclamation 9704 through December 31, 2025. The United

States will monitor the implementation and effectiveness of the tariff-rate quota and other measures agreed upon with the EU in addressing our national security needs, and I may revisit this determination, as appropriate.

9. The alternative means, including the tariff-rate quota, align with the recommendations specified in the original investigation into the effect of imports of aluminum articles on the national security of the United States under section 232 of the Trade Expansion Act of 1962, as amended. The agreed-upon aggregate tariff-rate quota volume specified in the 2021 agreement between the United States and the EU, totaling 18,000 metric tons of unwrought aluminum and 366,040 metric tons of semi-finished wrought aluminum, remains consistent with the objective of reaching and sustaining a sufficient capacity utilization rate in the domestic aluminum industry.

10. In light of my determination to adjust the tariff proclaimed in Proclamation 9704 as applied to eligible aluminum articles imports from the EU, I have considered whether it is necessary and appropriate in light of our national security interests to make any corresponding adjustments to such tariff as it applies to other countries. I have determined that it is necessary and appropriate, at this time, to maintain the current tariff level as it applies to other countries.

11. Section 232 of the Trade Expansion Act of 1962, as amended, authorizes the President to adjust the imports of an article and its derivatives that are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.

12. Section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483), authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTSUS) the substance of statutes affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States of America, including section 232 of the Trade Expansion Act of 1962, as amended, section 301 of title 3, United States Code, and section 604 of the Trade Act of 1974, as amended, do hereby proclaim as follows:

(1) Clause 2 of Proclamation 9704, as amended, is further amended in the second sentence by deleting ''and'' before ''(j)'' and inserting before the period at the end: '', and (k) on or after 12:01 a.m. eastern standard time on March 10, 2023, from all countries except Argentina, Australia, Canada, Mexico, and from the member countries of the European Union through 11:59 p.m. eastern standard time on December 31, 2025, from the United Kingdom, for aluminum articles covered by headings 9903.85.25 through 9903.85.44, inclusive, and from Russia.''

(2) Imports of aluminum articles from member countries of the EU in excess of the tariff-rate quota quantities shall remain subject to the duties imposed by clause 2 of Proclamation 9704, as amended. The Secretary, in consultation with the United States Trade Representative and the Secretary of Homeland Security, shall recommend to the President, as warranted, updates to the in-quota volumes contained in this proclamation.

(3) Aluminum articles from a member country of the EU imported under an exclusion granted pursuant to clause 3 of Proclamation 9704, as amended, shall count against the in-quota volume of the tariff-rate quota implemented in Proclamation 10327 and extended in this proclamation.

(4) Aluminum articles eligible for in-quota treatment under the tariff-rate quota implemented in Proclamation 10327 and extended in this proclamation must be accompanied by a certificate of analysis in order to receive such treatment. The Secretary, in consultation with the Secretary of Homeland Security and the United States Trade Representative, is authorized to take such actions as are necessary to ensure compliance with this

requirement. Failure to comply could result in applicable remedies or penalties under United States law.

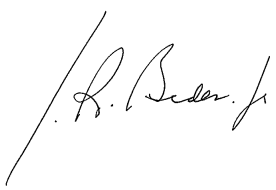
(5) U.S. note 19(a)(v) to subchapter III of chapter 99 of the HTSUS is amended by inserting, after the last sentence of the first paragraph, the sentence ''A Certificate of Analysis for a smelted (unalloyed) primary aluminum used in a product imported under the above subheadings, or such other information as may be required by U.S. Customs and Border Protection, must be supplied by the importer in order to make entry under this subdivision.''

(6) The modifications made by this proclamation shall be effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern standard time on January 1, 2024, and shall continue in effect, unless such actions are expressly reduced, modified, or terminated.

(7) Any imports of aluminum articles from the member countries of the EU that were admitted into a United States foreign trade zone in ''privileged foreign status'' as defined in 19 CFR 146.41, prior to 12:01 a.m. eastern standard time on January 1, 2024, shall be subject upon entry for consumption made on or after 12:01 a.m. eastern standard time on January 1, 2024, to the provisions of the tariff-rate quota in effect at the time of the entry for consumption.

(8) Any provision of previous proclamations and Executive Orders that is inconsistent with the actions taken in this proclamation is superseded to the extent of such inconsistency.

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



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Presidential Documents

Proclamation 10691 of December 28, 2023

Adjusting Imports of Steel Into the United States

By the President of the United States of America

A Proclamation

1. On January 11, 2018, the Secretary of Commerce (Secretary) transmitted to the President a report on the Secretary's investigation into the effect of imports of steel mill articles (steel articles) on the national security of the United States under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862). The Secretary found and advised the President of his opinion that steel articles are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States.

2. In Proclamation 9705 of March 8, 2018 (Adjusting Imports of Steel Into the United States), the President concurred in the Secretary's finding that steel articles, as defined in clause 1 of Proclamation 9705, as amended by clause 8 of Proclamation 9711 of March 22, 2018 (Adjusting Imports of Steel Into the United States), are being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States, and decided to adjust the imports of those steel articles by imposing a 25 percent ad valorem tariff on such articles imported from all countries except Canada and Mexico. The proclamation further stated that any country with which the United States has a security relationship is welcome to discuss alternative ways to address the threatened impairment of the national security caused by imports from that country, and noted that, should the United States and any such country arrive at a satisfactory alternative means to address the threat to the national security such that the President determines that imports from that country no longer threaten to impair the national security, the President may remove or modify the restriction on steel articles imports from that country and, if necessary, adjust the tariff as it applies to other countries, as the national security interests of the United States require.

3. In Proclamation 9711, the President noted the continuing discussions with the European Union (EU) on behalf of its member countries on satisfactory alternative means to address the threatened impairment to the national security by imports of steel articles from these countries. Recognizing that the member countries of the EU have an important security relationship with the United States, the President determined that the necessary and appropriate means to address the threat to the national security posed by imports of steel articles from these countries was to continue the ongoing discussions and to exempt steel articles imports from these countries from the tariff proclaimed in Proclamation 9705 until May 1, 2018.

4. In Proclamation 9740 of April 30, 2018 (Adjusting Imports of Steel Into the United States), the President noted that, unless the President determines by further proclamation that the United States has reached a satisfactory alternative means to remove the threatened impairment to the national security by imports of steel articles from the member countries of the EU, the tariff proclaimed in clause 2 of Proclamation 9705 shall be effective June 1, 2018, for these countries.

5. In Proclamation 10328 of December 27, 2021 (Adjusting Imports of Steel Into the United States), I noted that the United States successfully concluded

discussions with the EU on behalf of its member countries on satisfactory alternative means to address the threatened impairment of the national security posed by steel articles imports from the EU. Specifically, the United States and the EU agreed to expand coordination involving trade remedies and customs matters, monitor bilateral steel and aluminum trade, cooperate on addressing non-market excess capacity, and annually review their arrangement for alternative means and their ongoing cooperation. In addition, the United States and the EU agreed to seek to conclude, by October 31, 2023, negotiations on global steel and aluminum arrangements to restore market-oriented conditions and support the reduction of carbon intensity of steel and aluminum across modes of production.

6. Pursuant to the agreement described in Proclamation 10328, the United States implemented a number of actions, including a tariff-rate quota that restricts the quantity of steel articles imported into the United States from the EU without the application of the tariff proclaimed in Proclamation 9705. I concluded that these measures provide an effective, long-term alternative means to address any contribution by EU steel articles imports to the threatened impairment of the national security by restraining steel articles imports to the United States from the EU, limiting transshipment, discouraging excess steel capacity and production, and strengthening the United States-EU partnership in a fashion that will better enable future arrangements. In light of that agreement, I also determined that specified volumes of eligible steel articles imports from the EU no longer threaten to impair the national security and decided to exclude such imports from the EU up to a designated quota from the tariff proclaimed in Proclamation 9705 through December 31, 2023. I determined that the alternative means, including the tariff-rate quota, advance the recommendations in the Secretary's January 2018 report. I also noted that the agreed-upon aggregate tariff-rate quota volume specified in the agreement between the United States and the EU, totaling 3.3 million metric tons, is consistent with the objective of reaching and maintaining a sufficient capacity utilization rate in the domestic steel industry.

7. During the past 2 years, the United States and the EU have made substantial progress to identify the sources of non-market excess capacity and the actions needed to address distortions resulting from that non-market excess capacity. The United States and the EU are continuing their discussions on global steel and aluminum arrangements to restore market-oriented conditions in their steel and aluminum sectors and support the reduction of the greenhouse gas emissions intensity of steel and aluminum across all modes of production. These discussions are anticipated to include alternative measures to prevent imports of steel from the EU from threatening the national security of the United States.

8. In light of the ongoing discussions and joint actions taken pursuant to the agreement described in Proclamation 10328, I have determined that the necessary and appropriate means to address the threat to the national security posed by imports of steel articles from the member countries of the EU is to continue the discussions and joint actions with the EU and to extend the tariff-rate quota that restricts the quantity of steel articles imported into the United States from the EU without the application of the tariff proclaimed in Proclamation 9705. In order to be eligible for in-quota treatment, steel articles must be melted and poured in the EU. In my judgment, these measures will provide an effective, long-term alternative means to address any contribution by EU steel articles imports to the threatened impairment of the national security by restraining steel articles imports to the United States from the EU, limiting transshipment, discouraging excess steel capacity and production, and strengthening the United States-EU partnership in a fashion that will better enable future arrangements.

9. In light of the ongoing discussions and joint actions taken pursuant to the agreement described in Proclamation 10328, I have determined that specified volumes of eligible steel articles imports from the EU will no

longer threaten to impair the national security and have decided to exclude such imports from the EU up to a designated quota from the tariff proclaimed in Proclamation 9705 through December 31, 2025. The United States will monitor the implementation and effectiveness of the tariff-rate quota and other measures agreed upon with the EU in addressing our national security needs, and I may revisit this determination, as appropriate.

10. The alternative means, including the tariff-rate quota, advance the recommendations contained in the Secretary's January 2018 report. The agreed-upon aggregate tariff-rate quota volume specified in the 2021 agreement between the United States and the EU, totaling 3.3 million metric tons, remains consistent with the objective of reaching and maintaining a sufficient capacity utilization rate in the domestic steel industry.

11. In Proclamation 10328, the United States agreed to renew for 2 calendar years all exclusions that were granted and utilized to import steel products tariff-free from the EU in Fiscal Year 2021. The United States will renew for 2 calendar years all exclusions that were utilized to import steel products free from section 232 tariffs from the EU in Fiscal Year 2021 and the first quarter of calendar year 2022. These exclusions were granted by the Department of Commerce due to a lack of domestic availability of the specified products in the United States.

12. In light of my determination to adjust the tariff proclaimed in Proclamation 9705 as applied to eligible steel articles imported from the EU, I have considered whether it is necessary and appropriate in light of our national security interests to make any corresponding adjustments to such tariff as it applies to other countries. I have determined that it is necessary and appropriate, at this time, to maintain the current tariff level as it applies to other countries.

13. Section 232 of the Trade Expansion Act of 1962, as amended, authorizes the President to adjust the imports of an article and its derivatives that are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.

14. Section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483), authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTSUS) the substance of statutes affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States of America, including section 232 of the Trade Expansion Act of 1962, as amended, section 301 of title 3, United States Code, and section 604 of the Trade Act of 1974, as amended, do hereby proclaim as follows:

(1) Clause 2 of Proclamation 9705, as amended, is revised to read as follows:

''(2)(a) In order to establish certain modifications to the duty rate on imports of steel articles, subchapter III of chapter 99 of the HTSUS is modified as provided in the Annex to this proclamation and any subsequent proclamations regarding such steel articles.

(b) Except as otherwise provided in this proclamation, or in notices published pursuant to clause 3 of this proclamation, all steel articles imports covered by heading 9903.80.01, in subchapter III of chapter 99 of the HTSUS, shall be subject to an additional 25 percent ad valorem rate of duty with respect to goods entered for consumption, or withdrawn from warehouse for consumption, as follows: (i) on or after 12:01 a.m. eastern daylight time on March 23, 2018, from all countries except Argentina, Australia, Brazil, Canada, Mexico, South Korea, and the member countries of the European Union; (ii) on or after 12:01 a.m. eastern daylight time on June 1, 2018, from all countries except Argentina, Australia, Brazil, and South Korea; (iii) on or after 12:01 a.m. eastern daylight time on August 13,

2018, from all countries except Argentina, Australia, Brazil, South Korea, and Turkey; (iv) on or after 12:01 a.m. eastern daylight time on May 20, 2019, from all countries except Argentina, Australia, Brazil, South Korea, and Turkey; (v) on or after 12:01 a.m. eastern daylight time on May 21, 2019, from all countries except Argentina, Australia, Brazil, Canada, Mexico, and South Korea; (vi) on or after 12:01 a.m. eastern standard time on January 1, 2022, from all countries except Argentina, Australia, Brazil, Canada, Mexico, and South Korea, and except the member countries of the European Union through 11:59 p.m. eastern standard time on December 31, 2023, for steel articles covered by headings 9903.80.65 through 9903.81.19, inclusive; (vii) on or after 12:01 a.m. eastern daylight time on April 1, 2022, from all countries except Argentina, Australia, Brazil, Canada, Mexico, and South Korea, and except the member countries of the European Union through 11:59 p.m. eastern standard time on December 31, 2023, for steel articles covered by headings 9903.80.65 through 9903.81.19, inclusive, and from Japan, for steel articles covered by headings 9903.81.25 through 9903.81.80, inclusive; (viii) on or after 12:01 a.m. eastern daylight time on June 1, 2022, from all countries except Argentina, Australia, Brazil, Canada, Mexico, South Korea, and Ukraine through 11:59 p.m. eastern daylight time on June 1, 2023, and except the member countries of the European Union through 11:59 p.m. eastern standard time on December 31, 2023, for steel articles covered by headings 9903.80.65 through 9903.81.19, inclusive, and from Japan and the United Kingdom (UK), for steel articles covered by subheadings 9903.81.25 through 9903.81.78 and heading 9903.81.80, and from the member countries of the European Union, for steel articles covered by heading 9903.81.81; (ix) on or after 12:01 a.m. eastern daylight time on June 1, 2023, from all countries except Argentina, Australia, Brazil, Canada, Mexico, South Korea, and Ukraine through 11:59 p.m. eastern daylight time on June 1, 2024, and except the member countries of the European Union through 11:59 p.m. eastern standard time on December 31, 2023, for steel articles covered by headings 9903.80.65 through 9903.81.19, inclusive, and from Japan and the UK, for steel articles covered by subheadings 9903.81.25 through 9903.81.78 and heading 9903.81.80, and from the member countries of the European Union, for steel articles covered by heading 9903.81.81, and from the member countries of the European Union where the steel used in the manufacture of the steel article is melted and poured in Ukraine through 11:59 p.m. eastern daylight time on June 1, 2024; and (x) on or after 12:01 a.m. eastern standard time on January 1, 2024, from all countries except Argentina, Australia, Brazil, Canada, Mexico, South Korea, and Ukraine through 11:59 p.m. eastern daylight time on June 1, 2024, and except the member countries of the European Union through 11:59 p.m. eastern standard time on December 31, 2025, for steel articles covered by headings 9903.80.65 through 9903.81.19, inclusive, and from Japan and the UK, for steel articles covered by subheadings 9903.81.25 through 9903.81.78 and heading 9903.81.80, and from the member countries of the European Union, for steel articles covered by heading 9903.81.81, and from the member countries of the European Union where the steel used in the manufacture of the steel article is melted and poured in Ukraine through 11:59 p.m. eastern daylight time on June 1, 2024. Further, except as otherwise provided in notices published pursuant to clause 3 of this proclamation, all steel articles imports from Turkey covered by heading 9903.80.02, in subchapter III of chapter 99 of the HTSUS, shall be subject to a 50 percent ad valorem rate of duty with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on August 13, 2018, and prior to 12:01 a.m. eastern daylight time on May 21, 2019. All steel articles imports covered by heading 9903.80.61, in subchapter III of chapter 99 of the HTSUS, shall be subject to the additional 25 percent ad valorem rate of duty established herein with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern time on the date specified in a determination by the Secretary granting relief. These rates of duty, which are in addition to any other duties, fees, exactions,

and charges applicable to such imported steel articles, shall apply to imports of steel articles from each country as specified in the preceding three sentences''.

(2) Steel eligible for in-quota treatment under the tariff-rate quota implemented in Proclamation 10328 and extended in this proclamation must be melted and poured in a member country of the EU in order to receive such treatment. The Secretary, in consultation with the Secretary of Homeland Security and the United States Trade Representative, is authorized to take such actions as are necessary to ensure compliance with this requirement. Failure to comply could result in applicable remedies such as the collection of the tariff set forth in clause 2 of Proclamation 9705, or penalties under United States law.

(3) Imports of steel articles from member countries of the EU in excess of the tariff-rate quota quantities implemented in Proclamation 10328 and extended in this proclamation shall remain subject to the duties imposed by clause 2 of Proclamation 9705, as amended. The Secretary, in consultation with the United States Trade Representative and the Secretary of Homeland Security, shall recommend to the President, as warranted, updates to the in-quota volumes contained in this proclamation.

(4) Steel articles from a member country of the EU imported under an exclusion granted pursuant to clause 3 of Proclamation 9705, as amended, shall not count against the in-quota volume of the tariff-rate quota extended in this proclamation.

(5) The Secretary is directed to renew all utilized exclusions granted pursuant to clause 3 of Proclamation 9705, as amended, and utilized in Fiscal Year 2021 (October 1, 2020, through September 30, 2021) and the first quarter of calendar year 2022 (January 1, 2022, through March 31, 2022), for the import of steel articles from one or more member countries of the EU for a period of 2 years from the date of this proclamation. The renewed exclusions shall be for an annual volume equal to that volume imported from a member country of the EU pursuant to the exclusions in Fiscal Year 2021 and the first quarter of calendar year 2022. The Secretary shall communicate to U.S. Customs and Border Protection of the Department of Homeland Security the exclusions and the volumes of steel articles from member countries of the EU that are allowed under this provision. The Secretary shall, by publication on the internet, or by other means, inform importers of the availability and volume of exclusions renewed by this provision. This provision does not alter or modify in any way the ability of importers to seek additional exclusions in accordance with clause 3 of Proclamation 9705, as amended, and as implemented by the Department of Commerce, for the import of steel articles from a member country of the EU.

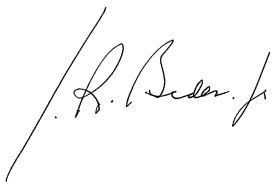
(6) U.S. note 16(f) to subchapter III of chapter 99 of the HTSUS is amended by inserting, at the end of the first sentence of such note subdivision, the phrase '', provided that such iron or steel products are melted and poured in any member country of the European Union'' after the final appearance of the word ''subdivision''.

(7) The modifications made by this proclamation shall be effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern standard time on January 1, 2024, and shall continue in effect, unless such actions are expressly reduced, modified, or terminated.

(8) Any imports of steel articles from the member countries of the EU that were admitted into a United States foreign trade zone under ''privileged foreign status'' as defined in 19 CFR 146.41, prior to 12:01 a.m. eastern standard time on January 1, 2024, shall be subject upon entry for consumption made on or after 12:01 a.m. eastern standard time on January 1, 2024, to the provisions of the tariff-rate quota in effect at the time of the entry for consumption.

(9) Any provision of previous proclamations and Executive Orders that is inconsistent with the actions taken in this proclamation is superseded to the extent of such inconsistency.

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



[FR Doc. 2023–28996
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Rules and Regulations

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Wednesday, January 3, 2024

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1711; Project Identifier MCAI–2023–00093–T; Amendment 39–22639; AD 2023–25–12]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A318–112 airplanes; Model A319–115, –132, –133, –151N, –153N, and –171N airplanes; Model A320–211, –212, –214, –231, –232, –251N, –252N, –253N, –271N, –272N, and –273N airplanes; and Model A321–112 airplanes. This AD was prompted by a report that the fatigue life limit of the motoreductor installed on the on-board entrance stairs is not demonstrated for the complete airplane design service goal (DSG). This AD requires repetitive replacement of the motoreductor for onboard entrance stairs, and it limits the installation of affected parts under certain conditions, 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 February 7, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 7, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1711; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2023–1711.

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

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A318–112 airplanes; Model A319–115, –132, –133, –151N, –153N, and –171N airplanes; Model A320–211, –212, –214, –231, –232, –251N, –252N, –253N, –271N, –272N, and –273N airplanes; and Model A321–112 airplanes. The NPRM published in the **Federal Register** on August 17, 2023 (88 FR 55953). The NPRM was prompted by AD 2023–0014, dated January 18, 2023, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2023–0014) (also referred to as the MCAI). The MCAI states that computations conducted on the Model A320 family program showed that the fatigue life limit of the motoreductor, installed on the on-board entrance stairs and acting as one of the two (stair) immobilization systems, is not demonstrated for the complete airplane design service goal (DSG). Therefore, a motoreductor failure could remain undetected during the period between the demonstrated life limit of the motoreductor and the airplane DSG (and subsequent extended service goal). A failed motoreductor, if not corrected, could lead to an airstairs deployment in flight, possibly resulting in loss of control of the airplane.

In the NPRM, the FAA proposed to require repetitive replacement of the motoreductor for onboard entrance stairs, and limit the installation of affected parts under certain conditions, as specified in EASA AD 2023–0014. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1711.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from a commenter, American Airlines (AAL). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request for Revision of the Applicability Paragraph

AAL requested revising paragraph (c) of the proposed AD to narrow the scope of affected airplanes to only those that have had certain modifications accomplished for installing airstairs on the affected Airbus SAS model airplanes (identified as Group 1 airplanes in EASA AD 2023–0014). AAL acknowledged that the FAA carried over EASA AD 2023–0014's applicability statement on all serial numbers of the affected Airbus SAS models. AAL also noted that the replacement action is only necessary if the airplane is equipped with the airstairs.

The FAA agrees that the replacement actions are only required for airplanes equipped with the affected airstairs (Group 1 airplanes). However, the FAA has determined it is necessary to retain the proposed applicability that is based on EASA's determination of the effectivity of EASA AD 2023–0014. Airplanes that have airstairs installed after the effective date would be subject to the requirements of this AD. Removing airplanes identified as Group 2 airplanes in EASA AD 2023–0014 (airplanes not equipped with the

affected airstairs) would remove this AD from those airplanes' records and possibly increase the risk that the affected airstair part could be installed during a later modification of the Group 2 airplane into a Group 1 airplane without the operator's awareness that the requirements of this AD would then apply to that airplane. A Group 2 airplane with on-board entrance stairs becomes a Group 1 airplane. Operators can check the airplane's maintenance records to monitor the Group status and determine the applicable requirements for that airplane. The FAA has not changed this AD as a result of this comment.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

EASA AD 2023–0014 specifies procedures for repetitive replacement of the motoreductor for Airbus on-board entrance stairs, including a detailed inspection to determine the threshold for replacement. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD will affect 954 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 8 work-hours × $85 per hour = $680 per replacement cycle.	$49,590 per replacement cycle.	Up to $50,270 per replacement cycle.	Up to $47,957,580 per replacement cycle.

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:

2023–25–12 Airbus SAS: Amendment 39–22639; Docket No. FAA–2023–1711; Project Identifier MCAI–2023–00093–T.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category.

(1) Model A318–112 airplanes.

(2) Model A319–115, –132, –133, –151N, –153N, and –171N airplanes.

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

(4) Model A321–112 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Unsafe Condition

This AD was prompted by a report that the fatigue life limit of the motoreductor, installed on the on-board entrance stairs, is not demonstrated for the complete airplane design service goal (DSG). The FAA is issuing this AD to address a motoreductor failure, which could be undetected until DSG is reached. The unsafe condition, if not addressed, could result in an airstairs deployment in flight, possibly resulting in loss of control of the airplane.

(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 2023–0014, dated January 18, 2023 (EASA AD 2023–0014). Thereafter, before the accumulation of 39,400 total flight cycles on

any motoreductor, part number 4255417, 4394656, or 4339747, replace it with a serviceable part as defined in EASA AD 2023–0014.

(h) Exceptions to EASA AD 2023–0014

(1) Where EASA AD 2023–0014 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0014.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2023–0014 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC):* Except as required by paragraph (j)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Additional Information

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

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2023–0014, dated January 18, 2023 (EASA AD 2023–0014).

(ii) [Reserved]

(3) For EASA AD 2023–0014, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on December 14, 2023.

Victor Wicklund,

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

[FR Doc. 2023–28847 Filed 1–2–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1887; Project Identifier MCAI–2023–00543–T; Amendment 39–22642; AD 2023–25–15]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2020–24–12, which applied to certain Airbus SAS Model A350–941 airplanes. AD 2020–24–12 required replacing certain center wing box (CWB) fasteners with fasteners having improved friction efficiency. This AD was prompted by reports that certain CWB fasteners had rotated inside the fastener holes due to insufficient friction for the application, and by the determination that additional work is necessary to ensure the correct application of the fuel vapor barrier structure paint on the outside of the CWB. This AD continues to require the actions in AD 2020–24–12; and requires the additional work; as specified in 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 February 7, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 7, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1887; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2023–1887.

FOR FURTHER INFORMATION CONTACT: Dat Le, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (516) 228–7317; email *dat.v.le@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2020–24–12, Amendment 39–21342 (85 FR 76949, December 1, 2020) (AD 2020–24–12). AD 2020–24–12 applied to certain Airbus SAS Model A350–941 airplanes. AD 2020–24–12 required replacing certain CWB fasteners with fasteners having improved friction efficiency. The FAA issued AD 2020–24–12 to address CWB fastener rotation. This condition, if not corrected, could lead to cracking of the fastener head sealant cover, followed by fuel vapor leakage inside

the cabin, possibly resulting in injury to airplane occupants.

The NPRM published in the **Federal Register** on September 26, 2023 (88 FR 65831). The NPRM was prompted by AD 2023–0068, dated March 30, 2023, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2023–0068) (also referred to as the MCAI). The MCAI states that during flight and fatigue testing it was discovered that some fasteners can rotate inside their CWB fastener holes. Further investigation identified insufficient friction for the application. After EASA issued AD 2020–0123 (which corresponds to FAA AD 2020–24–12), it was determined that additional work is necessary to ensure the correct application of the fuel vapor barrier structure paint on the outside of the CWB. CWB fastener rotation, if not corrected, can lead to a crack of the fastener head sealant cover, followed by fuel vapor leakage inside the cabin, possibly resulting in injury to airplane occupants.

In the NPRM, the FAA proposed to continue to require the actions in AD 2020–24–12 and to require the additional work, as specified in EASA AD 2023–0068. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1887.

Discussion of Final Airworthiness Directive

Comments

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

Additional Changes Made to This AD

In the NPRM, the FAA inadvertently omitted an exception allowing the use of the effective date of this AD in lieu of the effective date of the EASA AD. The FAA has added paragraph (h)(2) of this AD to include that exception.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

EASA AD 2023–0068 specifies procedures for replacing the affected CWB fasteners with fasteners having improved friction efficiency, and for doing additional work on previously modified airplanes to ensure the correct application of the fuel vapor barrier structure paint from outside the CWB.

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

Costs of Compliance

The FAA estimates that this AD affects 13 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2020–24–12	307 work-hours × $85 per hour = $26,095	$5,900	$31,995	$415,935
New actions	174 work-hours × $85 per hour = $14,790	900	15,690	203,970

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:

■ a. Removing Airworthiness Directive (AD) 2020–24–12, Amendment 39–21342 (85 FR 76949, December 1, 2020); and

■ b. Adding the following new AD:

2023–25–15 Airbus SAS: Amendment 39–22642; Docket No. FAA–2023–1887; Project Identifier MCAI–2023–00543–T.

(a) Effective Date

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

(b) Affected ADs

This AD replaces AD 2020–24–12, Amendment 39–21342 (85 FR 76949, December 1, 2020) (AD 2020–24–12).

(c) Applicability

This AD applies to Airbus SAS Model A350–941 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2023–0068, dated March 30, 2023 (EASA AD 2023–0068).

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports that certain center wing box (CWB) fasteners had rotated inside the fastener holes due to insufficient friction for the application, and by the determination that additional work is necessary to ensure the correct application of the fuel vapor barrier structure paint on the outside of the CWB. The FAA is issuing this AD to address CWB fastener rotation. The unsafe condition, if not corrected, could lead to cracking of the fastener head sealant cover, followed by fuel vapor leakage inside the cabin, possibly resulting in injury to airplane occupants.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2023–0068.

(h) Exceptions to EASA AD 2023–0068

(1) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0068.

(2) Where EASA AD 2023–0068 refers to its effective date, this AD requires using the effective date of this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Dat Le, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (516) 228–7317; email *dat.v.le@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2023–0068, dated March 30, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0068, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on December 14, 2023.

Victor Wicklund,

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

[FR Doc. 2023–28848 Filed 1–2–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–2005; Project Identifier AD–2022–01523–A; Amendment 39–22646; AD 2023–26–03]

RIN 2120–AA64

Airworthiness Directives; WACO Classic Aircraft Corporation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain WACO Classic Aircraft Corporation Model 2T–1A–2 airplanes. This AD was prompted by reports of multiple types of cracks at the leading edge former ribs and trailing edge former ribs in the upper wing center section. This AD requires installing maneuver restriction placards in the front and rear cockpits, inspecting the leading and trailing edge former ribs for cracking, replacing any cracked ribs, modifying the upper wing center section assembly, and removing the maneuver restriction placards after completing the modification. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 7, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 7, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–2005; 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 service information identified in this final rule, contact WACO Classic Aircraft Corporation, 15955 South Airport Road, Battle Creek, MI 49015; phone: (269) 565–1000; email: *hello@wacoaircraft.com.*; website: *wacoaircraft.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO

64106. 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–2023–2005.

FOR FURTHER INFORMATION CONTACT: Tim Eichor, Aviation Safety Engineer, FAA, 1801 S Airport Road, Wichita, KS 67209; phone: (847) 294–7141; email: *tim.d.eichor@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 WACO Classic Aircraft Corporation Model 2T–1A–2 airplanes. The NPRM published in the **Federal Register** on October 27, 2023 (88 FR 73780). The NPRM was prompted by reports of multiple types of cracks after low flight hours on WACO Classic Aircraft Corporation Model 2T–1A–2 airplanes. The cracks were approximately 1 to 1.5 inches long and located in the leading edge former ribs and trailing edge former ribs in the upper wing center section, along the top flange where the ribs attach to the spar. Due to the cracking, the fabric support channels have come close to separating from the trailing edge former ribs. When fabric support channels detach from a rib, they would still be attached to the fabric, but the upper center wing airfoil may not maintain its shape due to the fabric support channels being pulled up by aerodynamic loads, which could lead to unexpected and unknown flight characteristics. The type certificate holder determined that this unsafe condition affects airplane serial numbers 1200 and subsequent with the upper wing center section assembly 30116–100 configuration. In the NPRM, the FAA proposed to require installing maneuver restriction placards in the front and rear cockpits, inspecting the leading and trailing edge former ribs for cracking, replacing any cracked ribs, modifying the upper wing center section assembly, and removing the maneuver restriction placards after completing the modification. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

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. This AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed WACO Great Lakes 2T–1A–2 Service Bulletin GL–SB0002, Revision NR, dated July 6, 2023 (WACO SB 2T–1A–2, Revision NR). This service information specifies procedures for inspecting the leading edge former ribs and trailing edge former ribs in the upper wing center section for cracking, replacing any cracked ribs, and modifying the upper wing center section assembly by installing new fabric support channels, saddles, and brackets. Modifying the upper wing center section assembly changes the configuration from the 30116–100 upper wing center section assembly configuration to the 30116–104 upper wing center section assembly configuration.

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

Difference Between This AD and the Service Information

Although section B of the Accomplishment Instructions in WACO SB 2T–1A–2, Revision NR, specifies to record the locations of all identified cracks found on the leading edge former ribs and the trailing edge former ribs and share this information with WACO Aircraft, this AD does not require those actions.

Costs of Compliance

The FAA estimates that this AD affects 19 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
Maneuver restriction placard installation/removal.	1 work-hour × $85 per hour = $85	$10	$95	$1,805
Rib inspection	4 work-hours × $85 per hour = $340	0	340	6,460
Upper wing center assembly modification	185 work-hours × $85 per hour = $15,725	4,063	19,788	375,972

The FAA estimates the following costs to do any necessary rib replacement that would be required based on the results of the inspection. The agency has no way of determining the number of airplanes that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Rib replacement (8 ribs)	16 work-hours × $85 per hour = $1,360 (8 ribs)	$1,032 (8 ribs).	$2,392 (8 ribs).

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:

2023–26–03 WACO Classic Aircraft Corporation: Amendment 39–22646; Docket No. FAA–2023–2005; Project Identifier AD–2022–01523–A.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to WACO Classic Aircraft Corporation Model 2T–1A–2 airplanes, serial numbers 1200 and subsequent with the 30116–100 upper wing center section assembly configuration, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 5712, Wing, Rib/Bulkhead.

(e) Unsafe Condition

This AD was prompted by reports of multiple cracks at the leading edge former ribs and trailing edge former ribs in the upper wing center section along the top flange where the ribs attach to the spar after low flight hours. The FAA is issuing this AD to detect and correct cracks in the leading and trailing edge former ribs in the upper wing center section. The unsafe condition, if not addressed, could result in reduced structural integrity of the airplane and the reduced ability of the flightcrew to maintain the safe flight and landing of the airplane.

(f) Compliance

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

(g) Required Actions

(1) Within 30 days after the effective date of this AD, insert maneuver restriction placards on the instrument panel of the front and rear cockpits, and next to the operating placard in the rear cockpit, stating ''NO AEROBATIC MANEUVERS ALLOWED.''

(2) Within 100 hours time-in-service (TIS) or within 12 months after the effective date of this AD, whichever occurs first, accomplish the following:

(i) Inspect the leading edge former ribs and trailing edge former ribs in the upper wing center section for cracking in accordance with section B and before further flight, replace any cracked rib in accordance with section C of the Accomplishment Instructions in WACO Great Lakes 2T–1A–2 Service Bulletin GL–SB0002, Revision NR, dated July 6, 2023 (WACO SB 2T–1A–2, Revision NR). Although section B of the Accomplishment Instructions in WACO SB 2T–1A–2, Revision NR, specifies to record the locations of all identified cracks found on the leading edge former ribs and the trailing edge former ribs and share this information with WACO Aircraft, this AD does not require those actions.

(ii) Modify the center section to the 30116–104 upper wing center section assembly configuration in accordance with section C of the Accomplishment Instructions in WACO SB 2T–1A–2, Revision NR.

(3) After replacing all cracked ribs and modifying the center section to the 30116–104 upper wing center section assembly configuration, aerobatic maneuvers can resume and the ''NO AEROBATIC MANEUVERS ALLOWED'' maneuver restriction placards can be removed from the front and rear cockpits.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Central Certification 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 Central Certification Branch, send it to the attention of the person identified in paragraph (i) of this AD.

(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.

(i) Additional Information

For more information about this AD, contact Tim Eichor, Aviation Safety Engineer, FAA, 1801 S Airport Road, Wichita, KS 67209; phone: (847) 294–7141; email: *tim.d.eichor@faa.gov*.

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) 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) WACO Great Lakes 2T–1A–2 Service Bulletin GL–SB0002, Revision NR, dated July 6, 2023.

(ii) [Reserved]

(3) For service information identified in this AD, contact WACO Classic Aircraft Corporation, 15955 South Airport Road, Battle Creek, MI 49015; phone: (269) 565–1000; email: *hello@wacoaircraft.com*.; website: *wacoaircraft.com*.

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on December 21, 2023.

Caitlin Locke,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–28877 Filed 1–2–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1896; Project Identifier MCAI–2023–00837–T; Amendment 39–22633; AD 2023–25–06]

RIN 2120–AA64

Airworthiness Directives; Saab AB, Support and Services (Formerly Known as Saab AB, Saab Aeronautics) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Saab AB, Support and Services Model SAAB 2000 airplanes. This AD was prompted by a review of the anti-skid system that revealed the possibility of inadvertently connecting the inboard harness to the outboard channel (and vice versa) of the wheel speed transducers in the main landing gear (MLG) wheel axles. This AD requires installing color markings on the harnesses and the wheel axles, to ensure proper installation and connection of the anti-skid harnesses, 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 February 7, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 7, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1896; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2023–1896.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone 206–231–3220; email *shahram.daneshmandi@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 all Saab AB, Support and Services Model SAAB 2000 airplanes. The NPRM published in the **Federal Register** on October 5, 2023 (88 FR 69105). The NPRM was prompted by AD 2023–0135, dated July 10, 2023, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2023–0135) (also referred to as the MCAI). The MCAI states a system review of the anti-skid system revealed the possibility of inadvertently connecting the inboard harness to the outboard channel (and vice versa) of the wheel speed transducers in the MLG wheel axles. This condition, if not detected and corrected, would lead to wrong inputs to the anti-skid function, whenever activated, with consequent reduced braking capability, possibly resulting in damage to the airplane.

In the NPRM, the FAA proposed to require modification of the MLG by installing color markings on the harnesses and the wheel axles, to ensure proper installation and connection of the anti-skid harnesses, as specified in EASA AD 2023–0135. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1896.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

EASA AD 2023–0135 specifies procedures for modifying the left- and right-hand MLG and connectors with color markings. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 17 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
10 work-hours × $85 per hour = $850	$1,740	$2,590	$44,030

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:

2023–25–06 Saab AB, Support and Services (Formerly Known as Saab AB, Saab Aeronautics): Amendment 39–22633; Docket No. FAA–2023–1896; Project Identifier MCAI–2023–00837–T.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Saab AB, Support and Services (formerly known as Saab AB, Saab Aeronautics) Model SAAB 2000 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Unsafe Condition

This AD was prompted by a review of the anti-skid system that revealed the possibility of inadvertently connecting the inboard harness to the outboard channel (and vice versa) of the wheel speed transducers in the main landing gear (MLG) wheel axles. The FAA is issuing this AD to address incorrect connections of the harnesses to the wheel speed transducers. The unsafe condition, if not addressed, could result in wrong inputs to the anti-skid function, whenever activated, with consequent reduced braking capability, possibly resulting in damage to the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2023–0135, dated July 10, 2023 (EASA AD 2023–0135).

(h) Exceptions to EASA AD 2023–0135

(1) Where EASA AD 2023–0135 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2023–0135 requires a ''visual check,'' this AD requires replacing those words with ''visual inspection.''

(3) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0135.

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(j) Additional Information

For more information about this AD, contact Shahram Daneshmandi, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone 206–231–3220; email *shahram.daneshmandi@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2023–0135, dated July 10, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0135, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this EASA AD on the EASA website *ad.easa.europa.eu.*

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

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

Issued on December 14, 2023.

Victor Wicklund,

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

[FR Doc. 2023–28852 Filed 1–2–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1994; Project Identifier MCAI–2023–00658–T; Amendment 39–22636; AD 2023–25–09]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A318, A319, A321, A330–200, A330–200 Freighter, A330–300, A330–800, A330–900, A340–200, and A340–300 series airplanes; Model A320–211, –212, –214, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes; and Model A340–541 and A340–642 airplanes. This AD was prompted by a report that a production deficiency of some SafeLav gaseous oxygen container (SLGOC) batches was identified during production testing of newly manufactured oxygen containers. This AD requires replacing affected SLGOCs and prohibiting the installation of affected SLGOCs, 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 February 7, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 7, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1994; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

• For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*

• You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2023–1994.

FOR FURTHER INFORMATION CONTACT: Tim Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206–231–3667; email: *timothy.p.dowling@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 all Airbus SAS Model:

• A318–111, –112, –121, and –122 airplanes;

• A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, and –171N airplanes;

• A320–211, –212, –214, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes;

• A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –251NX, –252N, –252NX, –253N, –253NX, –271N, –271NX, –272N, and –272NX airplanes;

• A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, –343, –841, and –941 airplanes; and

• A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes.

The NPRM published in the **Federal Register** on October 13, 2023 (88 FR 70913). The NPRM was prompted by AD 2023–0094, dated May 8, 2023, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2023–0094) (also referred to as the MCAI). The MCAI states that a production deficiency of some SLGOC batches was identified during production testing of newly manufactured oxygen containers. Subsequent investigation identified missing heat treatment of the actuation pin of the SLGOC, which could cause its jamming, with consequent failure of oxygen flow activation. This condition, if not corrected, could prevent supplemental oxygen supply in case of decompression in the cabin/lavatory, possibly resulting in injury to lavatory occupants.

In the NPRM, the FAA proposed to require replacing affected SLGOCs and prohibiting the installation of affected SLGOCs, as specified in EASA AD 2023–0094. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1994.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

EASA AD 2023–0094 specifies procedures for replacing affected SLGOCs and prohibiting the installation of affected SLGOCs. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 728 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × $85 per hour = $170	$4,570	$4,740	$3,450,720

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2023–25–09 Airbus SAS: Amendment 39–22636; Docket No. FAA–2023–1994; Project Identifier MCAI–2023–00658–T.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS airplanes identified in paragraphs (c)(1) through (6) of this AD, certificated in any category.

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

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

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

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

(5) Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, –343, –841, and –941 airplanes.

(6) Model A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Unsafe Condition

This AD was prompted by a report that a production deficiency of some SafeLav gaseous oxygen container (SLGOC) batches was identified during production testing of newly manufactured oxygen containers. The FAA is issuing this AD to address missing heat treatment of the actuation pin of the SLGOC, which could cause its jamming, with consequent failure of oxygen flow activation. The unsafe condition, if not addressed, could result in lack of supplemental oxygen supply in case of decompression in the cabin/lavatory, possibly resulting in injury to lavatory occupants.

(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 2023–0094, dated May 8, 2023 (EASA AD 2023–0094).

(h) Exceptions to EASA AD 2023–0094

(1) Where EASA AD 2023–0094 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0094.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2023–0094 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC):* Except as required by paragraphs (j)(2) and (i) of this AD, if any service information referenced in EASA AD 2023–0094 contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including

subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any identified as RC require approval of an AMOC.

(k) Additional Information

For more information about this AD, contact Tim Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206–231–3667; email: *timothy.p.dowling@faa.gov*.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2023–0094, dated May 8, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0094, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on December 14, 2023.

Victor Wicklund,

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

[FR Doc. 2023–28854 Filed 1–2–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1502; Project Identifier MCAI–2023–00380–T; Amendment 39–22634; AD 2023–25–07]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2023–04–10, which applied to all Dassault Aviation Model MYSTERE–FALCON 900 airplanes. AD 2023–04–10 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This AD continues to require the actions in AD 2023–04–10, and requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations; as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 7, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 7, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of May 12, 2023 (88 FR 20743, April 7, 2023).

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1502; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2023–1502.

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

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2023–04–10, Amendment 39–22357 (88 FR 20743, April 7, 2023) (AD 2023–04–10). AD 2023–04–10 applied to all Dassault Aviation Model MYSTERE–FALCON 900 airplanes. AD 2023–04–10 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2023–04–10 to address reduced structural integrity of the airplane. AD 2023–04–10 specifies that accomplishing the revision required by that AD terminates the requirements of paragraph (g)(1) of AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010) (AD 2010–26–05) for Dassault Aviation Model MYSTERE–FALCON 900 airplanes only. This AD therefore continues to allow that terminating action.

The NPRM published in the **Federal Register** on July 21, 2023 (88 FR 47086); corrected August 14, 2023 (88 FR 54933). The NPRM was prompted by AD 2023–0046, dated March 2, 2023, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2023–0046) (also referred to as the MCAI). The MCAI states that new or more restrictive airworthiness limitations have been developed.

In the NPRM, the FAA proposed to continue to require the actions in AD 2023–04–10 and to require revising the existing maintenance or inspection program, as specified in EASA AD 2023–0046. The FAA is issuing this AD to address reduced structural integrity of the airplane.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1502.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed EASA AD 2023–0046. This service information specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This AD also requires EASA AD 2022–0137, dated July 6, 2022, which the Director of the Federal Register approved for incorporation by reference as of May 12, 2023 (88 FR 20743, April 7, 2023).

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

Costs of Compliance

The FAA estimates that this AD affects 151 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2023–04–10 to be $7,650 (90 work-hours × $85 per work-hour).

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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 (AD) 2023–04–10, Amendment 39–22357 (88 FR 20743, April 7, 2023); and

■ b. Adding the following new AD:

2023–25–07 Dassault Aviation: Amendment 39–22634; Docket No. FAA–2023–1502; Project Identifier MCAI–2023–00380–T.

(a) Effective Date

This airworthiness directive (AD) is effective February 7, 2023.

(b) Affected ADs

(1) This AD replaces AD 2023–04–10, Amendment 39–22357 (88 FR 20743, April 7, 2023) (AD 2023–04–10).

(2) This AD affects AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010) (AD 2010–26–05).

(c) Applicability

This AD applies to all Dassault Aviation Model MYSTERE–FALCON 900 airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program, With No Changes

This paragraph restates the requirements of paragraph (j) of AD 2023–04–10, with no changes. Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0137, dated July 6, 2022 (EASA AD 2022–0137). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2022–0137, With No Changes

This paragraph restates the exceptions specified in paragraph (k) of AD 2023–04–10, with no changes.

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2022–0137.

(2) Paragraph (3) of EASA AD 2022–0137 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as

applicable, within 90 days after May 12, 2023 (the effective date of AD 2023–04–10).

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2022–0137 is at the applicable ''limitations'' and ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2022–0137, or within 90 days after May 12, 2023 (the effective date of AD 2023–04–10), whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2022–0137.

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2022–0137

(i) Retained Restrictions on Alternative Actions or Intervals, With a New Exception

This paragraph restates the requirements of paragraph (l) of AD 2023–04–10, with a new exception. Except as required by paragraph (j) of this AD, after the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2022–0137.

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

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2023–0046, dated March 2, 2023 (EASA AD 2023–0046). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2023–0046

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2023–0046.

(2) Paragraph (3) of EASA AD 2023–0046 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2023–0046 is at the applicable ''limitations'' and ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2023–0046, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2023–0046.

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0046.

(l) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2023–0046.

(m) Terminating Action for AD 2010–26–05

Accomplishing the actions required by paragraph (g) or (j) of this AD terminates the requirements of paragraph (g)(1) of AD 2010–26–05, for Dassault Aviation Model MYSTERE–FALCON 900 airplanes only.

(n) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(o) Additional Information

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

(p) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on February 7, 2023.

(i) European Union Aviation Safety Agency (EASA) AD 2023–0046, dated March 2, 2023.

(ii) [Reserved]

(4) The following service information was approved for IBR on May 12, 2023 (88 FR 20743, April 7, 2023).

(i) European Union Aviation Safety Agency (EASA) AD 2022–0137, dated July 6, 2022.

(ii) [Reserved]

(5) For EASA ADs 2023–0046 and 2022–0137, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find these EASA ADs on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on December 14, 2023.

Victor Wicklund,

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

[FR Doc. 2023–28853 Filed 1–2–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1648; Project Identifier AD–2022–01501–T; Amendment 39–22637; AD 2023–25–10]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. This AD was prompted by a reported quality escapement where the seat track fitting nuts were under-torqued on some flight attendant seats in production. This AD requires re-torquing each free-standing attendant seat track fitting nut. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 7, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 7, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1648; 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 service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110 SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2023–1648.

FOR FURTHER INFORMATION CONTACT: Tony Koung, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3985; email: *Tony.Koung@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 The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. The NPRM published in the **Federal Register** on August 22, 2023 (88 FR 57012). The NPRM was prompted by a reported quality escapement where the seat track fitting nuts were under-torqued on some flight attendant seats in production. In the NPRM, the FAA proposed to require re-torquing each free-standing attendant seat track fitting nut. The FAA is issuing this AD to address under-torqued seat track fitting nuts. The unsafe condition, if not addressed, could result in the forward-facing flight attendant seats breaking free in a high load event, causing injury to flight attendants and blocking the exits during emergency egress.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Boeing and United Airlines who supported the NPRM without change.

The FAA received additional comments from American Airlines (AAL). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Increase the Work Hours

AAL requested that the FAA increases the work-hour estimate provided in the Costs of Compliance section of the proposed AD to 3 hours.

The FAA agrees with the commenter's request. The FAA has revised the Costs of Compliance section of this AD accordingly.

Request To Extend the Compliance Time to One Year

AAL requested the compliance time for the actions (re-torquing each free-standing attendant seat track fitting nut) be revised to one year after the effective date of this AD. AAL noted that a one-year compliance time would provide flexibility and allow the task to be accomplished during the A-checks within the AAL maintenance program. AAL also noted it has accomplished maintenance review board (MRB) task 25–146–00 on 85% of its affected airplanes with zero reports of findings. AAL stated the MRB task specifies to verify the seat track fittings are fully installed and cannot be moved manually and to correctly torque the seat track fitting if it is not tight. However, AAL acknowledged that MRB task 25–146–00 does not require a torque check. AAL stated that a one-year compliance window is a reasonable compliance time and will maintain the desired level of safety.

The FAA does not agree with the commenter's request to revise the compliance time from six months to one year. The FAA does not base compliance intervals on nonspecific intervals such as an A-check as those intervals are operator specific. Further, MRB task 25–146–00 does not check any torques of any of the fitting nuts that are identified in Boeing Service Letter 787–SL–25–025, dated September 6, 2022, which is the appropriate source of service information for accomplishing the re-torquing of each free-standing attendant seat track fitting nut required by this AD. The MRB task only checks for looseness of the fitting, which means the seat jumped the tracks. For the MRB task, if the seat did not move and the fitting was in the track, no actual checking of the nut torque was accomplished; therefore, the seat track fitting nut still needs to be re-torqued. The FAA has determined that accomplishing the re-torquing of each free-standing attendant seat track fitting nut within 6 months after the effective date of this AD is necessary to address the identified unsafe condition. Therefore, the FAA has not changed this AD in this regard.

Conclusion

The FAA reviewed the relevant data, considered any comments received, 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, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Service Letter 787–SL–25–025, dated September 6, 2022. This service information specifies procedures for re-torquing each free-standing attendant seat track fitting nut to 140–150 in-lbs. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Costs of Compliance

The FAA estimates that this AD affects 134 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
Re-Torque seat track fitting nuts.	Up to 3 work-hours × $85 per hour = Up to $255.	$0	Up to $255	Up to $34,170.

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

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue

rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2023–25–10 The Boeing Company: Amendment 39–22637; Docket No. FAA–2023–1648; Project Identifier AD–2022–01501–T.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8, 787–9, and 787–10 airplanes, certificated in any category, as identified in Boeing Service Letter 787–SL–25–025, dated September 6, 2022.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Unsafe Condition

This AD was prompted by a reported quality escapement where the seat track fitting nuts were under-torqued on some flight attendant seats in production. The FAA is issuing this AD to address under-torqued seat track fitting nuts. The unsafe condition, if not addressed, could result in the forward-facing flight attendant seats breaking free in a high load event, causing injury to flight attendants, and blocking the exits during emergency egress.

(f) Compliance

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

(g) Re-torque Seat Track Fitting Nuts

Within 6 months after the effective date of this AD, re-torque each free-standing attendant seat track fitting nut in accordance with Steps 2., 3., and 4. of ''Suggested Operator Action'' of Boeing Service Letter 787–SL–25–025, dated September 6, 2022.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520 Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (i) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

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

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

(i) Related Information

For more information about this AD, contact Tony Koung, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3985; email: *Tony.Koung@faa.gov*.

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) 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) Boeing Service Letter 787–SL–25–025, dated September 6, 2022.

(ii) [Reserved]

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

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

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

Issued on December 14, 2023.

Victor Wicklund,

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

[FR Doc. 2023–28855 Filed 1–2–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1999; Project Identifier MCAI–2023–00697–T; Amendment 39–22638; AD 2023–25–11]

RIN 2120–AA64

Airworthiness Directives; Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2021–02–18, which applied to all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes and Model C–295 airplanes. AD 2021–02–18 required

repetitive inspections for cracking or broken rivets of certain left- and right-hand stringers and surrounding structure, and repair if necessary. This AD was prompted by a modification that was developed to reinforce the structure in the affected area, providing terminating action for the repetitive inspections required by AD 2021–02–18. This AD continues to require certain actions in AD 2021–02–18 and requires the new terminating action for the repetitive inspections, 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 February 7, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 7, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1999; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2023–1999.

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

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2021–02–18, Amendment 39–21401 (86 FR 10740, February 23, 2021) (AD 2021–02–18) (which corresponds to EASA AD 2020–0159). AD 2021–02–18 applied to all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes and Model C–295 airplanes. AD 2021–02–18 required repetitive inspections for cracking or broken rivets of certain left- and right-hand stringers and surrounding structure, and repair if necessary. The FAA issued AD 2021–02–18 to address such cracking in the stringers, which could result in reduced structural integrity of the airplane. FAA AD 2021–02–18 explained that the requirements were ''interim action,'' and further rulemaking was being considered. The FAA has now determined that further rulemaking is necessary, and this AD follows from that determination.

The NPRM published in the **Federal Register** on October 18, 2023 (88 FR 71778). The NPRM was prompted by AD 2023–0103, dated May 23, 2023, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2023–0103) (also referred to as the MCAI). The MCAI states that since EASA AD 2020–0159 was issued, a modification was developed to reinforce the structure in the affected area, which is a terminating action for the repetitive inspections required by EASA AD 2020–0159. The MCAI does not include Model CN–235–100 airplanes since a determination was made that the only remaining airplanes in service are operated by a government military service. The FAA has determined that since these models remain on the FAA type certificate data sheet, AD action is necessary to address the unsafe condition. Therefore, this AD includes this model in the AD applicability and provides corrective actions to address the unsafe condition.

In the NPRM, the FAA proposed to continue certain actions in EASA AD 2020–0159. The NPRM also proposed to require the new terminating action for the repetitive inspections, as specified in EASA AD 2023–0103. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1999.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

EASA AD 2023–0103 specifies procedures for detailed visual (DET) or high frequency eddy current inspections of the stringer P0a and P0a' at the riveted line of the attachment to the gusset and along the stringer head, in particular at the area of the last attachment of the gusset to the stringer in the midpoint between FR43 and FR44, DET inspections for fatigue cracks of the fuselage skin, along the stringers' footprint and surrounding structure and the attachment of the gusset to the FR43; DET inspections for fatigue cracks of the actuator bracket on FR43, along the radius of the vertical nerves, inner lug holes, and attachment holes of the bracket to FR43; DET inspections for fatigue cracks or broken rivets in the web and joint clips to skin and stringer of both sides of the frame between stringer P1d and P1d' (two stringers for each side from the central stringer P0a); DET inspections for fatigue cracks or broken rivets of the gussets, along the flange which joins FR43; and repair of any cracking or broken rivets.

EASA AD 2023–0103 also specifies procedures for modifying structures between frames FR43 and FR44, on stringers STGR0A and STGR0A': Replacing supports, formers, installing fittings, radius guards, and hardware attachments.

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

Costs of Compliance

The FAA estimates that this AD affects 10 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 17 work-hours × $85 per hour = Up to $1,445	Up to $14,002	Up to $15,447	Up to $154,470.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2021–02–18, Amendment 39–21401 (86 FR 10740, February 23, 2021); and

■ b. Adding the following new AD:

2023–25–11 Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.): Amendment 39–22638; Docket No. FAA–2023–1999; Project Identifier MCAI–2023–00697–T.

(a) Effective Date

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

(b) Affected ADs

This AD replaces AD 2021–02–18, Amendment 39–21401 (86 FR 10740, February 23, 2021) (AD 2021–02–18).

(c) Applicability

This AD applies all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes and Model C–295 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by cracks found on certain left- and right-hand stringers in the area of frame (FR) 43 of the fuselage. The FAA is issuing this AD to address such cracking in the stringers, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) 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, EASA AD 2023–0103, dated May 23, 2023 (EASA AD 2023–0103).

(h) Exceptions to EASA AD 2023–0103

(1) Where EASA AD 2023–0103 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0103.

(3) Where EASA AD 2023–0103 specifies ''The SB: Airbus DS Service Bulletin (SB) SB235–53–0070C (for CN–235, CN–235–200 and CN–235–300 aeroplanes) and SB295–53–0025C (for C–295 aeroplanes), as applicable,'' for this AD replace those words with ''The SB: Airbus DS Service Bulletin (SB) SB235–53–0070C (for CN–235, CN–235–200 and CN–235–300 aeroplanes), SB235–53–0070M (for CN–235–100 aeroplanes), and SB295–53–0025C (for C–295 aeroplanes), as applicable.''

(4) Where EASA AD 2023–0103 specifies ''Groups: Group 1 aeroplanes are CN–235, CN–235–200 aeroplanes. Group 2 aeroplanes are CN–235–300 and C–295 aeroplanes,'' for this AD replace those words with ''Groups: Group 1 aeroplanes are CN–235, CN–235–100, and CN–235–200 aeroplanes. Group 2 aeroplanes are CN–235–300 and C–295 aeroplanes.''

(5) Where the column header of Table 1 of EASA AD 2023–0103 is titled ''Accumulated Flight Hours (FH) and Flight Cycles (FC)'', for this AD replace those words with ''Accumulated Flight Hours (FH) and Flight Cycles (FC), as of March 30, 2021 (the effective date of AD 2021–02–18).''

(6) Where EASA AD 2023–0103 specifies a compliance time of ''During the next A-check, or within 300 FH after 30 July 2020 [the effective date of EASA AD 2020–0159], whichever occurs later,'' for this AD replace those words with ''Within 300 FH after March 30, 2021 (the effective date of AD 2021–02–18).''

(7) Where EASA AD 2023–0103 specifies a compliance time of ''Within 50 FH or 50 FC, whichever occurs first after 30 July 2020 [the effective date of EASA AD 2020–0159],'' for this AD replace those words with ''Within 50 FH or 50 FC, whichever occurs first after March 30, 2021 (the effective date of AD 2021–02–18).''

(8) Where paragraph (2) of EASA AD 2023–0103 specifies to ''contact Airbus DS for approved instructions and accomplish those instructions accordingly'' if discrepancies are detected, for this AD if any cracking is

detected, the cracking must be repaired before further flight using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus Defense and Space S.A.'s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2023–0103 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC):* Except as required by paragraph (j)(2) of this AD, if any service information referenced in EASA AD 2023–0103 contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC.

(k) Additional Information

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

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2023–0103, dated May 23, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0103, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on December 14, 2023.

Victor Wicklund,

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

[FR Doc. 2023–28846 Filed 1–2–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1892; Project Identifier MCAI–2023–00626–E; Amendment 39–22647; AD 2023–26–04]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Rolls-Royce Deutschland Ltd & Co KG (RRD) Model Trent 1000–AE3, Trent 1000–CE3, Trent 1000–D3, Trent 1000–G3, Trent 1000–H3, Trent 1000–J3, Trent 1000–K3, Trent 1000–L3, Trent 1000–M3, Trent 1000–N3, Trent 1000–P3, Trent 1000–Q3, and Trent 1000–R3 engines. This AD is prompted by a determination that certain intervals for visual inspection of the intermediate-pressure stage 8 (IP8) and high-pressure stage 3 (HP3) air transfer tubes and front bearing housing IP8 air feed tubes need to be reduced. This AD requires initial and repetitive visual inspections of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes for cracking, damage, or air leakage wear, and replacement, if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference (IBR). The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 7, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 7, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No.FAA–2023–1892; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For service information identified in this final rule, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu*; website: *easa.europa.eu*. You may find this material on the EASA website at *ad.easa.europa.eu*.
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. 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–2023–1892.

FOR FURTHER INFORMATION CONTACT: Sungmo Cho, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7241; email: *sungmo.d.cho@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 all RRD Model Trent 1000–AE3, Trent 1000–CE3, Trent 1000–D3, Trent 1000–G3, Trent 1000–H3, Trent 1000–J3, Trent 1000–K3, Trent 1000–L3, Trent 1000–M3, Trent 1000–N3, Trent 1000–P3, Trent 1000–Q3, and Trent 1000–R3 engines. The NPRM published in the **Federal Register** on September 29, 2023 (88 FR 67121). The NPRM was prompted by EASA AD 2023–0087, dated April 26, 2023 (EASA AD 2023–

0087) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that the RRD engine time limits manual (TLM) provides instructions for visual inspection of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes for cracking, damage, or air leakage wear at intervals consistent with critical part life assessments. Also, certain inspection intervals mandated by the MCAI, and not previously included in the TLM, are shorter than the engine shop visit intervals. Thus, more frequent visual inspections of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes are necessary. The manufacturer issued service information that provides instructions for visual inspections of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes.

In the NPRM, the FAA proposed to require initial and repetitive visual inspections of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes for cracking, damage, or air leakage wear, and replacement, if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1892.

Discussion of Final Airworthiness Directive

Comments

The FAA received one comment from The Boeing Company (Boeing). Boeing supported the NPRM without change.

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 the MCAI referenced above. 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. 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 2023–0087, which specifies procedures for performing initial and repetitive visual inspections of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes for cracking, damage, or air leakage wear, and replacement if necessary.

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**.

Costs of Compliance

The FAA estimates that this AD affects 16 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
Inspection of air tubes	3 work-hours × $85 per hour = $255	$0	$255	$4,080

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace IP8 air transfer tubes	2 work-hours × $85 per hour = $170	$7,600	$7,700
Replace HP3 air transfer tubes	2 work-hours × $85 per hour = $170	11,900	12,070
Replace front bearing housing IP8 air feed tubes.	2 work-hours × $85 per hour = $170	10,000	10,170

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:

2023–26–04 Rolls-Royce Deutschland Ltd & Co KG: Amendment 39–22647; Docket No. FAA–2023–1892; Project Identifier MCAI–2023–00626–E.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd & Co KG Model Trent 1000–AE3, Trent 1000–CE3, Trent 1000–D3, Trent 1000–G3, Trent 1000–H3, Trent 1000–J3, Trent 1000–K3, Trent 1000–L3, Trent 1000–M3, Trent 1000–N3, Trent 1000–P3, Trent 1000–Q3, and Trent 1000–R3 engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7500, Engine Bleed Air System.

(e) Unsafe Condition

This AD was prompted by a determination that certain intervals for visual inspection of the intermediate-pressure stage 8 (IP8) air transfer tubes, high-pressure stage 3 (HP3) air transfer tubes, and front bearing housing IP8 air feed tubes need to be reduced. The FAA is issuing this AD to prevent failure of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes. The unsafe condition, if not addressed, could affect the engine internal cooling and sealing flows, resulting in failure of the IP8 air transfer tubes, HP3 air transfer tubes, and front bearing housing IP8 air feed tubes, with consequent damage to the engine and reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraph (h) of this AD: Perform all required actions within the compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2023–0087, dated April 26, 2023 (EASA AD 2023–0087).

(h) Exceptions to EASA AD 2023–0087

(1) Where EASA AD 2023–0087 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the Remarks paragraph of EASA AD 2023–0087.

(i) Alternative Methods of Compliance (AMOCs)

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

(j) Additional Information

For more information about this AD, contact Sungmo Cho, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7241; email: *sungmo.d.cho@faa.gov*.

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2023–0087, dated April 26, 2023.

(ii) [Reserved]

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

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on December 21, 2023.

Caitlin Locke,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–28861 Filed 1–2–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–2399; Project Identifier MCAI–2023–00592–T; Amendment 39–22644; AD 2023–26–01]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.; Embraer S.A.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Embraer S.A. Model ERJ 190–300 and –400 airplanes. This AD was prompted by a report that the method for calculating level-off altitude by the computerized airplane flight manual (CAFM), may result in a non-conservative level-off height. This AD requires revising the existing airplane flight manual (AFM) to incorporate new CAFM versions as specified in an Agência Nacional de Aviação Civil (ANAC) 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 January 18, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 18, 2024

The FAA must receive comments on this AD by February 20, 2024.

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

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

p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–2399; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

• For service information identified in this final rule, contact National Civil Aviation Agency (ANAC), Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br;* website *anac.gov.br/en/.* You may find this material on the ANAC website at *sistemas.anac.gov.br/certificacao/DA/DAE.asp.*

• You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2023–2399.

FOR FURTHER INFORMATION CONTACT: Joshua Bragg, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 216–316–6418; email: *joshua.k.bragg@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2023–2399; Project Identifier MCAI–2023–00592–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Joshua Bragg, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 216–316–6418; email: *joshua.k.bragg@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

ANAC, which is the aviation authority for Brazil, has issued ANAC AD 2023–04–02, effective April 11, 2023 (ANAC AD 2023–04–02) (also referred to as the MCAI), to correct an unsafe condition for all Embraer S.A. Model ERJ 190–300 and –400 airplanes. The MCAI states that the method to calculate level-off altitude by the CAFM may result in a non-conservative level-off height. In case of an engine failure during a takeoff, the airplane may not be able to overcome obstacles when the airport is limited to obstacle clearance in the acceleration segment. Since this condition may occur in other airplanes and affects flight safety, corrective action is required.

The FAA is issuing this AD to address the unsafe condition on these products. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–2399.

Related Service Information Under 1 CFR Part 51

ANAC AD 2023–04–02 specifies procedures for updating Supplement 1 of the AFM to incorporate CAFM version 1.9 or further versions for Model ERJ 190–300 airplanes or CAFM version 1.5 or further versions for Model ERJ 190–400 airplanes, as approved versions in the Limitations block. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

FAA's Determination

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

Requirements of This AD

This AD requires accomplishing the actions specified in ANAC AD 2023–04–02 described previously, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, ANAC AD 2023–04–02 is incorporated by reference in this AD. This AD requires compliance with ANAC AD 2023–04–02 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Service information required by ANAC AD 2023–04–02 for compliance will be available at *regulations.gov* under Docket No. FAA–2023–2399 after this AD is published.

Justification for Immediate Adoption and Determination of the Effective Date

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.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules

effective in less than thirty days, upon a finding of good cause.

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

There are currently no domestic operators of these products. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the foregoing reason(s), the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Regulatory Flexibility Act

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

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. If an affected airplane is imported and placed on the U.S. Register in the future, the FAA provides the following cost estimates to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product
1 work-hour × $85 per hour = $85	$0	$85

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2023–26–01 Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.; Embraer S.A.): Amendment 39–22644; Docket No. FAA–2023–2399; Project Identifier MCAI–2023–00592–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 18, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Embraer S.A. (Type Certificate previously held by Yaborã Indústria Aeronáutica S.A.; Embraer S.A.) Model ERJ 190–300 and –400 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Reason

This AD was prompted by a report that the method for calculating level-off altitude by the computerized airplane flight manual (CAFM), for Model ERJ 190–300 and ERJ 190–400 airplanes, may result in a non-conservative level-off height. The FAA is issuing this AD to address the possibility that, in the event of an engine failure during takeoff, an airplane may not be able to overcome obstacles when the airport is limited to obstacle clearance in the acceleration segment.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Agência Nacional de Aviação Civil (ANAC) AD 2023–04–02, effective April 11, 2023 (ANAC AD 2023–04–02).

(h) Exceptions to ANAC AD 2023–04–02

(1) Where ANAC AD 2023–04–02 refers to its effective date, this AD requires using the effective date of this AD.

(2) Paragraph (c) of ANAC AD 2023–04–02 is not adopted by this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager International Validation Branch, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(j) Additional Information

(1) Refer to ANAC AD 2023–04–02, effective April 11, 2023, for related information. This ANAC AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2023–2399.

(2) For more information about this AD, contact Joshua Bragg, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 216–316–6418; email: *joshua.k.bragg@faa.gov.*

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference

(IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(i) Agência Nacional de Aviação Civil (ANAC) AD 2023–04–02, effective April 11, 2023.

(ii) [Reserved]

(3) For ANAC AD 2023–04–02, contact National Civil Aviation Agency (ANAC), Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br;* website *anac.gov.br/en/.* You may find this ANAC AD on the ANAC website at *sistemas.anac.gov.br/certificacao/DA/DAE.asp.*

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

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

Issued on December 18, 2023.

Victor Wicklund,

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

[FR Doc. 2023–28850 Filed 1–2–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1715; Project Identifier MCAI–2023–00548–T; Amendment 39–22640; AD 2023–25–13]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL–600–2B16 (604 Variant) airplanes. This AD was prompted by a report that some airplanes were delivered without a portable protective breathing equipment (PBE) device located in the left-side forward wardrobe, flight deck, or passenger cabin area of the airplane. This AD requires visually inspecting the forward left side cabin area of the airplane to determine if the portable PBE device is installed and, if not installed, requires installing the portable PBE device along with the associated placard. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 7, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 7, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1715; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For service information identified in this final rule, contact Bombardier Business Aircraft Customer Response Center, 400 Côte Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514 855 2999; email: *ac.yul@aero.bombardier.com;* website: *bombardier.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2023–1715.

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

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model CL–600–2B16 (604 Variant) airplanes. The NPRM published in the **Federal Register** on August 24, 2023 (88 FR 57902). The NPRM was prompted by AD CF–2023–21, dated March 30, 2023, issued by Transport Canada, which is the aviation authority for Canada, (referred to after this as the MCAI). The MCAI states that some airplanes were delivered without a portable PBE device located in the left-side forward wardrobe, or cockpit, or passenger cabin area of the airplane. The portable PBE device is required to meet the certification standards of Transport Canada and the FAA and provides protection for crew members when investigating or combatting a fire in the cabin. In the NPRM, the FAA proposed to require visually inspecting the forward left side cabin area of the airplane to determine if the portable PBE device is installed and, if not installed, would require installing the portable PBE device along with the associated placard. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1715.

Discussion of Final Airworthiness Directive

Comments

The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Add PBE Device Locations

Bombardier requested that the proposed AD be revised to clarify the locations of the portable PBE devices. Bombardier stated that these locations were specified in Transport Canada AD CF–2023–21 and Bombardier Service Bulletin 604–35–008, Revision 02, dated January 13, 2023.

The FAA agrees to add the specified locations and has revised the relevant sections in this AD accordingly.

Request To Clarify Required Service Bulletin Paragraphs

Bombardier requested that paragraph (g) of the proposed AD be revised to change the paragraph reference for verifying installation of the PBE device and placard from ''Section 2.B.'' of the service information to ''Section 2.B.1.''

The FAA agrees to change the paragraph reference as requested and has revised paragraph (g) of this AD accordingly. Likewise, where paragraph (g) of the proposed AD specified installing those parts in accordance with ''section 2.B.'' of the service information, this has been changed to ''paragraph 2.B.(2)'' in this AD.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of

Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Bombardier Service Bulletin 604–35–008, Revision 02, dated January 13, 2023. This service information specifies procedures for performing a general visual inspection of the left-side forward wardrobe, or flight deck, or passenger cabin area of the airplane for a portable PBE device and, if missing, installing a portable PBE device and its associated placard. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 139 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
0.5 work-hour × $85 per hour = $43	$0	$43	$5,977

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
2 work-hours × $85 per hour = $170	$2,157	$2,327

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:

2023–25–13 Bombardier, Inc.: Amendment 39–22640; Docket No. FAA–2023–1715; Project Identifier MCAI–2023–00548–T.

(a) Effective Date

This airworthiness directive (AD) is effective February 7, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model CL–600–2B16 (604 Variant) airplanes, certificated in any category, with serial numbers as identified in the Bombardier Service Bulletin 604–35–008, Revision 02, dated January 13, 2023.

(d) Subject

Air Transport Association (ATA) of America Code: 35, Oxygen.

(e) Unsafe Condition

This AD was prompted by a report that some airplanes were delivered without a portable protective breathing equipment (PBE) device located in the left-side forward wardrobe, flight deck, or passenger cabin area of the airplane. The FAA is issuing this AD to address a missing portable PBE device. The unsafe condition, if not addressed, could result in inadequate protection for crew members when investigating or combatting a fire in the cabin.

(f) Compliance

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

(g) Visual Inspection for Portable PBE

Within 12 months from the effective date of this AD, do a general visual inspection of the left-side forward wardrobe, flight deck, or passenger cabin area of the airplane and verify if a portable PBE device, marked with Technical Standard Order (TSO) C116 or C116a, is installed and placarded, in accordance with paragraph 2.B.(1) of the Accomplishment Instructions of Bombardier Service Bulletin 604–35–008, Revision 02, dated January 13, 2023. If the PBE device is missing, before further flight, install a portable PBE device marked with TSO C116 or TSO C116a and its associated placard, in accordance with paragraph 2.B.(2) of the Accomplishment Instructions of Bombardier Service Bulletin 604–35–008, Revision 02, dated January 13, 2023.

(h) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager, International Validation Branch, mail it to the address identified in paragraph (i)(2) of this AD or email to: *9-AVS-AIR-730-AMOC@faa.gov.* If mailing information, also submit information by email. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(i) Additional Information

(1) Refer to Transport Canada AD CF–2023–21, dated March 30, 2023, for related information. This Transport Canada AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2023–1715.

(2) For more information about this AD, contact Gabriel Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

(j) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 604–35–008, Revision 02, dated January 13, 2023.

(ii) [Reserved]

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

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

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

Issued on December 14, 2023.

Victor Wicklund,

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

[FR Doc. 2023–28849 Filed 1–2–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1882; Project Identifier MCAI–2023–00651–T; Amendment 39–22632; AD 2023–25–05]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2022–07–15, which applied to all Airbus SAS Model A318, A319, A320, and A321 series airplanes. AD 2022–07–15 required replacing affected braking and steering control units (BSCUs) and revising the operator's existing FAA-approved minimum equipment list (MEL). This AD was prompted by a determination that a type 1 relay combined with an affected BSCU would induce BSCU freezing. This AD removes certain airplanes from the applicability, retains the requirements of AD 2022–07–15, requires an inspection for the relay type installed and replacement of type 1 relays with type 2 relays, limits the installation of affected BSCUs on certain airplanes and prohibits the installation of affected BSCUs for certain other airplanes 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 February 7, 2024.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 7, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of May 2, 2022 (87 FR 22438, April 15, 2022).

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1882; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For EASA material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- For Airbus service information incorporated by reference in this AD, contact Airbus SAS, Airworthiness Office—EIAS, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* website *airbus.com.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2023–1882.

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

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2022–07–15,

Amendment 39–22003 (87 FR 22438, April 15, 2022) (AD 2022–07–15). AD 2022–07–15 applied to all Airbus SAS Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, and –171N airplanes; Model A320–211, –212, –214, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, –273N airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –251NX, –252N, –252NX, –253N, –253NX, –271N, –271NX, –272N, and –272NX airplanes. AD 2022–07–15 required replacing affected BSCUs and revising the operator's existing FAA-approved MEL. The FAA issued AD 2022–07–15 to address loss of braking performance with significant increase in airplane stopping distance, possibly resulting in a runway excursion.

The NPRM published in the **Federal Register** on September 27, 2023 (88 FR 66307). The NPRM was prompted by AD 2023–0093R1, dated May 15, 2023, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2023–0093R1) (also referred to as the MCAI). The MCAI notes that the previous detection of several BSCU channel failures could induce, in the event of dual channel failures, loss of anti-skid function together with the reversion to the alternate braking mode, and loss of nose wheel steering, and lead to loss of braking performance with significant increase in airplane stopping distance, possibly resulting in a runway excursion. The MCAI states that further investigation identified a type 1 relay installed in a position where a type 2 relay should have been installed. The combination of a type 1 relay with an affected BSCU could induce BSCU freezing. EASA therefore determined that it is necessary to replace type 1 relays with type 2 relays.

The MCAI also states that type 1 relays are no longer installed on Model A320 Current Engine Option (CEO) airplanes (*i.e.,* Model A318 series airplanes; A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes). Type 1 relays were required to be replaced on Model A320 CEO airplanes by AD 96–04–06, Amendment 39–9518 (61 FR 6927, February 23, 1996). AD 96–04–06 corresponded to DGAC France AD F–1993–163–043, dated September 29, 1993. Model A320 CEO airplanes are therefore not included in the applicability of this AD.

Further, the MCAI states that some relays installed at functional item number (FIN) locations 24GG and 25GG were not in conformity with the Airplane Inspection Report on certain airplanes.

In addition, it was determined that certain airplanes have been delivered with a BSCU P/N E21327107.

In the NPRM, the FAA proposed to remove certain airplanes from the applicability, retain the requirements of AD 2022–07–15, require an inspection for the relay type installed and replacement of type 1 relays with type 2 relays, limit the installation of affected BSCUs on certain airplanes and prohibit the installation of affected BSCUs for certain other airplanes, as specified in EASA AD 2023–0093R1 described previously. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1882.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from United Airlines, which supported the NPRM without change.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

EASA AD 2023–0093R1 specifies procedures for replacing affected BSCUs if a fault signature is triggered, and implementing the instructions of master minimum equipment list (MMEL) updates on the basis of which the operator's existing MEL must be amended–that is, procedures for revising the operator's existing FAA-approved MEL with the provisions in the MMEL updates specified in the EASA AD. EASA AD 2023–0093R1 also specifies procedures for a general visual inspection of the FINs 24GG and 25GG to identify the relay type installed, and replacement of each type 1 relay with a type 2 relay. EASA AD 2023–0093R1 also limits the installation of affected parts.

Airbus Alert Operators Transmission A32N025–22, Rev 01, dated May 10, 2023, including Appendixes 1 through 3, dated May 2023, defines BSCU fault signatures that may be triggered on the airplane, and specifies procedures for replacing affected parts, among other actions.

This AD also requires Airbus Alert Operators Transmission A32N025–22, Rev 00, dated February 24, 2022, including Appendixes 1 through 4, dated February 21, 2022, which the Director of the Federal Register approved for incorporation by reference as of May 2, 2022 (87 FR 22438, April 15, 2022).

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

Costs of Compliance

The FAA estimates that this AD affects 349 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2022–07–15.	Up to 5 work-hours × $85 per hour = $425.	$0	Up to $425	Up to $148,325.
Relay inspection and replacement (new actions).	Up to 9 work-hours × $85 per hour = $765.	0	Up to $765	Up to $266,985.

According to the manufacturer, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. The FAA does not control warranty coverage for affected individuals. As a result, the FAA has included all known costs in the cost estimate.

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:
■ a. Removing Airworthiness Directive (AD) 2022–07–15, Amendment 39–22003 (87 FR 22438, April 15, 2022); and
■ b. Adding the following new AD:

2023–25–05 Airbus SAS: Amendment 39–22632; Docket No. FAA–2023–1882; Project Identifier MCAI–2023–00651–T.

(a) Effective Date

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

(b) Affected ADs

This AD replaces AD 2022–07–15, Amendment 39–22003 (87 FR 22438, April 15, 2022) (AD 2022–07–15).

(c) Applicability

This AD applies to the Airbus SAS airplanes, certificated in any category, identified in paragraphs (c)(1) through (3) of this AD.

(1) All Model A319–151N, A319–153N, and A319–171N airplanes.

(2) All Model A320–251N, A320–252N, A320–253N, A320–271N, A320–272N, and A320–273N airplanes.

(3) All Model A321–251N, A321–251NX, A321–252N, A321–252NX, A321–253N, A321–253NX, A321–271N, A321–271NX, A321–272N, and A321–272NX airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing Gear; and America Code 92, Electrical System Installation.

(e) Unsafe Condition

This AD was prompted by the detection of several channel failures on the braking and steering control unit (BSCU), inducing, in case of dual channel failures, loss of anti-skid function together with the reversion to the alternate braking mode, and loss of nose wheel steering. This AD was further prompted by the determination that a type 1 relay combined with an affected BSCU could induce BSCU freezing. The FAA is issuing this AD to address these conditions, which could lead to loss of braking performance with significant increase in airplane stopping distance, possibly resulting in a runway excursion.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2023–0093R1, dated May 15, 2023 (EASA AD 2023–0093R1).

(h) Exceptions to EASA AD 2023–0093R1

(1) Where EASA AD 2023–0093R1 refers to ''10 March 2022 [the effective date of EASA AD 2022–0032 at original issue],'' this AD requires using May 2, 2022 (the effective date of AD 2022–07–15).

(2) Where EASA AD 2023–0093R1 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where EASA AD 2023–0093R1 defines ''the AOT 1'' as ''Airbus Alert Operators Transmission (AOT 1) A32N025–22,'' this AD requires using Airbus Alert Operators Transmission A32N025–22, Rev 00, dated February 24, 2022, including Appendixes 1 through 4, dated February 21, 2022, or Airbus Alert Operators Transmission A32N025–22, Rev 01, dated May 10, 2023, including Appendixes 1 through 3, dated May 2023.

(4) Where paragraphs (2) and (3) of EASA AD 2023–0093R1 specify ''in accordance with the instructions of the AOT 1,'' replace those words with ''in accordance with the 'Remove and replace BSCU P/N E21327307' step in paragraph 5.6., 'Instructions,' of Airbus Alert Operators Transmission A32N025–22, Rev 00, dated February 24, 2022, including Appendixes 1 through 4, dated February 21, 2022, or of Airbus Alert Operators Transmission A32N025–22, Rev 01, dated May 10, 2023, including Appendixes 1 through 3, dated May 2023.'' No other actions in Airbus Alert Operators Transmission A32N030–23, Rev 00, dated February 27, 2023, including Appendixes 1 and 2, dated February 21, 2023 (referenced in EASA AD 2023–0093R1 and not incorporated by reference in this AD), or Airbus Alert Operators Transmission A32N025–22, Rev 01, dated May 10, 2023, including Appendixes 1 through 3, dated May 2023, are required for compliance for the replacement.

(5) Where paragraph (4) of EASA AD 2023–0093R1 requires operators to ''implement the instructions of the MMEL [master minimum equipment list] update,'' this AD requires replacing those words with ''implement the operator's existing FAA-approved minimum equipment list (MEL) with the provisions specified in 'The MMEL update' as identified in EASA AD 2023–0093R1.''

(6) Where paragraph (4) of EASA AD 2023–0093R1 specifies to ''inform all flight crews, and, thereafter, operate the airplane accordingly,'' this AD does not require those actions as those actions are already required by existing FAA operating regulations.

(7) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0093R1.

(i) No Reporting Requirement

Although certain service information specified in EASA AD 2023–0093R1 specifies to report certain information and send affected parts to the manufacturer, this AD does not require those actions.

(j) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch FAA, has the authority to

approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to *9-AVS-AIR-730-AMOC@faa.gov.*

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office. (ii) AMOCs approved previously for AD 2022–07–15 are approved as AMOCs for the corresponding provisions of EASA AD 2023–0093R1 that are required by paragraph (g) of this AD.

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

(3) *Required for Compliance (RC):* Except as required by paragraph (j)(2) of this AD, if any service information contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC.

(k) Additional Information

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

(l) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on February 7, 2024.

(i) Airbus Alert Operators Transmission A32N025–22, Rev 01, dated May 10, 2023, including Appendixes 1 through 3, dated May 2023.

(ii) European Union Aviation Safety Agency (EASA) AD 2023–0093R1, dated May 15, 2023.

(4) The following service information was approved for IBR on May 2, 2022 (87 FR 22438, April 15, 2022).

(i) Airbus Alert Operators Transmission A32N025–22, Rev 00, dated February 24, 2022, including Appendixes 1 through 4, dated February 21, 2022.

(ii) [Reserved]

(5) For EASA AD 2023–0093R1, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

(6) For Airbus service information identified in this AD, contact Airbus SAS, Airworthiness Office—EIAS, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* website *airbus.com.*

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

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

Issued on December 14, 2023.

Victor Wicklund,

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

[FR Doc. 2023–28851 Filed 1–2–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 31525; Amdt. No. 576]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: Effective 0901 UTC, January 25, 2024.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg 26, Room 217, Oklahoma City, OK 73099. Telephone: (405) 954–1139.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

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

regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on December 22, 2023.

Thomas J. Nichols,

Aviation Safety, Flight Standards Service, Manager, Standards Section, Flight Procedures & Airspace Group, Flight Technologies and Procedures Division.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, January 25, 2024.

PART 95—IFR ALTITUDES

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113 and 14 CFR 11.49(b)(2).

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT

[Amendment 576 effective date January 25, 2024]

From	To	MEA	MAA
§ 95.3000 Low Altitude RNAV Routes			
§ 95.3272 RNAV ROUTE T272 Is Amended by Adding			
HALLSVILLE, MO VORTAC	TYMME, IL WP	2700	6000
Is Amended to Delete			
HALLSVILLE, MO VORTAC	VANDALIA, IL VOR/DME	2700	6000
§ 95.3320 RNAV Route T320 Is Amended to Read in Part			
BEADS, NY FIX	ORCHA, NY WP	2000	17500
§ 95.3358 RNAV Route T358 Is Amended by Adding			
TWIRK, MD WP	*HAMRR, MD WP	**5000	17500
*3200–MCA HAMRR, MD WP, NW BND **3200–MOCA			
HAMRR, MD WP	DANII, MD WP	*6000	17500
*3100–MOCA			
AVALO, NJ FIX	BRIGS, NJ FIX	2000	17500
BRIGS, NJ FIX	MANTA, NJ FIX	*2500	17500
*1300–MOCA			
MANTA, NJ FIX	BEADS, NY FIX	*2500	17500
*1300–MOCA			
BEADS, NY FIX	ORCHA, NY WP	2000	17500
ORCHA, NY WP	JORDN, NY FIX	2000	17500
JORDN, NY FIX	SANDY POINT, RI VOR/DME	1900	17500
SANDY POINT, RI VOR/DME	INNDY, MA FIX	2100	17500
INNDY, MA FIX	BURDY, MA FIX	2000	17500
BURDY, MA FIX	HAVNS, MA WP	2000	17500
HAVNS, MA WP	*GRGIO, MA WP	**2500	17500
*1600–MCA GRGIO, MA WP, N BND **1400–MOCA			
GRGIO, MA WP	LBSTA, MA FIX	1900	17500
LBSTA, MA FIX	MESHL, ME FIX	*2500	17500
*1200–MOCA			
MESHL, ME FIX	*SAPPE, ME FIX	**2500	17500
*1300–MCA SAPPE, ME FIX, NE BND **1200–MOCA			
SAPPE, ME FIX	AUGUSTA, ME VOR/DME	2300	17500
Is Amended to Delete			
TWIRK, MD WP	MOYRR, MD WP	*5000	17500
*3200–MOCA			
MOYRR, MD WP	DANII, MD WP	*6000	17500
*3100–MOCA			
§ 95.3440 RNAV ROUTE T440 Is Added to Read			
ELMIRA, NY VOR/DME	BIPOD, PA FIX	4000	17500
BIPOD, PA FIX	TWIIN, PA FIX	4400	17500
TWIIN, PA FIX	LACIE, PA FIX	4700	17500
LACIE, PA FIX	LOPEZ, PA FIX	4900	17500
LOPEZ, PA FIX	WLKES, PA WP	4600	17500
WLKES, PA WP	EXAGE, PA FIX	*4600	17500

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—Continued

[Amendment 576 effective date January 25, 2024]

From	To	MEA	MAA
*4000–MOCA			
EXAGE, PA FIX	TALLI, PA FIX	4000	17500
§ 95.3445 RNAV Route T445 Is Amended to Delete			
WESTMINSTER, MD VORTAC	HARRISBURG, PA VORTAC	3800	17500
LYKOM, PA WP	STUBN, NY WP	4900	17500
STUBN, NY WP	BEEPS, NY FIX	4500	17500
Is Added to Read			
LYKOM, PA WP	ELMIRA, NY VOR/DME	4900	17500
ELMIRA, NY VOR/DME	BEEPS, NY FIX	4500	17500
95.3455 RNAV ROUTE T455 Is Added to Read			
ALLENTOWN, PA VORTAC	RACKI, PA FIX	4000	17500
RACKI, PA FIX	WLKES, PA WP	*4600	17500
*4000–MOCA			
WLKES, PA WP	SWANK, PA FIX	4600	17500
SWANK, PA FIX	MUNCI, PA FIX	4800	17500
MUNCI, PA FIX	LYKOM, PA WP	4900	17500
LYKOM, PA WP	TRUER, PA FIX	4400	17500
TRUER, PA FIX	BLAZE, PA FIX	4600	17500
BLAZE, PA FIX	WIGGZ, PA WP	4600	17500
*4000–MOCA			
§ 95.3457 RNAV Route T457 Is Added to Read			
JIIMS, NJ WP	GABRS, NJ WP	1800	17500
GABRS, NJ WP	RIDNG, NJ WP	1900	17500
RIDNG, NJ WP	BOJID, PA WP	2600	17500
BOJID, PA WP	BOOCH, PA WP	2600	17500
§ 95.3459 RNAV Route T459 Is Added to Read			
JIIMS, NJ WP	LULOO, NJ WP	1900	17500
LULOO, NJ WP	SCOOL, PA WP	2300	17500
SCOOL, PA WP	DOGGR, PA WP	2400	17500
§ 95.3476 RNAV Route T476 Is Added to Read			
TUNDR, MD WP	FILRO, MD WP	1800	17500
FILRO, MD WP	TWANE, MD WP	1800	17500
TWANE, MD WP	EYEUP, MD WP	1800	17500
EYEUP, MD WP	COHLE, DE WP	1800	17500
COHLE, DE WP	WIMKA, NJ WP	1800	17500
§ 95.3478 RNAV Route T478 Is Added to Read			
RIVRS, IL WP	OXKEK, IL WP	*2700	17500
*2200–MOCA			
OXKEK, IL WP	SPINNER, IL VORTAC	2400	17500
SPINNER, IL VORTAC	CHAMPAIGN, IL VORTAC	3100	17500
CHAMPAIGN, IL VORTAC	SLONI, IL WP	2500	10000
SLONI, IL WP	LCOLN, IL WP	2500	10000
LCOLN, IL WP	BOLRR, IN WP	2500	10000
§ 95.3739 RNAV Route T739 Is Added to Read			
U.S. CANADIAN BORDER	DAVDA, NY WP	2000	17500
DAVDA, NY WP	SSENA, NY WP	2000	17500
SSENA, NY WP	U.S. CANADIAN BORDER	2600	17500
U.S. CANADIAN BORDER	CAMPO, ME FIX	5900	17500
CAMPO, ME FIX	MILLINOCKET, ME VOR/DME	6000	17500
MILLINOCKET, ME VOR/DME	PRENT, ME FIX	1900	17500
PRENT, ME FIX	U.S. CANADIAN BORDER	2800	17500
§ 95.4000 High Altitude RNAV Routes			
§ 95.4042 RNAV Route Q42 Is Amended by Adding			
LEWRP, MO WP	LCOLN, IL WP	*34000	45000

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—Continued

[Amendment 576 effective date January 25, 2024]

From	To	MEA	MAA
*18000–GNSS MEA *DME/DME/IRU MEA			
LCOLN, IL WP	SNKPT, IN WP	*34000	45000
*18000–GNSS MEA *DME/DME/IRU MEA			
SNKPT, IN WP	HIDON, OH WP	*24000	45000
*18000–GNSS MEA *DME/DME/IRU MEA			
Is Amended to Delete			
KIRKSVILLE, MO VORTAC	DANVILLE, IL VORTAC	*34000	45000
*18000–GNSS MEA *DME/DME/IRU MEA			
DANVILLE, IL VORTAC	MUNCIE, IN VOR/DME	*34000	45000
*18000–GNSS MEA *DME/DME/IRU MEA			
MUNCIE, IN VOR/DME	BRNAN, PA WP	*24000	45000
*18000–GNSS MEA *DME/DME/IRU MEA			
Is Amended to Read in Part			
HIDON, OH WP	BUBAA, OH WP	*24000	45000
*18000–GNSS MEA *DME/DME/IRU MEA			
BUBAA, OH WP	PSYKO, PA WP	*24000	45000
*18000–GNSS MEA *DME/DME/IRU MEA			
PSYKO, PA WP	BRNAN, PA WP	*24000	45000
*18000–GNSS MEA *DME/DME/IRU MEA			
BRNAN, PA WP	HOTEE, PA WP	*18000	45000
*18000–GNSS MEA *DME/DME/IRU MEA			
HOTEE, PA WP	SPOTZ, PA WP	*18000	45000
*18000–GNSS MEA. *DME/DME/IRU MEA			
SPOTZ, PA WP	ZIMMZ, PA FIX	*18000	45000
*18000–GNSS MEA *DME/DME/IRU MEA			
§ 95.4046 RNAV Route Q46 Is Amended by Adding			
VANTY, AK WP *GNSS REQUIRED	BARROW, AK VOR/DME	*18000	45000
Is Amended to Delete			
POINT HOPE, AK NDB *GNSS REQUIRED	BARROW, AK VOR/DME	*18000	45000
§ 95.4951 RNAV Route Q951 Is Amended by Adding			
DAVDA, NY WP	SSENA, NY WP	*18000	45000
*18000–GNSS MEA *DME/DME/IRU MEA			
SSENA, NY WP	U.S. CANADIAN BORDER	*18000	45000
*18000–GNSS MEA *DME/DME/IRU MEA			
Is Amended to Delete			
DAVDA, NY WP	SAVAL, NY WP	*18000	45000
*18000–GNSS MEA *DME/DME/IRU MEA			
SAVAL, NY WP	U.S. CANADIAN BORDER	*18000	45000
*18000–GNSS MEA *DME/DME/IRU MEA			
U.S. CANADIAN BORDER	U.S. CANADIAN BORDER	*18000	45000

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—Continued

[Amendment 576 effective date January 25, 2024]

From	To	MEA	MAA
*18000–GNSS MEA *DME/DME/IRU MEA			

From	To	MEA
§ 95.6001 Victor Routes—U.S		
§ 95.6014 VOR Federal Airway V14 Is Amended to Delete		
ST LOUIS, MO VORTAC	VANDALIA, IL VOR/DME	2500
VANDALIA, IL VOR/DME	TERRE HAUTE, IN VORTAC	2400
§ 95.6067 VOR Federal Airway V67 Is Amended to Delete		
CORKI, IL FIX	VANDALIA, IL VOR/DME	2500
VANDALIA, IL VOR/DME	SPINNER, IL VORTAC	2500
§ 95.6107 VOR Federal Airway V107 Is Amended to Read In Part		
PANOCHE, CA VORTAC	*CATHE, CA FIX	**7000
*7000–MCA CATHE, CA FIX, NW BND		
**5800–MOCA		
CATHE, CA FIX	VINCO, CA FIX	7000
VINCO, CA FIX	MABRY, CA FIX.	
	SE BND	7000
	NW BND	6200
MABRY, CA FIX	MISON, CA FIX.	
	SE BND	7000
	NW BND	5500
MISON, CA FIX	OAKLAND, CA VOR/DME.	
	SE BND	7000
	NW BND	5100
OAKLAND, CA VOR/DME	*COMMO, CA FIX	**5000
*4200–MCA COMMO, CA FIX, W BND		
**4000–MOCA		
§ 95.6158 VOR Federal Airway V158 Is Amended to Delete		
DUBUQUE, IA VORTAC	POLO, IL VOR/DME	2800
POLO, IL VOR/DME	SHOOF, IL FIX	2700
§ 95.6171 VOR Federal Airway V171 Is Amended to Delete		
TERRE HAUTE, IN VORTAC	DANVILLE, IL VORTAC	2500
DANVILLE, IL VORTAC	PEOTONE, IL VORTAC	2500
§ 95.6172 VOR Federal Airway V172 Is Amended to Delete		
CEDAR RAPIDS, IA VOR/DME	LISBO, IA FIX	2700
LISBO, IA FIX	LOTTE, IA FIX	3300
LOTTE, IA FIX	POLO, IL VOR/DME	2700
POLO, IL VOR/DME	DUPAGE, IL VOR/DME	2600
§ 95.6208 VOR Federal Airway V208 Is Amended to Read in Part		
OCEANSIDE, CA VORTAC	*VISTA, CA FIX	3100
*8000–MRA		
*5000–MCA VISTA, CA FIX, E BND		
VISTA, CA FIX	JULIAN, CA VORTAC	8000
§ 95.6216 VOR Federal Airway V216 Is Amended to Read in Part		
LOTTE, IA FIX	WACKS, IL FIX	*4000
*2300–MOCA		
WACKS, IL FIX	JANESVILLE, WI VOR/DME.	
	NE BND	2800
	SW BND	4000
§ 95.6251 VOR Federal Airway V251 Is Amended to Delete		
CHAMPAIGN, IL VORTAC	*DANVILLE, IL VORTAC	2500

From	To	MEA
DANVILLE, IL VORTAC	BOILER, IN VORTAC	2500
§ 95.6301 VOR Federal Airway V301 Is Amended to Read in Part		
PANOCHE, CA VORTAC	*SUNOL, CA FIX	6600
*6500–MCA SUNOL, CA FIX, SE BND		
SUNOL, CA FIX	OAKLAND, CA VOR/DME	4800
OAKLAND, CA VOR/DME	*COMMO, CA FIX	**5000
*4200–MCA COMMO, CA FIX, W BND		
**4000–MOCA		
§ 95.6458 VOR Federal Airway V458Is Amended to Read in Part		
OCEANSIDE, CA VORTAC	*VISTA, CA FIX	3100
*8000–MRA		
*5000–MCA VISTA, CA FIX, E BND		
VISTA, CA FIX	JULIAN, CA VORTAC	8000
§ 95.6311 Alaska VOR Federal Airway V311 Is Amended To Read In Part		
ANNETTE ISLAND, AK VOR/DME	DWARF, AK FIX	*7000
*5000–MOCA		
DWARF, AK FIX	UDENE, AK FIX	*9000
*5600–MOCA		
UDENE, AK FIX	*TOKEE, AK FIX.	
	W BND	**10000
	E BND	**9000
*10000–MCA TOKEE, AK FIX, W BND		
**5000–MOCA		
TOKEE, AK FIX	WIBTA, AK FIX	*10000
*4700–MOCA		
WIBTA, AK FIX	FLIPS, AK FIX.	
	W BND	*7500
	E BND	*10000
*6100–MOCA		
§ 95.6318 Alaska VOR Federal Airway V318 Is Amended to Delete		
ANNETTE ISLAND, AK VOR/DME	LEVEL ISLAND, AK VOR/DME	6000
§ 95.6453 Alaska VOR Federal Airway V453 Is Amended to Read in Part		
DILLINGHAM, AK VOR/DME	ALTEY, AK FIX.	
	SE BND	*7000
	NW BND	*8000
*6500–MOCA		

From	To	MEA	MAA
§ 95.7001 Jet Routes **§ 95.7084 JET Route J84 Is Amended to Delete**			
NORTHBROOK, IL VOR/DME	DANVILLE, IL VORTAC	18000	35000

§ 95.8005 JET ROUTES CHANGEOVER POINTS

Airway segment		Changeover points	
From	To	Distance	From
§ 95.8005 Jet Routes Changeover Points **J84 Is Amended to Delete Changeover Point**			
NORTHBROOK, IL VOR/DME	DANVILLE, IL VORTAC	67	NORTHBROOK.

[FR Doc. 2023–28895 Filed 1–2–24; 8:45 am]

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LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 384

[Docket No. 21–CRB–0013–BER (2024–2028)]

Determination of Royalty Rates and Terms for Making Ephemeral Copies of Sound Recordings for Transmission to Business Establishments (Business Establishments IV)

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges publish final regulations setting rates and terms for the making of ephemeral copies of sound recordings to facilitate digital audio transmissions of those sound recordings to business establishments for the period from January 1, 2024, through December 31, 2028.

DATES: *Effective date:* January 1, 2024.

ADDRESSES: For access to the docket to read submitted background documents go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at *https://app.crb.gov/,* and search for docket number 21–CRB–0013–BER (2024–2028).

FOR FURTHER INFORMATION CONTACT: Anita Brown, CRB Program Specialist, (202) 707–7658, *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: The Copyright Act provides that the Copyright Royalty Judges (Judges) commence a proceeding every fifth year to determine royalty rates and terms for the recording of ephemeral copies of sound recordings pursuant to the statutory license in 17 U.S.C. 112(e)(1) to facilitate digital audio transmissions of those sound recordings to business establishments pursuant to the limitation on exclusive rights specified by 17 U.S.C. 114(d)(1)(C)(iv). *See* 17 U.S.C. 804(b)(2).

In accordance with section 804(b)(2), the Judges commenced the proceeding to set rates and terms for the period 2024–2028 on January 5, 2022 (87 FR 490). In the **Federal Register** notice, the Judges requested that interested parties submit petitions to participate. Petitions to Participate were received from: Mood Media Corp., Music Choice, Rockbot, Inc., Sirius XM Radio Inc. and Its Wholly Owned Subsidiaries, SoundExchange, Inc., Soundtrack Your Brand Sweden AB, and Stingray Music USA Inc. The Judges initiated the three-month negotiation period and directed the participants to submit written direct statements no later than September 19, 2022. *See* 17 U.S.C. 803(b)(3).

On September 19, 2022, the Judges received a Motion to Adopt Settlement stating that all participants [1] had reached a settlement obviating the need for written direct statements or a hearing.

Section 801(b)(7)(A) of the Copyright Act authorizes the Judges to adopt royalty rates and terms negotiated by ''some or all of the participants in a proceeding at any time during the proceeding'' provided they are submitted to the Judges for approval. The Judges must provide ''an opportunity to comment on the agreement'' to both participants and non-participants in the rate proceeding who ''would be bound by the terms, rates, or other determination set by any agreement . . .'' 17 U.S.C. 801(b)(7)(A)(i). Participants in the proceeding may also ''object to [the agreement's] adoption as a basis for statutory terms and rates.'' *Id.* Accordingly, on October 4, 2023 the Judges published a notice requesting comment on the proposed rates and terms (88 FR 68527). The Judges received no timely comments or objections in response to the October 4, 2023 notice.

Having received no opposition to the agreement and finding that the agreement among the moving parties provides a reasonable basis for setting statutory rates and terms, the Judges, by this notice, adopt as final regulations the rates and terms for the making of an ephemeral recording of a sound recording by a business establishment service for the period January 1, 2024, through December 31, 2028.

List of Subjects in 37 CFR Part 384

Copyright, Digital audio transmissions, Ephemeral recordings, Performance right, Sound recordings.

Final Regulations

For the reasons set forth in the preamble, the Copyright Royalty Judges amend part 384 of chapter III of title 37 of the Code of Federal Regulations as follows:

PART 384—RATES AND TERMS FOR THE MAKING OF EPHEMERAL RECORDINGS BY BUSINESS ESTABLISHMENT SERVICES

■ 1. The authority citation for part 384 continues to read as follows:

Authority: 17 U.S.C. 112(e), 801(b)(1).

[1] Soundtrack Your Brand Sweden AB had withdrawn its Petition to Participate on April 5, 2022.

§ 384.1 [Amended]

■ 2. In § 384.1(a), remove the phrase ''January 1, 2019, through December 31, 2023'' and add in its place ''January 1, 2024, through December 31, 2028''.

■ 3. In § 384.3, revise paragraphs (a) and (b) to read as follows:

§ 384.3 Royalty fees for ephemeral recordings.

(a) *Basic royalty rate.* (1) For the making of any number of Ephemeral Recordings in the operation of a Business Establishment Service, a Licensee shall pay a royalty equal to the following percentages of such Licensee's ''Gross Proceeds'' derived from the use in such service of musical programs that are attributable to recordings subject to protection under title 17, United States Code:

TABLE 1 TO PARAGRAPH (a)(1)

Year	Rate (%)
2024	14.0
2025	14.5
2026	14.75
2027	15.0
2028	15.0

(2) Gross Proceeds as used in this section means all fees and payments, including those made in kind, received from any source before, during or after the License Period that are derived from the use of sound recordings subject to protection under title 17, United States Code, during the License Period pursuant to 17 U.S.C. 112(e) for the sole purpose of facilitating a transmission to the public of a performance of a sound recording under the limitation on exclusive rights specified in 17 U.S.C. 114(d)(1)(C)(iv).

(3) Subject to paragraph (a)(4) of this section, the royalty specified in paragraph (a)(1) of this section for a particular Business Establishment Service offering may be reduced by a percentage corresponding to the ''Direct License Share'' for such Business Establishment Service offering, as follows:

(i) If the transmissions of the Business Establishment Service offering are entirely made over the internet or the Licensee otherwise is able to count all of its Performances to business subscribers, the Direct License Share for such Business Establishment Service offering is its Performances of directly licensed sound recordings and sound recordings for which no license is required (*e.g.,* sound recordings in which the copyrights are owned by the Licensee) (collectively, ''Excluded

Recordings'') divided by its total Performances.

(ii) If the transmissions of the Business Establishment Service offering are made to 10% or more of the bona fide subscriber locations of the Business Establishment Service offering over the internet, or the Licensee otherwise is able to count its Performances to 10% or more of bona fide subscriber locations of the Business Establishment Service offering, and the Business Establishment Service offering provides transmissions of a substantially similar set of channels (fairly represented by the countable channels) to other subscriber locations by means that do not allow the Licensee to count Performances (*e.g.,* by satellite with no usage feedback), the Direct License Share for such Business Establishment Service offering is its Performances of Excluded Recordings to the locations where the Licensee is able to count its Performances divided by its total Performances to the locations where the Licensee is able to count its Performances. When reporting under § 370.4(d)(2)(vii) of this chapter, such total countable Performances of sound recordings that are not Excluded Recordings shall be treated and reported as the ''actual total performances'' of the Business Establishment Service if the Direct License Share is calculated pursuant to this paragraph (a)(3)(ii).

(iii) If paragraphs (a)(3)(i) and (ii) of this section do not apply, but the Licensee transmits a set of webcast channels substantially similar to and representative of the Business Establishment Service offering to consumers over the internet or by other means that allow the Licensee to count Performances on those channels (''Reference Channels''), the Direct License Share for such Business Establishment Service offering is its Performances of Excluded Recordings on the Reference Channels divided by its total Performances on the Reference Channels.

(iv) Otherwise, the Direct License Share for such Business Establishment Service offering is a fraction calculated on a subscriber location-by-subscriber location basis, or if that is impracticable, on a uniform basis for all subscriber locations, where:

(A) The numerator is the play frequency (as defined in § 370.4(b) of this chapter) of Excluded Recordings for the Business Establishment Service offering during a period of time each day as follows:

(*1*) If the Direct License Share is calculated on a subscriber location-by subscriber location basis, during a continuous 12-hour period to be selected by the Licensee for each location for the month for which the payment is made, provided that each such location's hours of operation fall entirely within the selected 12-hour period, or if such location is in operation for more than 12 hours per day, the selected 12-hour period consists of hours the location is in operation, including its main hours of operation; or

(*2*) If the Direct License Share is calculated on a uniform basis for all locations, during the hours of 9 a.m. to 9 p.m. local time; and

(B) The denominator is the total play frequency (as defined in § 370.4(b) of this chapter) for the Business Establishment Service offering between the same hours as used in the numerator.

(4) The Direct License Share reduction in paragraph (a)(3) of this section is available to a Licensee only if the Licensee provides the Collective, by no later than the due date for the relevant payment under § 384.4(c), a list of each Copyright Owner from which the Licensee claims to have a direct license of rights to Excluded Recordings that is in effect for the month for which the payment is made and of each sound recording for which the Licensee takes the reduction, identified by featured artist name, sound recording title, and International Standard Recording Code (ISRC) number or, if the ISRC is not available and feasible, album title and copyright owner name. Notwithstanding § 384.5, the Collective may disclose such information as reasonably necessary for it to confirm whether a claimed direct license exists and claimed sound recordings are properly excludable.

(5) For purposes of paragraph (a)(3) of this section, *Performance* means:

(i) Except as discussed in paragraph (a)(5)(ii) of this section, a Performance is an instance in which any portion of a sound recording is publicly performed to a Business Establishment Service subscriber location within the United States (*e.g.,* the delivery of any portion of a single track from a compact disc to one subscriber location).

(ii) An instance in which a portion of a sound recording is publicly performed to a Business Establishment Service subscriber location within the United States is not a Performance if it both:

(A) Makes no more than incidental use of sound recordings including, but not limited to, brief musical transitions in and out of commercials or program segments, brief use during news, talk and sports programming, brief background use during disk jockey announcements, brief use during commercials of sixty seconds or less in duration, or brief use during sporting or other public events; and

(B) Does not contain an entire sound recording and does not feature a particular sound recording of more than thirty seconds (as in the case of a sound recording used as a theme song), except for ambient music that is background at a public event.

(b) *Minimum fee.* Each Licensee shall pay a minimum fee of $25,000 for each calendar year of the License Period in which it makes Ephemeral Recordings for use to facilitate transmissions under the limitation on exclusive rights specified by 17 U.S.C. 114(d)(1)(C)(iv), whether or not it does so for all or any part of the year. These minimum fees shall be nonrefundable, but shall be fully creditable to royalty payments due under paragraph (a) of this section for the same calendar year (but not any subsequent calendar year).

* * * * *

■ 4. Amend § 384.4 as follows:
■ a. Redesignate paragraphs (g) and (h) as paragraphs (i) and (j);
■ b. Revise paragraph (f);
■ c. Add new paragraphs (g) and (h);
■ d. Revise newly redesignated paragraph (i)(1).
■ e. In newly redesignated paragraph (i)(2), remove ''(g)(1)'' and add ''(i)(1)'' in its place.

The additions and revisions read as follows:

§ 384.4 Terms for making payment of royalty fees and statements of account.

* * * * *

(f) *Use of account numbers.* If the Collective notifies a Licensee of an account number to be used to identify its royalty payments for a particular Business Establishment Service offering, the Licensee must include that account number on its check or check stub for any payment for that Business Establishment Service offering made by check, in the identifying information for any payment for that Business Establishment Service offering made by electronic transfer, in its statements of account for that Business Establishment Service offering under paragraph (g) of this section, and in the transmittal of its Reports of Use for that Business Establishment Service offering under § 370.4 of this chapter.

(g) *Statements of account.* For any part of the License Period during which a Licensee operates a Business Establishment Service, at the time when a minimum payment is due under paragraph (d) of this section, and by 45 days after the end of each month during the period, the Licensee shall deliver to the Collective a statement of account containing the information set forth in

this paragraph (g) on a form prepared, and made available to Licensees, by the Collective. In the case of a minimum payment, or if a payment is owed for such month, the statement of account shall accompany the payment. A statement of account shall contain only the following information:

(1) Such information as is necessary to calculate the accompanying royalty payment, or if no payment is owed for the month, to calculate any portion of the minimum fee recouped during the month;

(2) The name, address, business title, telephone number, facsimile number (if any), electronic mail address and other contact information of the person to be contacted for information or questions concerning the content of the statement of account;

(3) The account number assigned to the Licensee by the Collective for the relevant Business Establishment Service offering (if the Licensee has been notified of such account number by the Collective);

(4) The signature of:

(i) The owner of the Licensee or a duly authorized agent of the owner, if the Licensee is not a partnership or corporation;

(ii) A partner or delegee, if the Licensee is a partnership; or

(iii) An officer of the corporation, if the Licensee is a corporation;

(5) The printed or typewritten name of the person signing the statement of account;

(6) The date of signature;

(7) If the Licensee is a partnership or corporation, the title or official position held in the partnership or corporation by the person signing the statement of account;

(8) A certification of the capacity of the person signing; and

(9) A statement to the following effect:

I, the undersigned owner or agent of the Licensee, or officer or partner, have examined this statement of account and hereby state that it is true, accurate and complete to my knowledge after reasonable due diligence.

(h) *International Standard Recording Codes.* Notwithstanding § 370.4(d)(2)(v) of this chapter, the Licensee must use International Standard Recording Codes (ISRCs) in its Reports of Use, where available and feasible.

(i) * * *

(1) However, in any case in which a Licensee has not provided a compliant Report of Use, whether for the License Period or otherwise, and the board of directors of the Collective determines that further efforts to seek the missing Report of Use from the Licensee would not be warranted, the Collective may determine that it will distribute the royalties associated with the Licensee's missing Report of Use on the basis of a proxy data set approved by the board of directors of the Collective.

* * * * *

Dated: October 25, 2023.

David P. Shaw,

Chief Copyright Royalty Judge.

David R. Strickler,

Copyright Royalty Judge.

Steve Ruwe,

Copyright Royalty Judge.

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2023–28421 Filed 12–29–23; 8:45 am]

BILLING CODE 1410–72–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket No. 12–375; FCC 22–76; FR ID 193391]

Rates for Interstate Inmate Calling Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, an information collection associated with the Commission's *2022 ICS Order,* FCC 22–76 (September 30, 2022), in which the Commission, among other actions, adopted rules to improve access to communications services for incarcerated people with communication disabilities that expand the requirements for advanced Telecommunications Relay Service (TRS). This document is consistent with the *2022 ICS Order,* which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of this rule.

DATES: The addition of 47 CFR 64.6040(c) (amendatory instruction 11), published at 87 FR 75496 on December 9, 2022, and delayed indefinitely, is effective on January 9, 2023.

FOR FURTHER INFORMATION CONTACT: William Kehoe, Pricing Policy Division, Wireline Competition Bureau, (202) 418–7122, or email *William.kehoe@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that, on December 14, 2023, OMB approved, for a period of three years, the information collection requirements relating to § 64.6040(c) of the Commission's rules, as contained in the Commission's *2022 ICS Order,* FCC 22–76, published at 87 FR 75496 on December 9, 2022. The OMB Control Number is 3060–1222. In the *2022 ICS Order,* the Commission stated that the amendments to the rules were effective on January 9, 2023, except for the amendments to §§ 64.611(k)(1)(i) through (iii), 64.6040(c), and 64.6060(a)(5) through (7), which were delayed pending OMB approval. The Commission publishes this document as an announcement of the effective date of § 64.6040(c) only.

If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, 45 L Street NE, Washington, DC 20002. Please include the OMB Control Number, 3060–1222, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on December 14, 2023, for the information collection requirements contained in § 64.6040(c) of the Commission's rules.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1222.

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

The data collection burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1222.

OMB Approval Date: December 14, 2023.

OMB Expiration Date: December 31, 2026.

Title: Inmate Calling Services (ICS) Provider Annual Reporting, Certification, and Other Requirements, WC Docket Nos. 23–62, 12–375, DA 23–656.

Form Numbers: FCC Form 2301(a) and FCC Form 2301(b).

Respondents: Business or other for profit.

Number of Respondents and Responses: 30 respondents; 33 responses.

Estimated Time per Response: 5 hours–1,200 hours.

Frequency of Response: Annual reporting and certification requirements, third party disclosure and waiver requirements.

Obligation to Respond: Mandatory. Statutory authority for this collection of information is contained in sections 1, 2, 4(i)–(j), 5(c), 201(b), 218, 220, 225, 255, 276, 403, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)–(j), 155(c), 201(b), 218, 220, 225, 255, 276, 403, and 617, and the Martha Wright-Reed Just and Reasonable Communications Act of 2022, Public Law 117–338, 136 Stat. 6156.

Total Annual Burden: 6,690 hours.

Total Annual Cost: No cost.

Needs and Uses: In 2015, the Commission released the Second Report and Order and Third Notice of Further Proposed Rulemaking, WC Docket No. 12–375, 30 FCC Rcd 12763 (*2015 ICS Order*), in which it required that inmate calling services (ICS) providers file Annual Reports providing data and other information on their ICS operations, as well as Annual Certifications that reported data are complete and accurate and comply with the Commission's ICS rules. Pursuant to the authority delegated it by the Commission in the *2015 ICS Order,* the Wireline Competition Bureau (WCB) created a standardized reporting template (FCC Form No. 2301(a)) and a related certification of accuracy (FCC Form No. 2301(b)), as well as instructions to guide providers through the reporting process. *See* ICS Annual Reporting Form Word Template (Current), WC Docket No. 12–375 *https://www.fcc.gov/general/ics-data-collections* (last visited December 18, 2023) (Word Template); ICS Annual Reporting Form Excel Template (Current), WC Docket No. 12–375, *https://www.fcc.gov/general/ics-data-collections* (last visited December 18, 2023) (Excel Template); ICS Annual Reporting and Certification Instructions (Current), WC Docket No. 12–375 *https://www.fcc.gov/general/ics-data-collections* (last visited December 18, 2023) (Instructions) (Certification Instructions); ICS Annual Report Certification Form (Current), WC Docket No. 12–375, *https://www.fcc.gov/general/ics-data-collections* (last visited December 18, 2023) (Certification Form).

In 2021, the Commission released the Third Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking (FNPRM) WC Docket No. 12–375, 36 FCC Rcd 9519 (2021). The Commission revised its rules by adopting, among other things, lower interim rate caps for interstate calls, new interim rate caps for international calls, and a new rate cap structure that requires ICS providers to differentiate between legally mandated and contractually required site commissions. The revisions also included expanded consumer disclosure requirements, as well as new reporting requirements for providers seeking waivers of the Commission's interstate and international rates.

In 2022, the Commission released the Fourth Report and Order and Sixth Further Notice of Proposed Rulemaking, WC Docket No. 12–375, FCC 22–76 (September 30, 2022). The Commission adopted numerous requirements to improve access to communications services for incarcerated people with communication disabilities and expanded the scope of the Annual Reports to reflect these new requirements. Pursuant to § 64.6040(c), the Commission required, among other things, that, as part of its obligation to provide access to telecommunications relay services (TRS), when an incarcerated person who has individually registered to use video relay service (VRS), internet protocol (IP) Relay, or internet protocol captioned telephone service (IP CTS) is released from incarceration or transferred to another correctional facility, the ICS provider must notify the TRS provider(s) with which the incarcerated person has registered. Under section § 64.6060(a)(5) through (7), the Commission amended the annual reporting and certification requirement to include, among other things, that ICS providers report, for each facility served, the types of TRS that can be accessed from the facility and the number of completed calls and complaints for TTY-to-TTY calls, American Sign Language (SL) point-to-point video calls, and each type of TRS for which access is provided.

On January 5, 2023, the President signed into law the Martha Wright-Reed Just and Reasonable Communications Act of 2022, Public Law 117–338, 136 Stat. 6156 (the Martha Wright-Reed Act or the Act), expanding the Commission's statutory authority over communications services between incarcerated people and the non-incarcerated to include ''any audio or video communications service used by inmates . . . regardless of the technology used.'' The new Act also amends section 2(b) of the Communications Act of 1934, as amended (the Communications Act) to make clear that the Commission's authority extends to intrastate as well as interstate and international communications services used by incarcerated people.

The Act directs the Commission to ''promulgate any regulations necessary to implement'' the statutory provisions, including its mandate that the Commission establish a ''compensation plan'' ensuring that all rates and charges for IPCS ''are just and reasonable,'' not earlier than 18 months and not later than 24 months after its January 5, 2023, enactment. The Act also requires the Commission to consider, as part of its implementation, the costs of ''necessary'' safety and security measures, as well as ''differences in costs'' based on facility size, or ''other characteristics.'' It also allows the Commission to ''use industry-wide average costs of telephone service and advanced communications services and the average costs of service of a communications service provider'' in determining just and reasonable rates.

On March 17, 2023, pursuant to the directive that the Commission implement the new Act and establish just and reasonable rates for incarcerated people's communications services (IPCS), the Commission released *Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services,* WC Docket Nos. 23–62, 12–375, Notice of Proposed Rulemaking and Order, FCC 23–19, 88 FR 20804 (*2023 IPCS Notice*) and 88 FR 19001 (Order) (*2023 IPCS Order*). The Commission sought comment on how to interpret the Act's language to ensure that the Commission implements the statute in a manner that fulfills Congress's intent. Because the Commission is now required or allowed to consider certain types of costs, the Act contemplates that it would undertake an additional data collection. To ensure that it has the data necessary to meet its substantive and procedural responsibilities under the Act, the Commission adopted the *2023 IPCS Order* delegating authority to WCB and the Office of Economics and Analytics

(OEA) to modify the template and instructions for the most recent data collection to the extent appropriate to timely collect such information to cover the additional services and providers now subject to the Commission's authority. On April 28, 2023, WCB and OEA issued a Public Notice seeking comment on all aspects of the proposed data collection. *WCB and OEA Seek Comment on Proposed 2023 Mandatory Data Collection for Incarcerated People's Communication Services,* WC Docket Nos. 23–62, 12–375, Public Notice, DA 23–355 (WCB/OEA April 28, 2023). On July 26, 2023, WCB and OEA released an Order adopting instructions, a reporting template, and a certification form to implement the 2023 Mandatory Data Collection. *Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act, Rates for Interstate Inmate Calling Services,* WC Docket Nos. 23–62, 12–375, Order, DA 23–638 (July 26, 2023). In the *2023 IPCS Order,* the Commission also reaffirmed and updated its prior delegation of authority to WCB and the Consumer and Governmental Affairs Bureau (CGB) (collectively, the Bureaus) to revise the instructions and reporting templates for the Annual Reports. Specifically, the Commission delegated to the Bureaus the authority to modify, supplement, and update the instructions and templates for the Annual Reports.

On August 3, 2023, the Bureaus issued a Public Notice seeking comment on proposed revisions to the instructions, template, and certification form for the Annual Reports, *https://www.fcc.gov/proposed-2023-ipcs-annual-reports,* which are necessary to reflect the revised rules improving access to communications services for incarcerated people with communication disabilities adopted in the *2022 ICS Order* and to help implement the Martha Wright-Reed Act to ensure just and reasonable rates for consumers and fair compensation for providers. *Wireline Competition Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Revisions to IPCS Providers' Annual Reporting and Certification Requirements,* Public Notice, WC Docket Nos. 23–62, 12–375, DA 23–656 (August 3, 2023). *https://www.fcc.gov/document/2023-incarcerated-peoples-communications-services-annual-reports-pn.* Notice of this document was published in the **Federal Register** at 88 FR 53850 on August 9, 2023.

The Bureaus have not yet issued an Order adopting revisions to the instructions, template, and certification form for the Annual Reports. To effectuate the improved access to communications services for incarcerated people with communication disabilities required by § 64.6040(c) of the Commission's rules, the Bureaus divided the information requirements and burdens of this information collection into two PRA submissions to OMB, with the first seeking approval of the new information requirements associated with § 64.6040(c) of the Commission's rules. OMB approved the revised information collection on December 14, 2023. Upon release of an Order adopting revisions to the instructions, template, and certification form for the Annual Reports, the Bureaus will seek OMB approval of any revised information requirements adopted in that Order, as well as the new information requirements in § 64.6060(a)(5) through (7), which expands the rule requiring the filing of Annual Reports to include additional data related to access to communications services for incarcerated people with communication disabilities.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2023–28765 Filed 1–2–24; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 231222–0315]

RIN 0648–BL98

Snapper-Grouper Fishery of the South Atlantic Region; Golden Crab Fishery of the South Atlantic Region; Dolphin and Wahoo Fishery of the Atlantic; Acceptable Biological Catch Control Rules

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement amendments to the Fishery Management Plans (FMPs) for the Snapper-Grouper Fishery, the Golden Crab Fishery, and the Dolphin and Wahoo Fishery, referenced here as the Acceptable Biological Catch (ABC) Control Rule Amendments. This final rule modifies the ABC control rules, allows the phase-in of subsequent ABC changes, allows some carry-over of an unharvested portion of the annual catch limit (ACL) to the following fishing year, and modifies the FMP framework procedures to implement carry-overs of ACLs when appropriate. NMFS also implements an administrative clarification to existing regulations for the Snapper-Grouper FMP framework procedure. The purpose of this final rule is to ensure catch level recommendations are based on the best scientific information available, prevent overfishing while achieving optimum yield, and increase flexibility in setting catch limits.

DATES: This final rule is effective February 2, 2024.

ADDRESSES: An electronic copy of the ABC Control Rule Amendments, which includes an environmental assessment, a fishery impact statement, and a regulatory impact review, may be obtained from the NMFS Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/comprehensive-acceptable-biological-catch-abc-control-rule-amendment-revisions-abc-control.*

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, telephone: 727–824–5305, or email: *nikhil.mehta@noaa.gov.*

SUPPLEMENTARY INFORMATION: The South Atlantic snapper-grouper and golden crab fisheries are managed under the Snapper-Grouper FMP and Golden Crab FMP, respectively. The dolphin and wahoo fishery of the Atlantic is managed under the Dolphin and Wahoo FMP. These 3 FMPs were prepared by the South Atlantic Fishery Management Council (Council) and are implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Council has developed, and NMFS has approved, the Comprehensive Acceptable Biological Catch Control Rule Amendment: Revisions to the Acceptable Biological Catch Control Rules and Specifications for Carry-Overs and Phase-Ins. The Council document is composed of Amendment 45 to the Snapper-Grouper FMP, Amendment 11 to the Golden Crab FMP, and Amendment 11 to the Dolphin and Wahoo FMP.

Background

The Magnuson-Stevens Act requires that NMFS and the regional fishery management councils prevent overfishing and achieve, on a continuing basis, the optimum yield from federally managed fish stocks. These mandates are intended to ensure

that fishery resources are managed for the greatest overall benefit to the Nation, particularly with respect to providing food production and recreational opportunities and protecting marine ecosystems. The Council and NMFS manage snapper-grouper species and golden crab in Federal waters from North Carolina south to the Florida Keys. The Council and NMFS manage the dolphin and wahoo fishery in Federal waters from Maine south to the Florida Keys.

The Magnuson-Stevens Act requires the Secretary to approve, disapprove, or partially approve fishery management plan amendments and issue regulations necessary to implement them (16 U.S.C. 1854(a)). On September 11, 2023, NMFS published a notice of availability for the ABC Control Rule Amendments and requested public comment (88 FR 62309). On October 2, 2023, NMFS published a proposed rule for the ABC Control Rule Amendments and requested public comment (88 FR 67721). NMFS approved the ABC Control Rule Amendments on December 8, 2023. The proposed rule and the ABC Control Rule Amendments detail the rationale for the actions contained in this final rule and is not all repeated here. This final rule (1) provides notice of approval of the ABC Control Rule Amendments and (2) makes minor changes to regulatory text to implement those amendments to the FMPs. A summary of the management measures described in the ABC Control Rule Amendments and implemented by this final rule is provided below.

The Council's Scientific and Statistical Committee (SSC) will use the ABC control rules described in the ABC Control Rule Amendments and implemented by this final rule to recommend future ABC levels to the Council. The ABC control rules use uncertainty and risk ranking traits to determine the acceptable risk of overfishing. The ABC control rule is the method by which the ABC for a stock is set, ideally based on an overfishing limit (OFL) from a stock assessment but at times established using more data-limited methodologies. The acceptable risk of overfishing is denoted as P-Star (P*) and is applied through stock assessment projections to develop the SSC's ABC recommendation to the Council.

In October 2016, NMFS published a final rule to revise the guidelines for National Standard 1 (NS1) of the Magnuson-Stevens Act (81 FR 71858, October 18, 2016). NS1 states that fishery conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry. One of the objectives of the 2016 NS1 revisions was to provide additional flexibility within current statutory limits to address fishery management issues. For example, the revised NS1 guidelines allow for changes in catch limits to be phased in over time. A similar ''phase-in'' provision is included in the ABC Control Rule Amendments and this final rule. The revised guidelines also allow for some of the unused portion of an ACL to be carried over from a single fishing year to the next, which is also described as ''carry-over'' in this final rule.

The ABC Control Rule Amendments incorporate carry-over and phase-in provisions by modifying the existing ABC control rules for the Snapper-Grouper, Golden Crab, and Dolphin and Wahoo FMPs by clarifying the incorporation of scientific uncertainty and management risk, modifying the approach used to determine the acceptable risk of overfishing, and prioritizing the use of stock rebuilding plans for overfished stocks.

Management Measure Contained in This Final Rule

Modify Framework Procedures

The ABC Control Rule Amendments and this final rule will modify the framework procedures in the Snapper-Grouper, Golden Crab, and Dolphin and Wahoo FMPs to allow for the future transfer, if pre-qualifying criteria are met, of an unharvested portion of a stock, total, or sector-specific ACL to the following fishing year (details are described in the *Allow Carry-Over of Unharvested Portion of ACLs* section of this final rule).

The revised FMP framework procedures implemented by this final rule will allow for the potential carry-over of an ACL in future management actions. Before NMFS can implement an ACL carry-over, other preceding steps by the Council, SSC, and NMFS must occur.

First, a future stock assessment must be conducted to determine if a species is eligible for carry-over and specify the appropriate catch level based on the criteria contained in the applicable ABC control rule. Then, the SSC would determine and recommend an ABC to the Council and the Council would develop an FMP amendment or framework action for the species that includes the option of ACL carry-over. If the related rulemaking was implemented by NMFS, then that species would be eligible for future carry-over through a subsequent action under the abbreviated framework procedures described in this final rule. To support potential carry-over justification, a Term of Reference will be added to each future stock assessment to project the maximum amount of landings beyond the ABC that could be carried over in 1 year while not resulting in overfishing or the stock becoming overfished within the projection period.

When the Council develops a subsequent fishery management action in response to a stock assessment to specify or revise an ABC and ACL for a stock or sector, the Council will determine whether carry-over will be authorized if annual conditions cause a stock ACL or sector ACL to qualify for carry-over. In doing so, the Council will consider the potential need for, and benefits of, carry-over for a stock that could become eligible according to criteria specified in the ABC control rule. The Council will also consider the duration of time when the specified ABC and ACL are effective. An FMP amendment or framework action that specifies carry-over for a stock or sector will include analysis of the relevant biological, economic, and social information necessary to meet the criteria and guidance of the ABC control rule.

Following the conclusion of each fishing year, Council staff will notify the Council if any stocks and sectors for which carry-over is approved qualify based on the previous year's landings, including preliminary landings estimates from the previous year if those landings data are not yet finalized. If a stock or sector qualifies for carry-over according to specifications of the ABC recommended by the SSC and annual landings meet criteria specified in the ABC control rule, NMFS will implement carry-over of eligible landings from the previous year via a temporary rule published in the **Federal Register** through the existing FMP framework procedure and rulemaking process.

The ACL carry-over procedure for eligible fish stocks or fishery sectors generally will not require additional advisory panel (AP) input or SSC recommendation, because input relevant to an ABC being approved with potential for ACL carry-over will be part of the prior development process for the FMP amendment or framework in which the ABC and ACL for a stock or sector are already specified. Application of the carry-over procedure is expected to be routine and formulaic.

The NMFS Regional Administrator (RA) will review any Council recommendations for carry-over and supporting information. If the RA

concurs that the Council's recommendations are consistent with the objectives of the applicable FMP, the Magnuson-Stevens Act, and all other applicable law, the RA will be authorized to implement the Council's proposed action through publication of appropriate notification in the **Federal Register**.

If the Council chooses to deviate from the criteria and guidance of the ABC control rules, this abbreviated process will not apply.

Further details of the process can be found in section 2.4.1 and Appendix J of the ABC Control Rule Amendments. An example of the carry-over can be found in Appendix H of the ABC Control Rule Amendments.

The new process will allow ACL carry-overs to occur in a more timely manner than that of an FMP amendment or framework action. A faster process is necessary due to the year-to-year nature of carry-overs. Under-harvest of an ACL may only be carried over in the immediate next year. Therefore, defining a stock's eligibility and the amount of ACL being carried over must occur quickly enough such that the fishery has time to harvest the carried over amount within the fishing year following a year of under-harvest. The process also provides the Council discretion in determining whether carry-over should be applied to a potentially eligible stock when setting the ABC and ACL.

It is important to note that this final rule will not change current ABCs or ACLs for any species managed under the FMPs affected by the ABC Control Rule Amendments. This rule makes no other substantive changes to the current framework procedures in the Snapper-Grouper, Golden Crab, and Dolphin and Wahoo FMPs.

Management Measures in the ABC Control Rule Amendments Not Codified by This Final Rule

In addition to the regulatory language within this final rule, the ABC Control Rule Amendments contain more specific provisions that modify the ABC control rules, allow the phasing in of ABC changes, and allow carry-over of unharvested portion of the ACL, for Snapper-Grouper, Golden Crab, and Dolphin and Wahoo FMPs.

Modify the ABC Control Rules

The ABC Control Rule Amendments will modify the ABC control rules for the Snapper-Grouper, Golden Crab, and Dolphin and Wahoo FMPs by categorizing stocks based on the available information, scientific uncertainty evaluation, and incorporation of the Council's risk tolerance policy through an accepted P*. The Council will specify the P* based on relative stock biomass and a stock risk rating. When possible, the SSC will determine the OFL and characterize its uncertainty based primarily on the stock assessment and secondarily on the SSC's expert opinion. The SSC will then use the OFL and its uncertainty to derive and recommend the ABC to the Council, based on the risk tolerance specified by the Council. The detailed step-by-step procedure detailing how the ABC is derived for assessed stocks can be found in section 2.1.1 of the ABC Control Rule Amendments. ABC for unassessed stocks will be recommended by the SSC based on applicable data-limited methods. Unassessed stocks will be assigned the moderate biomass level unless there is a recommendation from the SSC that justifies assignment of a different level. For overfished stocks, the Council will specify a stock rebuilding plan, considering recommendations from the SSC and the AP of the respective FMP. The ABC enacted while the rebuilding plan is in effect will be based on recommendations from the Council's SSC. The probability of success for rebuilding plans (1 minus P*) will be at least 50 percent. Control rule categories for assessments are described in detail in Table 2.1.1.2 of the ABC Control Rule Amendments.

In summary, four categories in the revised ABC control rules will facilitate an ABC determination based on scientific uncertainty and SSC guidance. The Council, with advice from the SSC and AP, will evaluate management risk for each stock through a stock risk rating. Stock risk ratings include information already used in the productivity and susceptibility analysis (PSA), but also incorporate socio-economic (for example, potential for discard losses, annual commercial value, recreational desirability, *etc.*) and environmental attributes (for example, climate change) (see Appendix E of the ABC Control Rule Amendments for more details). These recommendations will be revisited when new information becomes available (for example, a new stock assessment). The Council will then specify the risk rating as low, medium, or high risk of overfishing. A higher risk of overfishing will indicate that risk tolerance (*i.e.,* the accepted probability of overfishing) should be lower. These stock risk ratings, along with relative biomass levels, will be used to determine the Council's default risk tolerance for each stock. Default P* values based on relative biomass and stock risk rating are shown in Table 2.1.1.3 of the ABC Control Rule Amendments. As an example, a stock with high biomass and medium stock risk rating will have a P* of 45 percent. This will be lower than the OFL, in accordance with Magnuson-Stevens Act. The SSC can recommend the Council reconsider the stock risk rating. This could happen, for example, with the emergence of new scientific studies or new information discovered through a stock assessment.

The modified ABC control rules will also allow the Council to deviate, to a greater or lesser amount, from the default accepted probability of overfishing by up to 10 percent for an individual stock, based on its expert judgment, new information, or recommendations by the SSC or other expert advisors. Accepted probability of overfishing may not exceed 50 percent. Using a 50 percent probability of overfishing implies negligible scientific uncertainty and sets OFL equal to ABC. At P* equals 0.50, removals above ABC caused by deviations in biological parameters (for example, natural mortality (M), recruitment) could cause an overfishing determination and delay rebuilding plans. Therefore, adjusting P* above the value recommended by the SSC will be infrequent and well justified based on new scientific understanding and the Council's risk tolerance. Additionally, when requested by the Council, the SSC will recommend the ABC for up to 5 years as both a constant value across years and as individual annual values for the same period of years. These options provide more flexibility to both the Council and SSC in the ABC determination.

The ABC Control Rule Amendments does not change the current ABC levels for any species managed under the Snapper-Grouper, Golden Crab, and Dolphin and Wahoo FMPs. Modifying the ABC control rules as specified will give the SSC the ability to recommend adjusting or deriving uncertainty of future assessment results (ultimately impacting projections of future catch) if they determine uncertainty is not adequately estimated through information used in the assessment. Evaluation of risk tolerance will also be improved by considering factors beyond the current PSA and expanding the range of reference points used to describe and incorporate relative biomass. For unassessed stocks, the modifications will expand the number of methods that could be considered for estimating OFL and ABC. The addition of economic factors in the ABC control

rules will allow the Council to better consider the long-term economic implications when examining management risk, which could lead to better economic outcomes and increase net economic benefits in a fishery for a given species. The inclusion of social factors in the ABC control rules will allow the Council to directly consider the importance of a given species to fishing communities and businesses when determining risk tolerance and will have long-term social benefits in the form of a more appropriate ABC.

Allow the Phase-In of ABC Changes

Currently, the phase-in of ABC changes is not allowed in the Snapper-Grouper, Golden Crab, and Dolphin and Wahoo FMPs. The ABC Control Rule Amendments will establish criteria specifying when the phase-in of ABC changes will be allowed and specify the approach for the phase-in of ABC changes.

The ABC Control Rule Amendments will allow the phase-in of increases to ABC as specified by the Council, with advice from the SSC and AP. Increases to ABC (assuming the presence of comparable data between assessments) are generally indicative of an increase in relative biomass and improving stock condition. The revised approach in the ABC Control Rule Amendments allows greater consideration of ecological, social, and economic effects of an increased ABC, and increased flexibility in how that change can be implemented. Because ABCs during an increasing phase-in will be less than those initially recommended by the SSC, the phase-in period is not limited (*i.e.,* it can exceed the maximum timeframe specified for the phase-in decreases). The Council may specify ABC to be less than the SSC's recommended ABC, but it may not exceed the SSC's recommendation. Phasing in an ABC increase will set ABC below the SSC's recommendation. If the phase-in is included in projections used to develop the SSC's ABC recommendation, there also may be an increase to the recommended long-term ABC (*i.e.,* the ABC that persists after the phase-in is complete). Thus, phasing in increases to ABC over a longer time period could result in a greater increase to long-term ABC, and phasing in increases over a shorter period could result in a smaller increase to long-term ABC.

The ABC Control Rule Amendments will allow the phase-in of decreases to ABC when a new ABC is less than 80 percent of the existing ABC, and over a period not to exceed 3 years, which is the maximum phase-in period allowed by the NS1 guidelines. The criterion requiring a minimum threshold of difference between the current and new ABCs to be 20 percent defines a significant enough change to merit phasing in the change and is more flexible than other minimum threshold levels considered in the ABC Control Rule Amendments. The Council will consider whether to apply a phase-in on a case-by-case basis when specifying a stock ABC through an FMP amendment after a new ABC has been recommended by the SSC. A longer phase-in period provides more flexibility and allows a more gradual change from the existing ABC to the new ABC.

The phase-in of the ABC is an option the Council can consider to address the social and economic effects from management changes. Adopting this flexibility does not require the Council to phase in all ABC changes, nor does adopting one approach for one stock prevent the Council from choosing a more restrictive schedule of ABC phase-ins (less than 3 years) for a different stock. When considering whether to phase in an ABC change, the Council will compare the risk to the stock against the expected social and economic benefits of the alternative ABC. Management strategy evaluations may be used to quantify such trade-offs. The Council will be able to consult with its scientific and fishery advisors to help develop a rationale and implementation plan for phase-ins. The phase-in of ABC changes is consistent with the NMFS 2020 guidance and incorporates flexibility as per the revised NS1 guidelines into the FMPs for Snapper-Grouper, Golden Crab, and Dolphin and Wahoo.

Allow Carry-Over of Unharvested Portion of ACLs

Currently, carry-over of unharvested portion of ACLs is not allowed in the Snapper-Grouper, Golden Crab, and Dolphin and Wahoo FMPs. The ABC Control Rule Amendments will establish criteria specifying circumstances when an unharvested portion of the originally specified sector ACL can be carried over from a single fishing year to increase the available harvest in the immediate next year. Carry-overs may not be delayed, and only amounts from the originally specified sector ACL may be carried over. Carry-over of the unharvested portion of a sector ACL will be allowed if:

(1) The stock status is known;

(2) The stock is neither overfished nor experiencing overfishing;

(3) An overfishing limit for the stock is defined;

(4) ABC decreases are not being phased-in;

(5) There are measures that restrict annual landings to the ACL; and

(6) The post-season AM that reduces the ACL in the following year according to any landings overages is in place for that stock and sector.

The ABC Control Rule Amendments also specify limits on how much of the unharvested portion of a sector ACL may be carried over from a single fishing year to increase the sector ACL in the next year. The ABC and the total ACL may be temporarily increased to allow this carry-over. The temporary ABC may not exceed the OFL. The revised total ACL may not exceed the temporary ABC or the total ACL plus the carried over amount, whichever is less. If a stock experiences overfishing, either as the result of a stock assessment or as determined by NMFS' annual evaluation of landings, that stock will no longer qualify for carry-over. Additional conditions to annually qualify for carry-over can be added on a stock-by-stock basis. For example, to prevent overharvest of other species commonly caught with the target species (referred to as co-caught species) during years with a carried-over ACL, a future FMP amendment specifying an ABC and ACL with carry-over could additionally require that the previous year's harvest for co-caught species also be less than or equal to the ACL for carry-over to occur. When applicable, the Council will specify whether fisheries that have split seasons or sub-sector allocations (such as gear allocations) should be eligible for inter-annual carry-over on a case-by-case basis.

Carry-overs will also be sector-specific. The Snapper-Grouper and Dolphin and Wahoo FMPs have both commercial and recreational sectors whereas the Golden Crab FMP includes only a commercial sector. Thus, if only one sector is carrying over unused ACL, the carried-over amount will be allocated only to that sector, subject to limitations defined above. If more than one sector is carrying over unused ACL in the same year, each sector carry-over amount will be completely allocated to the sector from which it was derived, unless the sum of all carry-over amounts plus the specified total ACL is greater than the OFL. In this case, the difference between the temporary revised ABC and the specified total ACL will be allocated using sector allocation percentages specified by the FMP. A revised sector ACL and revised ABC will remain in place for a single fishing year. Following a year that included carry-over, evaluations of carry-over amounts for

future years will be based on the ABC and sector ACLs specified by the FMP rather than on the temporarily revised values.

The carry-over criteria and conditions contained in the ABC Control Rule Amendments are consistent with the NMFS 2020 guidance. The carry-over criteria and conditions will also make carry-over applicable to only a few stocks managed by the Council under the Snapper-Grouper FMP at the time this action was developed. However, allowing carry-over does fulfill Federal guidance on carry-overs that requires allowance of this management tool to be included in an FMP, and provide additional management flexibility to better enable harvest of the optimum yield from a healthy stock.

Changes to Codified Text Not in the ABC Control Rule Amendments

In this final rule, NMFS clarifies existing regulations in 50 CFR 622.194(a) about the scope of allowable management changes using the framework procedure in the Snapper-Grouper FMP. Specifically, NMFS clarifies the allowable changes via framework to essential fish habitat (EFH), EFH habitat areas of particular concern (HAPCs), and coral HAPCs.

In 2000, NMFS implemented two final rules that updated the Snapper-Grouper FMP framework procedures to include EFH, EFH HAPCs, and coral HAPCs that enabled more timely implementation of subsequent management measures than is possible via an FMP amendment (65 FR 37292, June 14, 2000; 65 FR 51248, August 23, 2000). Since NMFS implemented those final rules, NMFS has made no other changes to the framework procedure for EFH, EFH HAPCs, and coral HAPCs. Those regulations implemented Council recommendations to allow for the establishment of or modifications to EFH HAPCs or coral HAPCs via framework procedure. However, the rules are overly general and reference both ''definitions of EFH'' and ''EFH,'' which could be interpreted as duplicative.

In this final rule, NMFS clarifies the regulations by more clearly describing the existing parameters for EFH, EFH HAPCs, and coral HAPCs that can be changed via framework action. Accordingly, NMFS revises § 622.194(a) without changing the Council's original management recommendations.

Comments and Reponses

NMFS received four comments from individuals during the public comment period on the notice of availability and proposed rule for the ABC Control Rule Amendments. NMFS acknowledges the comment in favor of the actions in the ABC Control Rule Amendments and proposed rule and agrees that the actions will aid in ensuring sustainable fish populations. NMFS received two comments regarding the development of offshore wind infrastructure that were outside the scope of the ABC Control Rule Amendments and the proposed rule and are not responded to in this final rule. One commenter wanted more clarification and made comments for the actions contained in the ABC Control Rule Amendments and the proposed rule, and those comments are summarized below, along with NMFS' responses. The same commenter also expressed an opinion as to how to improve the organization of the discussion presented in **Federal Register**, to which no response is provided. No changes were made to this final rule as a result of public comment.

Comment 1: Why do changes need to be made to the current framework procedures for the three FMPs regarding biomass levels, age-structure analyses, maximum sustainable yield, *etc.*?

Response: This final rule will allow for the carry-over of future ACLs and in a more timely manner and is the only substantive change to the framework procedures for the three FMPs within the scope of this rule. This final rule also clarifies current regulations in 50 CFR 622.194(a) about the scope of allowable management changes using the framework procedure in the Snapper-Grouper FMP as described earlier. This final rule will not change any other regulatory provisions currently included in the framework procedures for the Snapper-Grouper, Golden Crab, or Dolphin and Wahoo FMPs.

Comment 2: Biological, social, and economic data from all sectors and the analyses are necessary to help guide changes to an ABC and ACL. It would be wise if the Council completed these analyses each year to track the changes in fish, which may be applied to future conservation projects as needed.

Response: NMFS agrees. NMFS and the Council already have an extensive process in place to gather biological, social, and economic data from all sectors, and analyze the effects on any action to change an ABC or ACL. This is done via the amendments to an existing FMP, in consultation with the Council's AP, SSC, NMFS' Southeast Fisheries Science Center, and the public through scoping meetings, public hearings, and public comment opportunities at Council meetings. NMFS reviews and approves the FMP amendments and implements necessary regulations only after ensuring the actions are consistent with the Magnuson-Stevens Act and its National Standards, and all other applicable laws. NMFS and the Council track landings weekly for the commercial sector and recreational charter vessels and headboats, and every 2 months for the private recreational component, and conduct analyses as necessary. Fishery performance reports are published by the Council after getting extensive feedback from its APs for each FMP, investigating life-history parameters, and landings reports from fishery dependent and independent sources. NMFS and the Council evaluate trends and consider possible changes to the ABC and ACL through amendments to an FMP.

Comment 3: What are the qualifications for including unassessed species in levels 2 through 5? Additionally, would it be possible for the five-star restoration system to be implemented here?

Response: The current ABC control rules contain five levels of conditions, decisions, and processes, involved to set an ABC (see Table 2.1.1.1 in the Comprehensive ABC Control Rule Amendments). Level 1 is for species that have stock assessments (assessed species). Levels 2 through 5 apply to species without a stock assessment (unassessed species), with each level corresponding to a specific data-limited method used to calculate the ABC. Typically, the SSC proceeded sequentially through the levels adopting the first level that was adequate for deriving an ABC for the unassessed stock at issue. This final rule will implement revised ABC control rules by removing levels 1 through 5, and establishing four categories to set an ABC (see Table 2.1.1.2 and Section 2.1.1 in the Comprehensive ABC Control Rule Amendments for more details).

NMFS is unclear what the commenter meant by ''the five-star restoration system'' and, therefore, cannot provide a response.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the ABC Control Rule Amendments, the Snapper-Grouper, Golden Crab, and Dolphin and Wahoo FMPs, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Magnuson-Stevens Act provides the legal basis for this final rule. No

duplicative, overlapping, or conflicting Federal rules have been identified. A description of this final rule, why it is being considered, and the purpose of this final rule is contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of the preamble. The objectives of this final rule are to ensure catch level recommendations are based on the best scientific information available, prevent overfishing while achieving optimum yield, and include flexibility in setting catch limits as allowed by the Magnuson-Stevens Act and in accordance with NMFS' guidance on carry-over and phase-in provisions.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) during the proposed rule stage that this rule would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. NMFS did not receive any comments from SBA's Office of Advocacy or the public regarding the certification in the proposed rule. No changes to this final rule were made in response to public comments. As a result, a final regulatory flexibility analysis was not required and none was prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, South Atlantic, Atlantic.

Dated: December 28, 2023.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NMFS amends 50 CFR part 622 as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.194, revise paragraph (a) to read as follows:

§ 622.194 Adjustment of management measures.

* * * * *

(a) Biomass levels, age-structured analyses, target dates for rebuilding overfished species, maximum sustainable yield (or its proxy), optimum yield, acceptable biological catch, total allowable catch, quotas (including a quota of zero), annual catch limits, annual catch targets, accountability measures, maximum fishing mortality threshold, minimum stock size threshold, trip limits, bag limits, size limits, gear restrictions (ranging from regulation to complete prohibition), seasonal or area closures, fishing year, rebuilding plans, definitions of essential fish habitat (EFH), establishment of or modifications to EFH habitat areas of particular concern (HAPCs) or coral HAPCs, restrictions on gear and fishing activities applicable in EFH and EFH HAPCs, establish or modify spawning SMZs, and allow transfer of the unharvested total or sector ACL to the following fishing year.

* * * * *

■ 3. In § 622.252, revise paragraph (a) to read as follows:

§ 622.252 Adjustment of management measures.

* * * * *

(a) Biomass levels, age-structured analyses, maximum sustainable yield, acceptable biological catch, total allowable catch, quotas (including quotas equal to zero), trip limits, minimum sizes, gear regulations and restrictions, permit requirements, seasonal or area closures, sub-zones and their management measures, time frame for recovery of golden crab if overfished, fishing year (adjustment not to exceed 2 months), observer requirements, authority for the Regional Administrator to close the fishery when a quota is reached or is projected to be reached, definitions of essential fish habitat (EFH), EFH habitat areas of particular concern (HAPCs), or coral HAPCs, and allow transfer of the unharvested ACL to the following fishing year.

* * * * *

■ 4. In § 622.281, revise paragraph (a) to read as follows:

§ 622.281 Adjustment of management measures.

* * * * *

(a) Biomass levels, age-structured analyses, maximum sustainable yield, optimum yield, overfishing limit, total allowable catch, acceptable biological catch (ABC), ABC control rule, annual catch limits, annual catch targets, accountability measures, trip limits, minimum sizes, gear regulations and restrictions, permit requirements, seasonal or area closures, sub-zones and their management measures, overfishing definitions and other status determination criteria, time frame for recovery of Atlantic dolphin or wahoo if overfished, fishing year (adjustment not to exceed 2 months), authority for the Regional Administrator to close a fishery when a quota is reached or is projected to be reached or reopen a fishery when additional quota becomes available, definitions of essential fish habitat (EFH), EFH habitat areas of particular concern (HAPCs), or coral HAPCs, and allow transfer of the unharvested total or sector ACL to the following fishing year.

* * * * *

[FR Doc. 2023–28906 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 231226–0316]

RIN 0648–BL93

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Amendment 49; Correction

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

ACTION: Final rule; correcting amendment.

SUMMARY: NMFS corrects the final rule that implemented management measures described in Amendment 49 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), which published in the **Federal Register** on September 26, 2023. For greater amberjack, that final rule revised the sector annual catch limits (ACLs), the commercial minimum size limit, the commercial seasonal trip limits, and the April spawning season closure. In addition, Amendment 49 revised the overfishing limit, acceptable biological catch, annual optimum yield, and sector allocations of the total ACL, as well as removed the recreational annual catch targets for species in the FMP. In that final rule, NMFS inadvertently neglected to include a previously contained commercial quota provision that did not change through Amendment 49, and did not include a commercial trip limit paragraph heading that did not change through Amendment 49. The purpose of this

correcting amendment is to fix these errors.

DATES: This correction is effective January 3, 2024.

FOR FURTHER INFORMATION CONTACT: Mary Vara, Southeast Regional Office, NMFS, telephone: 727–824–5305, email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: On September 26, 2023, NMFS published a final rule in the **Federal Register** (88 FR 65819) to implement revisions to greater amberjack management measures contained in Amendment 49 that included, among other actions, regulatory revisions for commercial quotas and commercial trip limits. That final rule became effective on October 26, 2023.

Corrections

In the regulatory text of the final rule for Amendment 49, NMFS inadvertently neglected to include the pre-existing greater amberjack commercial seasonal quota carryover provision at 50 CFR 622.190(a)(3)(iii) within 50 CFR 622.190(a)(3), when also revising paragraphs (a)(3)(i) and (ii) of the section. The text within 50 CFR 622.190(a)(3)(iii) states, ''Any unused portion of the quota specified in paragraph (a)(3)(i) of this section will be added to the quota specified in paragraph (a)(3)(ii) of this section. Any unused portion of the quota specified in paragraph (a)(3)(ii) of this section, including any addition of quota specified in paragraph (a)(3)(i) of this section that was unused, will become void and will not be added to any subsequent quota.''

The discussions in Amendment 49, as well as the associated proposed and final rules, were clear that for greater amberjack commercial quotas, only the seasonal quota values themselves were to change, not the existing quota carryover provision, and therefore it should have also been included within the rest of the text at 50 CFR 622.190(a)(3). Thus, through this correcting amendment NMFS corrects 50 CFR 622.190 by adding the mistakenly removed paragraph (a)(3)(iii) that was effective and in the regulations prior to the implementation of Amendment 49.

Additionally, in the regulatory text of the final rule for Amendment 49, NMFS inadvertently neglected to include a paragraph heading for greater amberjack within the commercial trip limits at 50 CFR 622.191(a)(5). Amendment 49 revised the greater amberjack trip limit and when drafting the associated regulatory text for that trip limit, NMFS inadvertently did not include ''Greater amberjack'' as the heading for paragraph (a)(5) of the section. Thus, through this correcting amendment NMFS adds back in the heading of ''Greater amberjack'' at 50 CFR 622.191(a)(5) that was effective and in the regulations prior to the implementation of Amendment 49.

Classification

Pursuant to section 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator (AA) has determined that this final rule is consistent with Amendment 49, the FMP, the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), the AA finds good cause to waive prior notice and opportunity for additional public comment because it would be unnecessary and contrary to the public interest. This correcting amendment adds back into the regulations a needed commercial quota provision and a commercial trip limit paragraph heading that were inadvertently not included in the final rule implementing Amendment 49. Providing prior notice and opportunity for public comment is unnecessary and contrary to the public interest. The final rules that implemented the erroneously removed codified provisions and the greater amberjack management measures in Amendment 49 were already subject to notice and public comment. Additional opportunity for public comment would delay inclusion of the previously effective commercial quota and trip limit provisions which were inadvertently removed in the regulatory text. Further, this correction will prevent confusion about greater amberjack commercial quota provisions and add clarity to the commercial trip limit regulations.

For the same reasons, the AA also finds good cause, pursuant to 5 U.S.C. 553(d)(3), to waive the 30-day delay in effective date for this correcting amendment.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, this rule is exempt from the procedures of the Regulatory Flexibility Act. Accordingly, no Regulatory Flexibility Analysis is required and none has been prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 622

Commercial, Fisheries, Fishing, Greater amberjack, South Atlantic.

Dated: December 28, 2023.

Samuel D. Rauch, III,

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

Accordingly, 50 CFR part 622 is corrected by making the following correcting amendment:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.190, add paragraph (a)(3)(iii) to read as follows:

§ 622.190 Quotas.

* * * * *

(a) * * *

(3) * * *

(iii) Any unused portion of the quota specified in paragraph (a)(3)(i) of this section will be added to the quota specified in paragraph (a)(3)(ii) of this section. Any unused portion of the quota specified in paragraph (a)(3)(ii) of this section, including any addition of quota specified in paragraph (a)(3)(i) of this section that was unused, will become void and will not be added to any subsequent quota.

* * * * *

■ 3. In § 622.191, revise paragraph (a)(5) to read as follows:

§ 622.190 Commercial trip limits.

* * * * *

(a) * * *

(5) *Greater amberjack.* Until the applicable commercial quota specified in § 622.190(a)(3) is reached—1,200 lb (544 kg). See § 622.190(c)(1) for the limitations regarding greater amberjack after the applicable commercial quota is reached.

* * * * *

[FR Doc. 2023–28901 Filed 1–2–24; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 231228–0317]

RIN 0648–BK54

Atlantic Highly Migratory Species; Prohibiting Retention of Oceanic Whitetip Sharks in U.S. Atlantic Waters and Hammerhead Sharks in the U.S. Caribbean Sea

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

ACTION: Final rule.

SUMMARY: In this final rule, NMFS is prohibiting the retention and possession of oceanic whitetip sharks (*Carcharhinus longimanus*) in U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, and hammerhead sharks (great (*Sphyrna mokarran*), smooth (*S. zygaena*), and scalloped (*S. lewini*) hammerhead sharks) in U.S. waters of the Caribbean Sea. This action is responsive to two Biological Opinions (BiOps) for Atlantic Highly Migratory Species (HMS): one for the pelagic longline (PLL) fishery and one for the non-PLL fisheries. The BiOps strongly encouraged the inclusion of the scalloped hammerhead shark Central and Southwest Atlantic Distinct Population Segment (DPS) and the oceanic whitetip shark on the list of prohibited sharks for recreational and/or commercial HMS fisheries. These prohibitions apply to all HMS permitted fishermen.

DATES: This final rule is effective February 2, 2024.

ADDRESSES: Additional information related to this final rule, including electronic copies of the supporting documents are available from the HMS Management Division website at *https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species,* on *https://www.regulations.gov* (enter ''NOAA–NMFS–2023–0025'' in the Search box), or by contacting Ann Williamson at *ann.williamson@noaa.gov* or 301–427–8503.

FOR FURTHER INFORMATION CONTACT: Ann Williamson, *ann.williamson@noaa.gov,* Becky Curtis, *becky.curtis@noaa.gov,* or Karyl Brewster-Geisz, *karyl.brewster-geisz@noaa.gov,* at 301–427–8503.

SUPPLEMENTARY INFORMATION:

Background

Atlantic shark fisheries are managed under the 2006 Consolidated HMS Fishery Management Plan (FMP) and its amendments, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). HMS implementing regulations are at 50 CFR part 635.

Background information about the need to prohibit the retention and possession of oceanic whitetip sharks in U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, and hammerhead sharks (great, smooth, and scalloped hammerhead sharks) in U.S. waters of the Caribbean Sea was provided in the preamble to the proposed rule (88 FR 17171, March 22, 2023) and is not repeated here. The comment period for the proposed rule closed on May 22, 2023. NMFS received 93 written comments as well as oral comments during the public hearing held by webinar on April 25, 2023. The comments received, and the responses to those comments, are summarized in the Response to Comments section. After considering public comments on the proposed rule, NMFS is finalizing the rule as proposed. As described, no changes are made from the proposed rule.

NMFS has prepared an Environmental Assessment (EA), Regulatory Impact Review (RIR), and Final Regulatory Flexibility Analysis (FRFA), which analyze the anticipated environmental, social, and economic impacts of several alternatives considered for this final rule. The full list of alternatives and their analyses are provided in the final EA/RIR/FRFA and are not repeated here. A summary of the FRFA is provided below. A copy of the final EA/RIR/FRFA prepared for this final rule is available from NMFS (see **ADDRESSES**).

As described in the proposed rule, NMFS issued two BiOps in May 2020: the ''Biological Opinion on the Operation of the HMS Fisheries excluding Pelagic Longline'' and the ''Biological Opinion on the Operation of the HMS Pelagic Longline Fishery,'' prepared under section 7(a)(2) of the Endangered Species Act (ESA). These BiOps concluded consultation on the HMS PLL and non-PLL fisheries, as managed under the 2006 Consolidated HMS FMP and its amendments. The BiOps included conservation recommendations for oceanic whitetip shark and the scalloped hammerhead shark Central and Southwest Atlantic DPS that strongly encouraged the inclusion of these federally protected species on the HMS list of prohibited shark species for recreational and/or commercial HMS fisheries.

In order to reduce the mortality of oceanic whitetip sharks and the Central and Southwest Atlantic DPS of scalloped hammerhead sharks, which are both listed as threatened under the ESA, and implement two conservation recommendations from the May 2020 BiOps, this final rule will add oceanic whitetip shark to the prohibited shark species group, remove oceanic whitetip shark from the list of pelagic indicator species, and prohibit the possession and retention of great, smooth, and scalloped hammerhead sharks in the U.S. Caribbean region. This final rule applies to all HMS permitted fishermen.

Under this final rule, oceanic whitetip sharks are added to the prohibited shark species group using the criteria in 50 CFR 635.34(c). Retention, possession, landing, sale, and purchase of oceanic whitetip sharks or parts of oceanic whitetip sharks are prohibited in all commercial and recreational HMS fisheries in U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. Oceanic whitetip sharks are also removed from the list of pelagic indicator species (Table 2 to Appendix A to Part 635). Sharks in the prohibited shark species group cannot be possessed or landed and therefore, their presence on board a vessel cannot be considered a useful indicator of a pelagic longline vessel.

Additionally, under this final rule, the possession and retention of hammerhead sharks in the large coastal shark (LCS) complex (*i.e.,* great, smooth, and scalloped hammerhead sharks) is prohibited in all HMS fisheries in the U.S. Caribbean region, as ''Caribbean'' is defined at 50 CFR 622.2. Retention of hammerhead sharks is currently not allowed for commercial vessels in the PLL fishery. This final rule prohibits retention and possession of LCS hammerhead sharks for all HMS commercial and recreational permit holders in the U.S. Caribbean region, including in those instances where it was previously authorized (*i.e.,* recreational permit holders with a shark endorsement when tunas, swordfish, and/or billfish are not retained). Due to the difficulty in differentiating between the various species of LCS hammerhead sharks, this final rule applies to all LCS hammerhead sharks to mitigate the potential for continued mortality of scalloped hammerhead sharks from fishermen either bringing hammerhead sharks on board to identify the species (increasing the likelihood of post-release

mortality) or unintentionally retaining a scalloped hammerhead shark due to misidentification.

Response to Comments

Written comments can be found at *www.regulations.gov;* type ''NOAA–NMFS–2023–0025'' in the Search box (note: copying and pasting the FDMS Docket Number directly from this document may not yield search results). Below, NMFS summarizes and responds to the comments made on the proposed rule during the comment period.

Comment 1: NMFS received many comments in support of the proposed measures for oceanic whitetip sharks (preferred Alternative A2 in the EA for this action). Commenters stated that they supported these measures because oceanic whitetip sharks are listed as threatened under the ESA and endangered on the International Union for the Conservation of Nature (IUCN) Red List of Threatened Species. Some commenters supported adding oceanic whitetip sharks to the prohibited shark species group to address overfishing concerns and promote population recovery of an apex predator that is critical for marine ecosystem health.

Response: NMFS agrees that these measures will reduce mortality of oceanic whitetip sharks and promote the conservation and recovery of this threatened species.

Regarding the IUCN Red List status of oceanic whitetip sharks, NMFS scientists participate in species assessments for the Red List, but NMFS does not base management actions on IUCN designations. The IUCN uses different criteria. NMFS adheres to ESA-applicable criteria for determining whether a species is threatened or endangered. NMFS determines whether stocks are overfished or overfishing is occurring pursuant to the Magnuson-Stevens Act.

Comment 2: Several commenters supported the proposed measures for LCS hammerhead sharks (preferred Alternative B4 in the EA for this action). However, many of those commenters stated that the prohibition on possession and retention of LCS hammerhead sharks should be extended to all Federal waters of the northwest Atlantic Ocean, Gulf of Mexico, and Caribbean Sea. One commenter specifically stated that all hammerhead sharks should be added to the prohibited shark species group. Reasons that commenters provided for expanding the proposed measures include: great and smooth hammerhead sharks have an unknown stock status in the Atlantic Ocean but evidence suggests that populations are in decline; scalloped hammerhead sharks are overfished with overfishing occurring; scalloped hammerhead sharks from the Central and Southwest DPS likely cross into the Northwest Atlantic and Gulf of Mexico where they could be legally possessed and retained; fishing vessels from outside U.S. waters of the Caribbean Sea could possess and retain hammerhead sharks as long as they are landed outside of the U.S. Caribbean Exclusive Economic Zone; hammerhead sharks are threatened by global fishing pressure and are listed as critically endangered (scalloped and great hammerhead sharks) or vulnerable (smooth hammerhead shark) by the IUCN on its Red List; and hammerhead sharks are particularly susceptible to post-release mortality as bycatch in commercial fisheries and through targeted catch-and-release fishing in the recreational fishery.

Response: NMFS disagrees that the retention and possession of LCS hammerhead sharks should be prohibited in all Federal waters of the northwest Atlantic Ocean, Gulf of Mexico, and Caribbean Sea. Only the Central and Southwest Atlantic DPS of scalloped hammerhead sharks is listed as threatened under the ESA, and prohibiting the retention and possession of LCS hammerhead sharks outside U.S. waters of the Caribbean would unnecessarily limit retention of hammerhead sharks that are still authorized for commercial and recreational HMS fisheries in U.S. waters of the Atlantic Ocean and Gulf of Mexico.

In Federal waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, only scalloped hammerhead sharks have a determination of overfished with overfishing occurring, based on a stock assessment that was determined to be the best scientific information available by NMFS. The stock statuses for great and smooth hammerhead sharks are unknown. However, all hammerhead shark species (great, smooth, and scalloped) are currently being assessed through the Southeast Data, Assessment, and Review (SEDAR) stock assessment process (SEDAR 77). SEDAR is the process by which most domestic Atlantic shark stocks are assessed. While SEDAR 77 has not yet been finalized, initial analyses indicate that great hammerhead sharks are likely overfished but not experiencing overfishing, smooth hammerhead sharks are likely not experiencing overfishing, and scalloped hammerhead sharks are likely not overfished and not experiencing overfishing. Once the assessment is complete (expected in 2024), NMFS will consider management measures for these species, as appropriate.

Regarding the IUCN Red List status of great, smooth, and scalloped hammerhead sharks, NMFS does not base management actions on IUCN designations, as previously stated.

Regarding concern about retention of the Central and Southwest DPS of scalloped hammerhead sharks in the Northwest Atlantic and Gulf of Mexico, encountering scalloped hammerhead sharks from the Central and Southwest DPS in these areas would be extremely unlikely, as they are outside of the DPS boundary. In 2014, NMFS conducted a status review report in response to a petition to list the scalloped hammerhead shark under the ESA (Miller et al. 2014). During that analysis, NMFS determined that the Central and Southwest Atlantic DPS of scalloped hammerhead sharks have genetic differences that indicate they are isolated from other Atlantic subpopulations. Additionally, general tagging studies and genetic analyses suggest that scalloped hammerhead sharks do not travel over open ocean but make limited migrations along coastlines, continental margins, and submarine features. There was no observed mixing of the Central and Southwest Atlantic DPS with the Northwest Atlantic and Gulf of Mexico population.

Under the final measures, the possession and retention of LCS hammerhead sharks would be prohibited in all HMS fisheries in the U.S. Caribbean region. Fishermen that possess and retain hammerhead sharks in U.S. waters of the Caribbean Sea would be in violation of the regulations, even if they land the sharks outside of the U.S. Caribbean region.

Regarding concern about hammerhead shark sensitivity to post-release mortality, there are limited direct estimates of total discard mortality for hammerhead sharks. However, evidence suggests that hammerhead sharks are vulnerable to the effects of capture in commercial and recreational fisheries. According to preliminary data from the SEDAR 77 hammerhead shark stock assessment, the assumed total discard mortality rate (defined as the immediate plus delayed discard-mortality rate resulting from the fishing event) for great hammerhead sharks is 41.9 percent in commercial bottom longline (BLL) fisheries and 20 percent in recreational fisheries; for smooth hammerhead sharks is 41.5 percent in commercial gillnet fisheries; and for scalloped hammerheads is 87.5 percent in commercial purse seine fisheries.

NMFS believes that prohibiting the possession and retention of all LCS hammerhead sharks in the U.S. Caribbean region will reduce the likelihood of post-release mortality because fishermen will not need to bring them on board for species identification. Because fishermen would be unable to target LCS hammerhead sharks, fishermen would be prohibited from bringing them onboard the vessel and must release them in the water, in a manner that maximizes survival, thereby reducing post-release mortality. While the management measures are not expected to substantially alter current fishing practices or bycatch mortality rates, because LCS hammerhead sharks cannot be targeted, lower rates of bycatch would reduce the rate of mortality.

Regarding the prohibited shark species group, NMFS does not agree that all hammerhead sharks should be added to the prohibited shark species group. NMFS may add a species to the prohibited shark species group if the species is determined to meet at least two of the four criteria at 50 CFR 635.34(c): (1) biological information indicates that the stock warrants protection; (2) information indicates that the species is rarely encountered or observed caught in HMS fisheries; (3) information indicates that the species is not commonly encountered or observed caught as bycatch in fishing operations for species other than HMS; and (4) the species is difficult to distinguish from other prohibited species.

Regarding the first and fourth criteria, the scalloped hammerhead shark Central and Southwest Atlantic DPS is listed as a threatened species under the ESA, and distinguishing hammerhead sharks from each other is quite difficult even for the most seasoned fishermen. However, at this time, NMFS has decided not to add scalloped hammerhead sharks to the prohibited shark species group since only two scalloped hammerhead DPSs are designated as ''threatened'' under the ESA; only one DPS occurs in U.S. waters; and adding the sharks to the group would unnecessarily limit retention of hammerhead sharks that are still authorized for commercial and recreational HMS fisheries in U.S. waters of the Atlantic Ocean and Gulf of Mexico. Additionally, the second and third criteria are not met by scalloped hammerhead sharks. This species is encountered and observed caught in HMS fisheries. From 2017 through 2021, there was an annual average of 16,170 pounds dressed weight (lb dw) of scalloped hammerhead sharks landed in the commercial sector in U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. Moreover, this species is also encountered and observed as bycatch in fishing operations for species other than HMS, for example, in the Atlantic and Gulf of Mexico gillnet fishery.

Great hammerhead sharks and smooth hammerhead sharks meet only one of the four criteria at 50 CFR 635.34(c), which would not warrant addition to the prohibited shark species group at this time. Regarding the fourth criterion, distinguishing hammerhead sharks from each other is quite difficult even for the most seasoned fishermen. However, the first, second, or third criteria are not met by great or smooth hammerhead sharks. These species are not listed as endangered or threatened under the ESA, and, initial analyses from an ongoing stock assessment (SEDAR 77, not yet final) indicate that great hammerhead sharks are likely overfished but not experiencing overfishing, and smooth hammerhead sharks are likely not experiencing overfishing. Additionally, they are encountered and observed caught in HMS fisheries. From 2017 through 2021, there was an average of 321,653 lb dw of hammerhead sharks landed in the commercial sector in U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. Moreover, these species are encountered and observed as bycatch in fishing operations for species other than HMS, for example, in the Atlantic and Gulf of Mexico gillnet fishery.

Comment 3: One commenter stated that NMFS should specify and implement additional catch monitoring and reporting measures to collect accurate and precise oceanic whitetip shark and hammerhead shark catch and bycatch information. Suggested measures include improving recreational catch data, enhancing commercial monitoring, and creating a public reporting portal for recreational and commercial fisheries.

Response: NMFS does not agree with adopting additional catch monitoring and reporting requirements in this action, as the purpose of this action is to reduce the mortality of oceanic whitetip sharks and the Central and Southwest Atlantic DPS of scalloped hammerhead sharks. However, NMFS may consider additional or revised reporting requirements in future rulemakings. For example, NMFS recently announced an advanced notice of proposed rulemaking (ANPR) to modify or expand reporting requirements for HMS (88 FR 30699, May 12, 2023). The comment period on the ANPR ended on August 18, 2023. NMFS is currently reviewing the comments received and determining next steps.

Comment 4: One commenter suggested that NMFS should require full-chain traceability for all catches of oceanic whitetip sharks and hammerhead sharks through the Seafood Import Monitoring Program (SIMP) and the Food and Drug Administration traceability rules, in order to close a loophole for any illegal catch of oceanic whitetip sharks and hammerhead sharks.

Response: This comment is beyond the scope of this rulemaking. The purpose of this action is to reduce the mortality of oceanic whitetip sharks and the Central and Southwest Atlantic DPS of scalloped hammerhead sharks. NMFS notes that sharks are subject to SIMP's data reporting requirements at the time of entry for imported fish or fish products and recordkeeping requirements for fish and fish products entered into U.S. commerce. *See* 50 CFR 300.324. For more information on SIMP, please refer to the website: *https://www.fisheries.noaa.gov/international/seafood-import-monitoring-program*.

Comment 5: One commenter stated that NMFS should improve coordination across NMFS divisions and other agencies to improve the effectiveness of various national and international safeguards for oceanic whitetip sharks and hammerhead sharks.

Response: NMFS agrees that coordination is crucial for the effective management of HMS fisheries, including those for oceanic whitetip and hammerhead sharks. NMFS works closely with our partners, including the U.S. Department of State and other Federal partners, to promote global shark conservation and management.

Comment 6: One commenter urged NMFS to take several additional measures to address non-lethal and lethal take from bycatch in commercial fisheries and intentional targeting by recreational catch-and-release fishing. Specifically, they stated that the proposed measures would not address fishing-related mortality as a result of bycatch and post-release mortality in catch-and-release fishing. Because hammerhead sharks are especially prone to stress, injury, and death after release, allowing the intentional take of the Central and Southwest Atlantic DPS of scalloped hammerhead sharks (as a result of post-release mortality in catch-and-release fishing) is not consistent with NMFS' obligations under the ESA.

Response: NMFS does not agree that additional measures to address take are necessary. HMS fisheries, including

recreational catch-and-release fishing, are consistent with the Reasonable and Prudent Measures and Terms and Conditions specified in the 2020 BiOps. Additionally, measures being finalized with this rule are in furtherance of conservation recommendations related to scalloped hammerhead DPSs. If determinations for this species under the ESA were to change, NMFS would reconsider appropriate management measures at that time.

Recreational and commercial interactions with hammerhead sharks in the U.S. Caribbean region, and the risk of post-release mortality of the Central and Southwest Atlantic DPS of scalloped hammerhead sharks, are relatively low. According to recreational catch data, the last reported encounter with a hammerhead shark in the U.S. Caribbean region was in 2016, and before that, it was in 2012. This suggests that interactions between recreational anglers and hammerhead sharks in the Caribbean is rare. Additionally, according to commercial catch data, scalloped hammerhead sharks account for little to none of the landings in the U.S. Caribbean region. Because the Central and Southwest Atlantic DPS of scalloped hammerhead sharks is only found in U.S. waters of the Caribbean Sea, commercial and recreational interactions with hammerhead sharks are relatively low in this region, and the commercial and recreational possession and retention of hammerhead sharks is now prohibited through this action, NMFS considers the risk of recreational post-release mortality of hammerhead sharks to be minimal. Even if the species is caught in the U.S. Caribbean and not reported, NMFS would also expect the risk of recreational post-release mortality to be minimal given the handgears used in the region, which are generally associated with a low risk of mortality. As stated above, preliminary data from the SEDAR 77 hammerhead shark stock assessment assume total discard mortality rate (defined as the immediate plus delayed discard-mortality rate resulting from the fishing event) for hammerhead sharks is 20 percent in recreational fisheries.

Comment 7: One commenter stated that a prohibition on the retention and possession of all hammerhead sharks in the Atlantic Ocean would bring Federal regulations into alignment with Regional Fishery Management Organizations (RFMOs), specifically the International Commission for the Conservation of Atlantic Tunas, the Inter-American Tropical Tuna Commission, Western Central Pacific Fisheries Commission, and Indian Ocean Tuna Commission.

Response: Current HMS regulations, as amended by this rule, are consistent with RFMO measures. Notably, in 2011, NMFS implemented ICCAT Recommendation 10–08 that prohibited the retention, transshipping, landing, storing, or selling of hammerhead sharks in the family Sphyrnidae (except bonnethead sharks) caught in association with fisheries managed by ICCAT. The Inter-American Tropical Tuna Commission, Western Central Pacific Fisheries Commission, and Indian Ocean Tuna Commission address conservation and management in the Pacific Ocean and Indian Ocean, not the Atlantic Ocean.

Comment 8: One commenter stated that prohibiting the retention of hammerhead sharks in the Atlantic Ocean prior to the completion of a stock assessment would be premature and in conflict with the Magnuson-Stevens Act.

Response: Consistent with relevant conservation recommendations from two BiOps, the final measures for hammerhead sharks are limited to the U.S. Caribbean region, and do not apply in other Federal waters of the Atlantic Ocean, including the Gulf of Mexico. Although only the Central and Southwest Atlantic DPS of scalloped hammerhead sharks is threatened under the ESA, the final measures apply to great and smooth hammerhead sharks in the U.S. Caribbean region due to the difficulty in differentiating between the various species of hammerhead sharks. As previously stated, all hammerhead shark species are being assessed through SEDAR 77. Once that stock assessment is completed, NMFS will consider management measures for these species, if appropriate.

Comment 9: One commenter asked why the proposed measures are limited to Federal waters of the Atlantic Ocean and not the Pacific Ocean.

Response: The BiOps that provided conservation recommendations for oceanic whitetip shark and the scalloped hammerhead shark Central and Southwest Atlantic DPS were for the HMS PLL and non-PLL fisheries. These fisheries operate in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, and subject to management under the 2006 Consolidated HMS FMP and its amendments. Shark species found in U.S. waters of the Pacific Ocean are subject to management under different FMPs.

Comment 10: NMFS received several comments requesting a prohibition on all shark fishing given the important role sharks play in marine ecosystem health.

Response: This comment is beyond the scope of this rulemaking. The purpose of this action is to reduce the mortality of oceanic whitetip sharks and the Central and Southwest Atlantic DPS of scalloped hammerhead sharks, which are both listed as threatened under the ESA. This action does not change the regulations and management measures currently in place that govern commercial shark fishing in Federal waters of the northwest Atlantic Ocean, Gulf of Mexico, and Caribbean Sea.

Comment 11: NMFS received numerous comments regarding concern for sharks in general. Additionally, some commenters urged NMFS to identify breeding grounds and nursery habitats for all Atlantic sharks to inform effective management measures and stress the importance of safe handling and release protocols.

Response: All of these comments are beyond the scope of this rulemaking. The purpose of this action is to reduce the mortality of oceanic whitetip sharks and the Central and Southwest Atlantic DPS of scalloped hammerhead sharks, which are both listed as threatened under the ESA. Information about the issues raised in these public comments can be found in the 2006 Consolidated HMS FMP and its amendments and the annual Stock Assessment and Fishery Evaluation Report (see **ADDRESSES**).

Classification

NMFS is issuing this rule pursuant to section 304(g) of the Magnuson-Stevens Act. The NMFS Assistant Administrator has determined that the final rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, ATCA, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

A FRFA was prepared. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, and a summary of the analyses completed to support the action. A copy of this analysis is available from NMFS (see **ADDRESSES**). A summary is provided below.

Section 604(a)(1) of the Regulatory Flexibility Act (RFA) requires agencies to state the need for, and objective of, the final action. This action is needed to be responsive to two 2020 BiOps under section 7(a)(2) of the ESA which addressed the Atlantic HMS PLL and non-PLL fisheries, as managed under the 2006 Consolidated HMS FMP and its amendments. The BiOps strongly

encouraged the inclusion of these federally protected species on the HMS list of prohibited shark species for HMS recreational and/or commercial HMS fisheries. This action is consistent with the management goals and objectives of the 2006 Consolidated HMS FMP and its amendments, the Magnuson-Stevens Act, the 2020 BiOps, and other applicable law.

The objective of this action is to reduce mortality of oceanic whitetip sharks and the Central and Southwest Atlantic DPS of scalloped hammerhead sharks, both listed as threatened under the ESA. This action would promote the conservation and recovery of these threatened species.

Section 604(a)(2) of the RFA requires a summary of significant issues raised by the public in response to the IRFA, a summary of the agency's assessment of such issues, and a statement of any changes made in the rule as a result of the comments. NMFS received 93 written comments on the proposed rule and Draft EA during the public comment period. A summary of those comments and the agency's responses are described above. None of the comments received referred to the IRFA or the economic impacts of the rule.

Section 604(a)(3) of the RFA requires the agency to respond 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 in the rule as a result of such comments. NMFS did not receive any comments from the Chief Counsel for Advocacy of the SBA in response to the proposed rule. Additionally, none of the public comments received referred to the economic impacts of the proposed rule.

Section 604(a)(4) of the RFA requires agencies to provide descriptions of, and where feasible, an estimate of the number of small entities to which the rule would apply. NMFS established a small business size standard of $11 million in annual gross receipts for all businesses in the commercial fishing industry (NAICS 11411) for RFA compliance purposes. The SBA has established size standards for all other major industry sectors in the United States, including the scenic and sightseeing transportation (water) sector (NAICS code 487210), which includes for-hire (charter/party boat) fishing entities. The SBA has defined a small entity under the scenic and sightseeing transportation (water) sector as one with average annual receipts (revenue) of less than $14 million.

NMFS considers all HMS permit holders, both commercial and for-hire, to be small entities because they had average annual receipts of less than their respective sector's standard of $11 million and $14 million. Regarding those entities that would be directly affected by the final measures, the average revenue for the entire Atlantic shark commercial fishery from 2017 through 2021 is $2,579,228, which is well below the NMFS small business size standard for commercial fishing businesses of $11 million.

The final rule would apply to the 206 Shark Directed permit holders, 241 Shark Incidental permit holders, 76 HMS Commercial Caribbean Small Boat permit holders, 4,175 HMS Charter/Headboat permit holders, 23,607 HMS Angling permit holders, and 603 Atlantic Tunas General category and Swordfish General Commercial permit holders. The HMS Charter/Headboat permit holders have 2,994 shark endorsements and 1,873 commercial sale endorsements; the HMS Angling permit holders have 12,978 shark endorsements; and the Atlantic Tunas General category and Swordfish General Commercial permit holders have 388 shark endorsements. In the U.S. Caribbean specifically, this rule would apply to 27 Commercial Caribbean Small Boat permit holders, 49 HMS Charter/Headboat permit holders, 12 Swordfish General Commercial permit holders, and 93 Atlantic Tunas General category permit holders. NMFS has determined that the final rule would not likely affect any small governmental jurisdictions, nor would there be disproportionate economic impacts between large and small entities.

Section 604(a)(5) of the RFA requires agencies to describe any new reporting, record-keeping and other compliance requirements. The action does not contain any new collection of information, reporting, or record-keeping requirements.

Section 604(a)(6) of the RFA requires agencies to describe 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.

As described below, NMFS analyzed several different alternatives in this final rulemaking, and provides rationales for identifying the preferred alternatives to achieve the desired objectives. The FRFA assumes that each vessel will have similar catch and gross revenues to show the relative impact of the final action on vessels.

Alternative A1, the No Action alternative, would continue to allow commercial permit holders issued a Shark Directed or Incidental limited access permit (LAP) using authorized gear (excluding PLL gear) and/or HMS Charter/Headboat permit with a commercial sale endorsement the opportunity to land and sell oceanic whitetip sharks when tuna or tuna-like species are not retained, possessed, on board, or offloaded from, the vessel on the same trip. Vessels fishing recreationally would continue to have the ability to retain oceanic whitetip sharks when tuna or tuna-like species are not possessed on the same recreational trip. This alternative would not result in any additional economic impacts for HMS permit holders, and would have neutral economic impacts on the small entities participating in the fishery.

Alternative A2, the preferred alternative, will add oceanic whitetip sharks to the prohibited shark species group using the criteria in § 635.34(c) to prohibit the commercial and recreational retention of oceanic whitetip sharks in U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. This alternative is consistent with the relevant conservation recommendations from both of the 2020 BiOps. From 2017 through 2021, there have been few instances of oceanic whitetip sharks being retained in HMS commercial or recreational shark fisheries in U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. This alternative could limit fishing opportunities and lead to fewer fishing trips for charter/headboat operators. However, oceanic whitetip sharks are rarely a target species and are worth less than other more valuable target species. Overall, this alternative would have minor adverse social and economic impacts on the small entities participating in the fishery.

Under Alternative B1, the No Action alternative, retention of scalloped hammerhead sharks on vessels targeting tunas, swordfish, and/or billfish with PLL gear on board would continue to be prohibited. Commercial permit holders issued a Shark Directed or Incidental LAP and/or HMS Charter/Headboat permit with a commercial sale endorsement using other authorized gear that do not target tuna and tuna-like species (*e.g.,* BLL, gillnet, rod and reel, handline, and bandit gear) would still be authorized to fish for, and land scalloped hammerhead sharks subject to existing commercial regulations. This

alternative would not result in any change fishing effort, and would have neutral economic impacts on the small entities participating in the fishery.

Under Alternative B2, NMFS would prohibit the commercial and recreational retention of scalloped hammerhead sharks for shark commercial and recreational permit holders fishing within the U.S. Caribbean region. This alternative would be consistent with the relevant conservation recommendations from both the 2020 BiOps. Between 2017 and 2021, there were no reported commercial landings of scalloped hammerhead sharks in the U.S. Caribbean region and, therefore, it is unlikely revenue would be lost from prohibiting retention of this species. There could be some minor costs associated with discarding or avoiding scalloped hammerhead sharks within that region. Also, this alternative could limit fishing opportunities and lead to fewer fishing trips for charter/headboat operators. This alternative would have neutral to minor adverse economic impacts on the small entities participating in the fishery.

Under Alternative B3, NMFS would prohibit the commercial and recreational retention of scalloped hammerhead sharks for commercial and recreational permit holders fishing within U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. This alternative would be consistent with the relevant conservation recommendations from both of the 2020 BiOps. On average, from 2017 through 2021, scalloped hammerhead sharks contributed $10,753 of revenue in the Atlantic and Gulf of Mexico shark fisheries combined. This equates to less than one percent of the total revenue from all shark fisheries. There could be some minor costs associated with discarding or avoiding scalloped hammerhead sharks. Additionally, this alternative could limit fishing opportunities and lead to fewer fishing trips for charter/headboat operators and therefore, this alternative would have minor adverse economic impacts on the small entities participating in the fishery.

Under Alternative B4, the preferred alternative, NMFS will prohibit the commercial and recreational retention of all LCS hammerhead sharks for commercial and recreational permit holders fishing within the U.S. Caribbean region. This alternative is consistent with the relevant conservation recommendations from both of the 2020 BiOps. Between 2017 and 2021, there were no reported commercial landings of hammerhead sharks in the U.S. Caribbean region and therefore it is unlikely revenue would be lost from prohibiting these species. There could be some minor costs associated with discarding or avoiding hammerhead sharks within that region. Also, this alternative could limit fishing opportunities and lead to fewer fishing trips for charter/headboat operators targeting hammerhead sharks. Thus, this alternative would have minor adverse economic impacts on the small entities participating in the Caribbean fisheries. However, NMFS prefers Alternative B4 at this time, because it will implement the relevant conservation recommendations from the 2020 BiOps, while not limiting fishing opportunities for hammerhead sharks in the Gulf of Mexico and Atlantic Ocean.

Under Alternative B5, NMFS would prohibit the commercial and recreational retention of all LCS hammerhead sharks for commercial and recreational permit holders fishing within U.S. waters of the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. This alternative would be consistent with the relevant conservation recommendations from both the 2020 BiOps. On average, from 2017 through 2021, LCS hammerhead sharks contributed $42,794 of revenue in the Atlantic and Gulf of Mexico shark fisheries combined. This equates to less than 2 percent of the total revenue from all shark fisheries. There could be some minor costs associated with discarding or avoiding hammerhead sharks. Additionally, this alternative could limit fishing opportunities and lead to fewer fishing trips for charter/headboat operators and therefore, this alternative would have minor adverse economic impacts on the small entities participating in the fishery.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a web page that also serves as small entity compliance guide (the guide) was prepared. This final rule and the guide are available on the HMS Management Division website at *https://www.fisheries.noaa.gov/action/retention-prohibition-oceanic-whitetip-sharks-us-atlantic-waters-and-hammerhead-sharks-us* or by contacting Ann Williamson at *ann.williamson@noaa.gov* or 301–427–8503.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: December 28, 2023.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635 – ATLANTIC HIGHLY MIGRATORY SPECIES

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

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

■ 2. In § 635.22, revise paragraphs (a)(2) and (c)(2), and add paragraph (c)(9) to read as follows:

§ 635.22 Recreational retention limits.

* * * * *

(a) * * *

(2) Vessels issued an Atlantic Tunas General category permit under § 635.4(d) that are participating in an HMS registered tournament, vessels issued an HMS Angling category permit under § 635.4(c), or vessels issued an HMS Charter/Headboat permit under § 635.4(b) may not retain, possess, or land scalloped, smooth, or great hammerhead sharks if swordfish, tuna, or billfish are retained or possessed on board, or offloaded from, the vessel. Such vessels also may not retain, possess or land swordfish, tuna, or billfish if scalloped, smooth, or great hammerhead sharks are retained or possessed on board, or offloaded from, the vessel.

* * * * *

(c) * * *

(2) Only one shark from the following list may be retained per vessel per trip, subject to the size limits described in § 635.20(e)(2) and (4): Atlantic blacktip, Gulf of Mexico blacktip, bull, great hammerhead, scalloped hammerhead, smooth hammerhead, lemon, nurse, spinner, tiger, blue, common thresher, porbeagle, Atlantic sharpnose, finetooth, Atlantic blacknose, Gulf of Mexico blacknose, and bonnethead.

* * * * *

(9) No person who has been issued or should have been issued a permit under § 635.4 of this part may retain, possess, or land scalloped, smooth, or great hammerhead sharks in or from the Caribbean, as defined at § 622.2 of this chapter.

* * * * *

■ 3. In § In 635.24, revise paragraphs (a)(4)(iv) and (a)(9), and add paragraph (a)(11) to read as follows:

§ 635.24 Commercial retention limits for sharks, swordfish, and BAYS tunas.

* * * * *

(a) * * *

(4) * * *

(iv) A person who owns, operates, or is aboard a vessel that has been issued an HMS Commercial Caribbean Small Boat permit may retain, possess, land, or sell any blacktip, bull, lemon, nurse, spinner, tiger, Atlantic sharpnose, bonnethead, finetooth, and smoothhound shark, subject to the HMS Commercial Caribbean Small Boat permit shark retention limit. A person who owns, operates, or is aboard a vessel that has been issued an HMS Commercial Caribbean Small Boat permit may not retain, possess, land, or sell any hammerhead, blacknose, silky, sandbar, blue, thresher, shortfin mako, or prohibited shark, including parts or pieces of these sharks. The shark retention limit for a person who owns, operates, or is aboard a vessel issued an HMS Commercial Caribbean Small Boat permit will range from zero to three sharks per vessel per trip. At the start of each fishing year, the default shark trip limit will apply. During the fishing year, NMFS may adjust the default shark trip limit per the inseason trip limit adjustment criteria listed in paragraph (a)(8) of this section. The default shark retention limit for the HMS Commercial Caribbean Small Boat permit is three sharks per vessel per trip.

* * * * *

(9) Notwithstanding other provisions in this subsection, possession, retention, transshipment, landing, sale, or storage of silky sharks, and scalloped, smooth, and great hammerhead sharks is prohibited on vessels issued a permit under this part that have pelagic longline gear on board or on vessels issued both an HMS Charter/Headboat permit and a commercial shark permit when tuna, swordfish or billfish are on board the vessel, offloaded from the vessel, or being offloaded from the vessel.

* * * * *

(11) No person who has been issued or should have been issued a permit under § 635.4 of this part may retain, possess, or land scalloped, smooth, or great hammerhead sharks in or from the Caribbean, as defined at § 622.2 of this chapter.

* * * * *

■ 4. In Table 1 of Appendix A to Part 635, remove the term ''Oceanic whitetip, *Carcharhinus longimanus*'' under heading C and add the term ''Oceanic whitetip, *Carcharhinus longimanus*'' under heading D in alphabetical order.

The addition reads as follows:

Appendix A to Part 635—Species Tables

TABLE 1 OF APPENDIX A TO PART 635—OCEANIC SHARKS

*	*	*	*	*
D. Prohibited Sharks				
*	*	*	*	*
Oceanic whitetip, *Carcharhinus longimanus*				
*	*	*	*	*

* * * * *

Appendix A to Part 635 [Amended]

■ 5. In Table 2 of Appendix A to Part 635, remove the entry for ''Oceanic whitetip shark, *Carcharhinus longimanus*.''

[FR Doc. 2023–28900 Filed 1–2–24; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 221223–0282; RTID 0648–XD611]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer From MA to RI

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the Commonwealth of Massachusetts is transferring a portion of its 2023 commercial summer flounder quota to the State of Rhode Island. This adjustment to the 2023 fishing year quota is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) quota transfer provisions. This announcement informs the public of the revised 2023 commercial quotas for Massachusetts and Rhode Island.

DATES: Effective December 28, 2023, through December 31, 2023.

FOR FURTHER INFORMATION CONTACT: Laura Deighan, Fishery Management Specialist, (978) 281–9184.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.111. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102 and final 2023 allocations were published on January 3, 2023 (88 FR 11).

The final rule implementing Amendment 5 to the Summer Flounder Fishery FMP, as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or combinations: (1) the transfer or combinations would not preclude the overall annual quota from being fully harvested; (2) the transfer addresses an unforeseen variation or contingency in the fishery; and (3) the transfer is consistent with the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Regional Administrator has determined these three criteria have been met for the transfer approved in this notification.

Massachusetts is transferring 25,000 pounds (lb; 11,340 kilograms (kg)) to Rhode Island through a mutual agreement between the states. This transfer was requested to ensure Rhode Island would not exceed its 2023 quota. The revised summer flounder quotas for 2023 are Massachusetts, 1,334,363 lb (605,257 kg), and Rhode Island, 2,255,478 lb (1,023,068 kg).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.102(c)(2)(i) through (iv), which was issued pursuant to section 304(b), and is exempted from review under Executive Order 12866.

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

Dated: December 27, 2023.

Jon William Bell,

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

[FR Doc. 2023–28936 Filed 12–28–23; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 89, No. 2
Wednesday, January 3, 2024

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

FEDERAL TRADE COMMISSION

16 CFR Part 1

[File No. R407000]

Petition for Rulemaking of PIRG and iFixit

AGENCY: Federal Trade Commission.

ACTION: Receipt of petition; request for comment.

SUMMARY: Please take notice that the Federal Trade Commission (''Commission'') received a petition for rulemaking from the U.S. Public Interest Research Group Education Fund and iFixit. This petition requests that the Commission initiate a rulemaking to protect consumers' right to repair products they have purchased. The Commission invites written comments concerning the petition. Publication of this petition is pursuant to the Commission's Rules of Practice and Procedure and does not affect the legal status of the petition or its final disposition.

DATES: Comments must identify the petition docket number and be filed by February 2, 2024.

ADDRESSES: You may view the petition, identified by docket number FTC–2023–0077, and submit written comments concerning its merits by using the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit sensitive or confidential information. You may read background documents or comments received at *https://www.regulations.gov* at any time.

FOR FURTHER INFORMATION CONTACT: Joel Christie (phone: 202–468–4593, email: *jchristie@ftc.gov*), Office of the Secretary, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 18(a)(1)(B) of the Federal Trade Commission Act, 15 U.S.C. 57a(1)(B), and FTC Rule 1.31(f), 16 CFR 1.31(f), notice is hereby given that the above-captioned petition has been filed with the Secretary of the Commission and has been placed on the public record for a period of 30 days. Any person may submit comments in support of or in opposition to the petition. All timely and responsive comments submitted in connection with this petition will become part of the public record.

The Commission will not consider the petition's merits until after the comment period closes. It may grant or deny the petition in whole or in part, and it may deem the petition insufficient to warrant commencement of a rulemaking proceeding. The purpose of this document is to facilitate public comment on the petition to aid the Commission in determining what, if any, action to take regarding the request contained in the petition. This document is not intended to start, stop, cancel, or otherwise affect rulemaking proceedings in any way.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2).

(Authority: 15 U.S.C. 46; 15 U.S.C. 57a; 5 U.S.C. 601 note.)

Joel Christie,

Acting Secretary.

[FR Doc. 2023–28874 Filed 1–2–24; 8:45 am]

BILLING CODE 6750–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 39

RIN 3038–AF39

Protection of Clearing Member Funds Held by Derivatives Clearing Organizations

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (CFTC or Commission) is proposing regulations to ensure clearing member funds and assets receive the proper treatment in the event the derivatives clearing organization (DCO) enters bankruptcy by requiring, among other things, that clearing member funds be segregated from the DCO's own funds and held in a depository that acknowledges in writing that the funds belong to clearing members, not the DCO. In addition, the Commission is proposing to permit DCOs to hold customer and clearing member funds at foreign central banks subject to certain requirements. Finally, the Commission is proposing to require DCOs to conduct a daily calculation and reconciliation of the amount of funds owed to customers and clearing members and the amount actually held for customers and clearing members.

DATES: Comments must be received by February 16, 2024.

ADDRESSES: You may submit comments, identified by RIN 3038–AF39, by any of the following methods:

- *CFTC Comments Portal: https://comments.cftc.gov.* Select the ''Submit Comments'' link for this rulemaking and follow the instructions on the Public Comment Form.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Follow the same instructions as for Mail, above. Please submit your comments using only one of these methods. Submissions through the CFTC Comments Portal are encouraged.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be

posted as received to *https://comments.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (FOIA), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://comments.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Eileen A. Donovan, Deputy Director, 202–418–5096, *edonovan@cftc.gov,* Division of Clearing and Risk, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; Theodore Z. Polley, Associate Director, 312–596–0551, *tpolley@cftc.gov;* or Scott Sloan, Special Counsel, 312–596–0708, *ssloan@cftc.gov;* Division of Clearing and Risk, Commodity Futures Trading Commission, 77 West Jackson Boulevard, Suite 800, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION:

I. Background

A. Proprietary Funds

Section 4d of the Commodity Exchange Act (CEA) and part 1 of the Commission's regulations establish a comprehensive regime to safeguard the funds belonging to customers of a futures commission merchant (FCM).[2] Commission regulations define a ''customer'' as any person who uses an FCM, introducing broker, commodity trading advisor, or commodity pool operator as an agent in connection with trading in any commodity interest, and therefore, this customer protection regime does not apply to the funds of any person who clears trades directly through a DCO, who is a ''clearing member.'' [3] At the most general level, the customer protection regime requires FCMs to segregate customer funds from their own funds, deposit customer funds under an account name that clearly identifies them as customer funds,[4] and obtain a written acknowledgment from each depository that holds customer funds.[5] These acknowledgment letters, which must adhere to specific templates contained in the Commission's regulations, require a depository to acknowledge, among other things, that the accounts opened by the FCM hold funds that belong to the FCM's customers. The customer protection regime also establishes accounting and reporting requirements applicable to customer funds,[6] and limits both the types of investments that can be made with customer funds [7] and the type of depositories that can hold customer funds.[8]

Many of the customer protection requirements that apply to FCMs also apply to DCOs that receive customer funds from their FCM clearing members. DCOs must segregate the customer funds of their FCM clearing members from their own funds,[9] deposit customer funds under an account name that identifies the funds as customer funds,[10] obtain acknowledgment letters from depositories,[11] limit the investment of customer funds to instruments listed in § 1.25,[12] and limit depositories for customer funds to those listed in §§ 1.20 and 1.49.[13] These protections, however, do not extend to clearing members of DCOs. Only section 5b(c)(2)(F) of the CEA (Core Principle F) and § 39.15 apply to the treatment of clearing members' funds and assets held by a DCO in relation to cleared contracts (proprietary funds).[14] These provisions require DCOs to establish standards and procedures that are designed to protect and ensure the safety of proprietary funds and require DCOs to hold proprietary funds in a manner that will minimize the risk of loss or delay in access by the DCO to the proprietary funds.[15] These provisions further require any investment of proprietary funds to be in instruments with minimal credit, market, and liquidity risks.[16]

Section 8a(5) of the CEA grants the Commission authority to adopt rules it determines are reasonably necessary to effectuate, among other things, the DCO core principles.[17] The Commission's initial focus in implementing Core Principle F was on the custody and safeguarding of customer funds, consistent with section 4d of the CEA. This approach was largely responsive to the historical prevailing model in which all or nearly all clearing members of a DCO are FCMs. However, the Commission has since granted registration to a number of DCOs that clear directly for market participants without the intermediation of FCMs, including, in most cases, market participants who are natural persons (*i.e.,* individuals).[18] Additionally, many DCOs that use the traditional FCM clearing model have at least some non-FCM clearing members. The Commission therefore is proposing safeguards for proprietary funds to provide protections for clearing members comparable to those applicable to customers.[19] The Commission has preliminarily determined that each of these additional safeguards is reasonably necessary to effectuate DCO Core Principle F.[20]

Specifically, the Commission is proposing to require a DCO to hold proprietary funds separately from the DCO's own funds, in accounts that are named to clearly identify the funds as belonging to clearing members. The

[1] 17 CFR 145.9. Commission regulations referred to herein are found at 17 CFR chapter I (2022), and are accessible on the Commission's website at *https://www.cftc.gov/LawRegulation/CommodityExchangeAct/index.htm.*

[2] 7 U.S.C. 6d; 17 CFR 1.20–1.39. *See also* 17 CFR 22.1–22.17, and 30.7 (establishing similar regimes for cleared swaps customer collateral and foreign futures customer funds).

[3] 17 CFR 1.3.

[4] 17 CFR 1.20(a).

[5] 17 CFR 1.20, 22.5, and 30.7 (requiring an acknowledgment letter for futures customer funds, cleared swaps customer collateral, and foreign futures customer funds, respectively).

[6] 17 CFR 1.32, 1.33.

[7] 17 CFR 1.25.

[8] 17 CFR 1.49.

[9] 17 CFR 1.20(g)(1); 17 CFR 39.15 (b); 17 CFR 22.3(b)(1).

[10] 17 CFR 1.20(g)(1).

[11] 17 CFR 1.20(g)(4); 17 CFR 22.5.

[12] 17 CFR 39.15(e).

[13] 17 CFR 1.20(g)(2), (3); 17 CFR 22.3(b) (cross-referencing 17 CFR 22.4).

[14] This definition of proprietary funds is only for explanatory purposes in the background section. As discussed further below, the Commission is proposing a definition of ''proprietary funds'' that is referred to throughout the remainder of this proposed rulemaking.

[15] 7 U.S.C. 7a–1(c)(2)(F); 17 CFR 39.15.

[16] *Id.*

[17] 7 U.S.C. 12a(5).

[18] Currently, CBOE Clear Digital, LLC; CX Clearinghouse, L.P.; LedgerX, LLC; and North American Derivatives Exchange Inc. allow individuals to be direct clearing members. Further, ICE NGX Canada Inc. clears physically delivered energy contracts directly for clearing members with a net worth exceeding CAD $5,000,000 or assets exceeding CAD $25,000,000.

[19] The U.S. Bankruptcy Code requires a bankruptcy trustee to distribute clearing members' cash and other assets held by a debtor DCO ratably among all clearing members. 11 U.S.C. 766(i)(2); 11 U.S.C. 761(9)(D), (10), (16). Therefore, the Commission cannot effectively create multiple account classes for the clearing members of a DCO—*e.g.,* one for FCM proprietary funds and one for non-FCM proprietary funds—because the different account classes would not be recognized by a bankruptcy court.

[20] CEA section 5b(c)(2)(F), 7 U.S.C. 7a–1(c)(2)(F).

Commission is further proposing to prohibit a DCO or any depository from using proprietary funds in any way other than as belonging to the clearing member.

Additionally, the proposed rules include requirements for a DCO to review, on a daily basis, the amount of funds owed to each clearing member with respect to each of its accounts, both customer (including, as relevant, futures and cleared swaps) and proprietary, and to reconcile those figures to the amount of funds held in aggregate in each such type of account across all of the DCO's depositories.

The Commission is also proposing to require a DCO to obtain a letter from the depository for each account holding proprietary funds (proprietary funds letter) acknowledging, among other things, that the funds belong to clearing members and cannot be used by the DCO for any other purpose. The proposed proprietary funds letter is based on the template acknowledgment letter that a DCO is required to use in connection with customer funds.[21]

In addition to preventing the misuse of proprietary funds, the proposed requirements would help ensure that proprietary funds are appropriately protected in the event of a DCO bankruptcy. The U.S. Bankruptcy Code establishes that in the event of a DCO bankruptcy, member property, which includes funds held for clearing members' proprietary accounts,[22] is repaid to clearing members *pro rata* based on their claims for such funds, and ahead of most other claims against the DCO's estate.[23] Further, part 190 of the Commission's regulations establishes how clearing members' claims against the DCO's estate should be determined and how payments should be allocated among clearing members.[24] By requiring proprietary funds to be held separately from the DCO's funds and easily identified in a proprietary funds letter, the proposed rules will enable a bankruptcy court or trustee to more clearly identify these funds as member property. Further, the proposed rules will require the DCO to verify, on a regular basis, that it is holding the proper amount of proprietary funds, thus ensuring that these funds would be available for distribution in the event of a DCO bankruptcy.

B. Central Bank Depositories

The Commission is also proposing requirements specific to obtaining written acknowledgments from central banks holding customer or proprietary funds.[25] When the Commission adopted the template acknowledgment letter for depositories holding customer funds in 2013, it did not require use of the template letter by Federal Reserve Banks, due to the ''unique role'' of the U.S. central bank.[26] The Commission also recognized that there may be valid reasons why some foreign depositories would require modifications to the letter and stated that, in such circumstances, the Commission would consider ''alternative approaches'' on a case-by-case basis.[27]

Since then, the Commission's Division of Clearing and Risk (DCR) has issued several no-action letters in which the Division confirmed that it would not recommend that the Commission take enforcement action against a DCO for making certain modifications to the template acknowledgment letter in connection with customer accounts maintained at a foreign central bank.[28] To encourage the use of central bank accounts, which can provide a superior alternative to holding funds at a commercial bank from the perspective of credit and liquidity risk, the Commission is proposing to allow a DCO to hold customer and proprietary funds at certain central banks without obtaining the template acknowledgment letter for customer funds or the proposed proprietary funds letter. Instead, a DCO would need to obtain only a written acknowledgment that the central bank was informed that the funds deposited with the bank are customer or proprietary funds (as applicable) held in accordance with section 4d or 5b of the CEA, and that the central bank agrees to respond to requests from specified Commission staff for information about the account, including the account balance (modified written acknowledgments). These proposed requirements are based on the requirements the Commission adopted in 2013 with regard to written acknowledgments from Federal Reserve Banks.[29]

The Commission is proposing to allow use of the modified written acknowledgment only by a DCO that holds customer or proprietary funds at the central bank of a ''money center country'' as defined in § 1.49—Canada, France, Germany, Italy, Japan, and the United Kingdom—to limit risks to customer and proprietary funds. Along with the United States, these countries comprise the Group of Seven (G7). Representatives from the G7 countries meet several times each year to coordinate their cooperation on issues of economic policy, and the United States and its financial regulatory agencies have a history of successful cooperation with the respective financial regulatory agencies of these countries. When the definition of ''money center country'' was first proposed in connection with the adoption of § 1.49, a commenter suggested that the definition include ''other locations with stable currencies and other indicia that customer funds will be relatively secure.'' [30] The Commission rejected this proposal as difficult to apply and noted that it would require the Commission to expend significant resources to conduct a broad evaluation of, among other things, a country's banking, monetary, and economic policies and systems.[31] The Commission believes that limiting the proposed change to central banks of money center countries appropriately considers security for customer and proprietary funds, flexibility for DCOs, and creating a system that is workable in practice.

Further, the Commission is not proposing to require a DCO to obtain an

[21] *See* 17 CFR 1.20 App. B.

[22] *See* 11 U.S.C. 761(16) (defining ''member property'' as cash, a security, or other property, or proceeds of such cash, security, or property, held by a DCO for a clearing member's proprietary account).

[23] *See* 11 U.S.C. 766(i) (providing that member property is distributed ratably to clearing members on the basis and to the extent of their allowed net equity claims based on their proprietary accounts, and in priority to all other claims, except claims related to the administration of member property).

[24] *See* 17 CFR 190.00–190.19.

[25] ''Central bank'' is the term used to describe the authority responsible for policies that affect a country's supply of money and credit. *See, e.g., https://www.clevelandfed.org/publications/economic-commentary/2007/ec-20071201-a-brief-history-of-central-banks.*

[26] Enhancing Protections Afforded Customers and Customer Funds Held by Futures Commission Merchants and Derivatives Clearing Organizations, 78 FR 68506, 68535 (Nov. 14, 2013).

[27] *Id.* at 68536.

[28] *See, e.g.,* CFTC Letter No. 14–124 (Oct. 8, 2014) (related to customer accounts held at the Bank of England); CFTC Letter No. 16–05 (Feb. 1, 2016) (related to customer accounts held at the Deutsche Bundesbank).

[29] Enhancing Protections Afforded Customers and Customer Funds, 78 FR at 68628. In 2016, the Commission issued an order under section 4(c) of the CEA conditionally exempting Federal Reserve Banks from section 4d of the CEA (Order Exempting the Federal Reserve Banks from Sections 4d and 22 of the Commodity Exchange Act, 81 FR 53467 (Aug. 12, 2016)). The conditions of the order require Federal Reserve Banks to keep customer funds segregated and respond to information requests from the Commission, making a separate written acknowledgment from a Federal Reserve Bank unnecessary. The Commission therefore repealed the 2013 provision (then § 1.20(g)(4)(ii)) concerning written acknowledgments from Federal Reserve Banks and adopted current § 1.20(g)(4)(i), which excludes Federal Reserve Banks from the written acknowledgment requirement.

[30] *See* Denomination of Customer Funds and Location of Depositories, 68 FR at 5546–5547 (Mar. 6, 2003).

[31] *Id.*

acknowledgment letter from a Federal Reserve Bank holding proprietary funds. This is consistent with § 1.20(g)(4), which states that a DCO does not need a written acknowledgment to hold customer funds held at a Federal Reserve Bank. Federal Reserve Banks have previously expressed an inability to agree to all of the terms in the template acknowledgment letter.[32] Because Federal Reserve Banks are the source of liquidity for U.S. dollar deposits, a DCO would face lower credit and liquidity risk with a deposit at a Federal Reserve Bank than it would with a deposit at a commercial bank. In the context of customer funds, the Commission determined that it would not require a written acknowledgment from Federal Reserve Banks in order to facilitate use of these accounts and help obtain these benefits that ultimately serve market participants and the integrity of the financial markets.[33] The Commission believes that the same rationale applies with respect to proprietary funds. Further, the Commission has required DCOs with access to accounts and services at a Federal Reserve Bank to use such accounts and services where practical,[34] and as a policy matter seeks to facilitate use of those accounts.

II. Definitions—§ 39.2

The Commission is proposing to add in § 39.2 a definition for ''money center country'' that is identical to the definition currently in § 1.49. Under the proposed definition, ''money center country'' means Canada, France, Germany, Italy, Japan, and the United Kingdom.

The Commission is also proposing a definition for ''proprietary funds.'' The definition uses language similar to that included in the current definitions of ''futures customer funds'' in § 1.3[35] and ''cleared swaps customer collateral'' in § 22.1.[36] The proposed definition includes all money, securities, and property held in a proprietary account[37] on behalf of clearing members used to margin, guarantee, or secure futures, foreign futures and swaps contracts, as well as option premiums and other funds held in relation to options contracts. The proposed definition also includes clearing member contributions to a guaranty fund to mutualize the losses resulting from a default by a clearing member.[38]

For the avoidance of doubt, a proprietary account may be the ''house'' account of a clearing member that is an FCM, where the clearing member may also maintain a futures customer and/or cleared swaps customer account. The term also would include the account of a direct clearing member (that may or may not be a natural person) that does not intermediate transactions for anyone else.

III. Treatment of Funds—§ 39.15

A. Holding Customer Funds at Central Banks—§ 39.15(b)(3)

The Commission is proposing to amend § 39.15(b) to allow a DCO to hold customer funds at the central bank of a money center country. The proposed amendment would supplement the list of permissible depositories in § 1.49 and §§ 22.4 and 22.9. Currently, § 1.49 and § 22.9 limit foreign depositories for customer funds to a bank or trust company that has in excess of $1 billion of regulatory capital, an FCM, or a DCO. Foreign central banks, as independent government entities, are not structured to meet regulatory capital requirements and are therefore excluded from holding customer funds under § 1.49.

The Commission believes a DCO holding customer funds at a central bank can be a superior alternative to holding commercial bank deposits because it limits the DCO's credit and liquidity risks. The Commission is therefore proposing new § 39.15(b)(3) to permit a DCO to hold customer funds at the central bank of a money center country if the DCO obtains a modified written acknowledgment, rather than the template acknowledgment letter required by §§ 1.20 and 22.5, to which some central banks have objected.[39] The proposed rule would require the central bank of a money center country only to acknowledge that it was informed that the funds deposited with the bank are customer funds held in accordance with section 4d of the CEA and to agree to respond to requests from the Commission for information about the account, including the account balance. The Commission believes the proposed rule would facilitate the holding of customer funds at the central banks of money center countries while ensuring appropriate customer protections.

The Commission believes that central banks are often the safest place to deposit customer funds and has provided exemptions from § 1.49 to permit customer funds to be held at foreign central banks in money center countries.[40] The proposed rule would codify those exemptions and permit DCOs to hold customer funds with the central bank of a money center country. As previously discussed, the Commission is proposing to limit the permissible central bank depositories to those of money center countries after considering security for customer funds, flexibility for DCOs, and the need to create a system that is workable in practice.

B. Permitted Investments—§ 39.15(e)

The Commission is proposing to amend § 39.15(e) to permit a DCO to invest proprietary funds only as permitted for investment of customer funds under § 1.25. The proposed regulation specifies that the DCO would bear any losses from investments, as is the case with customer funds.[41] The list of investments in § 1.25 is a conservative list, and the Commission believes it is appropriate for all types of clearing members. Currently, permissible investments under § 1.25 include, among other investments, general obligations of the U.S. government, general obligations of any U.S. state or municipality, certificates of deposit, and interests in money market funds.[42] Further, § 1.25 specifies a number of terms and conditions with which permitted investments must comply, including limits on the features that an investment can contain, concentration limits, and time to maturity limits.[43] Regulation § 1.25 also includes specific requirements for investments in money market funds and repurchase agreements.[44] By limiting investments of proprietary funds to investments that meet the requirements

[32] Enhancing Protections Afforded Customers and Customer Funds, 78 FR at 68535.

[33] Denomination of Customer Funds and Location of Depositories, 68 FR at 53468 (Mar. 6, 2003).

[34] 17 CFR 39.33(d)(5).

[35] 17 CFR 1.3.

[36] 17 CFR 22.1.

[37] *See* 17 CFR 1.3 (defining ''proprietary account'' as a commodity futures, commodity options, or swaps trading account, for the clearing member itself, or for certain owners and affiliates of the clearing member).

[38] These guaranty fund contributions include those received pursuant to an assessment for additional guaranty fund contributions when permitted by a DCO's rules.

[39] *See, e.g.,* CFTC Letter No. 14–124 (Oct. 8, 2014); CFTC Letter No. 16–05 (Feb. 1, 2016) (regarding modifications to the template acknowledgment letter to enable certain central banks to hold customer funds).

[40] *See, e.g.,* CFTC Letter No. 14–124 (Oct. 8, 2014); CFTC Letter No. 16–05 (Feb. 1, 2016) (granting exemptive relief from § 1.49 to permit certain central banks to act as a depository for customer funds).

[41] 17 CFR 1.29(b).

[42] 17 CFR 1.25(a); *see also Investment of Customer Funds by [FCMs] and [DCOs],* 88 FR 81236 (Nov. 21, 2023) (proposing, among other changes, to add certain foreign sovereign debt and certain U.S. Treasury exchange traded funds, both subject to limitations, to the list of permitted investments and to limit the types of money market funds that are permitted investments).

[43] 17 CFR 1.25(b).

[44] 17 CFR 1.25(c), (d).

of § 1.25,[45] the proposed rule will ensure that any investment of proprietary funds will have minimal credit, market, and liquidity risk as required by Core Principle F.[46]

C. Additional Protections for Proprietary Funds—§ 39.15(f)

The Commission is proposing new § 39.15(f) to establish additional protections for proprietary funds.

1. Segregation of Proprietary Funds—§ 39.15(f)(1)

Proposed § 39.15(f)(1) is based on § 1.20(a) and would require a DCO to account for proprietary funds separately from its own funds, and to hold proprietary funds in accounts that are named to clearly identify the funds being held as belonging to clearing members. The Commission believes this would prevent misuse of proprietary funds by a DCO, and would help a bankruptcy trustee or judge to easily identify the funds that should be treated as member property in the unlikely event of a DCO bankruptcy. The proposed rule also would require the DCO to, at all times, maintain in the accounts holding proprietary funds enough resources to cover the total value of proprietary funds owed to its clearing members. The proposed rule would prevent a DCO from rehypothecating or otherwise using proprietary funds for its own benefit, thus ensuring that the funds are available when needed by clearing members or the DCO for permitted uses.

2. Written Acknowledgment from Depositories—§ 39.15(f)(2)

The Commission is proposing to require a DCO to obtain from any depository holding proprietary funds a written acknowledgment that the funds belong to the DCO's clearing members and cannot be used by the DCO for any other purpose. The Commission is proposing a template proprietary funds letter that DCOs would be required to use, which would be contained in proposed appendix D to part 39. The proposed template proprietary funds letter is substantively the same as the current template acknowledgment letter for DCO accounts holding futures customer funds required by § 1.20, and requires a depository to acknowledge, among other things, that the accounts referenced in the letter hold funds that belong to the DCO's clearing members, that the funds should be accounted for separately from those belonging to the DCO, and that the funds cannot be used to cover the DCO's obligations to the depository.[47] Further, the template proprietary funds letter would require the depository to respond to a request from the director of DCR, or any successor division, or the director's designees, for information about the account, including the account balance. Proposed § 39.15(f)(2) also includes the same procedural requirements as those in § 1.20. Specifically, it would require a DCO to file a proprietary funds letter with the Commission within three days of opening an account, to update a letter when certain information it contains changes, and to maintain a copy of the letter in accordance with § 1.31.

The Commission believes that requiring a proprietary funds letter would ensure that a depository holding proprietary funds would know that the funds belong to the DCO's clearing members and cannot be used by the DCO for any other purpose, which will help prevent the misuse of funds by the DCO or an employee of the DCO. Further, having a letter for each proprietary funds account would help a bankruptcy court or trustee easily identify those funds that constitute member property in the event of a DCO bankruptcy.

The Commission is proposing to exclude accounts at Federal Reserve Banks from the requirement to obtain a proprietary funds letter. This is consistent with § 1.20(g)(4), which states that a DCO does not need a written acknowledgment to hold customer funds at a Federal Reserve Bank. As discussed above, the Commission believes that Federal Reserve Banks would be unable to sign the template proprietary funds letter, and wants to promote the use of Federal Reserve Bank accounts by DCOs when possible.

The Commission is also proposing a simpler written acknowledgment requirement for accounts held at the central bank of a money center country. Although a DCO holding proprietary funds at the central bank of a money center country would have to comply with the same procedural requirements applicable to other depositories, it would not have to use the template proprietary funds letter. The DCO would only have to obtain a written acknowledgment stating that: (1) the central bank was informed that the funds deposited with the bank are proprietary funds held in accordance with section 5b(c)(2)(F) of the CEA and Commission regulations; and (2) the bank agrees to respond to requests from the Commission for information about the account, including the account balance. As was the case with the acknowledgment letter used for accounts holding customer funds, the Commission believes many central banks would have issues with the proposed template proprietary funds letter. The Commission believes the proposed rule would allow DCOs to gain the benefits of holding funds at central banks while adequately safeguarding those funds and ensuring that the Commission has the information it needs to conduct oversight of DCOs.

3. Commingling of Proprietary Funds—§ 39.15(f)(3)

Proposed § 39.15(f)(3) is based on § 1.20(e) and (g) applicable to customer funds, and would permit a DCO to commingle proprietary funds from multiple clearing members in a single account at a depository, but would not permit a DCO to commingle proprietary funds with the DCO's own funds or customer funds. Having a clear separation between proprietary funds and a DCO's own funds will make it more difficult for funds to be misused, and will provide additional clarity in the event of a DCO bankruptcy regarding the funds that should be treated as member property rather than part of the debtor's estate. Further, the ability to commingle proprietary funds from multiple clearing members in one account allows DCOs to limit operational risks by simplifying their banking processes and procedures.

4. Use of Proprietary Funds—§ 39.15(f)(4)

Proposed § 39.15(f)(4) is based on § 1.20(f) and would require a DCO and any depository holding proprietary funds to treat all proprietary funds as belonging to the clearing members of the DCO. The Commission believes the proposed rule will help ensure that proprietary funds are not rehypothecated or otherwise used by a DCO and are readily available if needed either by the clearing member directly, or for a permitted clearing member use by the DCO. However, the Commission does not intend for this requirement to interfere with or alter DCOs' risk management programs. Proposed § 39.15(f)(4)(i)(A) therefore would clarify that the proprietary funds of a

[45] Proposed § 39.15(e) cross-references § 1.25, which provides that an FCM or DCO may invest ''customer money'' in certain instruments. The regulatory text of § 1.25, however, does not refer to ''proprietary funds.'' The Commission recently approved proposed amendments to § 1.25. Based on comments received on those proposed amendments, if appropriate, the Commission may consider further amending § 1.25 either in the final rule or as a re-proposed rule to ensure that the regulatory text provides clarity on the application of § 1.25 to a DCO's investment of ''proprietary funds,'' as permitted under § 39.15(e).

[46] 7 U.S.C. 7a–1(c)(2)(F); 17 CFR 39.15(e).

[47] *See* 17 CFR 1.20 App. B.

clearing member could be used to satisfy obligations of that clearing member's customers, to the extent that use is permitted by the DCO's rules and the DCO's agreement(s) with the clearing member. In addition, proposed § 39.15(f)(4)(i)(B) further would clarify that a DCO use contributions of non-defaulting clearing members to a guaranty fund to cover losses stemming from a default, to the extent that use is permitted by the DCO's rules and its agreement(s) with its clearing members. Nothing in the proposed rule would prevent a DCO from holding guaranty fund contributions in a separate proprietary funds account from proprietary funds held as initial margin.

Moreover, proposed § 39.15(f)(4)(ii) would provide that a depository receiving proprietary funds from a DCO for deposit in a segregated account may not hold, dispose of, or use such funds as belonging to any person other than the clearing members of the depositing DCO. Unlike the DCO, which is responsible for separately considering the proprietary funds owed to each individual clearing member, a depository is only responsible for considering the proprietary funds it has received as belonging to the clearing members as a group.

D. Daily Reconciliation—§ 39.15(g)

The Commission is proposing new § 39.15(g), which would require a DCO to conduct a daily reconciliation for each type of segregated account (futures customer funds, cleared swaps customer collateral, and proprietary funds) it holds for its clearing members. This proposal is based on the requirement applicable to FCMs in § 1.32. Under proposed § 39.15(g), by noon of each business day, the DCO would have to perform these reconciliations on balances held as of the close of the previous business day. The proposed requirement is intended to verify, each business day, that the DCO maintains sufficient funds in each relevant account type to cover its aggregate obligations to clearing members. The Commission believes that the required daily calculation and reconciliation and independent review requirements in the proposed rule would help a DCO to identify quickly any misuse or loss of proprietary or customer funds.

Proposed § 39.15(g)(1), (2), and (3) would require a DCO to calculate the amount of, respectively, futures customer funds, cleared swaps customer collateral, and proprietary funds owed to each clearing member. These provisions would further require the DCO to reconcile the total amount, aggregated across all clearing members, of each of futures customer funds, cleared swaps customer collateral, and proprietary funds, with the amount of each respective type of funds held in separate accounts across all depositories. This reconciliation is intended to confirm, each business day, that the DCO maintains, in each type of account, an adequate value of segregated funds to meet its obligations to clearing members.

Requirements for the method of conducting these calculations are contained in proposed § 39.15(g)(4). Proposed § 39.15(g)(4)(i) would require segregation of duties, consistent with generally accepted auditing standards.[48] Each of the DCO's calculations and reconciliations would need to be approved by a person who did not prepare the initial calculation or the related reconciliation, and who does not report to the person who prepared them.

Proposed § 39.15(g)(4)(ii)(A) would address the valuation of securities in the required calculations of amounts owed and held. Securities would have to be valued at their current market value, with haircuts applied in accordance with existing § 39.11(d)(1).

Proposed § 39.15(g)(4)(ii)(B) would address mismatches in currencies in the same account type by permitting a deficit in one currency to be offset by a surplus in another currency, with conversion based on publicly available exchange rates, and with surpluses subject to haircuts reasonably determined by the DCO, applied consistently.[49]

Proposed § 39.15(g)(4)(ii)(C) would address situations in which customer funds of one type are commingled in a different type of customer account (*e.g.,* futures customer funds in a cleared swaps customer account). In these instances, the proposed rule would require DCOs to treat all funds in a futures customer account as futures customer funds and all funds in a cleared swaps customer account as cleared swaps customer collateral, both in terms of funds owed and funds held, for purposes of the calculation and reconciliation required by proposed § 39.15(g).

Proposed § 39.15(g)(4)(iii) would address the process by which a DCO would calculate the amounts owed to clearing members for each account type by requiring the DCO to apply, for each account type, the approach set forth for FCMs in § 1.20(i). This would include calculating the net liquidating equity for each clearing member (in each account type), taking into account the market value of funds it receives from the clearing member, gains and losses on futures contracts, options, and swaps (applying this approach to cleared swaps), fees lawfully accruing in the normal course of business (which, in the case of a DCO, would include transaction fees), and authorized distributions or transfers of collateral. In aggregating amounts owed, the DCO would not reduce the sum of credit balances owed to clearing members with debit balances owed by other clearing members.[50]

Finally, proposed § 39.15(g)(5) would require the DCO to immediately report to the Commission any discrepancy in any of the relevant calculations or any one or more of the reconciliations that reveals that the DCO did not, at the close of the previous business day, maintain in separate segregated accounts money, securities, and property in an amount sufficient in the aggregate to cover the total value of funds owed to all clearing members.

E. Exclusions for Foreign Derivatives Clearing Organizations—§ 39.15(h)

The Commission is not, at this time,[51] proposing to apply the new member property protections in proposed § 39.15(e)(3) (permitted investment of proprietary funds), (f) (proprietary funds), and (g)(3) (daily reconciliation of proprietary funds) to certain DCOs organized outside the United States (foreign DCOs). Specifically, proposed § 39.15(h) would provide that proposed § 39.15(e)(3), (f) and (g)(3) do not apply to a foreign DCO that would, in the event of its insolvency, be subject to a foreign proceeding, as defined in the U.S. Bankruptcy Code, in the jurisdiction in which it is organized.[52]

[48] *See* Statement on Auditing Standards 145, Appendix C, ¶ 21 (''Segregation of duties is intended to reduce the opportunities to allow any person to be in a position to both perpetrate and conceal errors or fraud in the normal course of the person's duties''). *See also* 17 CFR 1.11(e)(3)(i)(G) (requiring each FCM's Risk Management Program to include procedures requiring the appropriate separation of duties among individuals responsible for compliance with the Act and Commission regulations relating to the protection and financial reporting of segregated funds.)

[49] For example, one would expect that the haircuts the DCO applies to currency mismatches with respect to its obligations to clearing members here would be no smaller than the haircuts the DCO applies to currency mismatches with respect to collateral posted by a clearing member.

[50] *See* 17 CFR 1.20(i)(4).

[51] The Commission may, in light of ongoing and future developments with respect to clearing models at such DCOs, including with respect to the participation of U.S. market participants (particularly such market participants who are natural persons) reconsider these decisions (both with respect to part 39 and to part 190) in a future rulemaking.

[52] The U.S. Bankruptcy Code defines ''foreign proceeding'' as a collective judicial or

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Member property held at most foreign DCOs would not be protected under part 190 in the event the DCO enters bankruptcy,[53] and the Commission wants to avoid potential conflicts with requirements concerning protection of member property under the applicable law in a foreign DCO's home jurisdiction.[54]

IV. Reporting—§ 39.19

The Commission is proposing new § 39.19(c)(4)(xxvi) to include, together with the other event-specific reporting requirements applicable to DCOs, the requirement in proposed § 39.15(g)(5) that a DCO report any discrepancies in the amount of proprietary or customer funds it holds. The Commission believes that including all reporting requirements applicable to DCOs in § 39.19 may assist DCOs in tracking their reporting obligations.

V. Request for Comment

The Commission is requesting comments on all aspects of its proposal. Additionally, the Commission specifically requests comment on the following:

Would classification of guaranty fund contributions as proprietary funds inhibit DCOs' current guaranty fund programs? The Commission has proposed to specifically include guaranty fund deposits in the definition of proprietary funds, and does not intend for the inclusion to prevent DCOs from continuing to use guaranty funds as one of their default resources.

Should the Commission require DCOs to report to the Commission the daily calculations and reconciliations required by proposed § 39.15(g)?

Anti-money laundering (AML) and know-your-client (KYC) programs are required for many entities registered with the Commission, including intermediaries such as FCMs. In the context of intermediated DCOs, FCMs perform this critical role of assisting U.S. government agencies in detecting and preventing money laundering. However, in the context of non-intermediated DCOs, in the absence of an FCM, DCOs may be exploited by actors seeking to engage in illegal and illicit activities. How might the Commission ensure AML and KYC compliance for DCOs that offer direct clearing services (a market structure that would not include FCMs or other intermediaries that are typically directed to create Bank Secrecy Act compliance programs)? Should DCOs offering direct-to-customer services to non-eligible contract participants or retail customers be required to comply with AML and KYC requirements?

Should the Commission require any additional written acknowledgments (to those contained in proposed § 39.15(b)(3) or § 39.15(f)(2)(vi) as applicable) from central banks of money center countries in order for a DCO to use them to hold futures customer funds, cleared swaps customer collateral, or proprietary funds?

VI. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires that agencies consider whether the regulations they propose will have a significant economic impact on a substantial number of small entities and, if so, provide a regulatory flexibility analysis on the impact.[55] The amendments proposed by the Commission will affect only DCOs. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its regulations on small entities in accordance with the RFA.[56] The Commission has previously determined that DCOs are not small entities for the purpose of the RFA.[57] Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed regulations will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) [58] imposes certain requirements on federal agencies, including the Commission, in connection with conducting or sponsoring any ''collection of information,'' as defined by the PRA. Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number from the Office of Management and budget (OMB).[59] The PRA is intended, in part, to minimize the paperwork burden created for individuals, businesses, and other persons as a result of the collection of information by federal agencies, and to ensure the greatest possible benefit and utility of information created, collected, maintained, used, shared, and disseminated by or for the Federal Government.[60] The PRA applies to all information, regardless of form or format, whenever the Federal Government is obtaining, causing to be obtained, or soliciting information, and includes required disclosure to third parties or the public, of facts or opinions, when the information collection calls for answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons.[61]

This proposal, if adopted, would result in a collection of information within the meaning of the PRA, as discussed below. This proposed rulemaking contains collections of information for which the Commission has previously received a control number from OMB. The title for this existing collection of information is OMB control number 3038–0076, Requirements for Derivatives Clearing Organizations (''OMB Collection 3038–0076'').

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administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation. 11 U.S.C. 101(23). Further, the U.S. Bankruptcy Code defines ''foreign court'' as a judicial *or other* authority competent to control or supervise a foreign proceeding (emphasis added). 11 U.S.C. 1502(3). Because the definition includes non-judicial authorities, a resolution proceeding where the assets and affairs of a foreign DCO are controlled by a resolution authority would constitute a foreign proceeding under 11 U.S.C. 101(23), and thus a DCO that is subject to such a resolution proceeding would fall within the exclusion of such paragraphs. (*See, e.g.,* In re Tradex Swiss AG, 384 B.R. 34, 42 (Bankr. D.Mass. 2008) (Swiss Federal Banking Commission ''is an administrative agency'' and qualifies as a foreign court under 1502(3)), In re ENNIA Caribe Holding N.V., 594 B.R. 631, 639–40 & n. 11(Bankr. S.D.N.Y. 2018) (where the Central Bank of Curaçao and St. Maarten, as a regulator, controls the affairs of the foreign debtor, an insurance company, it constitutes a foreign court under 11 U.S.C. 1502(3)).

[53] *See* 17 CFR 190.11(b).

[54] As the Commission noted in revising its part 190 bankruptcy regulations in 2020, in the context of certain DCOs organized outside the United States, the Commission has traditionally focused its efforts on the protection of the customers of FCM members of such foreign DCOs. *Bankruptcy Regulations,* 86 FR 19324, 19366 (April 13, 2021). In promulgating those regulations, the Commission attempted to avoid conflicts with insolvency proceedings in the jurisdiction where a foreign DCO is organized. *Id.* Thus, pursuant to 17 CFR 190.11(b), the Commission's part 190 bankruptcy regulations are limited to protecting contracts cleared on behalf of FCM customers at such foreign DCOs and the property margining or securing such contracts. The foreign DCOs to which this limitation applies are those DCOs organized outside the United States that are subject to a foreign proceeding, as defined in 11 U.S.C. 101(23), in the jurisdiction in which it is organized.

[55] 5 U.S.C. 601 *et seq.*

[56] Policy Statement and Establishment of Definitions of ''Small Entities'' for Purposes of the Regulatory Flexibility Act, 47 FR 18618 (Apr. 30, 1982).

[57] *See* A New Regulatory Framework for Clearing Organizations 66 FR 45604, 45609 (Aug. 29, 2001).

[58] 44 U.S.C. 3501 *et seq.*

[59] *See* 44 U.S.C. 3507(a)(3); 5 CFR 1320.5(a)(3).

[60] *See* 44 U.S.C. 3501.

[61] *See* 44 U.S.C. 3502(3).

The Commission therefore is submitting this proposal to the OMB for its review in accordance with the PRA.[62] Responses to this collection of information would be mandatory. The Commission will protect any proprietary information according to the Freedom of Information Act and part 145 of the Commission's regulations.[63] In addition, section 8(a)(1) of the CEA strictly prohibits the Commission, unless specifically authorized by the CEA, from making public any data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.[64] Finally, the Commission is also required to protect certain information contained in a government system of records according to the Privacy Act of 1974.[65]

1. OMB Collection 3038–0076—Requirements for Derivatives Clearing Organizations

The Commission is proposing a new reporting requirement in § 39.15(f)(2) to require DCOs based in the United States to obtain a template proprietary funds letter from each depository that holds proprietary funds and to file that letter with the Commission. The template letter and filing requirements are substantially the same as the requirement in § 1.20(d) for FCMs to file an acknowledgment letter signed by each depository holding customer funds. In OMB control number 3038–0024, ''Regulations and Forms Pertaining to Financial Integrity of the Market Place; Margin Requirements for SDs/MSPs,'' [66] the Commission estimated that each FCM would file three acknowledgment letters a year and that filing each letter would take two hours to complete. Because the proposed letter and requirements for DCOs are the same as those for FCMs, the Commission believes that the estimates for FCMs filing acknowledgment letters are appropriate for DCOs filing proprietary funds letters. Therefore, the Commission believes that the proposed requirement will require each DCO based in the United States to expend six hours per year to comply, resulting in a total burden of 60 hours for DCOs.

The aggregate burden estimate for proprietary funds template letter reporting in Collection 3038–0076 is as follows:

Estimated number of respondents: 10.

Estimated annual reports per respondent: 3.

Estimated total annual responses: 30.

Estimated average burden hours per response: 2.

Estimated annual burden hours per respondent: 6.

Estimated total annual reporting burden for all respondents: 60.

Finally, the Commission is proposing § 39.15(g) to require DCOs to report in accordance with § 39.19(c)(4) any discrepancies in the results of the required daily calculations and reconciliations. This is a new reporting requirement and thus the Commission is revising its estimate of the burden associated with event-specific reporting under § 39.19(c)(4) in Collection 3038–0076. A discrepancy in one of the required calculations or reconciliations would mean that the DCO is not holding or accounting for the correct amount of either customer or proprietary funds, *i.e.,* that it is not meeting regulatory requirements. The Commission does not anticipate DCOs will need to file this report often, and ideally not at all, such that even one report per year would exceed expectations. Nonetheless, to avoid under-estimating the burden of the proposed regulation, the Commission estimates that DCOs will file the required report once per year. The Commission believes that each report will take approximately 30 minutes to complete. The requirement is for DCOs to file immediately upon learning of the discrepancy, which will necessarily limit the amount of time available to prepare a report. The current burden estimate in Collection 3038–0076 for event specific reporting under § 39.19(c) is 14 reports a year per respondent. Therefore, the Commission amending Collection 3038–0076 and s estimating that 13 covered DCOs will complete an estimated 15 reports per year per respondent, resulting in a total burden of seven-and-a-half hours for event-specific reporting.

The aggregate burden estimate for event-specific reporting under § 39.19(c)(4), as amended by the proposal, is updated as follows:

Estimated number of respondents: 13.

Estimated annual reports per respondent: 15.

Estimated total annual responses: 195.

Estimated average hours per response: 0.5.

Estimated annual burden hours per respondent: 7.5.

Estimated total annual burden hours for all respondents: 97.5.

The Commission's existing recordkeeping rule will require DCOs to maintain records of the information generated though compliance with the proposed rules.[67] Specifically, DCOs will need to maintain records related to the calculations and reconciliations required under proposed § 39.15(g) and the proprietary funds letters required under proposed § 39.15(f)(2). The Commission, however, believes that the impact of the proposed regulations on the recordkeeping burden in Collection 3038–0076 will be negligible. DCOs are already required to maintain all information required to be created, generated, or reported under part 39.[68] DCOs regularly maintain records of items created through their compliance with the Commission's regulations, and the proposed rules will not raise unique recordkeeping challenges or burdens. Therefore, the Commission is retaining its existing recordkeeping burden estimates for Collection 3038–0076.

2. Request for Comment

The Commission invites the public and other Federal agencies to comment on any aspect of the proposed information collection requirements discussed above. Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission will consider public comments on this proposed collection of information in:

(1) Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

(2) Evaluating the accuracy of the estimated burden of the proposed collection of information, including the degree to which the methodology and the assumptions that the Commission employed were valid;

(3) Enhancing the quality, utility, and clarity of the information proposed to be collected; and

(4) Minimizing the burden of the proposed information collection requirements on registered entities, including through the use of appropriate automated, electronic, mechanical, or other technological information collection techniques, *e.g.,* permitting electronic submission of responses.

The Commission specifically invites public comment on the accuracy of its estimates that the proposed regulations will not impose a new recordkeeping burden and its determination to retain

[62] *See* 44 U.S.C. 3507(d) 5 CFR 1320.11.

[63] *See* 5 U.S.C. 552; *see also* 17 CFR part 145 (Commission Records and Information).

[64] 7 U.S.C. 12(a)(1).

[65] 5 U.S.C. 552a.

[66] For the previously approved estimates for this collection, see ICR Reference No. 202207–3038–001 (conclusion date Aug. 23, 2022, available at *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202207-3038-001*).

[67] *See* 17 CFR 39.20.

[68] *Id.*

its existing burden estimates for recordkeeping for Collection 3038–0076.

Copies of the submission from the Commission to OMB are available from the CFTC Clearance Officer, 1155 21st Street NW, Washington, DC 20581, (202) 418–5714 or from *https://RegInfo.gov.* Organizations and individuals desiring to submit comments on the proposed information collection requirements should send those comments to:

- The Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Desk Officer of the Commodity Futures Trading Commission;
- (202) 395–6566 (fax); or
- *OIRAsubmissions@omb.eop.gov* (email).

Please provide the Commission with a copy of submitted comments so that all comments can be summarized and addressed in the final rulemaking, and please refer to the **ADDRESSES** section of this rulemaking for instructions on submitting comments to the Commission. OMB is required to make a decision concerning the proposed information collection requirements between 30 and 60 days after publication of this release in the **Federal Register**. Therefore, a comment to OMB is best assured of receiving full consideration if OMB receives it within 30 calendar days of publication of this release. Nothing in the foregoing affects the deadline enumerated above for public comment to the Commission on the proposed rules.

C. Cost-Benefit Considerations

1. Introduction

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing certain orders.[69] Section 15(a) further specifies that the costs and benefits shall be evaluated in light of the following five broad areas of market and public concern: (1) protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) factors (collectively referred to herein as Section 15(a) factors).

The Commission recognizes that the proposed amendments impose costs. The Commission has endeavored to assess the anticipated costs and benefits of the proposed amendments in quantitative terms, including PRA-related costs, where feasible. In situations where the Commission is unable to quantify the costs and benefits, the Commission identifies and considers the costs and benefits of the applicable proposed amendments in qualitative terms. The lack of data and information to estimate those costs is attributable in part to the nature of the proposed amendments. Additionally, any initial and recurring compliance costs for any particular DCO will depend on the size, existing infrastructure, level of clearing activity, practices, and cost structure of the DCO.

The Commission generally requests comment on all aspects of its cost-benefit considerations, including the identification and assessment of any costs and benefits not discussed herein; data and any other information to assist or otherwise inform the Commission's ability to quantify or qualitatively describe the costs and benefits of the proposed amendments; and substantiating data, statistics, and any other information to support positions posited by commenters with respect to the Commission's discussion. The Commission welcomes comment on such costs, particularly from existing DCOs that can provide quantitative cost data based on their respective experiences. Commenters may also suggest other alternatives to the proposed approach.

The Commission notes that this consideration is based on its understanding that the derivatives market regulated by the Commission functions internationally with: (1) transactions that involve entities organized in the United States occurring across different international jurisdictions; (2) some entities organized outside of the United States that are prospective Commission registrants; and (3) some entities that typically operate both within and outside the United States and that follow substantially similar business practices wherever located. Where the Commission does not specifically refer to matters of location, the discussion of costs and benefits below refers to the effects of the proposed regulations on all relevant derivatives activity, whether based on their actual occurrence in the United States or on their connection with, or effect on U.S. commerce.[70]

2. Baseline

The Commission identifies and considers the benefits and costs of the proposed amendments relative to the baseline of the status quo. In particular, the baseline for the Commission's consideration of the costs and benefits of this proposed rulemaking is the existing statutory and regulatory framework applicable to DCOs, including: (1) the DCO core principles set forth in section 5b(c)(2) of the CEA; (2) the requirements associated with holding clearing member funds for positions in futures, foreign futures, and swaps under § 39.15; (3) the current DCO reporting requirements under § 39.19; and (4) the requirements for obtaining an acknowledgment letter from a foreign central bank holding customer funds, but not member funds.

3. Proposed Amendments to § 39.15(b)

a. Summary of Changes

The Commission is proposing new § 39.15(b)(3), which would allow the central banks of money center countries to serve as depositories for customer funds. The proposed regulation would further allow a DCO holding customer funds at the central bank of a money center country to obtain a modified written acknowledgment that is shorter and less detailed than the template acknowledgment letter in §§ 1.20 and 22.4.

b. Benefits

The Commission believes that central banks are often the best option for deposit of customer funds. By using a central bank, DCOs can minimize the credit and liquidity risks they face when holding foreign currency cash deposits. Many foreign central banks do not fit into any of the categories of permissible depositories in § 1.49, and some central banks have expressed unwillingness to sign the template acknowledgment letter. By permitting DCOs to deposit customer funds at the central banks of money center countries and requiring an abbreviated written acknowledgment suitable for the central bank context, the Commission believes that DCOs will be able to avail themselves of the risk management benefits of holding funds at a central bank.

c. Costs

The Commission does not believe the proposed rule will impose costs on DCOs. The proposed rule does not require DCOs to hold customer funds at any particular central bank and merely enables DCOs to hold funds at certain central banks.

[69] 7 U.S.C. 19(a).

[70] *See, e.g.* 7 U.S.C. 2(i).

d. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of the proposed amendments to § 39.15(b)(3) in light of the specific considerations identified in section 15(a) of the CEA. The Commission believes the proposed rule would protect market participants by allowing their funds to be more easily held at foreign central banks. Central banks expose depositors to minimal credit and liquidity risks and are safe depositories for assets belonging to market participants. Similarly, the proposed rules may improve DCOs' risk management because of the low credit and liquidity risks associated with holding funds at a central bank. The Commission has considered the other Section 15(a) factors and believes that they are not implicated by the proposed amendments to § 39.15(b)(3).

4. Proposed Amendments to § 39.15(e)

a. Summary of Changes

The Commission is proposing rules that would limit the investments DCOs can make with proprietary funds to those that are permissible for customer funds under § 1.25. The proposed rule also states that DCOs would be responsible for investment losses.

b. Benefits

The proposed rule would limit investments of proprietary funds to the safe investments listed in § 1.25. This is the same list of investments that can be made with customer funds. The Commission believes this proposal would appropriately protect clearing members from risk of loss by ensuring that any investment is in instruments with minimal credit, market, and liquidity risks.

c. Costs

The proposed rule may impose some costs on DCOs. Some DCOs may have to stop investing proprietary funds in certain instruments that are currently permitted and may incur some operational costs in revising the investments that are offered to clearing members for their proprietary funds. Further, to the extent the permitted investments earn less yield than what a DCO currently invests in, the regulation would impose costs in the form of lost investment revenue for the DCO and clearing member. The total cost of this regulation will depend on a number of factors including the number of clearing members of the DCO and what, if any, investments the DCO currently makes with proprietary funds.

a. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of the proposed amendments to § 39.15(e) in light of the specific considerations identified in section 15(a) of the CEA. The proposed rule would benefit clearing member market participants by ensuring their funds are invested in instruments that minimize the risk of loss. While DCOs currently determine what investments to make with clearing member funds, the proposed rule establishes a list of investments that the Commission believes is appropriately conservative for all clearing members. The Commission has considered the other Section 15(a) factors and believes that they are not implicated by the proposed amendments to § 39.15(e).

5. Proposed Amendments to § 39.15(f)(1)

a. Summary of Changes

The Commission is proposing new § 39.15(f)(1), which would require DCOs to segregate proprietary funds from their own funds, hold the funds in accounts clearly labeled as holding proprietary funds, and hold at all times an amount sufficient in the aggregate to cover the total value of proprietary funds held for all clearing members.

b. Benefits

The proposed rule would benefit clearing members by helping to ensure that proprietary funds on deposit will not be misused. Holding proprietary funds in an account that is exclusively for proprietary funds and clearly named as being for proprietary funds would make it difficult for a DCO or any employee to use the funds for an improper purpose without being detected. Further, the requirement that accounts hold funds adequate to cover the total value of proprietary funds held for all clearing members at all times would prevent a DCO from rehypothecating or otherwise using proprietary funds for its own benefit, thus ensuring that the funds are available when needed by clearing members or the DCO for permitted uses. The proposed rule would also ensure funds are readily identifiable in the event of a DCO bankruptcy, which would facilitate those funds receiving the appropriate preferential treatment.

c. Costs

The proposed rule might add some costs for DCOs if they need to establish new accounts for proprietary funds. DCOs would need to establish new procedures for regularly confirming that the accounts hold funds adequate to cover the total value of proprietary funds of all clearing members. However, as a mitigating factor, the Commission believes that most, if not all, DCOs currently hold proprietary funds separately from their own, and that most DCOs do not rehypothecate or otherwise use funds for their own purposes. In such cases, if there are any costs, they would be related to staff time involved with renaming current accounts holding proprietary funds. The exact costs will depend on a number of factors including how many accounts a DCO maintains for proprietary funds.

d. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of the proposed amendments to § 39.15(f)(1) in light of the specific considerations identified in section 15(a) of the CEA. The Commission believes the proposed rule would benefit market participants by helping to ensure their funds are not misused and by helping to make sure the funds receive the proper, preferential treatment in the event of a DCO bankruptcy. The Commission also believes that requiring DCOs to hold the total amount of proprietary funds at all times would promote sound risk management because it would ensure that the funds are available to the DCO in the event of a clearing member default. The Commission has considered the other section 15(a) factors and believes that they are not implicated by the proposed amendments to § 39.15(f)(1).

6. Proposed Amendments to § 39.15(f)(2)

a. Summary of Changes

The proposed rule would require DCOs to obtain a proprietary funds letter in the form prescribed in the proposed appendix from each depository holding proprietary funds. The proposed letter is based on the template acknowledgment letter for DCOs required by § 1.20, and requires depositories to acknowledge, among other things, that the funds belong to clearing members and cannot be used by the DCO for any other purpose. The proposed rule would also require a DCO to file the letters with the Commission and update the letters when certain information changes. The proposed rule would exclude Federal Reserve Banks from the requirement to obtain a proprietary funds letter from a depository holding proprietary funds. Further, the proposed rule would require a simpler written

acknowledgment from the central bank of a money center country that is holding proprietary funds than that required of other depositories.

b. Benefits

The proposed rule would benefit clearing members by ensuring that all depositories holding proprietary funds would know that the funds belong to clearing members and cannot be used by the DCO for any other purpose, which would help prevent the misuse of funds by the DCO or an employee of the DCO. Further, having a proprietary funds letter for each proprietary funds account would help a bankruptcy court or trustee easily identify that the funds are member property in the event of a DCO bankruptcy.

c. Costs

The proposed rule would impose costs on DCOs. DCOs would be required to work with depositories to obtain proprietary funds letters for existing accounts and to file the letters with the Commission. Further, DCOs would need procedures for obtaining a letter for any new account and for updating letters as information changes going forward. The Commission is attempting to limit the costs of obtaining proprietary funds letters by proposing to use a template that is substantively the same as the template letter required for customer funds and is thus already in use by many DCOs and their depositories. The costs each DCO would incur would depend, in large part, on the number of depositories the DCO uses to hold proprietary funds. The Commission has estimated that the PRA costs for this rule will be $100 per burden hour. Based on the burden estimate discussed above of six hours annually per DCO, the Commission estimates that each DCO will spend $600 in PRA costs under this proposed rule.

d. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of the proposed amendments to § 39.15(f)(2) in light of the specific considerations identified in section 15(a) of the CEA. The Commission believes the proposed rule would benefit market participants by ensuring that all depositories holding proprietary funds know that the funds belong to clearing members and cannot be used by the DCO for any other purpose, thus helping to prevent the misuse of funds. Having a proprietary funds letter for each proprietary funds account would help easily identify which funds are member property in the event of a DCO bankruptcy. Finally, the helping to prevent the misuse of proprietary funds would promote sound risk management by making it more likely that the funds are available if needed to cover a clearing member default. The Commission has considered the other section 15(a) factors and believes that they are not implicated by the proposed amendments to § 39.15(f)(2).

7. Proposed Amendments to § 39.15(f)(3)

a. Summary of Changes

Proposed § 39.15(f)(3) would permit DCOs to commingle proprietary funds belonging to multiple clearing members in the same custodial account. The rule would prohibit a DCO from commingling proprietary funds with the DCO's own funds or with FCM customer funds.

b. Benefits

The Commission believes that permitting DCOs to commingle proprietary funds from multiple clearing members in one account would allow DCOs to minimize operational risk by simplifying their banking processes and procedures. Further, the proposed rule would ensure that proprietary funds are held separately from the DCO's funds at the depository, making it harder for a DCO or an employee of the DCO to misuse the funds without detection.

c. Costs

The Commission does not believe permitting the commingling of multiple clearing members' funds in one account would impose new costs on DCOs. Currently, many DCOs hold clearing member funds in a commingled account, and the proposed rule would only permit, not require, clearing member funds to be commingled. However, the Commission recognizes that a DCO that currently commingles clearing member funds with other funds would need to segregate such funds and establish a separate account for such funds, thereby incurring new costs. But because the prohibition on commingling a DCO's funds with its clearing members' funds codifies sound participant protection and risk management principles that most, if not all, DCOs already apply, the Commission does not believe that it would impose significant new costs on existing DCOs. Additionally, DCOs are currently prohibited by the requirements of section 4d of the Act and the regulations thereunder from commingling customer funds with the funds of clearing members. The proposed rule would therefore not impose new costs with regard to holding clearing member funds and customer funds separately.

d. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of the proposed amendments to § 39.15(f)(3) in light of the specific considerations identified in section 15(a) of the CEA. The Commission believes that prohibiting a DCO from commingling its own funds with proprietary funds would benefit market participants by ensuring a clear delineation between the DCO's funds and proprietary funds. This delineation would make it more difficult to misuse proprietary funds and would make proprietary funds readily identifiable in the event of a DCO bankruptcy. Further, the Commission believes that the proposed rule would promote sound risk management because ensuring that clearing members' funds are held separately from the DCO's would make it more difficult for the funds to be misused without detection and would therefore make it more likely that the funds are available if needed to cover a clearing member default. The Commission has considered the other section 15(a) factors and believes that they are not implicated by the proposed amendments to § 39.12(f)(3).

8. Proposed Amendments to § 39.15(f)(4)

a. Summary of Changes

The proposed rule would prohibit a DCO or any of its depositories from using proprietary funds for any reason other than as belonging to the DCO's clearing members. The rule would specifically provide that an FCM's funds may be used to cover its customers' losses and as part of a DCO's mutualized guaranty fund.

b. Benefits

By eliminating any uses for proprietary funds other than on behalf of clearing members, the proposed rule would help ensure that the funds are readily available if needed either by the clearing member directly, or for a permitted use by the DCO. The clarifications providing that an FCM's funds may be used by a DCO to cover the FCM's customers' losses, or as part of a clearing member-funded, mutualized guaranty fund, ensures that the rule would not hamper DCOs' existing risk management programs.

c. Costs

Because the proposed rule would codify sound participant protection and risk management principles, the Commission does not believe that it

would impose significant costs on DCOs. The Commission does not believe DCOs are currently using clearing member funds in a manner that is inconsistent with this regulation. Further, the proposed rule would not require a guaranty fund or any specific type of FCM guarantee of its customers' performance, but instead would merely permit what is currently common risk management practice among DCOs.

d. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of the proposed amendments to § 39.15(f)(4) in light of the specific considerations identified in section 15(a) of the CEA. The proposed rule would benefit market participants by helping to ensure that their funds are protected and available for their use. Additionally, the proposed rule would promote sound risk management by helping to ensure that clearing member funds are readily available for permitted risk management uses by a DCO, such as in the event of a customer shortfall or clearing member default. The Commission has considered the other section 15(a) factors and believes that they are not implicated by the proposed amendments to § 39.12(f)(3).

9. Proposed Amendments to §§ 39.15(g) and 39.19(c)(4)(xxvi)

a. Summary of Changes

Proposed § 39.15(g) would require DCOs to, on a daily basis, calculate the amount of futures customer funds, cleared swaps customer collateral, and proprietary funds owed to each clearing member, separately for each account class and on a currency by currency basis. The proposed rule further would require DCOs to reconcile, separately for each account class, the amount of funds owed to all clearing members with the amount of funds held in depository accounts for that class of funds. Each calculation and reconciliation would have to be approved by a person who did not prepare the initial calculation or reconciliation. The calculation and reconciliation would have to be performed as of the close of each business day and completed by noon on the following business day. The proposed rule also would require securities to be valued at their current market value, subject to the DCO's haircuts, and calculations of the amount owed to be made in a manner consistent with the requirements of § 1.20(i). Finally, both proposed §§ 39.15(g)(5) and 39.19(c)(4)(xxvi) would require DCOs to immediately report any discrepancy in the calculation or reconciliation to the Commission.

b. Benefits

By requiring a DCO to verify on a daily basis the amount of futures customer funds, cleared swaps customer collateral, and proprietary funds it is holding, for each clearing member and across all clearing members, the proposed rule would facilitate the prompt discovery of any missing futures customer funds, cleared swaps customer collateral, or proprietary funds. Additionally, by requiring the daily calculation and reconciliation to be approved by an independent employee, the proposed rule would help prevent a single bad actor at a DCO from misusing futures customer funds, cleared swaps customer collateral, or proprietary funds, and from concealing that misuse. The requirement to report any discrepancies to the Commission would help ensure that the Commission is immediately made aware of potentially missing funds, and that it can work with the DCO to resolve the matter.

c. Costs

The Commission understands that the daily calculation and reconciliation would impose costs on DCOs. DCOs would need to develop procedures that comply with the timing, valuation, and calculation requirements in the proposed rule, to calculate the amount of funds owed to each clearing member for each account class and to reconcile the amount of funds owed to all clearing members with the amount of funds held at depositories for each account class. Further, at least two DCO employees would have to be involved in the process of performing and approving the calculations and reconciliations each day. DCOs would also need to include the new reporting requirement in their process and procedures for event-specific reporting to the Commission. The Commission has sought to minimize the costs of the proposed regulation by only requiring reporting to the Commission of discrepancies rather than the filing of daily reports. The exact costs would depend on the account class(es) in which a DCO holds funds, and the number of clearing members and customer accounts at issue. The Commission has estimated that the PRA costs for event specific reporting are $79 per hour. Based on the burden estimate discussed above of .5 hours annually per DCO, the Commission estimates that each DCO will spend $39.50 in PRA costs under this rule.

d. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of the proposed amendments to § 39.15(f)(5) in light of the specific considerations identified in section 15(a) of the CEA. The proposed rule would benefit market participants by enabling any loss or theft of funds to be discovered by the DCO and reported to the Commission quickly. The Commission further believes that the proposed rule would promote sound risk management by helping to ensure that the funds are available if needed by the DCO to cover a clearing member or customer default. The Commission has considered the other section 15(a) factors and believes that they are not implicated by the proposed amendments.

10. Proposed Amendment to § 39.15(h)

a. Summary of Changes

The proposed rule would exempt foreign DCOs from the requirements of proposed § 39.15(e)(3), (f), and (g)(3) because in the event of an insolvency, the clearing member funds held by a foreign DCO would not be subject to U.S. bankruptcy law.[71]

b. Benefits

The Commission has determined to seek to avoid conflicts with insolvency proceedings in the jurisdiction where a foreign DCO is organized. The Commission believes that certainty surrounding which insolvency law would apply would benefit the clearing members of foreign DCOs.

c. Costs

The Commission does not believe the rule would impose costs on foreign DCOs. The proposed rule is preserving the baseline, that funds belonging to a foreign DCO's clearing members will be treated in accordance with the insolvency law of the foreign DCO's home jurisdiction.

d. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of the proposed amendments to § 39.15(h) in light of the specific considerations identified in section 15(a) of the CEA. The proposed rule would benefit market participants by providing certainty regarding which insolvency law would apply to their funds in the event a foreign DCO enters an insolvency proceeding. The Commission has considered the other section 15(a) factors and believes that

[71] *See* 17 CFR 190.11(b).

they are not implicated by the proposed amendments.

D. Antitrust Considerations

Section 15(b) of the CEA requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the purposes of the CEA, in issuing any order or adopting any Commission rule or regulation.[72]

The Commission believes that the public interest to be protected by the antitrust laws is the promotion of competition. The Commission requests comment on whether the proposed amendments implicate any other specific public interest to be protected by the antitrust laws. The Commission has considered the proposed rulemaking to determine whether it is anticompetitive and has identified no anticompetitive effects. The Commission requests comment on whether the proposed rulemaking is anticompetitive and, if it is, what the anticompetitive effects are.

Because the Commission has determined that the proposed rule amendments are not anticompetitive and have no anticompetitive effects, the Commission has not identified any less anticompetitive means of achieving the purposes of the CEA. The Commission requests comment on whether there are less anticompetitive means of achieving the relevant purposes of the CEA that would otherwise be served by adopting the proposed rule amendments.

List of Subjects in 17 CFR Part 39

Reporting, Treatment of funds.

For the reasons stated in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR part 39 as follows:

PART 39—DERIVATIVES CLEARING ORGANIZATIONS

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

Authority: 7 U.S.C. 2, 6(c), 7a–1, and 12a(5); 12 U.S.C. 5464; 15 U.S.C. 8325; Section 752 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, title VII, sec. 752, July 21, 2010, 124 Stat. 1749.

■ 2. Amend § 39.2 by adding definitions of the terms ''Money center country'' and ''Proprietary funds'' in alphabetical order to read as follows:

§ 39.2 Definitions.

* * * * *

Money center country means Canada, France, Germany, Italy, Japan, and the United Kingdom.

* * * * *

Proprietary funds means all money, securities, and property received by a derivatives clearing organization from, for, or on behalf of, a clearing member and held in a proprietary account, as defined in § 1.3 of this chapter:

(1) To margin, guarantee, or secure contracts for future delivery on or subject to the rules of a contract market, derivatives clearing organization, or foreign board of trade or a cleared swap contract, and all money accruing to a clearing member as the result of such contracts;

(2) In connection with a commodity option transaction on or subject to the rules of a contract market, derivatives clearing organization, or foreign board of trade:

(i) To be used as a premium for the purchase of a commodity option transaction for a clearing member;

(ii) As a premium payable to a clearing member;

(iii) To guarantee or secure performance of a commodity option by a clearing member; or

(iv) Representing accruals (including, for purchasers of a commodity option for which the full premium has been paid, the market value of such commodity option) to a clearing member;

(3) That constitutes, if a cleared swap is in the form or nature of an option, the settlement value of the option; or

(4) As a contribution to a guaranty fund to mutualize the losses resulting from a default by a clearing member by covering the losses in accordance with the derivatives clearing organization's rules and its agreement(s) with its clearing members.

* * * * *

■ 3. Amend § 39.15 by adding paragraph (b)(3), revising paragraph (e), and adding paragraphs (f), (g), and (h) to read as follows:

§ 39.15 Treatment of funds.

* * * * *

(b) * * *

(3) *Central banks.* Notwithstanding anything to the contrary in §§ 1.20, 1.49, 22.4, 22.5, or 22.9 of this chapter, a derivatives clearing organization may hold futures customer funds or cleared swaps customer collateral at the central bank of a money center country if it obtains from the central bank a written acknowledgment that:

(i) The central bank was informed that the customer funds deposited therein are those of customers who trade commodities, options, swaps, and other products and are being held in accordance with the provisions of section 4d of the Act and applicable Commission regulations thereunder; and

(ii) The central bank agrees to reply promptly and directly to any request from the director of the Division of Clearing and Risk or the director of the Market Participants Division, or any successor divisions, or such directors' designees, for confirmation of account balances or provision of any other information regarding or related to an account.

* * * * *

(e) *Permitted investments.* (1) Funds and assets belonging to clearing members and their customers that are invested by a derivatives clearing organization shall be held in instruments with minimal credit, market, and liquidity risks.

(2) Any investment of customer funds or assets by a derivatives clearing organization shall comply with § 1.25 of this chapter.

(3) A derivatives clearing organization may invest proprietary funds only in a manner that would be permitted for customer funds under § 1.25 of this chapter. The derivatives clearing organization shall bear sole responsibility for any losses resulting from the investment of proprietary funds.

(f) *Proprietary funds*—(1) *Segregation.* A derivatives clearing organization must separately account for and segregate all proprietary funds as belonging to its clearing members. A derivatives clearing organization shall deposit proprietary funds under an account name that clearly identifies the funds as belonging to clearing members and shows that the funds are segregated as required by this part. A derivatives clearing organization must at all times maintain in the separate segregated account or accounts money, securities and property in an amount sufficient in the aggregate to cover the total value of proprietary funds owed to all clearing members.

(2) *Written acknowledgment from depositories.* (i) A derivatives clearing organization must obtain a written acknowledgment from each depository prior to or contemporaneously with the opening of an account for proprietary funds by the derivatives clearing organization with the depositories; provided, however, a derivatives clearing organization is not required to obtain a written acknowledgment from a Federal Reserve Bank with which it has opened an account for proprietary funds.

[72] 7 U.S.C. 19(b).

(ii) The written acknowledgment must be in the form as set out in Appendix D to this part, except as provided in paragraph (f)(2)(vi) of this section.

(iii) A derivatives clearing organization shall promptly file a copy of the written acknowledgment with the Commission in the format and manner specified by the Commission no later than three business days after the opening of the account or the execution of a new written acknowledgment for an existing account, as applicable.

(iv) A derivatives clearing organization shall obtain a new written acknowledgment within 120 days of any changes in the following:

(A) The name or business address of the derivatives clearing organization;

(B) The name or business address of the depository receiving proprietary funds; or

(C) The account number(s) under which proprietary funds are held.

(v) A derivatives clearing organization shall maintain each written acknowledgment readily accessible in its files in accordance with § 1.31 of this chapter, for as long as the account remains open, and thereafter for the period provided in § 1.31 of this chapter.

(vi) Notwithstanding paragraph (f)(2)(ii) of this section, a derivatives clearing organization may deposit proprietary funds with the central bank of a money center country if it obtains from the central bank a written acknowledgment that:

(A) The central bank was informed that the proprietary funds deposited therein are those of clearing members who trade commodities, options, swaps, and other products and are being held in accordance with the provisions of section 5b(c)(2)(F) of the Act and Commission regulations thereunder; and

(B) The central bank agrees to reply promptly and directly to any request from the director of the Division of Clearing and Risk, or any successor division, or the director's designees, for confirmation of account balances or provision of any other information regarding or related to an account.

(3) *Commingling.* (i) A derivatives clearing organization may for convenience commingle the proprietary funds that it receives from, or on behalf of, clearing members in a single account or multiple accounts with one or more depositories.

(ii) A derivatives clearing organization shall not commingle proprietary funds with the money, securities or property of the derivatives clearing organization, or a customer account of a clearing member of the derivatives clearing organization, or use proprietary funds to secure or guarantee the obligation of, or extend credit to, the derivatives clearing organization.

(4) *Limitation on use of proprietary funds.* (i) A derivatives clearing organization shall not hold, use or dispose of proprietary funds except as belonging to the clearing member that deposited the proprietary funds. The use of proprietary funds as belonging to clearing members may include, but is not limited to:

(A) A derivatives clearing organization may use the proprietary funds belonging to a clearing member to guarantee or cover deficits in a customer account of that clearing member in accordance with the derivatives clearing organization's rules and its agreement(s) with the clearing member; and

(B) A derivatives clearing organization may use non-defaulting clearing members' money, securities, or property that is being held as a guaranty fund to mutualize the losses resulting from a default by a clearing member to cover such losses in accordance with the derivatives clearing organization's rules and its agreement(s) with its clearing members.

(ii) No person, including any derivatives clearing organization or any depository, that has received proprietary funds for deposit in a segregated account, as provided in this section, may hold, dispose of, or use any the funds as belonging to any person other than the clearing members of the derivatives clearing organization which deposited the funds.

(g) *Daily reconciliation*—(1) *Futures customer funds.* By noon of each business day, a derivatives clearing organization that has received futures customer funds from its clearing members shall, as of the close of the previous business day:

(i) Calculate the amount of futures customer funds owed to each clearing member, on a currency by currency basis; and

(ii) Reconcile the total amount of futures customer funds owed, on a currency by currency basis, aggregated across all clearing members, with the amount of futures customer funds held in separate accounts across all depositories.

(2) *Cleared swaps customer funds.* By noon of each business day, a derivatives clearing organization that has received cleared swaps customer collateral from its clearing members shall, as of the close of the previous business day:

(i) Calculate the amount of cleared swaps customer collateral owed to each clearing member, on a currency by currency basis; and

(ii) Reconcile the total amount of cleared swaps customer collateral owed, aggregated across all clearing members, with the amount of cleared swaps customer collateral held in separate accounts across all depositories.

(3) *Proprietary funds.* By noon of each business day, a derivatives clearing organization that has received proprietary funds from its clearing members shall, as of the close of the previous business day:

(i) Calculate the amount of proprietary funds owed to each clearing member, on a currency by currency basis; and

(ii) Reconcile the total amount of proprietary funds owed, aggregated across all clearing members, with the amount of proprietary funds held in separate accounts across all depositories.

(4) *Calculations.* (i) Each calculation and reconciliation required by this paragraph (g) must be approved by a person who did not prepare the calculation or reconciliation and who does not report to the person that prepared the calculation or reconciliation.

(ii) In performing the calculations required by this paragraph (g):

(A) Securities shall be valued at their current market value, with haircuts applied in accordance with § 39.11(d); and

(B) A reconciliation deficit in a particular account type in one currency may be offset by a surplus in that same account type in another currency, based on publicly available exchange rates, with the surplus subject to haircuts reasonably determined by the derivatives clearing organization, consistently applied.

(C) Where customer funds, including funds received to margin, guarantee, or secure futures, options, foreign futures, foreign options, or swaps, are, pursuant to an order of the Commission or a DCO rule filed pursuant to paragraph (b)(2)of this section, received for the purpose of holding such funds in a futures account, they shall be treated as futures customer funds, both for purposes of funds owed and funds held. Where such funds are received for the purpose of holding such funds in a cleared swaps customer account, they shall be treated as cleared swaps customer collateral, both for purposes of funds owed and funds held.

(iii) Calculations of amounts owed in this paragraph (g) shall be made consistent with the requirements of § 1.20(i) of this chapter, as applied to the accounts of a derivatives clearing organization with respect to its members' futures customer, cleared swaps customer, and proprietary accounts.

(5) A derivatives clearing organization shall immediately report to the Commission, pursuant to § 39.19, any discrepancies in the calculation of the amount of funds held for each clearing member and any one or more of the reconciliations that reveals that the derivatives clearing organization did not, at the close of the previous business day, maintain in separate segregated accounts money, securities and property in an amount sufficient in the aggregate to cover the total value of funds owed to all clearing members.

(h) *Exclusions for foreign derivatives clearing organizations*—Paragraphs (e)(3), (f) and (g)(3) of this section do not apply to a derivatives clearing organization organized outside the United States that would, in the event of its insolvency, be subject to a foreign proceeding, as defined in 11 U.S.C. 101(23), in the jurisdiction in which it is organized.

■ 4. In § 39.19, add paragraph (c)(4)(xxvi) to read as follows:

§ 39.19 Reporting.

* * * * *

(c) * * *

(4) * * *

(xxvi) *Discrepancy in customer or proprietary funds.* A derivatives clearing organization shall immediately report to the Commission any discrepancies in the calculation of the amount of funds held for each clearing member and any one or more of the reconciliations required pursuant to § 39.15(g) that reveals that the derivatives clearing organization did not, at the close of the previous business day, maintain in separate segregated accounts money, securities and property in an amount sufficient in the aggregate to cover the total value of funds owed to all clearing members.

* * * * *

■ 5. Add appendix D to part 39 to read as follows:

Appendix D to Part 39—Derivatives Clearing Organization Acknowledgment Letter for CFTC Regulation § 39.15 Proprietary Funds Account

[Date]

[Name and Address of Bank or Trust Company]

We refer to the Segregated Account(s) which [Name of Derivatives Clearing Organization] (''we'' or ''our'') have opened or will open with [Name of Bank or Trust Company] (''you'' or ''your'') entitled:

[Name of Derivatives Clearing Organization] Proprietary Funds Account, CFTC Regulation § 39.15 Proprietary Funds Account under Section 5b(c)(2)(F) of the Commodity Exchange Act [and, if applicable, '', Abbreviated as [short title reflected in the depository's electronic system]'']

Account Number(s): [ ]

(collectively, the ''Account(s)'').

You acknowledge that we have opened or will open the above-referenced Account(s) for the purpose of depositing, as applicable, money, securities and other property (collectively the ''Funds'') of clearing members who trade commodities, options, swaps, and other products, as required by Commodity Futures Trading Commission (''CFTC'') Regulations, including Regulation § 39.15, as amended; that the Funds held by you, hereafter deposited in the Account(s) or accruing to the credit of the Account(s), will be separately accounted for and segregated on your books from our own funds and from any other funds or accounts held by us in accordance with the provisions of the Commodity Exchange Act, as amended (the ''Act''), and part 39 of the CFTC's regulations, as amended; and that the Funds constitute member property as defined by 11 U.S.C. 761(16) and CFTC Regulation § 190.01.

Furthermore, you acknowledge and agree that such Funds may not be used by you or by us to secure or guarantee any obligations that we might owe to you, and they may not be used by us to secure or obtain credit from you. You further acknowledge and agree that the Funds in the Account(s) shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities we may now or in the future have owing to you. This prohibition does not affect your right to recover funds advanced in the form of cash transfers, lines of credit, repurchase agreements or other similar liquidity arrangements you make in lieu of liquidating non-cash assets held in the Account(s) or in lieu of converting cash held in the Account(s) to cash in a different currency.

You agree to reply promptly and directly to any request for confirmation of account balances or provision of any other information regarding or related to the Account(s) from the director of the Division of Clearing and Risk of the CFTC, or any successor divisions, or such director's designees, and this letter constitutes the authorization and direction of the undersigned on our behalf to release the requested information without further notice to or consent from us.

The parties agree that all actions on your part to respond to the above information requests will be made in accordance with, and subject to, such usual and customary authorization verification and authentication policies and procedures as may be employed by you to verify the authority of, and authenticate the identity of, the individual making any such information request, in order to provide for the secure transmission and delivery of the requested information to the appropriate recipient(s).

We will not hold you responsible for acting pursuant to any information request from the director of the Division of Clearing and Risk of the CFTC, or any successor divisions, or such director's designees, upon which you have relied after having taken measures in accordance with your applicable policies and procedures to assure that such request was provided to you by an individual authorized to make such a request.

In the event that we become subject to either a voluntary or involuntary petition for relief under the U.S. Bankruptcy Code, we acknowledge that you will have no obligation to release the Funds held in the Account(s), except upon instruction of the Trustee in Bankruptcy or pursuant to the Order of the respective U.S. Bankruptcy Court.

Notwithstanding anything in the foregoing to the contrary, nothing contained herein shall be construed as limiting your right to assert any right of offset or lien on assets that are not Funds maintained in the Account(s), or to impose such charges against us or any account maintained by us with you for the purpose of holding our own funds. Further, it is understood that amounts represented by checks, drafts or other items shall not be considered to be part of the Account(s) until finally collected. Accordingly, checks, drafts and other items credited to the Account(s) and subsequently dishonored or otherwise returned to you or reversed, for any reason, and any claims relating thereto, including but not limited to claims of alteration or forgery, may be charged back to the Account(s), and we shall be responsible to you as a general endorser of all such items whether or not actually so endorsed.

You may conclusively presume that any withdrawal from the Account(s) and the balances maintained therein are in conformity with the Act and CFTC regulations without any further inquiry, provided that, in the ordinary course of your business as a depository, you have no notice of or actual knowledge of a potential violation by us of any provision of the Act or the CFTC regulations that relates to the segregation of proprietary funds; and you shall not in any manner not expressly agreed to herein be responsible to us for ensuring compliance by us with such provisions of the Act and CFTC regulations; however, the aforementioned presumption does not affect any obligation you may otherwise have under the Act or CFTC regulations.

You may, and are hereby authorized to, obey the order, judgment, decree or levy of any court of competent jurisdiction or any governmental agency with jurisdiction, which order, judgment, decree or levy relates in whole or in part to the Account(s). In any event, you shall not be liable by reason of any action or omission to act pursuant to any such order, judgment, decree or levy, to us or to any other person, firm, association or corporation even if thereafter any such order, decree, judgment or levy shall be reversed, modified, set aside or vacated.

The terms of this letter agreement shall remain binding upon the parties, their successors and assigns and, for the avoidance of doubt, regardless of a change in the name of either party. This letter agreement supersedes and replaces any prior agreement between the parties in connection with the Account(s), including but not limited to any prior acknowledgment letter agreement, to the extent that such prior agreement is inconsistent with the terms hereof. In the event of any conflict between this letter agreement and any other agreement between

the parties in connection with the Account(s), this letter agreement shall govern with respect to matters specific to section 5b(c)(2)(F) of the Act and CFTC Regulation § 39.15, as amended.

This letter agreement shall be governed by and construed in accordance with the laws of [Insert governing law] without regard to the principles of choice of law.

Please acknowledge that you agree to abide by the requirements and conditions set forth above by signing and returning to us the enclosed copy of this letter agreement, and that you further agree to provide a copy of this fully executed letter agreement directly to the CFTC (via electronic means in a format and manner determined by the CFTC). We hereby authorize and direct you to provide such copy without further notice to or consent from us, no later than three business days after opening the Account(s) or revising this letter agreement, as applicable.

[Name of Derivatives Clearing Organization]
By:
Print Name:
Title:
ACKNOWLEDGED AND AGREED:
[Name of Bank or Trust Company]
By:
Print Name:
Title:
Contact Information: [Insert phone number and email address]
DATE:

Issued in Washington, DC, on December 26, 2023, by the Commission.

Christopher Kirkpatrick,

Secretary of the Commission.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendices to Protection of Clearing Member Funds Held by Derivatives Clearing Organizations—Commission Voting Summary, Chairman's Statement, and Commissioners' Statements

Appendix 1—Commission Voting Summary

On this matter, Chairman Behnam and Commissioner Johnson voted in the affirmative. Commissioner Pham concurred. Commissioners Goldsmith Romero and Mersinger voted in the negative.

Appendix 2—Statement of Support of Chairman Rostin Behnam

I support the issuance and publication of the proposed rule on the protection of clearing member funds held by derivatives clearing organizations (DCOs). The Commission has longstanding regulations that provide comprehensive protections for funds belonging to customers of a Futures Commission Merchant (FCM).[1] Similar protections, however, do not exist for funds belonging to clearing members of a DCO, whether they are individual market participants or FCMs themselves. The proposed rule would implement a regime for the protection of clearing member funds largely analogous to the current regime applicable to FCM customer funds. Specifically, the proposed rule would ensure that clearing member funds and assets receive proper treatment if a DCO enters bankruptcy by requiring segregation of clearing member funds from the DCO's own funds[2] and that the funds be held in a depository that acknowledges in writing that the funds belong to clearing members,[3] not the DCO. The proposed rule would require new regulations regarding the commingling of clearing member or proprietary funds;[4] limitations on the use of these funds;[5] and limit investments of the funds to the investments permitted for customer funds under Regulation § 1.25.[6] In addition, the proposed rule would permit DCOs to hold customer and clearing member funds at foreign central banks subject to certain requirements. Finally, the proposed rule would require DCOs to conduct a daily calculation and reconciliation of the amount of funds owed to customers and clearing members and the amount actually held for customers and clearing members.[7]

Commission regulations addressing the custody and safeguarding of customer funds have historically responded to the characteristics of the prevailing model in which all, or nearly all, clearing members of a DCO were FCMs acting as intermediaries. However, as noted in the proposed rule, the Commission has granted registration to a number of DCOs that clear directly for market participants without the intermediation of FCMs.[8] Additionally, many DCOs that use the traditional FCM clearing model have at least some non-FCM clearing members. The growth and evolution of the non-intermediated clearing model necessitates ensuring that our regulations establish a regime for the safeguarding and protection of clearing member funds that addresses the issues and risks presented.

Lastly, I am pleased that the proposed rule would, in effect, codify the no-action and exemptive relief previously given to four DCOs[9] by permitting DCOs to hold customer funds at foreign central banks and use a modified acknowledgment letter. The proposed rule would also extend these amended provisions to clearing member funds. Permitting DCOs to hold customer and clearing member funds at a central bank allows them to take advantage of the credit and liquidity risk management benefits that central bank accounts provide. This is sound policy and risk management.

I look forward to hearing the public's comments on the proposed rule. The 60-day comment period will begin upon the Commission's publication of the proposed rule on its website.

Appendix 3—Statement of Commissioner Kristin N. Johnson

Trust is the core issue that motivates today's notice of proposed rulemaking (Proposed Rule) regarding the protection of clearing member funds held by derivatives clearing organizations (DCOs) advanced by the Division of Clearing and Risk.

On March 30, 2022, I commenced service as a Commissioner of the Commodity Futures Trading Commission (Commission or CFTC). In a hearing before the Senate Agriculture, Nutrition, and Forestry Committee a few weeks earlier, I committed to promote the

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[1] *See* 7 U.S.C. 6d; 17 CFR 1.20 through 1.39. *See also* 17 CFR 22.1 through 22.17, and 30.7 (establishing similar regimes for cleared swaps customer collateral and foreign futures customer funds, respectively). DCOs that receive customer funds from their FCM clearing members must also apply many of these customer protection requirements.

[2] *See also* 17 CFR 1.20(a) (requiring FCMs to segregate customer funds from their own funds); 17 CFR 1.20(g)(1), 17 CFR 39.15 (b), 17 CFR 22.3(b)(1) (requiring DCOs to segregate the customer funds of their FCM clearing members from their own funds).

[3] *See also* 17 CFR 1.20, 22.5, and 30.7 (requiring an FCM to obtain an acknowledgment letter for futures customer funds, cleared swaps customer collateral, and foreign futures customer funds, respectively); 17 CFR 1.20(g)(4), 17 CFR 22.5 (requiring a DCO to obtain an acknowledgment letter from depositories).

[4] *See also* 17 CFR 1.20(e) and (g).

[5] *See also* 17 CFR 1.20(f).

[6] 17 CFR 1.25.

[7] *See also* 17 CFR 1.32, 1.33.

[8] Currently, CBOE Clear Digital, LLC; CX Clearinghouse, L.P.; LedgerX, LLC; and North American Derivatives Exchange Inc. allow individuals to be direct clearing members. *See* In the Matter of the Application of CBOE Clear Digital, LLC For Registration as a Derivatives Clearing Organization (June 5, 2023), *available at https://www.cftc.gov/IndustryOversight/IndustryFilings/ClearingOrganizations/39855;* In the Matter of the Application of CX Clearinghouse, L.P. For Registration as a Derivatives Clearing Organization (Aug. 3, 2018), *available at https://www.cftc.gov/IndustryOversight/IndustryFilings/ClearingOrganizations/16767;* In the Matter of the Application of LedgerX, LLC For Registration as a Derivatives Clearing Organization (Sept. 2, 2020), *available at https://www.cftc.gov/IndustryOversight/IndustryFilings/ClearingOrganizations/30998;* In the Matter of the Application of the North American Derivatives Exchange for Registration as a Derivatives Clearing Organization (Jan. 17, 2014), *available at https://www.cftc.gov/IndustryOversight/IndustryFilings/ClearingOrganizations/38.*

[9] *See* CFTC Letter No. 16–59 (June 21, 2016), *available at https://www.cftc.gov/csl/16-59/download* (granting an exemption to the Chicago Mercantile Exchange, Inc (CME) from the requirements of Regulation § 1.49(d)(3) to permit CME to hold customer funds at the Bank of Canada and permitting the use of a modified acknowledgment letter for customer accounts maintained by the CME. at the Bank of Canada); CFTC Letter No. 16–05 (Feb. 1, 2016), *available at https://www.cftc.gov/csl/16-05/download* (granting an exemption to Eurex Clearing AG (Eurex) from the requirements of Regulation § 1.49(d)(3) to permit Eurex to hold customer funds at Deutsche Bundesbank and permitting the use of a modified acknowledgment letter for customer accounts maintained by Eurex at Deutsche Bundesbank); and CFTC Letters No. 14–123 (Oct. 8, 2014), *available at https://www.cftc.gov/csl/14-123/download* and 14–124 (Oct. 8, 2014), *available at https://www.cftc.gov/csl/14-124/download* (granting an exemption to ICE Clear Europe Limited and LCH Ltd, respectively, from the requirements of Regulation § 1.49(d)(3) to permit ICE Clear Europe Limited and LCH Ltd to hold customer funds at the Bank of England and permitting the use of a modified acknowledgment letter for customer accounts maintained by ICE Clear Europe Limited and LCH Ltd, respectively, at the Bank of England).

integrity and stability of our markets and protect customers, particularly vulnerable and marginalized individual retail customers who participate in our markets. This commitment is among the most compelling reasons for my public service.

Over the last few decades, the Commission has adopted and refined protections for customers of intermediaries in our markets, namely by imposing rigorous obligations on intermediaries to segregate the funds of their customers, designating specific authorized depositories, and outlining permitted investments of customer funds.

Over the course of my tenure as a Commissioner, in numerous public speeches, statements, and interviews, I have called on the Commission to advance parallel customer protections for direct participants of non-intermediated clearinghouses registered with the Commission as DCOs.[1]

Today's Proposed Rule takes the first steps to close this gap. I support this Proposed Rule that advances the protection of clearing member proprietary funds held by a DCO. Specifically, the Proposed Rule:

- Requires a DCO to segregate clearing member proprietary funds from the DCO's own funds, hold such funds in an account labeled as proprietary funds, and obtain a written acknowledgment letter from a depository;
- Requires a DCO to treat clearing member proprietary funds as belonging to the clearing member while permitting the DCO to use clearing member proprietary funds as part of the DCO's default waterfall, consistent with the DCO's rules and agreement with its clearing members;
- Permits the DCO to commingle proprietary funds of multiple clearing members in a single omnibus account for convenience while prohibiting the commingling of proprietary funds with the DCO's own funds or futures commission merchant (FCM) customer funds;
- Permits the DCO to invest clearing member proprietary funds in highly liquid financial instruments pursuant to CFTC Regulation § 1.25 and requires DCOs to be responsible for investment losses; and
- Requires the daily reconciliation of balances of FCM customers and clearing members and segregated funds and the reporting of any discrepancies.

In my capacity as a Commissioner at the CFTC, I have strongly advocated for the development of these important regulatory protections that parallel existing protections in intermediated market structures. This Proposed Rule reflects the tremendous efforts of coordination among the Division of Clearing and Risk, the office of the Chairman, my office, and my fellow Commissioners' offices and their staff. Our collective engagement reflects years of dialogue with market participants, CFTC staff, other market and prudential regulators and engagement with the U.S. Department of the Treasury, members of Congress, academics, and public interest advocates.

This Proposed Rule offers a transformational reform that brings to markets in which clients may interact directly with a DCO foundational protections currently established in CFTC regulations and enforced in markets that rely on intermediaries.[2]

In a direct clearing model (non-intermediated market structure), clearing members are not customers of intermediaries,[3] and therefore, do not qualify for the regulatory protections available under part 1 of the Commission's regulations, including the requirement to separately account for and segregate customer funds as belonging to customers, deposit customer funds in specific locations, obtain written acknowledgment letters from depositories, and use customer funds as belonging to such customers.[4] The Proposed Rule reflects the historic development and evolution of markets and refers to the assets or funds on deposit from a customer of an intermediary as ''customer funds.'' The Proposed Rule adopts the term ''clearing member'' to describe those directly interacting with the clearinghouse and ''proprietary funds'' to describe clearing members' assets or funds on deposit.

The Commission acts to ensure parallel protections in the market for every asset class, adopting and seeking to implement the existing, well-tested, and effective regulatory framework under certain provisions of part 1 of the CFTC's regulation to the preservation of clearing member proprietary funds. This may be increasingly important as the Commission anticipates market participants' introduction of novel financial products.

In adopting the Proposed Rule, the Commission seeks to ensure that clearing member proprietary funds are easily identified and receive the proper treatment in the event the DCO enters an insolvency or bankruptcy proceeding.

Today, the Commission takes a first step to ensure that there are parallel protections for both the ''customers'' of intermediaries, and the ''clearing members'' of DCOs who may include (in a direct clearing model) individual retail market participants.

Regulatory Gap for Direct Participants in Non-Intermediated Clearing Models

Section 4d of the Commodity Exchange Act (CEA) and parts 1, 22 and 30 of the Commission's regulations establish a comprehensive regime to safeguard the funds belonging to customers of FCMs in the context of intermediated DCOs.

The customer protection regime requires FCMs to segregate customer funds from their own funds, deposit customer funds under an account name that clearly identifies them as customer funds, and obtain a written acknowledgment from each depository that holds customer funds. The customer protection regime does not apply to the funds of a person that clears trades directly through a DCO and is a ''clearing member'' because such market participants do not meet the legal and regulatory definitions of the term ''customer.''

Therefore, direct participants that are not ''customers'' of intermediaries may not benefit from the Commission's well-established customer protection regime.

The Commission seeks to offer parallel customer protections to direct participants in non-intermediated DCOs—clearing members—to preserve the value of their proprietary funds, mitigate the risk of loss, and improve the availability of those funds for return to the clearing member should the DCO fail. Section 5b(c)(2)(F) of the CEA (Core Principle F) and CFTC Regulation § 39.15 apply to the treatment of clearing members' funds and assets held by a DCO.

CFTC regulations require DCOs to establish standards and procedures designed to protect and ensure the safety of proprietary funds and require DCOs to hold proprietary funds in a manner that will minimize the risk of loss or delay in access by the DCO to the proprietary funds. Section 8a(5) of the CEA grants the Commission authority to adopt rules it determines are reasonably necessary to effectuate the DCO core principles.[5] The safeguards in this Proposed Rule are indeed reasonably necessary to effectuate DCO Core Principle F.[6]

In light of the lack of parallel protections for ''clearing members'' who directly interface with DCOs, there is a significant gap in the Commission's ability to ensure the protection and preservation of funds or assets of direct participants. This Proposed Rule closes the gap.

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[1] Kristin N. Johnson, Commissioner, CFTC, Statement on Preserving Trust and Preventing the Erosion of Customer Protection Regulation (Nov. 3, 2023), *https://www.cftc.gov/PressRoom/SpeechesTestimony/johnstatement110323;* Kristin N. Johnson, Commissioner, CFTC, Keynote Address at the World Federation of Exchanges Annual Meeting: Creating Rules of the Road for (Dis)Intermediated and (De)Centralized Markets (Sept. 21, 2023), *https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson5;* Kristin N. Johnson, Commissioner, CFTC, Keynote Address at Salzburg Global Finance Forum: Future-Proofing Financial Markets Regulation (June 29, 2023), *https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson4;* Kristin N. Johnson, Commissioner, CFTC, Statement Calling for the CFTC to Initiate A Rulemaking Process for CFTC-Registered DCOs Engaged in Crypto or Digital Asset Clearing Activities (May 30, 2023), *https://www.cftc.gov/PressRoom/SpeechesTestimony/johnsonstatement053023;* Kristin N. Johnson, Commissioner, CFTC, Keynote Address at Digital Assets @Duke Conference, Duke's Pratt School of Engineering and Duke Financial Economics Center: Mitigating Crypto-Crises: Applying Lessons Learned in Governance, Risk Management, and Compliance (Jan. 26, 2023), *https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson2;* Kristin N. Johnson, Commissioner, CFTC, Statement in Support of Notice of Proposed Amendments to Reporting and Information Requirements for Derivatives Clearing Organizations (Nov. 10, 2022), *https://www.cftc.gov/PressRoom/SpeechesTestimony/johnsonstatement111022b.*

[2] Although the focus of my statement is on direct participants in the context of non-intermediated clearing models, the Proposed Rule has broader implications. It applies to the proprietary funds of FCMs in the context of an intermediated model as well.

[3] The term ''customer'' is generally reserved for the individuals or businesses that rely on an intermediary such as an FCM to facilitate a transaction. Where a DCO offers direct services, the individuals or businesses engaged with the clearinghouse are generally described as ''members.''

[4] 17 CFR 1.20.

[5] 7 U.S.C. 12a(5).

[6] 7 U.S.C. 7a–1(c)(2)(F).

The Collapse of the FTX Complex

The bankruptcy of FTX illustrates the magnitude of the losses that customers may experience in the absence of regulation that prohibits commingling of client assets or imposes obligations to segregate client assets for the benefit of customers.

In November 2022, FTX Trading Ltd. d/b/a/FTX.com (FTX), Alameda Research LLC (Alameda) and approximately one hundred and thirty FTX-affiliated entities filed for bankruptcy in the United States. Contemporaneous with the bankruptcy filing, the Department of Justice (DOJ), Commission, and other federal regulators began to investigate claims that FTX employed omnibus accounts that commingled customer funds with the FTX enterprise resources, allegedly misappropriating more than $10 billion in client assets.[7]

The CFTC has alleged that Mr. Bankman-Fried and FTX solicited customers on the premise that the FTX platform could be trusted.[8] The CFTC's complaint alleges that despite these statements, FTX permitted Alameda to access customer deposits and commingle customer assets with Alameda's proprietary assets, which were used for Alameda's and its executives' own business operations, personal purchases, acquisitions of other businesses, and risky investments.

While soliciting customers to trust in the integrity of its business, FTX is alleged to have siphoned off billions in customer deposits.

The Benefits and Limits of Alternatives to Regulation: LedgerX

LedgerX, a non-intermediated clearinghouse registered with the Commission as a DCO and owned by parent company FTX, illustrates the importance of the protections advanced in the proposed rulemaking.

On October 25, 2021, FTX.US acquired LedgerX through a Delaware company doing business as West Realm Shires Services Inc. (West Realm Shires). When parent company FTX filed a petition seeking bankruptcy protection on November 11, 2022, the bankruptcy court declared LedgerX a non-debtor entity. LedgerX was one of the few assets within the network of FTX-affiliated companies that remained solvent.

In 2017, years before the acquisition by West Realm Shires, LedgerX submitted an application with the Commission seeking authorization to register as a DCO offering fully-collateralized (crypto) derivatives contracts. The Commission's order, amended in September 2020, imposed a number of important conditions, including a condition requiring LedgerX to ''at all times maintain funds of its clearing members separate and distinct from its own funds.'' [9]

When FTX filed for bankruptcy protection, the conditions in the LedgerX order and Commission staff's enforcement of compliance with the conditions contributed significantly to the preservation of LedgerX's customer property.[10] The LedgerX order serves as an important precedent for the framework the Commission must consider when adopting parallel protections for DCO direct clients, particularly retail clients, in the non-intermediated context.

In 2022, LedgerX applied to amend its order of registration as a DCO to allow it to modify its existing non-intermediated model to clear margined products for retail participants while continuing with a non-intermediated model.

In May 2022, the Commission held a convening to examine the implications of a derivatives clearing market structure that offers direct-to-client services. The convening outlined important issues addressed in this Proposed Rule.

The Rise of Non-Intermediated DCOs

DCOs play an increasingly important role in the financial markets, though DCOs have been central to facilitating access to the derivatives market since the founding of our nation and the futures market. The Dodd-Frank Act introduced a framework for the regulation of swaps that imposed central clearing and trade execution requirements, registration and comprehensive regulation of swap dealers, and recordkeeping and real-time reporting requirements.

The clearing market structure has evolved from a traditional clearing model, where an FCM served as an intermediary in transactions between a customer and a DCO, to a direct clearing model, where the transactions are between the customer and the DCO directly.[11] As I have previously stated:

FCMs solicit and accept orders for derivatives transactions on behalf of customers and receive customer funds to margin, guarantee, or secure derivatives transactions. FCMs are subject to significant regulatory requirements, including customer protection safeguards, safety and soundness capital requirements, risk management, conflicts of interest requirements, and anti-money laundering and know-your-customer programs.[12]

At the core, in a traditional, intermediated model, customer protection rules apply to FCMs and require FCMs to segregate customer funds, including when such funds are held at a DCO, among other safekeeping measures.

In newly emerging disintermediated market structures, the absence of an intermediary creates a gap in the application of the CFTC's customer protection rules because key customer protections are triggered by the presence of a ''customer,'' as defined by the CFTC, and an FCM that facilitates the clearing of a customer's derivatives transactions at the DCO.[13]

The Proposed Rule achieves parallel protections by applying key aspects of the customer protection regime to proprietary funds of clearing members and imposing parallel asset protection requirements on DCOs—both in intermediated and non-intermediated clearing models.

In addition, the Proposed Rule contains important requests for comments, soliciting feedback and engagement from the industry on a number of potential future actions.

Future Rulemaking: Anti-Money Laundering Requirements for DCOs

Anti-money laundering (AML) regulations ensure that all transactions in our markets are subject to identification verification standards and prevent illicit activity in our markets.

It is imperative that the Commission continue to engage with the U.S. Department of Treasury to ensure that AML regulations apply to all applicable market structures involving activities that create obligations to comply with AML regulations.

The Proposed Rule includes a request for comment that asks how might the Commission ensure AML and KYC compliance for DCOs that offer direct clearing services (a market structure that would not include FCMs or other intermediaries that are typically directed to create Bank Secrecy Act compliance programs)? Should DCOs offering direct-to-customer services to non-eligible contract participants or retail customers be required to comply with AML and KYC requirements?

Following consultation with the U.S. Department of Treasury, the Commission may need to engage in a formal rulemaking that imposes AML requirements on DCOs.[14]

Technical Clarifications in CFTC Regulation 1.25

The Proposed Rule allows DCOs to invest proprietary funds in permitted investments pursuant to CFTC Regulation § 1.25. The drafting cross-refers to CFTC Regulation § 1.25, but the Commission is currently engaged in a proposed rulemaking that amends CFTC Regulation § 1.25. My supporting statements to amendments to CFTC Regulation § 1.25 note that it is imperative that the Commission consider an equivalent application of CFTC Regulation

[7] FTX Demonstrates Need for More Oversight: CFTC's Johnson (Bloomberg TV Nov. 9, 2022), *https://www.bloomberg.com/news/videos/2022-11-09/ftx-demonstrates-need-for-more-oversight-cftc-s-johnson.*

[8] *See* Commodity Futures Trading Commission v. Samuel Bankman-Fried, FTX Trading Ltd d/b/a FTX.com, and Alameda Research LLC (S.D.N.Y. 2022) (Compl.).

[9] Press Release No. 8230–20, CFTC, CFTC Approves LedgerX, LLC to Clear Fully-Collateralized Futures and Options on Futures (Sept. 2, 2020), *https://www.cftc.gov/PressRoom/PressReleases/8230-20.*

[10] LedgerX's ''customers'' are clearing members as described above and would not otherwise qualify for protections under parts 1 and 22 of the Commission's regulations.

[11] Currently, CBOE Clear Digital, LLC, CX Clearinghouse, L.P.; LedgerX, LLC, and North American Derivatives Exchange Inc. allow individuals to be direct clearing members. Additionally, ICE NGX Canada Inc. clears physically delivered energy contracts directly for clearing members with a net worth exceeding CAD $5,000,000 or assets exceeding CAD $25,000,000.

[12] Kristin N. Johnson, Commissioner, CFTC, Keynote Address at the World Federation of Exchanges Annual Meeting: Creating Rules of the Road for (Dis)Intermediated and (De)Centralized Markets (Sept. 21, 2023), *https://www.cftc.gov/PressRoom/SpeechesTestimony/opajohnson5.*

[13] *See supra* note 1.

[14] I note that the Commission has negotiated the inclusion of AML requirements in the registration order for several DCOs, including CBOE Clear Digital, LLC and LedgerX LLC. I commend DCOs that have implemented these conditions.

§ 1.25 in the context of a DCO's investment of the member property of retail customers.[15]

Comments to the Proposed Rule should indicate how best to ensure equivalence.[16]

Periodic Reporting of Daily Reconciliations

The Proposed Rule requires a DCO to notify the CFTC of discrepancies in its daily calculations. The Commission exercises direct oversight with respect to DCOs, meaning DCOs are not supervised by self-regulatory organizations (SRO) or designated self-regulatory organizations (DSRO). The Commission performs the examination functions. DCOs may benefit from a similar oversight as FCMs, which involves a regular reporting of reconciliation and not just the reporting of discrepancies.[17] DCOs are subject to robust Commission regulations, examinations, and oversight. It will be important to receive comments from all stakeholders regarding the reporting of DCO reconciliations.

Conclusion

It is my hope that this Proposed Rule will move forward so that we can begin to introduce greater protections for clearing members, including retail customers. I thank the Division of Clearing and Risk—Clark Hutchinson, Eileen Donovan, Theodore Polley, and Scott Sloan—for their tremendous efforts in advancing this very important, significant, and transformative Proposed Rule.

Appendix 4—Dissenting Statement of Commissioner Christy Goldsmith Romero

This week, the Commission in a split vote, on which I dissented, approved the first proposed rule related to FTX's bespoke direct-to-retail market structure. That structure removed the intermediary (known as a futures commission merchant or FCM) where the CFTC's customer protection and anti-money laundering regimes sit. I believe that before my tenure, the Commission made a mistake in approving two clearinghouses (LedgerX owned by FTX before FTX's bankruptcy, and Nadex, which is now Crypto.com) for this direct-to-retail market structure before analyzing and addressing the risks of a lack of AML requirements, customer protections, and other checks and balances.

After FTX's bankruptcy, the CFTC is now trying to remedy the consequences of its mistake, one of which is that retail participants do not have customer protections under this model because they lose their status as ''customers,'' instead becoming ''clearing members.'' In the open meeting, the CFTC staff said that the proposed rule was an attempt to provide parallel protections to those individuals who we would normally consider to be ''customers,'' but who now are ''members.'' But it fails to provide parallel protections to retail participants. The proposed rule attempts to port over to this direct-to-retail model one protection (segregation of funds, which I support) without the other protections, or checks and balances present in an intermediated model with an FCM.

I do not know if it is even possible for the CFTC to give parallel protections to retail participants under a direct-to-retail model, because the Commodity Exchange Act and Commission rules contemplate the presence of an FCM. Additionally, anti-money laundering controls sit with the FCM, and clearinghouses have no AML requirements. AML is a critical guardrail for national security and customer protection. The Financial Stability Oversight Council's (FSOC) 2023 Annual Report says, ''Crypto-assets remain susceptible to misuse by terrorist organizations and other sanctioned individuals' efforts to move funds in support of illicit activities.'' [1]

I do not believe that the rule, which was rushed in three weeks at the end of the year, is sufficient to remedy that earlier mistake. The rule would benefit from more time than three weeks.[2] We should step back and assess the impact of changing the tried and true market structure by removing the FCM. Without addressing a number of serious issues, the rule may give a false sense of security about the safety of a direct-to-retail model, while hiding the threats. The CFTC staff in the open meeting said that there are a number of applications pending for this model and they expect more. Without an assessment, we may just move risk around the system, while creating an illusion of safety.

Such an assessment would implement a recommendation from the FSOC. In its October 2022 Report on Digital Asset Financial Stability Risks and Regulation, the FSOC recommended that member agencies (including the CFTC) ''assess the impact of vertical integration (*i.e.,* direct access to markets by retail customers) on conflicts of interest and market volatility, and whether vertically integrated market structures can or should be accommodated under existing laws and regulations.'' The CFTC has not conducted this analysis, leaving the CFTC out of step with FSOC's recommendation.

I invite the public to watch this week's CFTC public meeting, which showed that there are serious issues that the CFTC should assess and address before accommodating this crypto industry model.[3] The first is whether the CFTC can impose AML requirements on clearinghouses to prevent retail funds from being commingled with funds belonging to terrorists, cyber criminals and drug cartels—a question on which the CFTC is in the middle of its analysis.[4] This rule also does not require disclosures to inform retail participants that they are giving up customer protections and bankruptcy customer priority, instead taking the status of ''clearing members,'' similar to the roles and duties that normally falls to an FCM such as a large bank.[5] The rule also would not limit clearinghouses to depositing these ''member'' funds in only banks or trusts, as FCMs are required, which would allow the clearinghouse to deposit funds with an unregulated affiliate.[6]

Instead of learning the lessons of FTX, I worry that rushing to approve this proposal leaves the Commission out of step with other federal financial regulators that are asking whether a direct-to-retail model can or should be accommodated under current law, and assessing its implications. I also worry that this proposed rule will form the basis for the CFTC to approve more crypto companies for this direct-to-retail model under the false impression that this model is safe. I am concerned about rushing this rule through at the end of the year in three weeks' time, when these are critical post-FTX issues. I must dissent.

The CFTC's Laws and Regulations Protect Customers and Guard Against Illicit Finance Through a Market Structure That Has Stood the Test of Time

Clearinghouses play an important public interest role—they are critical market infrastructure intended to foster financial stability, trust, and confidence in U.S. markets. Dodd-Frank Act reforms increased central clearing, thereby increasing financial stability. Those reforms also concentrated risk in clearinghouses. With that concentrated risk, it is critical that the Commission maintain vigilance in its oversight over clearinghouses to identify and monitor risk and promote financial stability. This is most important for the CFTC's monitoring of systemic risk.

FCMs also play an important role. First, they stand as a shock absorber, providing additional financial support to the clearinghouse to safeguard the financial system. Second, because they are customer-facing, they are responsible for providing customer protections. The customer protection regime under the Commodity Exchange Act and CFTC rules are found in

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[15] Kristin N. Johnson, Commissioner, CFTC, Statement on Preserving Trust and Preventing the Erosion of Customer Protection Regulation (Nov. 3, 2023), *https://www.cftc.gov/PressRoom/SpeechesTestimony/johnstatement110323.*

[16] In footnote 45 in the Proposed Rule, the Commission notes: Proposed § 39.15(e) cross-references § 1.25, which provides that an FCM or DCO may invest ''customer money'' in certain instruments. The regulatory text of § 1.25, however, does not refer to ''proprietary funds.'' The Commission recently approved proposed amendments to § 1.25. Based on comments received on those proposed amendments, if appropriate, the Commission may consider further amending § 1.25 either in the final rule or as a re-proposed rule to ensure that the regulatory text provides clarity on the application of § 1.25 to a DCO's investment of ''proprietary funds,'' as permitted under § 39.15(e).

[17] *See supra* note 15.

[1] *See* Financial Stability Oversight Council, *Annual Report 2023, https://home.treasury.gov/system/files/261/FSOC2023AnnualReport.pdf,* (December 14, 2023).

[2] Commissioners received it late Wednesday, the day before Thanksgiving, three weeks before the meeting, with no prior engagement with Commissioners on the content of the rule. Because, it raised serious questions, I asked that it be pulled from the meeting and that Commissioners would have more time. My request was denied with no reason given.

[3] *See* CFTC to Hold and Open Commission Meeting on December 13, *https://www.youtube.com/watch?v=zANNkH5STzk,* (December 13, 2023) at 2:12:00.

[4] *See Id.* at 3:07:40–3:08:40; 3:16:52–3:17:40.

[5] *See Id.* at 2:37:45–2:39:10.

[6] *See Id.* at 2:44:20–2:44:55.

requirements for FCMs. In its October 2022 report, the FSOC discussed: [7]

The current framework of markets regulation is generally structured around the requirement or presumption that markets are accessed by retail customers through intermediaries such as broker-dealers or future commission merchants (FCMs). Those intermediaries perform many important functions, such as processing transactions, acting as agent and obtaining best execution for customers, extending credit, managing custody of customer assets, ensuring compliance with federal regulations, and guaranteeing performance of contracts. As a result of the special role these intermediaries play in traditional market structures, they are subject to unique regulations often focused on customer protections, such as regulations around conflicts of interest, suitability, best execution, segregation of funds, disclosures, and fitness standards for employees.

Upending this traditional market structure, without analysis, can have unintended consequences.

There Are No Customers or Customer Protections in a Direct-to-Retail Model

The CFTC does not require disclosures to retail participants about the consequences of participating in this model. In the direct-to-retail model, customers lose their status as ''customers,'' thereby losing all of the customer protections in the CFTC's regulatory framework, and instead take the status of ''clearing members,'' raising a host of issues. It is unlikely that retail customers know and understand that they gave up all of their customer protections. It is also unlikely that retail customers know and understand that in the event of a bankruptcy, they lose their ''customer'' priority in a distribution. It is also a question whether these retail customers would have to take on the FCM's shock absorbing role.

When FTX's application for authority to issue margined crypto products [8] was pending before us, on May 25, 2022, the CFTC held a roundtable on the disintermediated model. We heard then and later received comments from many stakeholders expressing serious concerns over this model.

The FSOC also expressed concerns over direct-to-retail models, warning in its October 2022 report:

Financial stability implications may arise from vertically integrated platforms' approaches to managing risk . . . Direct exposure by retail investors to rapid liquidations of this kind also raises investor and consumer protection issues. Platforms dealing directly with retail investors would need to ensure the provision of adequate disclosures, responsibilities otherwise taken on by intermediaries. The vertically integrated model presents conflict of interest. . . . [9]

The CFTC has not conducted the assessment that FSOC recommended more than one year ago. It is an open question of whether the CFTC should accommodate these direct-to-retail models given how much is lost, including the loss of the CFTC's customer protection regime and AML regime.

This Rushed Proposed Rule Does Not Replace Customer Protections, AML, and Other Checks and Balances, Lost by Removing the FCM

The CFTC has had a year to learn the lessons from FTX's application and assess direct-to-retail models as FSOC recommended. I am strongly in favor of strengthening customer protections, particularly for retail, including banning commingling of customer funds,[10] but this proposal is not about ''customer'' funds. In a direct-to-retail model, legally, there are no customers. I am not in favor of retail losing their status as customers and losing customer protections.[11] The proposed rule would be the first post-FTX rule on this model, but it was rushed and as a result, lacks sufficient analysis.

The question raised by the FSOC of whether we should accommodate this market structure from crypto is a critical one to answer. The deliberations at last week's open meeting confirmed that it may not be possible to give retail participants the same protections in a disintermediated model as in the intermediated model. And just last week, the FSOC Annual Report again warned about the vulnerabilities arising from collapsing regulatory functions into a single entity, including ''conflicts of interest, inappropriate use of clients' funds, and market manipulation.'' [12]

This rule would not resolve the FSOC's concerns. It does not contain the assessment needed as to risk and what regulatory requirements would be required in a direct-to-retail model to meet a ''same risk, same regulatory outcome approach'' that makes up for the checks and balances lost from removing the FCM. That would require establishing the basic foundation of customer protections and guardrails (including against illicit finance). Without that analysis, this proposal puts the CFTC out of step with other federal financial regulators.

The Direct to Retail Model Raises Many Questions the CFTC Has Not Adequately Considered

My concerns about a direct-to-retail model include:

1. *Losing status of ''customer'':* Regular people lose their protections as ''customer'' under the law in the direct-to-retail model. Instead, they are treated as clearinghouse ''members,'' a role that traditionally has been reserved for FCMs, which include the largest financial institutions. The regular person trading in bitcoin futures or event contracts is not the same as J.P. Morgan or Wells Fargo. Clearing members have obligations to the clearinghouse to stave off clearinghouse failure. This presumably would also be the case for retail acting as members. I have serious concerns about whether retail participants understand what they are giving up and that this is the role they are taking on. The CFTC should consider requiring plain English disclosures delivered in a manner that actually informs people of their rights and risks, as opposed to a click-wrap agreement or lengthy legal document.

2. *No AML/CTF/KYC:* Because the Commodity Exchange Act envisions the presence of an FCM that has significant responsibilities, including anti-money laundering/Know Your Customer requirements, clearinghouses do not have currently have any obligation to implement Anti-Money Laundering, Countering Terrorist Financing or Know Your Customer safeguards, opening up our market to illicit finance. The Commission staff are still analyzing what safeguards the CFTC can require.

3. *No requirements to deposit funds in a regulated entity:* FCMs are required to hold customer funds at a bank, trust or a CFTC-regulated entity. That requirement is absent for member funds and is not added in this rule, allowing clearinghouses to place the funds anywhere, even an affiliate. That means that FTX's registered clearinghouse LedgerX could have deposited retail ''member'' funds with Alameda, the trading firm involved in the loss of billions of customer funds.

4. *No checks and balances:* FCMs who interface with customers have regulatory requirements for customer protections, and have incentives to monitor the clearinghouse to make sure it is not misusing customer funds. This role sits empty in a direct-to-retail model.

5. *No customer bankruptcy priority:* In the case of the clearinghouse bankruptcy under this model, the bankruptcy code would not consider retail participants to be ''customers,'' and they would not receive the customer priority in any distribution.

More Time Is Needed To Analyze New AML Requirements for Clearinghouses

I want to call special attention to the proposal's lack of anti-money laundering (AML) and know your customer (KYC) requirements for clearinghouses. Without

[7] *See* Financial Stability Oversight Council, *Report on Digital Asset Financial Stability Risks and Regulation, https://home.treasury.gov/news/press-releases/jy0986,* (October 3, 2022).

[8] The CFTC conditioned LedgerX's registration on the trades being fully collateralized. FTX applied to eliminate this condition to issue margined products directly to customers. I was not in favor of FTX's application, and signaled that weeks before FTX's failure. *See* CFTC Commissioner Christy Goldsmith Romero, Financial Stability Risks of Crypto Assets: Remarks before the International Swaps and Derivatives Association's Crypto Forum 2022, *https://www.cftc.gov/PressRoom/SpeechesTestimony/oparomero3,* (Oct. 26, 2022).

[9] *See* Financial Stability Oversight Council, *Report on Digital Asset Financial Stability Risks and Regulation, https://home.treasury.gov/news/press-releases/jy0986,* (October 3, 2022).

[10] *See* CFTC Commissioner Christy Goldsmith Romero, Crypto's Crisis of Trust: Lessons Learned from the FTX's Collapse, *https://www.cftc.gov/PressRoom/SpeechesTestimony/oparomero5#_ftnref10,* (Jan 18, 2023) (I warned in the aftermath of FTX's collapse about how commingling presents ''a significant threat to customers that can leave customers in a musical chairs dilemma.'')

[11] All participants, retail or institutional, are considered clearinghouse members. This is not some technical, legalistic distinction. Our laws will treat those retail participants the same as the largest financial institution.

[12] *See* Financial Stability Oversight Council, *Annual Report 2023, https://home.treasury.gov/system/files/261/FSOC2023AnnualReport.pdf,* (December 14, 2023).

these protections, retail funds may be at serious risk of seizure if they are commingled with funds of terrorist organizations, drug cartels, or other illicit actors. It is well known that cryptocurrency transactions are used to finance cybercrime, terrorism, sanctions avoidance, and the drug trade.[13] News reports suggest that Hamas used cryptocurrency to receive significant funding preceding its October 7th attacks.[14]

FCMs have regulatory responsibilities to implement AML and KYC procedures, to perform standardized diligence, to verify customer identify and to assess whether customers may be known or suspected terrorists or sanctioned individuals. That AML/CTF/KYC responsibility puts them at the front lines of combating illicit finance. The legal requirement also means the CFTC and the National Futures Association can examine how FCMs are implementing required anti-money laundering controls. That makes it more likely we will identify material weaknesses before an FCM becomes a conduit for illicit funds. Reporting requirements also may make it easier for law enforcement to identify suspicious patterns and investigate them.

The proposed rule would not impose any AML responsibilities for clearinghouses. Under the proposal, retail participants could have their funds commingled with those deposited by terrorist or cybercriminals, including state-sponsored cybercrime gangs. In a seizure, the FBI, other law enforcement or Treasury would seize all of the funds. I would consider that a very serious risk to member funds, one that the proposal does not address.

At the open meeting, when I asked whether the CFTC could impose AML requirements on clearinghouses, the CFTC's General Counsel said that they had not completed their analysis, but had not foreclosed the possibility that the CFTC has authority to impose AML requirements on clearinghouses and that ''it has some promise.'' [15] The proposed rule contained no analysis of this issue. That was one of the reasons why I asked that this proposed rule be pulled off of the meeting, so that the CFTC could continue to work on that analysis and include AML requirements. My request was denied. At the open meeting, the Office of the General Counsel said that while the analysis was ongoing, ''it was decided on a policy basis that we save that for another day.'' [16] That was not a policy decision made by a majority of the Commission as that was never before us.

More Analysis Is Needed To Determine Whether Other Customer Protections and Other Checks and Balances Can Be Provided to Clearinghouses in the Direct-to-Retail Model

This proposal would impose some safeguards for member funds held at a disintermediated clearinghouse by banning commingling and imposing certain limits on how funds can be used.[17] But it is narrowly targeted, and serious gaps remain, leaving the proposed requirements far from the same regulatory outcome as the traditional model.

Location of Deposits

FCMs and clearinghouses in the traditional model are only permitted to deposit customer funds with regulated entities—a bank or trust, a clearinghouse, or another FCM—giving the CFTC visibility into customer funds, and layering customer protections. This proposal would not have the same limitation because these would not be ''customer'' funds. This proposed rule could benefit from adding in the same requirement. Otherwise, member funds could be deposited with an unregulated entity, including an unregulated affiliate with conflicts of interest, that introduces more risk, leaving the CFTC blind to risk.[18] At the meeting, the Commission heard from staff that they were concerned about whether the current requirement for where FCM's can deposit funds provided sufficient protections for customers.[19] The proposal does not have any analysis of these concerns, likely because it was rushed.

Oversight From Checks and Balances

The proposal also does not replicate another important guardrail of traditional market structure: checks and balances. Separate clearinghouses and brokers (FCMs) create natural bumper guards not present in the direct-to-retail model. However, the proposed rule contains no analysis of the impacts of moving forward with this non-traditional model. Instead, at the open meeting, comments were made to the effect about how certain companies have determined that they prefer this market structure, and the staff expect there to be more applications for this model. It is concerning to me that this rushed rule may be used to facilitate expanding the use of this model, which is not responsible without further assessment as FSOC recommended.

Bankruptcy Priority for Customers

The failures of FTX and Celsius show bankruptcy priority is a serious issue, especially in the retail space. Retail participants do not have the same ability as institutions to withstand losses or delay. Existing bankruptcy law assumes a traditional market structure.[20] Customers take priority over FCMs in distributions.[21] Retail participants in a disintermediated clearing model may not realize that they are losing bankruptcy priority as customers because the CFTC requires no disclosures. This loss of priority is not discussed in the proposal. We should consider requiring clear disclosures.

Conclusion

It is not responsible to rush our first post-FTX rule on direct-to-retail models in three weeks at the end of the year, without conducting the necessary assessment of the impact of this model as FSOC recommended more than one year ago. I asked for this proposed rule to be pulled off this open meeting. I am concerned about the lack of that assessment, including but not limited to specific analysis of: (1) whether the CFTC should require disclosures to inform retail participants that they are losing their customer status in this direct-to-retail model, disclosures that describes their rights and risks; (2) whether it is possible to take a same risk, same regulatory outcome approach on issues such as where funds can be deposited and other concerns raised in comments to the FTX application about these models; and (3) whether the CFTC can require clearinghouses to conduct AML/CTF/KYC. Although there are some existing retail participants currently in this model, at the open meeting, the staff said that they were already ensuring that the two crypto direct-to-retail clearing houses were taking steps aligned with the proposed rule.

Thirteen months after the collapse of FTX, I am glad that we are starting to address the direct-to-retail model as I have serious concerns about it, and remain concerned about any expansion of that model. However, the risks to retail, financial stability, market integrity and our national security, are too great to rush this in three weeks without analysis as FSOC recommended. Therefore, I must dissent.

Appendix 5—Concurring Statement of Commissioner Caroline D. Pham

I concur on the Notice of Proposed Rulemaking on Protection of Clearing

[13] *See* Attorney General, U.S. Department of Justice, *The Role of Law Enforcement in Detecting, Investigating, and Prosecuting Criminal Activity Related to Digital Assets, https://www.justice.gov/d9/2022-12/The%20Report%20of%20the%20Attorney%20General%20Pursuant%20to%20Section.pdf,* (Sept. 6, 2022).

[14] Wall Street Journal, ''Hamas Needed a New Way to Get Money From Iran. It Turned to Crypto,'' *https://www.wsj.com/world/middle-east/hamas-needed-a-new-way-to-get-money-from-iran-it-turned-to-crypto-739619aa?mg=prod/com-wsj,* (Nov. 12, 2023). The CFTC has brought enforcement actions against two spot crypto exchanges, BitMEX and Binance, for failing to follow AML controls. Our action against Binance found that instead of implementing those controls, Binance turned a blind eye and even advised users to circumvent the superficial controls it claimed to have.

[15] CFTC to Hold and Open Commission Meeting on December 13, *https://www.youtube.com/watch?v=zANNkH5STzk,* (December 13, 2023) at 3:16:20–3:17:50.

[16] *Id.*

[17] It would require direct clearing customer funds to be held in a separate account from the clearinghouse's funds, in an account identifying them as belonging to the customers. Those funds could only be used on behalf of the customer, not on behalf of the company or its affiliates. The funds would need to be accounted for daily, and reconciled with the total amount the clearinghouse owes its customers. It would also limit what clearinghouses can invest those funds in, with the same limits that apply to brokers today under Commission Regulation § 1.25. These protections are largely in line with the representations made by FTX about LedgerX's rules in its application.

[18] *See* Commissioner Christy Goldsmith Romero, Crypto's Crisis of Trust: Lessons Learned from the FTX's Collapse, *https://www.cftc.gov/PressRoom/SpeechesTestimony/oparomero5#_ftnref10,* (Jan 18, 2023).

[19] CFTC to Hold and Open Commission Meeting on December 13, *https://www.youtube.com/watch?v=zANNkH5STzk,* (December 13, 2023) at 2:42:40–2:46:08.

[20] Called ''customer funds other than member property.'' *See* CFTC, Bankruptcy Regulations, 86 FR 19324 at 19365 (April 13, 2021).

[21] *Id.* at 19378. There are also rules allocating customer property among account classes.

Member Funds Held by Derivatives Clearing Organizations (DCOs) (Proposed Amendments to Clearing Member Funds Requirements or Proposal) because it seeks to protect the proprietary funds of futures commission merchants (FCMs), and I understand that it essentially codifies the existing good practices most of the CFTC's registered DCOs already follow. However, with respect to retail participants, I believe that the Commission should consider whether there should be a new registration category for direct clearing retail DCOs. I also renew my call for an Office of the Retail Advocate. Both of these steps would better ensure customer protection in our regulated markets.

I would like to thank Scott Sloan, Tad Polley, Eileen Donovan, and Clark Hutchison in the Division of Clearing and Risk for their work on the Proposal. I appreciate the time staff took to answer my questions.

Existing Protections for Both House Accounts and Customer Funds Have Worked Well for Decades Without Issues

First, to be clear, the Commission already has extensive rules in place for protecting FCM customer funds.[1] Arguably, it is one thing the CFTC is best-known for. For these FCM customers, FCMs must segregate customer funds from their own funds, deposit customer funds under an account name that clearly identifies them as customer funds, and obtain a written acknowledgment from each depository that holds customer funds.[2] This customer protection regime also establishes accounting and reporting requirements applicable to customer funds, and limits both the types of investments that can be made with customer funds and the type of depositories that can hold customer funds.[3]

With respect to clearing member proprietary funds or house accounts,[4] consistent with our system of self-regulation set forth in the Commodity Exchange Act, DCOs have to establish standards and procedures designed to protect and ensure the safety of proprietary funds, and hold them in a manner that will minimize the risk of loss or delay in access by the DCO to the funds.[5] DCOs also have to invest clearing member proprietary funds in instruments with minimal credit, market, and liquidity risks.[6]

Today, the Commission is proposing new regulations for the protection of clearing member funds, based largely on the customer segregation requirements for FCMs and DCOs in Regulation § 1.20.[7] The Proposal explains that new safeguards are needed for the direct participants at DCOs because (1) the Commission has registered a number of DCOs that clear directly for market participants without the involvement of FCMs (*i.e.,* these DCOs are only clearing for individuals), and (2) many DCOs that use the traditional FCM clearing model have at least some non-FCM clearing members.

While I appreciate the intent of today's Proposal, with respect to DCOs that have FCMs as clearing members, I believe we must be careful in changing a regulatory framework that has served our markets without any real issues for decades. I believe that the Commission must have had a good reason when it originally distinguished between house accounts and customer funds. There have been a lot of spectres raised today that have nothing to do with our actual regulated markets. Speaking from a practical perspective, I worry that ''if it ain't broke, don't fix it.'' For example, we should recognize that DCOs might have operational reasons for the accounts distinction in our current rules. I encourage the public to comment on whether the Proposal is workable for DCOs in that regard.

There Should Be a New Registration Category for Direct Clearing Retail DCOs and an Office of the Retail Advocate To Ensure Customer Protection

I share the concerns where DCOs clear directly for retail participants without FCMs. I would go further and state that I am concerned that the Proposal's targeted approach may miss larger issues. When a DCO faces direct retail participants that our rules categorize as clearing members, we effectively allow a model that eliminates intermediaries and the protections that they provide for customers. Intermediaries perform critical functions, and that is why markets all over the world require registered brokers and stringent protections for customers.

If the Commission anticipates this type of DCO clearing model to proliferate, we should step back and consider all issues that these direct clearing retail DCOs raise.[8] These types of concerns around retail participants are why I have proposed that the Commission needs an Office of the Retail Advocate.[9] I continue to believe that having an Office of the Retail Advocate is a tried-and-true way to advance customer protection, and may be especially effective in the area raised by today's Proposal.

For example, perhaps there should be a distinct registration category and requirements for direct clearing retail DCOs because they raise singular issues, risks, and concerns—foremost, who provides retail customer protection when there are no brokers or intermediaries.

Frankly, I dislike a model where DCOs have clearing members that are retail. To achieve the same market structure outcome, I think it is better that a DCO has an affiliated FCM that only provides services for its retail participants on an affiliated DCM and DCO and would provide customer protections required under our rules. This would, therefore, not disrupt our existing regulatory framework and the current scope and application of the Bank Secrecy Act.[10]

Conclusion

I believe the Commission should further study the direct clearing model for retail participants, together with the increase in retail binary option contracts. I hope that my proposal for an Office of the Retail Advocate comes to fruition, and that this is one of the first issues that we tackle.

Again, I thank staff for the hard work on the Proposal. I look forward to the public's comments on the Proposed Amendments to Clearing Member Funds Requirements. Thank you.

[FR Doc. 2023–28767 Filed 1–2–24; 8:45 am]

BILLING CODE 6351–01–P

[1] Commodity Exchange Act (CEA) section 4d, 7 U.S.C. 6d, and Regulations §§ 1.20 through 1.39, 17 CFR 1.20 through 1.39 (futures customer funds), 22.1–22.17, 17 CFR 22.1 through 22.17 (cleared swaps customer collateral) and 30.7, 17 CFR 30.7 (foreign futures) establish a comprehensive customer protection regime to safeguard the funds belonging to customers of FCMs.

[2] *See* 17 CFR 1.20, 22.5, and 30.7. The acknowledgment letters must adhere to specific templates in the Commission's regulations, and require a depository to acknowledge, among other things, that the accounts opened by the FCM hold funds that belong to the FCM's customers.

[3] *See* 17 CFR 1.32, 1.33, 1.25, and 1.49.

[4] Regulation § 1.3, 17 CFR 1.3, defines a ''customer'' as ''any person who uses [an FCM], introducing broker, [CTA or CPO] as an agent in connection with trading in any commodity interest.'' DCOs have to apply many of the customer protection requirements that apply to FCMs to the customer funds DCOs receive from FCM clearing members. DCOs must segregate the customer funds of their FCM clearing members from their own funds, deposit customer funds under an account name that identifies the funds as customer funds, obtain acknowledgment letters from depositories, limit the investment of customer funds to instruments listed in Regulation § 1.25, and limit depositories for customer funds to those listed in Regulations §§ 1.20 and 1.49. *See* 17 CFR 1.20(g)(1), 39.15 (b), 22.3(b)(1), 1.20(g)(1) and (g)(4), and 22.5. However, these protections do not apply to DCO clearing members (*i.e.,* those that are not FCMs).

[5] *See* CEA section 5b(c)(2)(F), 7 U.S.C. 7a–1(c)(2)(F) (Core Principle F), and 17 CFR 39.15.

[6] *Id.*

[7] For instance, the Commission is proposing to require a DCO to hold proprietary funds separately from the DCO's own funds, in accounts that are named to clearly identify the funds as belonging to clearing members, to prohibit a DCO or any depository from using proprietary funds in any way other than as belonging to the clearing member, to have DCOs review, on a daily basis, the amount of funds owed to each clearing member with respect to each of its accounts, both customer (including, as relevant, futures and cleared swaps) and proprietary, and to reconcile those figures to the amount of funds held in aggregate in each such type of account across all of the DCO's depositories, and, to have DCOs obtain proprietary funds acknowledgment letters.

[8] The Commission provided exemptions from the current regulations for these DCOs in 2020. *See* Derivatives Clearing Organization General Provisions and Core Principles, 85 FR 4800 (Jan. 27, 2020). However, I am suggesting a more holistic assessment of these DCOs and their clearing members.

[9] Keynote Address by Commissioner Caroline D. Pham at CordaCon 2022 (Sept. 27, 2022), available at *https://www.cftc.gov/PressRoom/SpeechesTestimony/opapham5.*

[10] 31 U.S.C. 5311 *et seq.*

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1301

[Docket No. DEA–1144]

RIN 1117–AB84

Controlled Substance Destruction Alternatives to Incineration; Extension of Comment Period

AGENCY: Drug Enforcement Administration, Department of Justice.

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

SUMMARY: The Drug Enforcement Administration (DEA) published an advance notice of proposed rulemaking entitled ''Controlled Substance Destruction Alternatives to Incineration'' in the **Federal Register** on October 31, 2023. DEA is extending the comment period on that advance notice until April 1, 2024.

DATES: The comment period for the advanced notice of proposed rulemaking published October 31, 2023, at 88 FR 74379 is extended until April 1, 2024. Electronic comments must be submitted, and written comments must be postmarked, on or before April 1, 2024. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

ADDRESSES: To ensure proper handling of comments, please reference ''RIN 1117–AB84/Docket No. DEA–1144'' on all correspondence, including any attachments.

- *Electronic comments:* DEA encourages that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type comments directly into the comment field on the web page or to attach a file containing comments. Please go to *http://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon completion of your submission, you will receive a Comment Tracking Number for your comment generated by *http://www.regulations.gov*. Please be aware that submitted comments are not instantaneously available for public view on *http://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.
- *Paper comments:* Paper comments that duplicate the electronic submission are discouraged. Should you wish to mail a paper comment *in lieu of* submitting a comment electronically, it should be sent via regular or express mail to: Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. Hand-delivered comments will not be accepted.

FOR FURTHER INFORMATION CONTACT: Scott A. Brinks, Regulatory Drafting and Policy Support Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 776–3882.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received in response to this docket are considered part of the public record. The Drug Enforcement Administration (DEA) will make all comments available for public inspection online at *http://www.regulations.gov*. Such information includes personal or business identifiers (such as name, address, state or Federal identifiers, etc.) voluntarily submitted by the commenter. All information voluntarily submitted by the commenter, unless clearly marked as Confidential Information in the method described below, will be publicly posted. Comments may be submitted anonymously. The Freedom of Information Act applies to all comments received.

Commenters submitting comments which include personal identifying information (PII), confidential, or proprietary business information that the commenter does not want made publicly available should submit two copies of the comment. One copy must be marked ''CONTAINS CONFIDENTIAL INFORMATION'' and should clearly identify all PII or business information the commenter does not want to be made publicly available, including any supplemental materials. DEA will review this copy, including the claimed PII and confidential business information, in its consideration of comments. The second copy should be marked ''TO BE PUBLICLY POSTED'' and must have all claimed confidential PII and business information already redacted. DEA will post only the redacted comment on *http://www.regulations.gov* for public inspection.

For easy reference, an electronic copy of this document and a plain language summary are available at *http://www.regulations.gov*.

Summary

On October 31, 2023, DEA published an advance notice of proposed rulemaking (ANPRM) requesting stakeholder responses to ten questions about methods and technology currently being utilized or developed to render controlled substances non-retrievable.[1] Since publication, DEA received two requests from stakeholders for an extension of the comment period due to timeliness difficulties preparing adequate comments to the ANPRM during the holidays. One of those commenters, an association, stated that its member companies have a significant interest in this ANPRM, and requested an extension to allow them to provide timely and informative comments.

After considering these requests for additional response time, DEA is extending the comment period to allow stakeholders to prepare and submit comments. This allows sufficient time for persons to evaluate and consider all relevant information and respond accordingly. Therefore, the comment period is extended to April 1, 2024. Electronic comments must be submitted, and written comments must be postmarked, on or before this date.

Signing Authority

This document of the Drug Enforcement Administration was signed on December 28, 2023, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA **Federal Register** Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Scott Brinks,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2023–28964 Filed 12–29–23; 11:15 am]

BILLING CODE 4410–09–P

[1] 88 FR 74379 (Oct. 31, 2023).

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

30 CFR Part 285

Bureau of Ocean Energy Management

30 CFR Part 585

[Docket No. BSEE–2023–0015 EEEE500000 245E1700D2 ET1SF0000.EAQ000]

RIN 1010–AE04

Renewable Energy Modernization Rule; Correction

AGENCY: Bureau of Ocean Energy Management (BOEM) and Bureau of Safety and Environmental Enforcement (BSEE), Interior.

ACTION: Proposed rule; correction.

SUMMARY: The Department of the Interior (DOI) is publishing this correction to certain collections of information described in the preamble of the proposed rule titled ''Renewable Energy Modernization Rule'' (Proposed Rule) for public notice and comment. BSEE, in coordination with BOEM, is correcting and soliciting comments related to the preamble discussion of certain information collection burdens that subsequently transferred to BSEE under the rule titled ''Reorganization of Title 30-Renewable Energy and Alternate Uses of Existing Facilities on the Outer Continental Shelf'' (Reorganization Rule).

DATES: BSEE must receive your comments on or before March 4, 2024.

ADDRESSES: You may submit comments on the proposed amendments to the collections of information by any of the following methods. Please use the Regulation Identifier Number (RIN) RIN 1010–AE04 as an identifier in your message:

- Electronically go to *https://www.regulations.gov.* In the search box, enter BSEE–2023–0015 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email *kye.mason@bsee.gov,* fax (703) 787–1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nikki Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014–0034 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Nikki Mason by email at *kye.mason@bsee.gov* or by telephone at (703) 787–1607. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the information collection request (ICR) at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA.

This correction pertains to the Proposed Rule, which published in the **Federal Register** on January 30, 2023 (88 FR 5968). Subsequently, DOI published the Reorganization Rule in the **Federal Register** on January 31, 2023 (88 FR 6376). The Reorganization Rule relocated or reproduced certain regulatory provisions addressed in the Proposed Rule under 30 CFR part 585 to the newly created 30 CFR part 285. The Office of Management and Budget (OMB) has assigned OMB Control Number 1014–0034 to the collections of information under 30 CFR part 285.

The DOI is correcting the proposed rule preamble discussion in section VII.A.2, ''Paperwork Reduction Act of 1995,'' by adding the relevant BSEE burden hours covered under 30 CFR 285 Subpart H. The proposed burden information for 30 CFR 285 Subpart H reflects the reallocation of the relevant information collection burdens from part 585 to part 285, now under BSEE's administration. Accordingly, DOI is publishing these corrections to allow for public comment on the amended collections of information only.

Correction

In FR Doc No. 2023–00668, appearing on page 5968, in the **Federal Register** of January 30, 2023, make the following correction:

1. Add the following information to the end of the preamble section VII.A.2 ''Paperwork Reduction Act of 1995'':

The following Proposed Rule information collections found in 30 CFR part 585, subpart I, ''Environmental and Safety Management, Inspections, and Facility Assessments for Activities Conducted Under SAPs, COPs, and GAPs,'' are now administered by BSEE under 30 CFR part 285, subpart H. These information collections are included in OMB Control Number 1014–0034.

Section(s) in 30 CFR part 285	Reporting and recordkeeping requirement	Burden changes and/or additions
Subpart H—Environmental and Safety Management, Inspections, and Facility Assessments for Activities Conducted Under SAPs, COPs, and GAPs		
285.810; 285.614(b); 285.632(b); 285.651 (See Note 1 below)	Use a Safety Management System for all activities conducted pursuant to a lease and make available to BSEE upon request. Submit safety management system description with a COP, or with a SAP or GAP, if facilities being installed are deemed by BOEM to be complex or significant.	*35* hours × 2 submissions = *70* annual burden hours. 60 hours attributable to 285.810.
285.812(b)(1) Form BSEE–0187 (See note 2 below)	Submit safety and environmental performance data (Form BSEE–0187, Performance Measures Data—Renewable Energy).	82 hours × 10 submissions = 820 annual burden hours.
285.812(b)(2) (See note 3 below)	Provide report summary on SMS audit, corrective actions, and changes to SMS every 3 years.	5 hours × 1 report = 5 annual burden hours.
285.830(d) (See note 4 below)	Report oil spills as required by *BSEE 30 CFR 250.187*	Burden covered under BSEE 1014–0007. (*−2* annual burden hours and −1 report).
Total would add to 1014–0034 BSEE inventory:		883 burden hours.

Note 1: Proposed § 285.810 would clarify that BSEE requires lessees to submit a safety management system (SMS) before conducting any activities under a lease, including meteorological buoy placement and site assessment work. This would clarify that BSEE requires a structured approach to safe operations during the conduct of any activity under a lease, through an SMS, whether or not covered by a formal plan. BSEE proposes to add 60 annual burden hours to § 285.810. The remaining 10 burden hours associated with the proposed revisions would remain under the BOEM information collection number identified in the Proposed Rule.

Note 2: Proposed § 285.812(b)(1) would add new reporting requirements: it would require an annual summary of safety performance data covering the previous calendar year during which site assessment, construction, operations, or decommissioning activities occurred by submitting Form BSEE–0187, *Performance Measures Data—Renewable Energy.* This form would include company identification and number of injuries, illnesses, and hours worked by company employees and contractors. This information would be used to develop incident rates that would help assess workplace safety and environmental compliance across the OCS renewable energy industry. BSEE proposes to add 820 annual burden hours to § 285.812(b)(1).

Note 3: Proposed § 285.812(b)(2) would require a summary of the most recent SMS audit, corrective actions implemented or pending because of that audit, and an updated SMS description highlighting changes made since the last report. This report would be due every 3 years or upon BSEE's request. BSEE proposes to add 5 annual burden hours to § 285.812(b)(2).

Note 4: For § 285.830(d), BSEE is proposing to subtract 2 burden hours because the burdens for reporting oil spills falls under OMB Control Number 1014–0007.

Abstract: BSEE will use the collected information to oversee facility design, fabrication, installation, and safety management systems; ensure the safety of operations through inspection programs and incident reporting and investigations; enforce compliance with all applicable safety, environmental, and other laws and regulations through enforcement actions (such as noncompliance notices, cessation orders, and certain lease suspensions); and oversee decommissioning activities.

Title of Collection: 30 CFR part 285, ''Renewable Energy and Alternate Uses of Existing Facilities on the Outer Continental Shelf.''

OMB Control Number: 1014–0034.

Form Number: Forms BSEE–1835 Notice(s) of Noncompliance (NONCs) and BSEE–0187 Performance Measures Data—Renewable Energy.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Primary respondents comprise companies that submit unsolicited proposals or responses to **Federal Register** notices or are lessees, designated operators, and right-of-way or right-of-use and easement grant holders. Other potential respondents are companies or State and local governments that submit information or comments relative to alternative energy-related uses of the OCS; certified verification agents; and surety or third-party guarantors.

Total Estimated Number of Annual Respondents: Currently there are approximately 47 lessees holding leases for OCS wind energy development. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 10.

Estimated Completion Time per Response: Varies from 30 minutes to 6,000 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 883.

Respondent's Obligation: Responses are mandatory and are required to obtain or retain a benefit.

Frequency of Collection: Generally, submissions are on occasion or annual.

Total Estimated Annual Nonhour Burden Cost: N/A.

If the proposed requirements become effective and OMB approves the information collection request, BSEE would revise the existing OMB Control Number 1014–0034 for the affected subpart discussed above and would adjust the annual burden hours accordingly. The information collections related to 30 CFR part 285 do not include questions of a sensitive nature. BSEE will continue to protect proprietary information in keeping with its legal obligations and DOI's implementing regulations, which address disclosure of information to the public.

In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping non-hour cost burden resulting from the collection of information. BSEE solicits your comments regarding non-hour cost burdens arising from this amendment. For reporting and recordkeeping only, your response should split the cost estimate into two components: (1) total capital and startup cost component, and (2) annual operation, maintenance, and disclosure cost component to provide the information. You should describe the methods you use to estimate your cost components, including system and technology acquisition, expected useful life of capital equipment, discount rates, and the period over which you incur costs. Generally, your estimates should not include equipment or services purchased: (1) before October 1, 1995; (2) to comply with requirements not associated with the information collection arising from this proposed rule; (3) for reasons other than to provide information or to keep records for the U.S. Government; or (4) as part of customary and usual business or private practices.

As part of BSEE's continuing effort to reduce paperwork and respondent burdens, BSEE invites the public and other Federal agencies to comment on any aspect of this information collection, including:

(1) Is the proposed information collection necessary or useful for BSEE to properly perform its functions?

(2) Are the estimated annual burden hour increases and decreases resulting from the proposed rule reasonable?

(3) Is the estimated annual non-hour cost burden resulting from this information collection reasonable?

(4) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(5) Is there a way to minimize the information collection burden on those who must respond, such as by using appropriate automated digital, electronic, mechanical, or other forms of information technology?

Comments submitted in response to this amendment are a matter of public record. BSEE will include or summarize each comment to OMB for approval of this information collection. You should be aware that your entire comment—including your address, phone number, email address, or other personally identifiable information included in your comment—may be made publicly available at any time. BSEE will make available for public inspection all comments in their entirety (except proprietary information).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Steven H. Feldgus,

Deputy Assistant Secretary, Land and Minerals Management.

[FR Doc. 2023–27019 Filed 1–2–24; 8:45 am]

BILLING CODE 4310–VH–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201 and 202

[Docket No. 2023–8]

Group Registration of Updates to a News Website

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Copyright Office is proposing to create a new group registration option for frequently updated news websites. The rapid pace at which many web-based materials are created and updated presents a challenge for copyright registrants. This challenge is especially pronounced for frequently updated news websites. This option will enable online news publishers to register a group of updates to a news website as a collective work with a deposit composed of identifying material representing sufficient portions of the works, rather than the complete contents of the website. The Office invites comment on this proposal and the questions below.

DATES: Comments on the proposed rule must be made in writing and must be received by the U.S. Copyright Office no later than February 20, 2024.

ADDRESSES: For reasons of government efficiency, the Copyright Office is using the *regulations.gov* system for the submission and posting of public comments in this proceeding. All comments are therefore to be submitted electronically through *regulations.gov.* Specific instructions for submitting comments are available on the Copyright Office website at *https://copyright.gov/rulemaking/newswebsite.* If electronic submission of comments is not feasible due to lack of access to a computer and/or the internet, please contact the Office using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Rhea Efthimiadis, Assistant to the General Counsel, by email at *meft@copyright.gov* or by telephone at 202–707–8350.

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Copyright Office (''Office'') is proposing to create a new group registration option for frequently updated news websites. When Congress enacted the Copyright Act of 1976 (''Copyright Act'' or ''Act''), it authorized the Register of Copyrights (''Register'') to specify by regulation the administrative classes of works for the purpose of seeking registration and the nature of the deposit required for each such class.[1] Congress afforded the Register discretion to permit registration of groups of related works with one application and one filing fee, known as ''group registration.'' [2] As the legislative history explains, allowing ''a number of related works to be registered together as a group represent[ed] a needed and important liberalization of the law.'' [3]

In providing the Register the discretion to provide for group registrations, Congress recognized that requiring applicants to submit separate applications for certain types of works may be so burdensome and expensive that authors and copyright owners may forgo registration altogether.[4] Group registration options must be designed, however, in a manner that balances claimants' need for an efficient method to submit applications with the Office's need to examine applications and provide an adequate public record. Exercising this statutory discretion, Registers have over the years issued regulations providing for group registrations for certain categories of works and establishing eligibility requirements.

The Copyright Act also gives the Register broad authority to issue regulations concerning the nature of the copies that must be deposited in support of registration. Section 408 provides that the Register may issue regulations establishing ''the nature of the copies . . . to be deposited'' in specific classes of works and to ''permit, for particular classes, the deposit of identifying material instead of copies or phonorecords.'' [5] The legislative history indicates that Congress believed that a deposit of identifying material should be permitted in cases where the copies or phonorecords would be too ''bulky, unwieldy, easily broken, or otherwise impractical [to serve] as records identifying the work registered.'' [6] The Office has used this authority to require only identifying material in certain circumstances. For example, for computer programs, automated databases, or other literary works fixed or published solely in machine-readable copies, the Office permits the deposit of ''identifying portions'' of the specific version of the work the applicant intends to register.[7]

After receiving input from stakeholders and carefully considering the issue, the Office has concluded that there is a need for a new group registration accommodation for frequently updated news websites.[8] The Office welcomes public comment on its proposal and subjects of inquiry set forth here.

A. The Need for a New Group Registration Option

This proposed rulemaking stems from the rapid development and predominance of news websites over print newspapers, and requests submitted by online publishers to the Office. Over the past two decades, the internet has become an increasingly common method for distributing, displaying, and performing copyrightable content. More than eight in ten Americans get news from digital devices, and, as of 2021, more than half prefer digital platforms to access news.[9] Thus, a significant amount of news content must be offered in an online environment to meet demand. The current state of the news media industry requires dynamism, ''with content constantly changing, updating, and refreshing in real time.'' [10] Because of

[1] *See* 17 U.S.C. 408(c)(1).

[2] *Id.*

[3] H.R. Rep. No. 94–1476, at 154 (1976), *reprinted in* 1976 U.S.C.C.A.N. 5659, 5770; S. Rep. No. 94–473, at 136 (1975).

[4] Copyright registration is not a prerequisite to copyright protection, although registration generally must be made before instituting a civil infringement action in Federal court. *See* 17 U.S.C. 411(a); *Fourth Estate Pub. Benefit Corp.* v. *Wall-Street.com, LLC,* 139 S. Ct. 881, 886 (2019).

[5] 17 U.S.C. 408(c)(1).

[6] H.R. Rep. No. 94–1476, at 154.

[7] *See* 37 CFR 202.20(c)(2)(vii). For example, with regards to deposit requirements for computer programs, the Office has defined ''identifying portions'' as the first and last twenty-five pages of the work.

[8] The proposed regulations define a ''website'' as a web page or set of interconnected web pages that are accessed using a uniform resource locator (''URL'') organized under a particular domain name. *See also* U.S. Copyright Office, *Compendium of U.S. Copyright Office Practices* sec. 1002.1 (3d ed. 2021) (''Compendium (Third)''). For example, the Office's website is located at *copyright.gov*, and the Library of Congress's website is located at *loc.gov*.

[9] Elisa Shearer, *More Than Eight-In-Ten Americans Get News from Digital Devices,* Pew Research Center (Jan. 12, 2021), *https://www.pewresearch.org/fact-tank/2021/01/12/more-than-eight-in-ten-americans-get-news-from-digital-devices/.*

[10] MPA—The Association of Magazine Media Comments at 5, Submitted in Response to Nov. 9, 2021 Notice of Inquiry, Publishers' Protections Study, U.S. Copyright Office Dkt. No. 2021–5 (Jan.

Continued

this, news publishers assert they face unique obstacles when it comes to registering their works and have encouraged the Office to develop practices for registering ''newspaper websites'' that are ''updated frequently.'' [11]

B. The Office's Prior Studies

The Office acknowledged the news publishers' concerns in previous statements and reports. In 2011, the Office released a paper titled *Priorities and Special Projects of the United States Copyright Office (October 2011–October 2013),* which acknowledged the challenges in registering websites and content published on websites.[12] The paper noted that websites may contain ''a great number of contributions from many authors'' and changes may be made ''daily or even several times a day.'' [13] It identified several issues to be addressed, such as the appropriate means for creating an accurate and informative record of copyright ownership and the appropriate form of the deposit. It also invited public input regarding whether ''a group registration scheme [should] be implemented that would permit a single registration to cover content disseminated over a period of many days or weeks.'' [14]

As the Office considered stakeholder input in response to the paper, it issued public guidance to address registration of online content. In 2014, the Office released the *Compendium of U.S. Copyright Office Practices, Third Edition,* which contains an entire chapter on websites and website content.[15] In 2017, it released a circular that provides additional information on this topic.[16] These resources explain how to identify the author(s) and owner(s) of websites, website content, and user-generated content. They identify factors that may determine whether a work has been published online; discuss the distinctions between copyrightable authorship and uncopyrightable material, and between a website and an online database; and provide step-by-step instructions for completing a registration application and preparing a deposit for an online work.

Although these resources offer guidance for registering online content, news publishers have continued to express concern about the difficulty of registering frequently updated websites. As discussed in detail below, applicants who seek to register dynamic news websites are currently required to submit a separate application, deposit, and filing fee for each website update. This is particularly costly and time-consuming for news content, which can be added, modified, or removed on a daily or hourly basis.

The Office also looked at some of these issues as part of its 2021 study assessing press publishers' existing protections under U.S. copyright law. That study, and its resulting 2022 report, *Copyright Protections for Press Publishers,* was undertaken after a series of congressional hearings on reforms to digital copyright law, which considered what changes ''are needed to ensure the growth of creative industries without undermining incentives for digital platforms and technologies.'' [17] As part of the study, the Office requested public input on the effectiveness of current copyright protections for press publishers. It received feedback from news publishers that registration challenges make registering frequently updated news content impracticable.[18] They expressed frustration that ''[t]he inability to register dynamic and voluminous website content is a foundational enforcement shortcoming.'' [19] They stated that, because ''[t]here is currently no feasible way to apply for a single group registration of the full contents of a dynamic news media website, on which articles are constantly being published and updated,'' [20] it is ''beyond difficult for news publishers to acquire meaningful copyright protection for their output,'' [21] and stated that, ''with no feasible means to access all of the statutory remedies for infringement of their online news content,'' infringers are left ''free to pick and choose from works among that content without fear of significant or immediate consequence.'' [22]

C. Deposit-Related Challenges

The Office is aware that one of the biggest challenges in registering a website is providing a deposit that displays the work in its entirety. Copyright registration of published works generally requires the submission of two complete copies of the best edition of the work.[23] In addition to their use in the examination process, deposits serve as a record of the contents of a work. They can also serve an important evidentiary function if the copyright owner did not create or maintain an archive copy of a work before making updates. For example, a copyright owner who registered the updates to a website could use the deposits to confirm that a specific contribution was posted on a particular date and did not appear in earlier versions of the same website.[24]

The deposit requirements for a website vary depending on the nature of the claim and the type and number of works being registered. If an applicant created one of the individual works on a website—such as an article, blog entry, or photograph—the applicant ordinarily should submit a complete copy of that work.[25] If, however, the applicant

5, 2022), *https://www.regulations.gov/comment/COLC-2021-0006-0044* (''MPA—The Association of Magazine Media Comments'').

[11] Newspaper Association of America Comments at 12–18, Submitted in Response to July 15, 2009 Notice of Proposed Rulemaking, Mandatory Deposit of Published Electronic Works Available Only Online, U.S. Copyright Office Dkt. No. 2009–3 (Aug. 31, 2009) (emphasis omitted) (seeking a group registration option for newspaper websites), *https://www.copyright.gov/rulemaking/online-only/comments/naa.pdf* (''Newspaper Association of America Comments'').

[12] U.S. Copyright Office, Priorities and Special Projects of the United States Copyright Office October 2011–October 2013 (2011), *https://www.copyright.gov/docs/priorities.pdf.*

[13] *Id.* at 11.

[14] *Id.*

[15] U.S. Copyright Office, *Compendium of U.S. Copyright Office Practices* ch. 1000 (3d ed. 2014). The Office published a new version of the Compendium (Third) in January 2021. The 2021 version cited in this notice is available at *https://copyright.gov/comp3/.*

[16] U.S. Copyright Office, *Circular 66: Copyright Registration of websites and website Content* (revised Mar. 2021), *https://copyright.gov/circs/circ66.pdf.*

[17] Letter from Senators Leahy, Tillis, Cornyn, Hirono, Klobuchar, and Coons to Shira Perlmutter, Register of Copyrights, at 1 (May 3, 2021), *https://www.copyright.gov/policy/publishersprotections/letter-to-the-copyright-office.pdf.*

[18] *See, e.g.,* News Corporation Comments at 10–11, Submitted in Response to Oct. 12, 2021 Notice of Inquiry, Publishers' Protections Study, U.S. Copyright Office Dkt. No. 2021–5 (Nov. 26, 2021), *https://www.regulations.gov/comment/COLC-2021-0006-0016* (''News Corporation Comments'').

[19] News Media Alliance Comments at 19, Submitted in Response to Oct. 12, 2021 Notice of Inquiry, Publishers' Protections Study, U.S. Copyright Office Dkt. No. 2021–5 (Nov. 23, 2021), *https://www.regulations.gov/comment/COLC-2021-0006-0020* (''News Media Alliance Comments'').

[20] News Corporation Comments at 10.

[21] *Id.* at 11.

[22] *Id.*

[23] 17 U.S.C. 408(b)(2). The Copyright Act authorizes the Register to promulgate regulations specifying the exceptions to this general rule. 17 U.S.C. 408(c)(1).

[24] One way that some litigants have attempted to show what was posted on a particular date is to use web archiving platforms like the internet Archive's Wayback Machine. Courts have taken different approaches on whether to admit these records into evidence. *See United States* v. *Gasperini,* 894 F.3d 482, 490 (2d Cir. 2018) (finding a sufficient basis to admit screenshots produced by the Wayback Machine into evidence where the office manager of the internet Archive ''explained how the Archive captures and preserves evidence of the contents of the internet at any given time'' and ''testified that the screenshots were authentic and accurate copies of the Archive's records''). *But see Ward* v. *Am. Airlines, Inc.,* No. 4:20–cv–00371–O, 2020 U.S. Dist. LEXIS 205771 (N.D. Tex. Oct. 16, 2020) (declining to take judicial notice of references from the Wayback Machine).

[25] 37 CFR 202.20(b)(2)(iii)(B) (''If the work is published solely in an electronic format,'' the

selected, coordinated, and/or arranged the content on the website, and owns the copyright in some or all of the content, then it may register the collective work and the individual contributions it owns with the same submission.[26] In this situation, the deposit should reflect the collective work authorship, by displaying the component works as they would appear when viewed on the website.[27] Typically, this requires the applicant to include a complete copy of the entire website as published on a particular date.

The Office recognizes that submitting a complete copy of an entire dynamic website has been difficult for many applicants and causes problems for the Office as well.[28] Perhaps the most common problem occurs when applicants submit individual folders containing hundreds or thousands of disaggregated files that do not show the organization of the website. Similar problems result from the submission of individual PDF (Portable Document Format) pages that display the website in a linear fashion without showing the coordination and/or arrangement of the web pages in relation to each other. In other cases, applicants attempt to register a website by submitting the hypertext markup language (HTML) establishing the format and layout of the content on the site rather than visually depicting it.

Current technological means for fixing and normalizing website content for copyright deposit purposes are limited. The Office's current registration system only accepts certain file types that could display the image of a website, such as PDF, JPEG (Joint Photographic Experts Group), DWF (Autodesk Design), BMP (BitMap Image), GIF (Graphics Interchange Format), TIFF (Tagged Image File Format), and PUB (Microsoft Publisher).[29] The Office is developing a new Enterprise Copyright System (''ECS'') that will include new capabilities for uploading large files and large numbers of files. The Office is also exploring the acceptance of new file formats, such as .epub, that may better enable the fixation of online content.[30] But for the time being, the Office encourages applicants to submit website claims in a PDF package.[31]

When a website is fixed in a PDF package, the Office should be able to view the website as it existed on the date identified in the registration application, and to examine the compilation authorship involved in selecting, coordinating, and/or arranging the website as a whole. The Office recognizes that this is not a solution for all applicants. Some applicants are able to fix certain aspects of a website in a PDF package but find it difficult to fix it in a way that depicts the complete website. For large websites, such as news media websites, the resulting file may include hundreds or even thousands of pages, which makes it difficult for the Office to examine the selection, coordination, and arrangement of the website as a whole. Additionally, the organization and arrangement shown in a PDF package may vary depending on whether it depicts the website as it would appear on a desktop computer, a mobile phone, or other electronic device. Capturing the website by saving pages in PDF format may also include selection and arrangement that was not created by a human author, such as advertisements inserted into the website by an algorithm. Moreover, a PDF package only captures component works consisting of text, photographs, or pictorial or graphic material.

D. Existing Registration Options

News website publishers have described to the Office the limitations of the existing registration options available to them. Specifically, they explain that registering each individual update to a website separately is not practical or feasible. The Office has reviewed its registration options and concludes that there is substantial need for a new option for online news websites that are frequently updated.

Current group registration options are not sufficient because they require all works within the group to have the same author. For example, an applicant may register up to 750 photographs with the same application, if they were all created by the same author and are owned by the same claimant.[32] Similarly, another group registration option allows registration of up to fifty blog entries, social media posts, and other short online literary works if the works were all created by the same individual and published within a three-month period.[33] Because news websites are typically collective works that include the individual contributions of multiple authors, such an approach to group registrations is not a good fit for their publishers.

Another existing registration option for a website including works authored by multiple authors is to register it as a collective work. Although collective works contain multiple works of authorship, they are considered ''one work'' for purposes of registration.[34] A website can be a collective work if it contains ''a number of contributions'' that constitute ''separate and independent works in themselves,'' and if those contributions ''are assembled into a collective whole'' ''in such a way that the resulting work as a whole constitutes an original work of authorship.'' [35] A registration for a collective work covers the authorship involved in selecting and arranging component works into a collective whole.[36] In the case of a website, this typically involves selecting, coordinating, and arranging the various web pages that make up the site, as well as the selection, coordination, and arrangement of the separate and independent works on each individual web page.

A registration for a collective work may also cover the individual works that make up the collective work if certain requirements are met. The Copyright Act provides that the copyright in a collective work ''extends

deposit is considered ''complete'' if it contains ''all elements constituting the work in its published form, *i.e.,* the complete work as published, including metadata and authorship for which registration is not sought.'').

[26] As with any other claim, the registration will not cover ''unclaimable material,'' which includes previously published or registered material, material that is in the public domain, copyrightable material that is owned by a third party, or material generated by artificial intelligence without human authorship. *See* Compendium (Third) sec. 509.2; 88 FR 16190, 16192 (Mar. 16, 2023).

[27] *See* 37 CFR 202.20(b)(2)(iii)(B) (''Publication in an electronic only format requires submission of the digital file(s) in exact first-publication form and content.''); *see also* Compendium (Third) sec. 1010.

[28] *See, e.g.,* Newspaper Association of America Comments at 12–18 (''The burden of requiring a separate registration for each publication date of a newspaper website, with a print-out or other physical copy, is a powerful disincentive, if not a virtual bar, to registration.''); News Media Alliance Comments at 19 (highlighting ''[t]he inability to register . . . voluminous website content'' as a ''foundational enforcement shortcoming'').

[29] The list of acceptable file formats is posted on the Office's website at *https://www.copyright.gov/eco/help-file-types.html.*

[30] *See Modernization,* U.S. Copyright Office, *https://copyright.gov/copyright-modernization/* (last visited Dec. 21, 2023); 85 FR 12704 (Mar. 3, 2020); 83 FR 52336 (Oct. 17, 2018).

[31] *See* Compendium (Third) sec. 1010.

[32] 37 CFR 202.4(h), (i).

[33] 85 FR 37341 (June 22, 2020).

[34] *Compare* 17 U.S.C. 101 (defining a collective work as ''a work'' and recognizing that ''[t]he term 'compilation' includes collective works'') *with* 17 U.S.C. 504(c)(1) (''all the parts of a compilation . . . constitute one work''). A collective work is a type of compilation. Therefore, a collective work must meet the same statutory requirement as a compilation; there must be a sufficiently creative selection, coordination, or arrangement of the component works.

[35] 17 U.S.C. 101 (definitions of ''compilation'' and ''collective work'').

[36] *See* H.R. Rep. No. 94–1476, at 120 (noting that the ''key'' element in creating a collective work is the ''assemblage or gathering of 'separate and independent works . . . into a collective whole' '').

only to the material contributed by the author of such work, as distinguished from the preexisting material employed in the work.'' [37] The ''[c]opyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution.'' [38] If the claimant fully owns the copyright in those contributions,[39] however, courts have held that a collective work registration may also cover the contributions that make up the collective work.[40] The Office has taken a similar position.[41]

Collective work registration, however, may not be a satisfactory option for website publishers. First, as discussed above, providing a complete deposit of a website is challenging. Second, even if the collective work registration extends to all the individual components of a specific website, the registration would extend only to the material in the deposit that was owned by the copyright claimant as of the effective date of registration. An applicant would need to prepare a new registration application for any subsequent changes made to that website, which would be as burdensome and expensive as other options. Third, a collective work registration would not provide protection for any individual works that have been previously published.[42] Finally, when a website is registered as a compilation, the statute provides that the copyright owner may seek only one award of statutory damages for infringement of the compilation as a whole—rather than a separate award for each individual work that appears on the website—even if the defendant infringed all of the works covered by the registration.[43]

Alternatively, a website owner could choose to register a few individual works from the website, instead of the website as a whole. This alternative might appeal to a website owner who does not fully own the copyright in all of the component works that make up the website, struggles to create a deposit copy of the entire website, or wants to retain the possibility of collecting multiple statutory damages awards. If a website owner were concerned that the entire contents of the website could be copied or scraped by a third party, registering one or more of the component works on the website and providing deposit copies of only those component works should be sufficient to initiate a claim for infringement.[44] And if more than one of the individual works were registered in a timely manner, these registrations may provide a means for seeking attorneys' fees and multiple statutory damages awards in an infringement action.[45]

This approach too has limitations. Registration of select works individually only protects the copyright owner if an infringer copies the specific works that were registered. It also does not offer protection for the selection, coordination, or arrangement of the website as a whole, which may be an important element of the authorship of the website.

II. A New Framework for Registering News Websites

The Office proposes a new rule pursuant to which a news publisher will be able to register a news website as a collective work (including any individual component works it fully owns, such as literary works, photographs, and/or graphics) [46] with a deposit composed of identifying material, rather than the complete contents of the website. The material may include representative examples of the updates published in a calendar month, provided that they represent sufficient portions of selection, coordination or arrangement authorship. The works must be created by the same entity, and that entity must be named as the copyright claimant for the collective work. Each of these requirements is discussed below.

A. Eligibility Requirements

Due to the potential number of updates in this group option, and to limit the accommodation that permits identifying material rather than complete copies, the Office will strictly apply all of the eligibility requirements. To facilitate compliance with the requirements, the Office will provide a checklist for applicants, as well as additional guidance through its publications.

1. Works That May Be Included in the Group

The proposed rule will limit this registration option to ''news websites.'' A ''website'' will be defined as a web page or set of interconnected web pages that are accessed using a URL organized under a particular domain name. In addition, a ''website'' will include any web page whose URL incorporates the primary domain name for that site. For example, any web page that includes the URL ''*copyright.gov/*'' would be considered part of the Office's website, regardless of the length of the file name. By contrast, any web page that includes the URL ''*loc.gov/*'' would be considered a different website, even though *copyright.gov* and *loc.gov* are linked to each other, stored on the same servers, and emanate from the same agency.

The Office proposes to model the definition of ''news website'' after the regulation defining a ''newspaper.'' [47] This approach is consistent with the goal of this rulemaking—to address obstacles to registering online news content produced by news publishers, who often also publish newspapers. The Office's ''newspaper'' definition has been generally accepted by these publishers.[48] A ''news website'' will be

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[37] 17 U.S.C. 103(b).

[38] *Id.* at 201(c). The Act further states that ''[i]n the absence of an express transfer of the copyright'' in a particular contribution, ''the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.'' *Id.*

[39] A contribution to a collective work is ''fully owned'' by the publisher if it owns all of the exclusive rights in that contribution. *See, e.g., Morris* v. *Business Concepts, Inc.,* 259 F.3d 65, 68 (2d Cir. 2001) (''Unless the copyright owner of a collective work also owns all the rights in a constituent part, a collective work registration will not extend to the constituent part.''), *abrogated on other grounds by Reed Elsevier, Inc.* v. *Muchnick,* 559 U.S. 154, 160 (2010); Compendium (Third) secs. 509.1, 509.2.

[40] *See Sohm* v. *Scholastic Inc.,* 959 F.3d 39, 53 (2d Cir. 2020) (registration of a compilation of photographs by an applicant that owns the rights to the component works also registers the individual photographs even where the copyright application did not list the individual authors of the photographs); *Metro. Reg'l Info. Sys., Inc.* v. *Am. Home Realty Network, Inc.,* 722 F.3d 591, 598 (4th Cir. 2013) (''[C]ollective work registrations [are] sufficient to permit an infringement action on behalf of component works, at least so long as the registrant owns the rights to the component works as well.''); *Alaska Stock, LLC* v. *Houghton Mifflin Harcourt Publ'g Co.,* 747 F.3d 673, 683, 685 (9th Cir. 2014) (a collective work registration ''extended registration to the component parts if the party registering the collective work owned the copyright to the component parts'').

[41] *See* 17 U.S.C. 103(b) (''The copyright in a compilation . . . extends only to the material contributed by the author of such work, as distinguished from the preexisting material employed in the work, and does not imply any exclusive right in the preexisting material.''); Compendium (Third) secs. 509, 509.1, 509.2.

[42] *See* Compendium (Third) sec. 509.2 (providing that a collective work registration does not cover contributions that were previously published or registered).

[43] 17 U.S.C. 504(c)(1) (''For the purposes of this subsection, all the parts of a compilation or derivative work constitute one work.'').

[44] *See id.* at 411(a).

[45] *Id.* at 504(c)(1).

[46] For such applications, the Office will not examine each component work. Thus, the collective work claimant will bear the burden of proving that it owns the individual component works claimed in the submission.

[47] *See* 37 CFR 202.4(e)(1).

[48] *See, e.g.,* News Media Alliance Comments at 2, Submitted in Response to Nov. 6, 2017 Notice of Proposed Rulemaking, Group Registration of

defined as a website that is mainly designed to be a primary source of written information on current events, either local, national, or international in scope, that contains a broad range of news on all subjects and activities and is not limited to any specific subject matter.

2. The Collective Work Requirement

This new group registration option would cover a group of collective works, and the electronic registration system will automatically add the term ''collective work authorship'' to the group news websites application. As a type of compilation, each collective work must contain a sufficiently creative selection, coordination, or arrangement of the individual component works, such as articles, photographs, illustrations, or other content.[49] Whether the content itself is entirely new is irrelevant to this determination. An update to a news website could be considered original if it contains a new selection, coordination, and arrangement of content, even if that individual content has been previously published on the website—such as articles appearing in previous updates.

A collective work will be eligible for this registration option if it was first published on a publicly accessible website, including news websites protected by paywalls. This option will also be available where the work was simultaneously published both on the internet and in a physical form. Each collective work within the group will be considered a separate work for purposes of section 504(c)(1).

As a general rule, a registration under this group option will cover the individual contributions contained within the collective work if they are fully owned by the copyright claimant and if they were first published in that work. By contrast, if a collective work contains contributions that are not fully owned by the copyright claimant, and/or contributions that were previously published, the registration will not extend to those works.[50]

3. One Month Limitation

Under the proposed rule, an applicant can include updates published on the same website within the same calendar month. Applicants will be required to identify the earliest and latest date that updates were published on the website during the month specified in the application. Claims bearing dates outside of the single calendar month will be refused.[51]

The Office proposes one calendar month as the appropriate limit for this option based on several considerations, including consultations with news media representatives and experience with the group registration option for print newspapers.[52] As discussed below, applicants will be required to submit their claims through the current registration system. To minimize the need for additional development, the Office intends to use the application designated for group newspapers for this purpose. This form may be used to register up to one month of newspaper issues, and it contains technical validations that prevent applicants from entering publication dates that are more than one month apart. Because newspaper and news website claims will be submitted on the same form, it will be necessary to limit both claims to the same one-month time period.

Permitting registration of one calendar month of daily updates to the same news website represents an appropriate balance between the interests of copyright owners and the administrative capabilities of the Office. The Office does not currently have the ability to charge differential prices based on the number of works in the group or the complexity of the claim. Given the technical limitations of the existing registration system and the modest filing fee that would be involved, a reasonable limit on the number of works included in each claim is necessary to manage the administrative burden. In the future, the Office may consider whether a different time range may be preferable once it has introduced its new enterprise copyright system.

4. Authorship, Ownership, and Work Made for Hire Requirements

Each collective work in the group must have been created as a work made for hire, with the same person or entity named as the author and copyright claimant. Applicants may not submit groups of collective works created by different authors (such as twenty-five collective works by Online News, Inc. and twenty-five collective works by Sports Net, Inc.), even if those collective works appear on the same website.

5. Title and URL

Applicants will be required to provide a title that identifies the news website. In all cases, the title must include the URL for the site. For example, if the applicant is registering the online version of the *Grand Rapids Gazette,* the Office would accept a title such as ''grgazzette.michigannews'' or *Grand Rapids Gazette* (grgazette.michigannews).''[53]

A title for the group of collective works as a whole will be created automatically by the electronic registration system and will be used to identify the registration in the Office's online public record. The group title will include the website title and the publication dates provided in the application. For example, if the applicant provides the title ''grgazette.michigannews'' and states that the earliest collective work in the group was published on March 1, 2024, and the most recent one was published on March 31, 2024, the system will generate the following group title: ''grgazette.michigannews. [Published: 2024–03–01 to 2024–03–31. Issues: March 2024].'' In this respect, the group title will be similar to the format of the group title currently used for registration of a group of newspaper issues.

Subject of Inquiry: The Office seeks public comments regarding whether it should give applicants the opportunity to provide additional information, such as individual article or photograph titles, as part of this group registration option. The Office will balance the public interest in creating a meaningful record (*i.e.,* collecting information regarding each individual contribution within the collective work) with the relative burden on applicants. We welcome comments regarding the impact on news publishers if they were permitted to provide granular information concerning the individual articles, photographs, and other component works for each group of news websites.

B. Application Requirements

The Office plans to create a new application form for this group registration option in its next-generation registration system.[54] In the interim, it

Newspapers, U.S. Copyright Office Dkt. No. 2017–16 (Dec. 6, 2017), *https://www.regulations.gov/comment/COLC-2017-0010-0005* (''News Media Alliance—Group Registration of Newspapers Comments'').

[49] A compilation is ''a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship.'' 17 U.S.C. 101.

[50] *See Morris,* 259 F.3d at 71 (''Unless the copyright owner of a collective work also owns all the rights in a constituent part, a collective work registration will not extend to the constituent part.'').

[51] *See* 37 CFR 202.4(p).

[52] *See, e.g.,* News Media Alliance—Group Registration of Newspapers Comments at 2.

[53] The *Grand Rapids Gazette* name and associated URL are fictitious and used merely to illustrate the proposed rule's operation.

[54] *See Modernization,* U.S. Copyright Office, *https://copyright.gov/copyright-modernization/* (last

Continued

will use one of the current group registration application forms to process these claims in the registration system. As mentioned above, applicants will be required to submit their claims through the electronic registration system, and to use the application designated for a group of newspaper issues.[55] Further instructions on how to complete this application will be provided by the Office through traditional avenues, including its website, circulars, or Chapter 1100 of the *Compendium of U.S. Copyright Office Practices.*

Recently, the Office finalized new regulations and amended other regulations to require other group registration claims to be filed electronically, and the rationales for requiring electronic submission set forth in those rulemakings would apply equally here.[56] Publishers who create and publish these types of works will necessarily have access to the internet and will be capable of using the electronic registration system.[57] Given that the Office has required newspaper publishers to use the electronic registration system to register groups of newspapers since March 1, 2018, it does not anticipate objection to this requirement.[58]

C. Deposit Requirement

The Office finds it necessary to modify the general complete-copy requirement to enable the registration of dynamic news websites. As noted above, Congress provided the Office with the authority to create group registration options and to allow flexibility in the content of the deposit to foster registrations that otherwise would be unduly burdensome. Requiring applicants to provide complete deposits of each news website imposes a significant and even unachievable burden on applicants, discouraging registration and making the news content increasingly vulnerable to infringement.[59] While the Office is reluctant to depart from its general rule, which would require the entire contents of the website and each update, a different rule is appropriate here in a specific context where a need for flexibility in deposit requirements has been established. The proposed modification will also satisfy the public notice function of capturing, and making available for public inspection, a deposit that should be sufficient to identify the news website covered by the registration. To the extent the copyright owner may be required to prove to a court or to an alleged infringer the specific contents of a website at any particular point in time, it will need to preserve and maintain its own copy of the site and rely on its own recordkeeping to provide such proof.[60]

Subject of Inquiry: To further satisfy the public record and assist in later potential litigation efforts, the applicant may provide in the ''Note to Office'' field additional information regarding the contents of the work, such as archived URLs that capture the complete content of each collective work submitted for registration. Archived URLs preserve copies of web pages and display them as they appeared when captured. The Office seeks public comments on the availability and effectiveness of technological solutions for saving or archiving websites that could assist or supplement news websites' recordkeeping efforts while also informing the public of the contents of the website and/or any updates registered.

Under the proposed rule, applicants will be required to submit a deposit that is sufficient to identify some of the updates that were made to the website. Specifically, applicants will need to submit separate PDF files that each contain a complete copy of the home page for the site. Each PDF must show how the home page appeared at a specific point during each day of the calendar month when new updates were published on the site.[61] Up to thirty-one PDFs may be needed for each application since new updates could be published any day of the month. But each PDF would need to show only one of the updates that were published on those dates, not each and every update made.

In each case, the deposit must demonstrate that the home page contains a sufficient degree of selection, coordination, and/or arrangement to be registered as a collective work. If the Office determines that the home page does not contain sufficient collective work authorship, the examiner may request additional pages from the website.

As noted above, all claims registered under this option would be limited to the collective work authorship based on the selection, coordination, and/or arrangement of the individual component works, and all parts of the collective work will constitute one work for purposes of 17 U.S.C. 504(c)(1). If the Office registers the claim, the registration may cover the individual component works that the claimant owns. The certificate, however, will include an annotation confirming that the Office examined the home page for collective work authorship, but did not review any of the component works that appear in the deposit to determine if they are copyrightable or if they are owned by the claimant.

D. Filing Fee

The filing fee for this option will be $95, the same fee that currently applies to a claim in a group of newspapers.[62] As mentioned above, the Office does not have the ability at this time to charge differential prices based on the number of works in the group or the complexity of the claim. At least initially, the Office believes it is reasonable to charge the same fee for this new group registration option as for the group newspaper option, given the similarities in expected workflow associated with

visited Dec. 21, 2023) (tracking the Office's work to develop and implement a new enterprise IT system, including a registration module).

[55] In appropriate circumstances, the Office may waive the online filing requirement, subject to the conditions the Associate Register of Copyrights and Director of the Office of Registration Policy and Practice may impose.

[56] *See, e.g.,* 86 FR 10820, 10822 (Feb. 23, 2022) (final rule for group registration of works on an album of music); 85 FR 37341, 37345 (June 22, 2020) (final rule for group registration of short online literary works); 83 FR 61546, 61546–48 (Nov. 30, 2018) (final rule for group registration of newsletters and serials); 82 FR 29410, 29410–11 (June 29, 2017) (final rule for group registration of contributions to periodicals).

[57] Likewise, the online-filing requirement will apply to the ''supplementary registration'' procedure, which may be used to correct or amplify the information in an existing registration. The Office has announced that if it ''move[s] registrations for other classes of works into the electronic registration system,'' the procedure for correcting or amplifying those registrations would ''be subject to this same [online filing] requirement.'' 81 FR 86656, 86658 (Dec. 1, 2016). Thus, if an applicant needs to correct or amplify the information in a registration for a news website, that request will need to be submitted through the electronic registration system, instead of using a paper form. *See* 37 CFR 202.6(e)(1) (requiring a supplementary registration for a group of related works to be made using the online application).

[58] 37 CFR 202.4(e)(5); *see also* 83 FR 4144, 4144 (Jan. 30, 2018) (final rule for group registration of newspapers).

[59] *See* MPA–The Association of Magazine Media Comments at 1, 4; News Corporation Comments at 4–7.

[60] To be clear, each PDF will contain a representative example of what the home page looked like at a particular point on a particular date. The PDFs, however, will not show how the home page looked at any other point in time. Nor will the PDFs contain any of the content that appeared elsewhere on the website.

[61] Applicants would be required to submit their deposits to the Office in PDF and assembled in an orderly form. Each copy of the home page must be contained in a separate electronic file, and the size of each file must not exceed 500 megabytes. If necessary, applicants may save the files in a .zip folder and upload it to the system, provided that all of the files within the folder are acceptable file types.

[62] *See* 37 CFR 201.3(c)(8) (listing registration fee for ''a group of newspapers or a group of newsletters'').

examining these claims. With the benefit of additional data the Office will gather after this group registration option is launched, the Office will consider whether it would be appropriate to charge a different fee in its next-generation registration system.

III. Conclusion

The Office anticipates that the proposed rule will lead to broader participation in the registration system by facilitating the registration process for news publishers who frequently update news content published on the internet. To better inform the path forward, the Office seeks public comment on the proposed rule generally and the specific subjects of inquiry highlighted above.

List of Subjects

37 CFR Part 201

Copyright, General provisions.

37 CFR Part 202

Copyright, Copyright claims, preregistration and registration.

Proposed Regulations

For the reasons set forth in the preamble, the Copyright Office proposes amending 37 CFR parts 201 and 202 as follows:

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

Section 201.10 also issued under 17 U.S.C. 304.

■ 2. In § 201.3, amend table 1 to paragraph (c) by redesignating paragraphs (c)(12) through (c)(29) as (c)(13) through (c)(30), respectively, and adding a new paragraph (c)(12) to read as follows:

§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Section and the Copyright Claims Board.

* * * * *

(c) * * *

TABLE 1 TO PARAGRAPH (c)

Registration, recordation, and related services	Fees ($)
* * * * *	
(12) Registration of a group of updates to a news website	95
* * * * *	

* * * * *

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

■ 3. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408(f), 702.

■ 4. Amend § 202.4 by adding paragraph (m) and revising paragraph (r) to read as follows:

§ 202.4 Group registration.

* * * * *

(m) *Group registration of updates to a news website.* Pursuant to the authority granted by 17 U.S.C. 408(c)(1), the Register of Copyrights has determined that a group of updates to a news website may be registered with one application, the required deposit, and the filing fee required by § 201.3 of this chapter, with each update being registered as a collective work, if the following conditions are met:

(1) *Definitions.* For the purposes of paragraph (m) of this section: (i) *News website* means a website that is designed to be a primary source of written information on current events, either local, national, or international in scope, that contains a broad range of news on all subjects and activities and is not limited to any specific subject matter.

(ii) *Website* means a web page or set of interconnected web pages that are accessed using a uniform resource locator (''URL'') organized under a particular domain name.

(2) *Requirements for collective works.* Each update to the website must be a collective work, and the claim must be limited to the collective work.

(3) *Author and claimant.* Each collective work in the group must be a work made for hire, and the author and claimant for each collective work must be the same person or organization.

(4) *Updates must be from one news website; time period covered.* Each collective work in the group must be published on the same news website under the same URL, and they must be published within the same calendar month. The applicant must identify the earliest and latest date that the collective works were published.

(5) *Application.* The applicant must complete and submit the online application designated for a group of newspaper issues. The application may be submitted by any of the parties listed in § 202.3(c)(1).

(6) *Deposit.* (i) For each collective work within the group, the applicant must submit identifying material from the news website. For these purposes ''*identifying material*'' shall mean separate Portable Document Format (PDF) files that each contain a complete copy of the home page of the website. Each PDF must show how the home page appeared at a specific point during each day of the calendar month when new updates were published on the website.

(ii) The identifying material must demonstrate that the home page contains sufficient selection, coordination, and arrangement authorship to be registered as a collective work If the home page does not demonstrate sufficient compilation authorship, the deposit should include as many additional pages as necessary to demonstrate that the updates to the news website can be registered as a collective work.

(iii) The identifying material must be submitted through the electronic registration system, and all of the identifying material that was published on a particular date must be contained in the same electronic file. The files must be submitted in PDF format, they must be assembled in an orderly form, and each file must be uploaded to the electronic registration system as an individual electronic file (*i.e.,* not .zip files). The file size for each uploaded file must not exceed 500 megabytes, but files may be compressed to comply with this requirement.

(7) *Special relief.* In an exceptional case, the Copyright Office may waive the online filing requirement set forth in paragraph (m)(5) of this section or may grant special relief from the deposit requirement under § 202.20(d) of this chapter, subject to such conditions as the Associate Register of Copyrights and Director of the Office of Registration Policy and Practice may impose on the applicant.

* * * * *

(r) *The scope of a group registration.* When the Office issues a group registration under paragraph (d), (e), or (f) of this section, the registration covers each issue in the group and each issue is registered as a separate work or a separate collective work (as the case may be). When the Office issues a group registration under paragraph (c), (g), (h), (i), (j), (k), or (o) of this section, the registration covers each work in the group and each work is registered as a separate work. When the Office issues a group registration under paragraph (m) of this section, the registration covers each update in the group, and each update is registered as a separate collective work. For purposes of

registration, the group as a whole is not considered a compilation, a collective work, or a derivative work under section 101, 103(b), or 504(c)(1) of title 17 of the United States Code.

* * * * *

Dated: December 22, 2023.

Suzanne Wilson,

General Counsel and Associate Register of Copyrights.

[FR Doc. 2023–28724 Filed 1–2–24; 8:45 am]

BILLING CODE 1410–30–P

Notices

Federal Register
Vol. 89, No. 2
Wednesday, January 3, 2024

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

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–66–2023]

Foreign-Trade Zone 183; Application for Expansion of Subzone 183B; Samsung Austin Semiconductor, LLC; Austin, Texas

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Foreign Trade Zone of Central Texas, Inc., grantee of FTZ 183, requesting an expansion of Subzone 183B on behalf of Samsung Austin Semiconductor, LLC, to include a site in Taylor, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on December 28, 2023.

The applicant is requesting authority to expand the subzone to include a site (1,260 acres) located on Farm to Market Road 973 in Taylor, close to Highway 79 and County Road 404. No additional authorization for production activity has been requested at this time.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is February 12, 2024. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to February 27, 2024.

A copy of the application will be available for public inspection in the ''Online FTZ Information Section'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov.*

Dated: December 28, 2023.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2023–28910 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–301–805]

Certain Paper Shopping Bags From Colombia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain paper shopping bags (paper bags) from Colombia are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable January 3, 2024.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita, 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) 482–4243.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation in the *Federal Register* on June 27, 2023.[1] On October 3, 2023, Commerce postponed the preliminary determination of this investigation until December 27, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The products covered by this investigation are paper bags from Colombia. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] in the *Initiation Notice,* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6]

[1] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 88 FR 41589 (June 27, 2023) (*Initiation Notice*).

[2] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 88 FR 68097 (October 3, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Paper Shopping Bags from Colombia,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice,* 88 FR at 41590.

[6] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

As discussed in the Preliminary Scope Decision Memorandum, Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice.* In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case and rebuttal briefs.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Normal value is calculated in accordance with section 773 of the Act.

Furthermore, pursuant to sections 776(a) and (b) of the Act, Commerce preliminarily relied upon facts otherwise available, with adverse inferences (AFA) for Industria Colombiana de Papeles (Incolpa SAS) and Fábrica de Bolsas de Papel (Unibol SAS). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provides that in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce assigned a rate based entirely on facts available to Incolpa SAS and Unibol SAS. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for Ditar, S.A. (Ditar). Consequently, the rate calculated for Ditar is also assigned as the rate for all other producers and exporters.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Weighted-average dumping margin (percent)
Ditar, S.A	9.48
Industria Colombiana de Papeles	56.14
Fábrica de Bolsas de Papel	56.14
All Others	9.48

* Rate based on AFA.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose the calculations performed in connection with this preliminary determination to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[7] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[8]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[9] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[10]

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. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

[7] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[8] *See* 19 CFR 351.309(c)(2) and (d)(2).

[9] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[10] *See APO and Service Final Rule.*

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On November 21, 2023, pursuant to 19 CFR 351.210(e), the Coalition For Fair Trade in Shopping Bags (the petitioner) requested that Commerce postpone the final determination in the event of a negative preliminary determination.[11] On December 12, 2023, pursuant to 19 CFR 351.210(e), Ditar also requested that Commerce postpone the final determination, in the event the preliminary determination is affirmative, and that provisional measures be extended to a period not to exceed six months.[12] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: December 27, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The products within the scope of this investigation are paper shopping bags with handles of any type, regardless of whether there is any printing, regardless of how the top edges are finished (*e.g.,* folded, serrated, or otherwise finished), regardless of color, and regardless of whether the top edges contain adhesive or other material for sealing closed. Subject paper shopping bags have a width of at least 4.5 inches and depth of at least 2.5 inches.

Paper shopping bags typically are made of kraft paper but can be made from any type of cellulose fiber, paperboard, or pressboard with a basis weight less than 300 grams per square meter (GSM).

A non-exhaustive illustrative list of the types of handles on shopping bags covered by the scope include handles made from any materials such as twisted paper, flat paper, yarn, ribbon, rope, string, or plastic, as well as die-cut handles (whether the punchout is fully removed or partially attached as a flap).

Excluded from the scope are:

- Paper sacks or bags that are of a 1/6 or 1/7 barrel size (*i.e.,* 11.5–12.5 inches in width, 6.5–7.5 inches in depth, and 13.5–17.5 inches in height) with flat paper handles or die-cut handles;
- Paper sacks or bags with die-cut handles, a grams per square meter paper weight of less than 86 GSM, and a height of less than 11.5 inches; and
- Paper sacks or bags (i) with non-paper handles made wholly of woven ribbon or other similar woven fabric[13] and (ii) that are finished with folded tops or for which tied knots or t-bar aglets (made of wood, metal, or plastic) are used to secure the handles to the bags.

The above-referenced dimensions are provided for paper bags in the opened position. The height of the bag is the distance from the bottom fold edge to the top edge (*i.e.,* excluding the height of handles that extend above the top edge). The depth of the bag is the distance from the front of the bag edge to the back of the bag edge (typically measured at the bottom of the bag). The width of the bag is measured from the left to the right edges of the front and back panels (upon which the handles typically are located).

This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 4819.30.0040 and 4819.40.0040. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2023–28939 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–836]

Certain Paper Shopping Bags From the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Critical Circumstances Determination, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain paper shopping bags (paper bags) from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable January 3, 2024.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2371.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation

[11] *See* Petitioner's Letter, ''Petitioner's Request for Postponement of the Final Determinations,'' dated November 21, 2023.

[12] *See* Ditar's Letter, ''Request to Extend Final Determination,'' dated December 12, 2023.

[13] Paper sacks or bags with handles made of braided or twisted materials, such as rope or cord, do not qualify for this exclusion.

in the **Federal Register** on June 27, 2023.[1] On October 3, 2023, Commerce postponed the preliminary determination of this investigation until December 27, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The products covered by this investigation are paper bags from Vietnam. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] in the *Initiation Notice,* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] As discussed in the Preliminary Scope Decision Memorandum, Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice.* In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case and rebuttal briefs.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Because Vietnam is a non-market economy (NME) country, within the meaning of section 771(18) of the Act, Commerce has calculated normal value in accordance with section 773(c) of the Act.

Furthermore, pursuant to sections 776(a) and (b) of the Act, Commerce preliminarily has relied upon facts otherwise available, with adverse inferences (AFA), to assign a dumping margin for the Vietnam-wide entity. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily determines that critical circumstances exist with respect to imports of paper bags from Vietnam for Goldsun Packaging and Printing Joint Stock Company (Goldsun), the non-selected respondents eligible for a separate rate, and the Vietnam-wide entity. For a full description of the methodology and results of Commerce's analysis, *see* the Preliminary Decision Memorandum.

Vietnam-Wide Entity

Commerce preliminarily finds that several companies, including one mandatory respondent (Hi-Level, as discussed below), have not established their eligibility for a separate rate and are considered to be part of the Vietnam-wide entity.[7]

Combination Rates

In the *Initiation Notice,*[8] Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.[9]

Separate Rates

In this investigation, in addition to Goldsun, we have preliminarily granted certain non-individually examined respondents a separate rate. However, because Hi-Level Enterprise Co., Ltd. (Hi-Level) requested a separate rate and did not fully respond to Commerce's questionnaire as a mandatory respondent, we have preliminarily denied a separate rate to Hi-Level and are treating it as part of the Vietnam-wide entity.

In calculating the rate for non-individually examined separate rate respondents in NME antidumping duty (AD) investigation, Commerce normally looks to section 735(c)(5)(A) of the Act, which pertains to the calculation of the all-others rate in a market economy AD investigation, for guidance. Pursuant to section 735(c)(5)(A) of the Act, normally this rate shall be an amount equal to the weighted average of the estimated AD rate established for those companies individually examined, excluding zero and *de minimis* and any rates based entirely under section 776 of the Act. Commerce calculated an individual estimated weighted-average dumping margin for Goldsun that is not zero, *de minimis,* or based entirely on facts otherwise available. Thus, the weighted average dumping margin calculated for Goldsun is the basis to determine the weighted-average dumping margin for the non-examined separate rate companies, using section 735(c)(5)(A) of the Act for guidance, which provides for the determination of the estimated weighted-average dumping for all other producers and exporters in a market economy investigation. *See* the below table in the ''Preliminary Determination'' section of this notice.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

[1] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 88 FR 41589 (June 27, 2023) (*Initiation Notice*).

[2] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 88 FR 68097 (October 3, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Paper Shopping Bags from the Socialist Republic of Vietnam,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See AD Initiation Notice,* 88 FR at 41590; *see also Certain Paper Shopping Bags from the People's Republic of China and India: Postponement of Preliminary Determinations in the Countervailing Duty Investigations,* 88 FR 41380, 41381 (August 7, 2023).

[6] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

[7] These companies are NamCuong Packaging, Pan Pacific Vietnam, SIC Paper Bag, Kien Nang, Co., Ltd., and TLC Packaging. Moreover, International Packaging Limited Company is ineligible for a separate rate because it did not have a sale during the POI. *See* Preliminary Decision Memorandum.

[8] *See Initiation Notice,* 88 FR at 41593.

[9] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' (April 5, 2005) (Policy Bulletin 05.1), available at *https://access.trade.gov/Resources/policy/bull05-1.pdf.*

Producer	Exporter	Weighted-average dumping margin (percent)
Goldsun Packaging and Printing Joint Stock Company	Goldsun Packaging and Printing Joint Stock Company	51.25
Dong Sung Vina Printing Co., Ltd [10]	Dong Sung Printing Co., Ltd [11]	51.25
Khang Thanh Manufacturing Company Limited	Khang Thannh Manufacturing Company Limited	51.25
Vietnam Red Star Industry Company Limited	Vietnam Red Star Industry Company Limited	51.25
Vietnam-Wide Entity		* 92.34

* Rate based on AFA.

Disclosure

Commerce intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date 90 days prior to the date of publication of this notice in the **Federal Register**, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which normal value exceeds U.S. price, as indicated in the chart above, as follows: (1) for the producer/exporter combination listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Vietnam producers/exporters of subject merchandise that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the Vietnam-wide entity; and (3) for all third-county exporters of subject merchandise not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the Vietnam producer/exporter combination (or the Vietnam-wide entity) that supplied that third-country exporter.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise from Goldsun, the non-selected respondents eligible for a separate rate, and the Vietnam-wide entity.[11] In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to all unliquidated entries of merchandise from Goldsun, the non-selected respondents eligible for a separate rate, and the Vietnam-wide entity that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice in the **Federal Register**.

These suspension of liquidation instructions will remain in effect until further notice.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify information relied upon in making its final determination.

Public Comment

Case briefs or other written comments [12] may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this investigation.[13] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[14] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[15]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[16] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[17]

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. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm the date and time of the hearing two days before the scheduled date.

[10] Dong Sung is sometimes translated as one word ''Dongsung.''

[11] *Id.*

[12] *See* 19 CFR 351.309(c)(1)(i); *see also* 19 CFR 351.303 (for general filing requirements).

[13] Case briefs and rebuttal briefs submitted in response to this preliminary LTFV determination should not include scope-related issues. *See* Preliminary Scope Decision Memorandum.

[14] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[15] *See* 19 351.309(c)(2) and (d)(2).

[16] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[17] *See APO and Service Final Rule.*

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by exporters for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On November 21, 2023, the Coalition for Fair Trade in Shopping Bags (the petitioner) requested that Commerce postpone the final determination in the event of a negative preliminary determination.[18] On December 20, 2023, Goldsun timely requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months in the event of an affirmative preliminary determination.[19] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: December 27, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The products within the scope of this investigation are paper shopping bags with handles of any type, regardless of whether there is any printing, regardless of how the top edges are finished (*e.g.,* folded, serrated, or otherwise finished), regardless of color, and regardless of whether the top edges contain adhesive or other material for sealing closed. Subject paper shopping bags have a width of at least 4.5 inches and depth of at least 2.5 inches.

Paper shopping bags typically are made of kraft paper but can be made from any type of cellulose fiber, paperboard, or pressboard with a basis weight less than 300 grams per square meter (GSM).

A non-exhaustive illustrative list of the types of handles on shopping bags covered by the scope include handles made from any materials such as twisted paper, flat paper, yarn, ribbon, rope, string, or plastic, as well as die-cut handles (whether the punchout is fully removed or partially attached as a flap).

Excluded from the scope are:

- Paper sacks or bags that are of a 1/6 or 1/7 barrel size (*i.e.,* 11.5–12.5 inches in width, 6.5–7.5 inches in depth, and 13.5–17.5 inches in height) with flat paper handles or die-cut handles;
- Paper sacks or bags with die-cut handles, a grams per square meter paper weight of less than 86 GSM, and a height of less than 11.5 inches; and
- Paper sacks or bags (i) with non-paper handles made wholly of woven ribbon or other similar woven fabric[20] and (ii) that are finished with folded tops or for which tied knots or t-bar aglets (made of wood, metal, or plastic) are used to secure the handles to the bags.

The above-referenced dimensions are provided for paper bags in the opened position. The height of the bag is the distance from the bottom fold edge to the top edge (*i.e.,* excluding the height of handles that extend above the top edge). The depth of the bag is the distance from the front of the bag edge to the back of the bag edge (typically measured at the bottom of the bag). The width of the bag is measured from the left to the right edges of the front and back panels (upon which the handles typically are located).

This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 4819.30.0040 and 4819.40.0040. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2023–28945 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India: Final Results of the Expedited Fifth Sunset Review of the Antidumping Duty Order

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

SUMMARY: As a result of this expedited sunset review, the U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) order on stainless steel bar (SS Bar) from India would be likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Expedited Sunset Review'' section of this notice.

DATES: Applicable January 3, 2024.

FOR FURTHER INFORMATION CONTACT: Garry Kasparov, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1397.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1995, Commerce published in the **Federal Register** the AD *Order* on SS Bar from India.[1] On September 1, 2023, Commerce published *Initiation Notice* of the fifth sunset review of the *Order,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(c)(2).[2]

[18] *See* Petitioner's Letter, ''Petitioner's Request for Postponement of the Final Determinations,'' dated November 21, 2023.

[19] *See* Goldsun's Letter, ''Request to Extend Final Determination,'' dated December 20, 2023.

[20] Paper sacks or bags with handles made of braided or twisted materials, such as rope or cord, do not qualify for this exclusion.

[1] See *Antidumping Duty Orders: Stainless Steel Bar from Brazil, India and Japan,* 60 FR 9661 (February 21, 1995) (*Order*).

[2] *See Initiation of Five-Year Reviews,* 88 FR 60438 (September 1, 2023) (*Initiation Notice*).

On September 15, 2023, Commerce received a notice of intent to participate from Carpenter Technology Corporation, Crucible Industries LLC, Electralloy, a G.O., Carlson, Inc. Company, Marcegaglia Stainless Richburg, LLC, North American Stainless, Universal Stainless & Alloy Products, Inc., and Valbruna Slater Stainless, Inc. (collectively, the petitioners) within the deadline specified in 19 CFR 351.218(d)(1)(i).[3] The petitioners claimed interested party status under section 771(9)(C) of the Act as producers of a domestic like product in the United States.

On September 29, 2023, we received a timely, adequate substantive response to the *Initiation Notice* from the petitioners within the 30-day deadline specified in 19 CFR 218(d)(3)(i).[4] We received no substantive response from respondent parties nor was a hearing requested.

On October 25, 2023, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive adequate substantive responses from any other interested parties.[5] As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited, *i.e.,* 120-day, sunset review of the *Order.*

Scope of the Order

The merchandise subject to the *Order* is SS Bar. SS Bar means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons or other convex polygons. SS Bar includes cold-finished SS Bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.,* cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

Imports of these products are currently classifiable under subheadings 7222.11.00, 7222.19.00, 7222.20.00, 7222.30.00 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of the *Order* is dispositive.

Analysis of the Comments Received

All issues raised in this sunset review are addressed in the Issues and Decision Memorandum, including the likelihood of continuation or recurrence of dumping and the magnitude of the margins of dumping likely to prevail if the *Order* was revoked.[6] A list of topics discussed in the Issues and Decision Memorandum is included as the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Final Results of Expedited Sunset Review

Pursuant to sections 751(c)(1), and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping and that the magnitude of the margins of dumping likely to prevail would be at rates up to 21.02 percent.

Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.218(e)(1)(ii)(C)(2).

Dated: December 27, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2023–28931 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–555–002]

Certain Paper Shopping Bags From Cambodia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain paper shopping bags (paper bags) from Cambodia are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable January 3, 2024.

FOR FURTHER INFORMATION CONTACT: Charles Doss or Kyle Clahane, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade

[3] *See* Petitioners' Letter, ''Notice of Intent to Participate,'' dated September 15, 2023.

[4] *See* Petitioners' Letter, ''Substantive Response,'' dated September 29, 2023 (Petitioners' Substantive Response).

[5] *See* Commerce's Letter ''Sunset Reviews Initiated on September 1, 2023,'' dated October 25, 2023.

[6] See Memorandum, ''Issues and Decision Memorandum for the Expedited Sunset Review of the Antidumping Duty Order on Stainless Steel Bar from India,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum)

Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4474 or (202) 482–5449, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on June 27, 2023.[1] On October 3, 2023, Commerce postponed the preliminary determination of this investigation until December 27, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The products covered by this investigation are certain paper bags from Cambodia. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] in the *Initiation Notice,* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] As discussed in the Preliminary Scope Decision Memorandum, Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice.* In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case and rebuttal briefs.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Normal value is calculated in accordance with section 773 of the Act. Furthermore, pursuant to sections 776(a) and (b) of the Act, Commerce preliminarily relied upon facts otherwise available, with adverse inferences for Pan Pacific Plastics Manufacturing, Inc. (Pan Pacific). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Determination of Critical Circumstances, in Part

In accordance with section 733(e) of the Act and 19 CFR 351.206(c), Commerce preliminarily determines that critical circumstances do not exist with respect to imports of paper bags from Cambodia for Nice Packaging (Cambodia) Co., Ltd. (Nice) and for all other producers and exporters, but do exist with respect to imports of paper bags from Pan Pacific. For a full description of the methodology and results of Commerce's critical circumstances analysis, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Commerce calculated an individual estimated weighted-average dumping margin for Nice. As explained in the Preliminary Decision Memorandum, Commerce has preliminarily determined that, under section 772(a) of the Act, UUPak Company Limited (UUPak) did not have any reviewable sales during the POI and, as such, has not calculated a preliminary margin for UUPak.[7] As a result, because we have only calculated one margin and that margin is not zero, *de minimis,* or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for Nice is the margin assigned to UUPak and all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Producer/exporter	Weighted-average dumping margin (percent)
Nice Packaging (Cambodia) Co., Ltd	10.05
UUPak Company Limited	10.05
Pan Pacific Plastics Manufacturing, Inc	248.81
All Others	10.05

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily finds that critical circumstances exist

[1] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 88 FR 41589 (June 27, 2023) (*Initiation Notice*).

[2] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 88 FR 68097 (October 3, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Paper Shopping Bags from Cambodia,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice,* 88 FR at 41590.

[6] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

[7] *See* Preliminary Decision Memorandum at the section titled, ''Treatment of UUPak's Sales.''

for imports of subject merchandise produced or exported by Pan Pacific. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of shipments of subject merchandise from the producer/exporter identified in this paragraph that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rates for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins calculated in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register** accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this investigation.[8] Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[9] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[10]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[11] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[12]

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. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by exporters for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On November 17, 2023, pursuant to 19 CFR 351.210(e), Nice, requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[13] On November 21, 2023, the Coalition For Fair Trade in Shopping Bags (the petitioner) requested that Commerce postpone the final determination in the event of a negative preliminary determination.[14] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination

[8] Case briefs and rebuttal briefs submitted in response to this preliminary LTFV determination should not include scope-related issues. *See* Preliminary Scope Decision Memorandum.

[9] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[10] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[11] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[12] *See APO and Final Service Rule.*

[13] *See* Nice's Letter, ''Request to Extend Final Results,'' dated November 17, 2023.

[14] *See* Petitioner's Letter, ''Petitioner's Request For Postponement Of The Final Determinations,'' dated November 21, 2023.

whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: December 27, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The products within the scope of this investigation are paper shopping bags with handles of any type, regardless of whether there is any printing, regardless of how the top edges are finished (*e.g.,* folded, serrated, or otherwise finished), regardless of color, and regardless of whether the top edges contain adhesive or other material for sealing closed. Subject paper shopping bags have a width of at least 4.5 inches and depth of at least 2.5 inches.

Paper shopping bags typically are made of kraft paper but can be made from any type of cellulose fiber, paperboard, or pressboard with a basis weight less than 300 grams per square meter (GSM).

A non-exhaustive illustrative list of the types of handles on shopping bags covered by the scope include handles made from any materials such as twisted paper, flat paper, yarn, ribbon, rope, string, or plastic, as well as die-cut handles (whether the punchout is fully removed or partially attached as a flap).

Excluded from the scope are:

- Paper sacks or bags that are of a 1/6 or 1/7 barrel size (*i.e.,* 11.5–12.5 inches in width, 6.5–7.5 inches in depth, and 13.5–17.5 inches in height) with flat paper handles or die-cut handles;
- Paper sacks or bags with die-cut handles, a grams per square meter paper weight of less than 86 GSM, and a height of less than 11.5 inches; and
- Paper sacks or bags (i) with non-paper handles made wholly of woven ribbon or other similar woven fabric [15] and (ii) that are finished with folded tops or for which tied knots or t-bar aglets (made of wood, metal, or plastic) are used to secure the handles to the bags.

The above-referenced dimensions are provided for paper bags in the opened position. The height of the bag is the distance from the bottom fold edge to the top edge (*i.e.,* excluding the height of handles that extend above the top edge). The depth of the bag is the distance from the front of the bag edge to the back of the bag edge (typically measured at the bottom of the bag). The width of the bag is measured from the left to the right edges of the front and back panels (upon which the handles typically are located).

This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 4819.30.0040 and 4819.40.0040. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2023–28937 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–DS–P

[15] Paper sacks or bags with handles made of braided or twisted materials, such as rope or cord, do not qualify for this exclusion.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–819]

Prestressed Concrete Steel Wire Strand From Malaysia: Final Results of Antidumping Duty Administrative Review; 2020–2022

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that prestressed concrete steel wire strand (PC strand) from Malaysia was not sold in the United States at less than normal value during the period of review (POR), November 19, 2020, through May 31, 2022.

DATES: Applicable January 3, 2024.

FOR FURTHER INFORMATION CONTACT: Miranda Bourdeau or Samuel Frost, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington DC 20230; telephone: (202) 482–2021 or (202) 482–8180.

SUPPLEMENTARY INFORMATION:

Background

On July 7, 2023, Commerce published the preliminary results of this administrative review and invited parties to comment on the *Preliminary Results*.[1] This administrative review covers four producers/exporters of PC strand from Malaysia.[2] Commerce selected two respondents for individual examination, Kiswire Sdn. Bhd. (KSB) and Wei Dat Steel Wire Sdn. Bhd. (Wei Dat).[3] Commerce extended the time period for issuing the final results until December 29, 2023.[4] For a complete description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[5]

Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order [6]

The product covered by this *Order* is PC strand from Malaysia. For a full description of the scope of the *Order, see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov*. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx*.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested

[1] *See Prestressed Concrete Steel Wire Strand from Malaysia: Preliminary Results of Antidumping Duty Administrative Review, 2020–2022,* 88 FR 43284 (July 7, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 48459 (August 9, 2022) (*Initiation Notice*). Although there are five entities listed in the *Initiation Notice,* one of these entities (*i.e.,* Kiswire Sdn. Bhd. (Kota Kiswire)) is part of another exporter/producer under review. For further details, *see* the *Preliminary Results* PDM at footnote 4.

[3] *See* Memorandum, ''Respondent Selection,'' dated August 26, 2022.

[4] *See* Memoranda, ''Extension of Deadline for Final Results of Antidumping Duty Administrative Review, 2020–2022,'' dated October 20, 2023; and ''Extension of Deadline for Final Results of Antidumping Duty Administrative Review, 2020–2022,'' dated December 15, 2023.

[5] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Prestressed Concrete Steel Wire Strand from Malaysia; 2020–2022,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[6] *See Prestressed Concrete Steel Wire Strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine: Antidumping Duty Orders,* 86 FR 29998 (June 4, 2021) (*Order*).

parties, we made certain adjustments to the margin calculations for these final results. However, those adjustments did not result in any changes to the estimated weighted-average dumping margins for KSB or Wei Dat. For a more detailed discussion of these changes, *see* the Issues and Decision Memorandum.

Rate for Non-Examined Companies

The Act and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

Where the dumping margin for individually examined respondents are all zero, *de minimis,* or based entirely on facts available, section 735(c)(5)(B) of the Act provides that Commerce may use ''any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.''

In this review, we calculated weighted-average dumping margins for KSB and Wei Dat that are zero. Therefore, consistent with section 735(c)(5)(B) of the Act, we are applying to Southern Steel Sdn. Bhd. and Southern PC Steel Sdn. Bhd., the two companies not selected for individual examination in this review, a margin of zero percent.

Final Results of Review

Commerce determines that the following estimated weighted-average dumping margins exist for the period November 19, 2020, through May 31, 2022:

Exporter/producer	Weighted-average dumping margin (percent)
Kiswire Sdn. Bhd	0.00
Wei Dat Steel Wire Sdn. Bhd	0.00
Review-Specific Rate Applicable to the Following Non-Examined Companies	
Southern Steel Sdn. Bhd	0.00
Southern PC Steel Sdn. Bhd	0.00

Disclosure

Commerce intends to disclose the calculations performed in connection with these final results to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**.[7]

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. Where the respondent's weighted-average dumping margin is either zero or *de minimis* (*i.e.,* less than 0.5 percent), we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. Accordingly, because KSB's and Wei Dat's weighted-average dumping margins are zero percent, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. For entries of subject merchandise during the POR produced by KSB or Wei Dat for which these companies did not know the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate (*i.e.,* 5.13 percent)[8] if there is no rate for the intermediate company(ies) involved in the transaction.[9] For the companies which were not selected for individual review, Southern Steel Sdn. Bhd. and Southern PC Steel Sdn. Bhd., we will assign an assessment rate based on the methodology described in the ''Rates for Non-Examined Companies'' section, above.

We intend to instruct CBP to take into account the ''provisional measures deposit cap,'' in accordance with 19 CFR 351.212(d). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies listed in these final results will be equal to the weighted-average dumping margins established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; and (3) the cash deposit rate for all other manufacturers or exporters will continue to be 5.13 percent, the all-others rate established in the less-than-fair-value investigation.[10] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a final reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment

[7] *See* 19 CFR 351.224(b).

[8] *See Order,* 86 FR at 30000.

[9] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[10] *See Order,* 86 FR at 30000.

of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5) and 19 CFR 351.213(h)(2).

Dated: December 27, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2023–28932 Filed 1–2–24; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–867]

Large Power Transformers From the Republic of Korea: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order

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

SUMMARY: As a result of this sunset review, the U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) order on large power transformers (LPTs) from the Republic of Korea (Korea) would be likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Sunset Reviews'' section of this notice.

DATES: Applicable January 3, 2024.

FOR FURTHER INFORMATION CONTACT: Natasia Harrison or Peter Farrell, 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) 482–1240 or (202) 482–2104, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 1, 2023, Commerce published the notice of initiation of the second sunset review of the AD *Order*[1] on LPTs from Korea, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] On September 14, 2023, Commerce received a notice of intent to participate from Hitachi Energy USA, Inc., Prolec-GE Waukesha, Inc., Delta Star Inc., and Pennsylvania Transformer Technology, Inc. (collectively, the domestic interested parties), within the deadline specified in 19 CFR 351.218(d)(1)(i).[3] The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as manufacturers of a domestic like product in the United States.

On September 29, 2023, we received a complete substantive response for this review from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[4] We received no substantive responses from respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of the *Order* on LPTs from Korea.

Scope of the Order

The scope of this *Order* covers large liquid dielectric power transformers (LPTs) having a top power handling capacity greater than or equal to 60,000 kilovolt amperes (60 megavolt amperes), whether assembled or unassembled, complete or incomplete. For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.[5]

Analysis of Comments Received

All issues raised in this review, including the likelihood of continuation or recurrence of dumping in the event of revocation and the magnitude of the margins likely to prevail if the *Order* were revoked, are addressed in the accompanying Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* A complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Final Results of Sunset Review

Pursuant to sections 751(c)(1), and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the AD *Order* on LPTs from Korea would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 29.04 percent.

Administrative Protective Orders

This notice also serves as a final reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.218.

[1] *See Large Power Transformers from the Republic of Korea: Antidumping Duty Order,* 77 FR 53177 (August 31, 2012) (*Order*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 88 FR 60438 (September 1, 2023).

[3] *See* Domestic Interested Parties' Letter, ''Large Power Transformers from Korea—Domestic Interested Parties' Notice of Intent to Participate,'' dated September 14, 2023.

[4] *See* Domestic Interested Parties' Letter, ''Large Power Transformers from the Republic of Korea—Five-Year (Sunset) Review of Antidumping Duty Order—Domestic Interested Parties' Substantive Response to Notice of Initiation,'' dated September 29, 2023.

[5] *See* Memorandum, ''Issues and Decision Memorandum for the Expedited Second Sunset Review of the Antidumping Duty Order on Large Power Transformers from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Dated: December 27, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2023–28946 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–872]

Certain Paper Shopping Bags From Taiwan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that that certain paper shopping bags (paper bags) from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is April 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable January 3, 2024.

FOR FURTHER INFORMATION CONTACT: Nathan James, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5305.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation in the **Federal Register** on June 27, 2023.[1] On October 3, 2023, Commerce postponed the preliminary determination of this investigation until December 27, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The products covered by this investigation are certain paper shopping bags from Taiwan. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] in the *Initiation Notice,* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] As discussed in the Preliminary Scope Decision Memorandum, Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice.* In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case and rebuttal briefs.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices for Haurtyi Paper Bag Co. (Haurtyi) in accordance with section 772(a) of the Act. Normal value for Haurtyi is calculated in accordance with section 773 of the Act. Furthermore, pursuant to sections 776(a) and (b) of the Act, Commerce has preliminarily relied on facts otherwise available, with adverse inferences (AFA), for Juang Jia Guoo Co., Ltd. (JJG). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances

In accordance with section 733(e) of the Act and 19 CFR 351.206(c), Commerce preliminarily determines that critical circumstances exist with respect to imports of paper bags from Taiwan for JJG and for all other producers and exporters. For a full description of the methodology and results of Commerce's critical circumstances analysis, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that, in a preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Where the rates for individually investigated companies are all zero or *de minimis,* or determined entirely using facts otherwise available, section 735(c)(5)(B) of the Act instructs Commerce to rely on ''any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted-average dumping margins determined

[1] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 88 FR 41589 (June 27, 2023) (*Initiation Notice*).

[2] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 88 FR 68097 (October 3, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Paper Shopping Bags from Taiwan,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice,* 88 FR at 41590.

[6] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

for the exporters and producers individually investigated.''

Commerce has preliminarily determined the dumping margin for JJG under section 776 of the Act and has calculated an estimated weighted-average dumping margin for Haurtyi of zero. Consequently, pursuant to section 735(c)(5)(B) of the Act, we calculated the all-others rate based on a simple average of the zero percent dumping margin and the dumping margin based on AFA.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Producer/exporter	Weighted-average dumping margin (percent)
Haurtyi Paper Bag Co	0.00
Juang Jia Guoo Co., Ltd	* 60.26
All Others	30.13

* Rate based on AFA.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rates for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise produced or exported by JJG. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of shipments of subject merchandise from the producer/exporter identified in this paragraph that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

Because the estimated weighted-average dumping margin for Haurtyi is zero, entries of shipments of subject merchandise from this company will not be subject to suspension of liquidation or cash deposit requirements. In such situations, Commerce applies the exclusion to the provisional measures to the producer/exporter combination that was examined in the investigation. Accordingly, Commerce is directing CBP not to suspend liquidation of entries of subject merchandise produced and exported by Haurtyi. Entries of shipments of subject merchandise from Haurtyi in any other producer/exporter combination, or by third parties that sourced subject merchandise from the excluded producer/exporter combination, are subject to the provisional measures at the all-others rate.

Should the final estimated weighted-average dumping margin be zero or *de minimis* for Haurtyi, entries of shipments of subject merchandise produced and exported by the company will be excluded from the potential antidumping duty order. Such an exclusion would not be applicable to merchandise exported to the United States by this respondent in any other producer/exporter combination or by third parties that sourced subject merchandise from the excluded producer/exporter combination. These suspension of liquidation measures will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[7] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[8]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[9] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[10]

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. Requests

[7] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[8] *See* 19 CFR 351.309(c)(2) and (d)(2).

[9] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[10] *See APO and Service Final Rule.*

should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On November 21, 2023, the Coalition For Fair Trade in Shopping Bags (the petitioner) requested that Commerce postpone the final determination in the event of a negative preliminary determination.[11] On December 13, 2023, Haurtyi requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[12] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

[11] *See* Petitioner's Letter, ''Petitioner's Request for Postponement of the Final Determinations,'' dated November 21, 2023.

[12] *See* Haurtyi's Letter, ''Request for Extension of Final Determination,'' dated December 13, 2023.

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of paper bags from Taiwan are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This preliminary determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: December 27, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary For Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products within the scope of this investigation are paper shopping bags with handles of any type, regardless of whether there is any printing, regardless of how the top edges are finished (*e.g.,* folded, serrated, or otherwise finished), regardless of color, and regardless of whether the top edges contain adhesive or other material for sealing closed. Subject paper shopping bags have a width of at least 4.5 inches and depth of at least 2.5 inches.

Paper shopping bags typically are made of kraft paper but can be made from any type of cellulose fiber, paperboard, or pressboard with a basis weight less than 300 grams per square meter (GSM).

A non-exhaustive illustrative list of the types of handles on shopping bags covered by the scope include handles made from any materials such as twisted paper, flat paper, yarn, ribbon, rope, string, or plastic, as well as die-cut handles (whether the punchout is fully removed or partially attached as a flap).

Excluded from the scope are:

- Paper sacks or bags that are of a 1/6 or 1/7 barrel size (*i.e.,* 11.5–12.5 inches in width, 6.5–7.5 inches in depth, and 13.5–17.5 inches in height) with flat paper handles or die-cut handles;
- Paper sacks or bags with die-cut handles, a grams per square meter paper weight of less than 86 GSM, and a height of less than 11.5 inches; and
- Paper sacks or bags (i) with non-paper handles made wholly of woven ribbon or other similar woven fabric [13] and (ii) that are finished with folded tops or for which tied knots or t-bar aglets (made of wood, metal, or plastic) are used to secure the handles to the bags.

The above-referenced dimensions are provided for paper bags in the opened position. The height of the bag is the distance from the bottom fold edge to the top edge (*i.e.,* excluding the height of handles that extend above the top edge). The depth of the bag is the distance from the front of the bag edge to the back of the bag edge (typically measured at the bottom of the bag). The width of the bag is measured from the left to the right edges of the front and back panels (upon which the handles typically are located).

This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 4819.30.0040 and 4819.40.0040. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

[13] Paper sacks or bags with handles made of braided or twisted materials, such as rope or cord, do not qualify for this exclusion.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2023–28943 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–825]

Certain Paper Shopping Bags From Malaysia: Preliminary Affirmative Determination of Sales at Less-Than-Fair-Value

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain paper shopping bags (paper bags) from Malaysia are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable January 3, 2024.

FOR FURTHER INFORMATION CONTACT: Dan Alexander, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4313.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation in the **Federal Register** on June 27, 2023.[1] On October 3, 2023, Commerce postponed the preliminary determination of this investigation until December 27, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The products covered by this investigation are paper bags from Malaysia. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[4] the *Initiation Notice,* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] As discussed in the Preliminary Scope Decision Memorandum, Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice.* In the Preliminary Scope Decision Memorandum, Commerce established the deadlines for parties to submit scope case and rebuttal briefs.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Constructed export price is calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act. Furthermore, pursuant to sections 776(a) and (b) of the Act, Commerce preliminarily has relied upon facts otherwise available, with adverse inferences (AFA), to assign a dumping margin for Kooka Paper Manufacturing Sdn. Bhd. (Kooka). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce has preliminarily determined the estimated weighted-average dumping margin for Kooka under section 776 of the Act. Commerce calculated estimated weighted-average dumping margins that are above *de minimis* for the mandatory respondents, Nanwang and Hexachase. Therefore, Commerce calculated the all-others rate by weight-averaging the estimated weighted-average dumping margins that it calculated for the individually examined respondents. Commerce weight-averaged these dumping margins using the publicly ranged total quantities of each respondent's sales of subject merchandise to the United States during the POI.[7]

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Weighted-average dumping margin (percent)
Hexachase Packaging Sdn. Bhd	3.10
Nanwang Pack (M) Sdn. Bhd	67.94
Kooka Paper Manufacturing Sdn. Bhd	* 112.22
All others	35.52

* Rate based on AFA.

Disclosure

Commerce intends to disclose its calculations and analysis performed in connection with this preliminary determination to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated

[1] *See Certain Paper Shopping Bags From Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 88 FR 41589, (June 27, 2023) (*Initiation Notice*).

[2] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 88 FR 68097, (October 3, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination of Sales at Less Than Fair Value in the Investigation of Certain Paper Shopping Bags from Malaysia,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties: Final Rule,* 62 FR 27296 (May 19, 1997) *(Preamble).*

[5] *See Initiation Notice,* 88 FR at 41590.

[6] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated December 27, 2023 (Preliminary Scope Decision Memorandum).

[7] With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closer to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1; *see also* Memorandum, ''All-Others Rate Calculation,'' dated concurrently with this notice.

weighted-average dumping margin determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted not later than five days after the date for filing case briefs.[8] Interested parties who submit case or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[9]

As provided under 19 CFR 351.309(c)(2) and d(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[10] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[11]

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. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm the date and time of the hearing two days before the scheduled date.

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: December 27, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products within the scope of this investigation are paper shopping bags with handles of any type, regardless of whether there is any printing, regardless of how the top edges are finished (*e.g.,* folded, serrated, or otherwise finished), regardless of color, and regardless of whether the top edges contain adhesive or other material for sealing closed. Subject paper shopping bags have a width of at least 4.5 inches and depth of at least 2.5 inches.

Paper shopping bags typically are made of kraft paper but can be made from any type of cellulose fiber, paperboard, or pressboard with a basis weight less than 300 grams per square meter (GSM).

A non-exhaustive illustrative list of the types of handles on shopping bags covered by the scope include handles made from any materials such as twisted paper, flat paper, yarn, ribbon, rope, string, or plastic, as well as die-cut handles (whether the punchout is fully removed or partially attached as a flap).

Excluded from the scope are:

- Paper sacks or bags that are of a 1/6 or 1/7 barrel size (*i.e.,* 11.5–12.5 inches in width, 6.5–7.5 inches in depth, and 13.5–17.5 inches in height) with flat paper handles or die-cut handles;
- Paper sacks or bags with die-cut handles, a grams per square meter paper weight of less than 86 GSM, and a height of less than 11.5 inches; and
- Paper sacks or bags (i) with non-paper handles made wholly of woven ribbon or other similar woven fabric[12] and (ii) that are finished with folded tops or for which tied knots or t-bar aglets (made of wood, metal, or plastic) are used to secure the handles to the bags.

The above-referenced dimensions are provided for paper bags in the opened position. The height of the bag is the distance from the bottom fold edge to the top edge (*i.e.,* excluding the height of handles that extend above the top edge). The depth of the bag is the distance from the front of the bag edge to the back of the bag edge (typically measured at the bottom of the bag). The width of the bag is measured from the left to the right edges of the front and back panels (upon which the handles typically are located).

This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 4819.30.0040 and 4819.40.0040. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2023–28941 Filed 1–2–24; 8:45 am]

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[8] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[9] *See* 19 351.309(c)(2) and (d)(2).

[10] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[11] *See APO and Service Final Rule.*

[12] Paper sacks or bags with handles made of braided or twisted materials, such as rope or cord, do not qualify for this exclusion.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–917]

Certain Paper Shopping Bags From India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain paper shopping bags (paper bags) from India are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable January 3, 2024.

FOR FURTHER INFORMATION CONTACT: Gorden Struck, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–8151.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation in the **Federal Register** on June 27, 2023.[1] On October 3, 2023, Commerce postponed the preliminary determination of this investigation until December 27, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The products covered by this investigation are paper bags from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] in the *Initiation Notice,* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] As discussed in the Preliminary Scope Decision Memorandum, Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice.* In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case and rebuttal briefs.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Normal value is calculated in accordance with section 773 of the Act. Furthermore, pursuant to sections 776(a) and (b) of the Act, Commerce preliminarily has relied upon facts otherwise available, with adverse inferences (AFA) for Apex Paper and Plastic and Film, Asha Overseas, Godhani Exports, and Pack Easy Paper Products. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Negative Determination of Critical Circumstances

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily finds that critical circumstances do not exist with respect to imports of paper bags from India for the two mandatory respondents, Aero Plast Packaging Solution Private Limited (APSL) and Kuloday Plastomers Pvt Ltd. (KPPL), and all other Indian producers and exporters. For a full description of the methodology and results of Commerce's critical circumstances analysis, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Commerce preliminarily determined a zero rate for APSL. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for KPPL. Consequently, the rate calculated for KPPL is also assigned as the rate for all other producers and exporters.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist: [7]

[1] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value,* 88 FR 41589 (June 27, 2023) (*Initiation Notice*).

[2] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value,* 88 FR 68097 (October 03, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Paper Shopping Bags from India'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice,* 88 FR at 41590.

[6] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

[7] Commerce preliminarily determines that Aero Plast Packaging Solutions Private Limited, Aeroplast Limited, and Aero Business Solutions Private Limited are a single entity. *See* Preliminary Decision Memorandum.

Exporter/producer	Weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset(s)) (percent)
Aero Plast Packaging Solutions Private Limited; Aeroplast Limited; Aero Business Solutions Private Limited	0.00	Not Applicable
Kuloday Plastomers Pvt Ltd	10.64	7.17
Adeera Packaging Pvt. Ltd	10.64	7.17
Amate Products Pvt Ltd	10.64	7.17
Apex Paper and Plastic and Film	*57.87	54.40
Archies Limited	10.64	7.17
Asha Overseas	*57.87	54.40
Carrywell Packaging Pvt Ltd	10.64	7.17
Colorbox	10.64	7.17
Dynaflex Private Limited	10.64	7.17
Godhani Exports	*57.87	54.40
Pack Easy Paper Products	*57.87	54.40
Pack Planet Pvt Ltd	10.64	7.17
Poonam	10.64	7.17
Shriniwas Enterprises	10.64	7.17
Tejaswi Plastic Pvt Ltd	10.64	7.17
The Velvin Group (DBA Velvin Packaging Solutions Pvt. Ltd. and Velvin Paper Products)	10.64	7.17
Vama Packaging	10.64	7.17
All Others	10.64	7.17

* Rate based on AFA.

Consistent with section 733(b)(3) of the Act, Commerce disregards *de minimis* rates and preliminarily determines that APSL, the individually examined respondent with a zero rate, has not made sales of subject merchandise at LTFV.

Disclosure

Commerce intends to disclose the calculations performed in connection with this preliminary determination to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise, except as explained below; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Because the estimated weighted-average dumping margin for APSL is zero, entries of shipments of subject merchandise from this company will not be subject to suspension of liquidation or cash deposit requirements. In such situations, Commerce applies the exclusion to the provisional measures to the producer/exporter combination that was examined in the investigation. Accordingly, Commerce is directing CBP not to suspend liquidation of entries of subject merchandise produced and exported by APSL. Entries of shipments of subject merchandise from this company in any other producer/exporter combination, or by third parties that sourced subject merchandise from the excluded producer/exporter combination, are subject to the provisional measures at the all-others rate.

Should the final estimated weighted-average dumping margin be zero or *de minimis* for the producer/exporter combination identified above, entries of shipments of subject merchandise from the producer/exporter combination will be excluded from the potential antidumping duty order. Such an exclusion is not applicable to merchandise exported to the United States by this respondent in any other producer/exporter combination or by third parties that sourced subject merchandise from the excluded producer/exporter combination.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies, Commerce has offset the estimated weighted-average dumping margins by the appropriate CVD rate. Any such adjusted cash deposit rate may be found in the ''Preliminary Determination'' section above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting estimated antidumping duty cash deposits unadjusted for countervailed export subsidies at the time that the provisional CVD measures expire. These suspension of liquidation instructions will remain in effect until further notice.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later

than seven days after the date on which the last verification report is issued in this investigation.[8] A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[9] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[10]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[11] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[12]

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. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.[13]

On November 21, 2023, Coalition for Fair Trade in Shopping Bags (the petitioner) requested that Commerce postpone the final determination in the event of a negative preliminary determination.[14] On November 28, 2023, pursuant to 19 CFR 351.210(e), KPPL requested that Commerce postpone the final determination in the event of an affirmative preliminary determination and that provisional measures be extended to a period not to exceed six months.[15] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports of paper bags from India are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: December 27, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The products within the scope of this investigation are paper shopping bags with handles of any type, regardless of whether there is any printing, regardless of how the top edges are finished (*e.g.,* folded, serrated, or otherwise finished), regardless of color, and regardless of whether the top edges contain adhesive or other material for sealing closed. Subject paper shopping bags have a width of at least 4.5 inches and depth of at least 2.5 inches.

Paper shopping bags typically are made of kraft paper but can be made from any type of cellulose fiber, paperboard, or pressboard with a basis weight less than 300 grams per square meter (GSM).

A non-exhaustive illustrative list of the types of handles on shopping bags covered by the scope include handles made from any materials such as twisted paper, flat paper, yarn, ribbon, rope, string, or plastic, as well as die-cut handles (whether the punchout is fully removed or partially attached as a flap).

Excluded from the scope are:

- Paper sacks or bags that are of a 1/6 or 1/7 barrel size (*i.e.,* 11.5–12.5 inches in width, 6.5–7.5 inches in depth, and 13.5–17.5 inches in height) with flat paper handles or die-cut handles;
- Paper sacks or bags with die-cut handles, a grams per square meter paper weight of less than 86 GSM, and a height of less than 11.5 inches; and
- Paper sacks or bags (i) with non-paper handles made wholly of woven ribbon or other similar woven fabric [16] and (ii) that are finished with folded tops or for which tied knots or t-bar aglets (made of wood, metal,

[8] *See* 19 CFR 351.309(c)(1)(i); *see also* 19 CFR 351.303 (for general filing requirements).

[9] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[10] *See* 19 351.309(c)(2) and (d)(2).

[11] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[12] *See APO and Service Final Rule.*

[13] *See* 19 CFR 351.210(e)(2).

[14] *See* Petitioner's Letter, ''Certain Paper Shopping Bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam/Petitioner's Request for Postponement of the Final Determinations,'' dated November 21, 2023.

[15] *See* KPPL's Letter, ''Request to Extend Final Determination,'' dated November 28, 2023.

[16] Paper sacks or bags with handles made of braided or twisted materials, such as rope or cord, do not qualify for this exclusion.

or plastic) are used to secure the handles to the bags.

The above-referenced dimensions are provided for paper bags in the opened position. The height of the bag is the distance from the bottom fold edge to the top edge (*i.e.,* excluding the height of handles that extend above the top edge). The depth of the bag is the distance from the front of the bag edge to the back of the bag edge (typically measured at the bottom of the bag). The width of the bag is measured from the left to the right edges of the front and back panels (upon which the handles typically are located).

This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 4819.30.0040 and 4819.40.0040. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2023–28940 Filed 1–2–24; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–849]

Certain Paper Shopping Bags From the Republic of Turkey: Preliminary Affirmative Determination of Sales at Less Than Fair Value

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain paper shopping bags (paper bags) from the Republic of Turkey (Turkey) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable January 3, 2024.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen or Luke Caruso, 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) 482–2769 or (202) 482–2081, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation in the **Federal Register** on June 27, 2023.[1] On October 3, 2023, Commerce postponed the preliminary determination of this investigation until December 27, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The products covered by this investigation are paper bags from Turkey. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] As discussed in the Preliminary Scope Decision Memorandum, Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice.* In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case and rebuttal briefs.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Pursuant to section 776(a) and (b) of the Act, Commerce has preliminarily determined an estimated weighted-average dumping margin based upon the facts otherwise available, with adverse inferences (AFA), to the 15 companies that failed to respond to Commerce's quantity and value questionnaire and both mandatory respondents, Artpack Kagit Ambalaj Anonim Sirketi (Artpack) and Oztas Ambalaj Sanayi ve Ticaret A.S. (Oztas). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not assigned individual rates. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding rates that are zero, *de minimis* or determined entirely under section 776 of the Act. However, pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis* or determined based entirely on facts otherwise available, Commerce may use any reasonable method to establish the estimated

[1] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair Value Investigations,* 88 FR 41589 (June 27, 2023) (*Initiation Notice*).

[2] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair Value Investigations,* 88 FR 68097 (October 3, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination of Sales at Less Than Fair Value in the Investigation of Certain Paper Shopping Bags from the Republic of Turkey,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notic*e, 88 FR at 41590.

[6] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

weighted-average dumping margin for all other producers or exporters.

Commerce has preliminarily determined the estimated dumping margin for each of the individually examined respondents under sections 776(a) and (b) of the Act. Consequently, pursuant to section 735(c)(5)(B) of the Act, Commerce's normal practice under these circumstances has been to calculate the all-others rate as a simple average of the dumping margins alleged in the petition.[7] For a full description of the methodology underlying Commerce's analysis, *see* the Preliminary Decision Memorandum.

Preliminary Determination

Commerce preliminarily determines that the following estimated dumping margins exist:

Exporter or producer	Dumping margin (percent)
Artpack Kagit Ambalaj Anonim Sirketi	*47.56
Oztas Ambalaj Sanayi ve Ticaret A.S	*47.56
Babet Kagitsilik	*47.56
Bati Kraft Torba Ambalaj	*47.56
BFT Packaging	*47.56
Cicupack Ambalaj	*47.56
Ekopack Kagit Ambalaj	*47.56
Elhadefler A.S	*47.56
Esda Pack Ambalaj	*47.56
Haypack Ambalaj	*47.56
Jefira Global Dis	*47.56
Kahramanmaraş Kağıt Sanayi ve Ticaret Anonim Şirketi	*47.56
Multi Kraft Ambalaj	*47.56
Rad Tekstil	*47.56
Suleyman Tabak Kagitcilik	*47.56
Sunvision Tekstil	*47.56
Umur Basim	*47.56
Yildez Paper Bag Ambalaj Pazarlama	*47.56
All Others	26.32

* Rate based on AFA.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed in the table above will be equal to the company-specific estimated dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified in the table above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Normally, Commerce discloses to parties to the proceeding the calculations performed in connection with a preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied AFA to the individually-examined companies Artpack and Oztas in this investigation, in accordance with sections 776(a) and (b) of the Act, and the applied AFA rate is based solely on the petition, there are no calculations to disclose.

Verification

Because the mandatory respondents in this investigation did not provide the information that was requested by Commerce, and Commerce preliminarily determines that each of the mandatory respondents have been uncooperative, it will not conduct verification.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 21 days after the date of publication of the preliminary determination in the **Federal Register**.[8] Rebuttal briefs, limited to issues raised in case briefs, may be filed not later than five days after the date for filing case briefs.[9] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[10]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[11] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[12]

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 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.

[7] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany,* 73 FR 21909, 21912 (April 23, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany,* 73 FR 38986, 38987 (July 8, 2008), and accompanying Issues and Decision Memorandum at Comment 2; *see also Notice of Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets from Taiwan,* 73 FR 39673, 39674 (July 10, 2008); *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances,* 78 FR 79670, 79671 (December 31, 2013), unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances,* 79 FR 14476, 14477 (March 14, 2014).

[8] See 19 CFR 351.309(c)(1)(i); and 19 CFR 351.303 (for general filling requirements). Commerce has exercised its discretion under 19 CFR 351.309(c)(1)(i) to alter the time limit for submission of case briefs.

[9] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[10] *See* 19 CFR 351.309(c)(2) and (d)(2).

[11] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[12] *See APO and Service Final Rule.*

If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled hearing date.

Final Determination

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that Commerce will issue the final determination within 75 days after the date of its preliminary determination. Accordingly, Commerce will make its final determination no later than 75 days after the signature date of this preliminary determination, unless extended.

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: December 27, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products within the scope of this investigation are paper shopping bags with handles of any type, regardless of whether there is any printing, regardless of how the top edges are finished (*e.g.,* folded, serrated, or otherwise finished), regardless of color, and regardless of whether the top edges contain adhesive or other material for sealing closed. Subject paper shopping bags have a width of at least 4.5 inches and depth of at least 2.5 inches.

Paper shopping bags typically are made of kraft paper but can be made from any type of cellulose fiber, paperboard, or pressboard with a basis weight less than 300 grams per square meter (GSM).

A non-exhaustive illustrative list of the types of handles on shopping bags covered by the scope include handles made from any materials such as twisted paper, flat paper, yarn, ribbon, rope, string, or plastic, as well as die-cut handles (whether the punchout is fully removed or partially attached as a flap).

Excluded from the scope are:

- Paper sacks or bags that are of a 1/6 or 1/7 barrel size (*i.e.,* 11.5–12.5 inches in width, 6.5–7.5 inches in depth, and 13.5–17.5 inches in height) with flat paper handles or die-cut handles;
- Paper sacks or bags with die-cut handles, a grams per square meter paper weight of less than 86 GSM, and a height of less than 11.5 inches; and
- Paper sacks or bags (i) with non-paper handles made wholly of woven ribbon or other similar woven fabric and (ii) that are finished with folded tops or for which tied knots or t-bar aglets (made of wood, metal, or plastic) are used to secure the handles to the bags.

The above-referenced dimensions are provided for paper bags in the opened position. The height of the bag is the distance from the bottom fold edge to the top edge (*i.e.,* excluding the height of handles that extend above the top edge). The depth of the bag is the distance from the front of the bag edge to the back of the bag edge (typically measured at the bottom of the bag). The width of the bag is measured from the left to the right edges of the front and back panels (upon which the handles typically are located).

This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 4819.30.0040 and 4819.40.0040. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2023–28944 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–471–808]

Certain Paper Shopping Bags From Portugal: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, and Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain paper shopping bags (paper bags) from Portugal are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is April 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable January 3, 2024.

FOR FURTHER INFORMATION CONTACT: Colin Thrasher, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3004.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation in the **Federal Register** on June 27, 2023.[1] On October 3, 2023, Commerce postponed the preliminary determination of this investigation until December 27, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

[1] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 88 FR 41589 (June 27, 2023) (*Initiation Notice*).

[2] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 88 FR 68097 (October 3, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Less Than Fair Value Investigation of Certain Paper Shopping Bags from Portugal,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope of the Investigation

The products covered by this investigation are paper bags from Portugal. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] in the *Initiation Notice,* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] As discussed in the Preliminary Scope Decision Memorandum, Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice.* In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case and rebuttal briefs.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices and constructed export prices in accordance with sections 772(a) and 772(b) of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Negative Determination of Critical Circumstances

In accordance with section 733(e) of the Act and 19 CFR 351.206(c), Commerce preliminarily determines that critical circumstances do not exist with respect to imports of paper bags from Portugal for Finieco Indústria e Comércio de Embalagens, SA (Finieco) and for all other producers and exporters. For a full description of the methodology and results of Commerce's critical circumstances analysis, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Commerce calculated an individual estimated weighted-average dumping margin for Finieco, the only individually examined exporter/producer in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis,* or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for Finieco is the margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Producer/exporter	Weighted-average dumping margin (percent)
Finieco Indústria e Comércio de Embalagens, SA	11.33
All Others	11.33

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register** in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondent listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this investigation.[7] Rebuttal briefs, limited to issues raised in case briefs, may be filed not later than five days after the date for filing case briefs.[8] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[9]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[10] Further, we request that interested parties limit their executive summary of each issue to no more than

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice,* 88 FR at 41590.

[6] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

[7] Case briefs and rebuttal briefs submitted in response to this preliminary LTFV determination should not include scope-related issues.

[8] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[9] *See* 19 351.309(c)(2) and (d)(2).

[10] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[11]

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. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by respondents for postponement of a final antidumping duty determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On November 21, 2023, Coalition for Fair Trade in Shopping Bags (the petitioner) requested that Commerce postpone the final determination in the event of a negative preliminary determination.[12] On December 14, 2023, Finieco also requested that Commerce postpone the final determination in the event of an affirmative preliminary determination and that provisional measures be extended to a period not to exceed 135 days.[13] In accordance with section 735(a)(2)(B) of the Act, and 19 CFR 351.210(b)(2)(i), because: (1) the preliminary determination is affirmative; (2) the requesting exporter has requested the postponement of the final determination; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce's final determination will be issued no later than 135 days after the date of publication of this preliminary determination in the **Federal Register**, pursuant to section 735(a)(2) of the Act.

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: December 27, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The products within the scope of this investigation are paper shopping bags with handles of any type, regardless of whether there is any printing, regardless of how the top edges are finished (*e.g.,* folded, serrated, or otherwise finished), regardless of color, and regardless of whether the top edges contain adhesive or other material for sealing closed. Subject paper shopping bags have a width of at least 4.5 inches and depth of at least 2.5 inches.

Paper shopping bags typically are made of kraft paper but can be made from any type of cellulose fiber, paperboard, or pressboard with a basis weight less than 300 grams per square meter (GSM).

A non-exhaustive illustrative list of the types of handles on shopping bags covered by the scope include handles made from any materials such as twisted paper, flat paper, yarn, ribbon, rope, string, or plastic, as well as die-cut handles (whether the punchout is fully removed or partially attached as a flap).

Excluded from the scope are:

- Paper sacks or bags that are of a 1/6 or 1/7 barrel size (*i.e.,* 11.5–12.5 inches in width, 6.5–7.5 inches in depth, and 13.5–17.5 inches in height) with flat paper handles or die-cut handles;
- Paper sacks or bags with die-cut handles, a grams per square meter paper weight of less than 86 GSM, and a height of less than 11.5 inches; and
- Paper sacks or bags (i) with non-paper handles made wholly of woven ribbon or other similar woven fabric[14] and (ii) that are finished with folded tops or for which tied knots or t-bar aglets (made of wood, metal, or plastic) are used to secure the handles to the bags.

The above-referenced dimensions are provided for paper bags in the opened position. The height of the bag is the distance from the bottom fold edge to the top edge (*i.e.,* excluding the height of handles that extend above the top edge). The depth of the bag is the distance from the front of the bag edge to the back of the bag edge (typically measured at the bottom of the bag). The width of the bag is measured from the left to the right edges of the front and back panels (upon which the handles typically are located).

This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 4819.30.0040 and 4819.40.0040. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2023–28942 Filed 1–2–24; 8:45 am]

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[11] *See APO and Service Final Rule.*

[12] *See* Petitioner's Letter, ''Certain Paper Shopping Bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam/Petitioner's Request for Postponement of the Final Determinations,'' dated November 21, 2023.

[13] *See* Finieco's Letter, ''Request for Postponement of Final Determination,'' dated December 14, 2023.

[14] Paper sacks or bags with handles made of braided or twisted materials, such as rope or cord, do not qualify for this exclusion.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–152]

Certain Paper Shopping Bags From the People's Republic of China: Preliminary Affirmative Determinations of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain paper shopping bags (paper bags) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable January 3, 2024.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold, 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) 482–1211.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on June 27, 2023.[1] On October 3, 2023, Commerce postponed the preliminary determination of this investigation until December 27, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The products covered by this investigation are paper bags from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] in the *Initiation Notice,* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] As discussed in the Preliminary Scope Decision Memorandum, Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice.* In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case and rebuttal briefs.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Because China is a non-market economy within the meaning of section 771(18) of the Act, Commerce has calculated normal value in accordance with section 773(c) of the Act.

In addition, pursuant to sections 776(a) and (b) of the Act because the China-wide entity did not cooperate to the best of its ability in responding to Commerce's request for data, Commerce preliminarily has relied upon facts otherwise available, with adverse inferences, in determining the estimated weighted-average dumping margin for the China-wide entity. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances, in Part

In accordance with section 733(e)(1) of the Act and 19 CFR 351.206(c), Commerce preliminarily determines that critical circumstances exist with respect to imports of paper bags from China for Dongzheng Paperbag (DaLian) Factory (Dongzheng), the non-selected respondents eligible for a separate rate, and the China-wide entity. Commerce preliminarily determines that critical circumstances do not exist with respect to imports of paper bags from China for UUPAK Co., Ltd. (UUPAK). For a full description of the methodology and results of Commerce's analysis, *see* the Preliminary Decision Memorandum.

Combination Rates

In the *Initiation Notice,*[7] Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Commerce's Policy Bulletin 05.1 describes this practice.[8] In this investigation, we calculated producer/exporter combination rates for respondents eligible for separate rates.

Separate Rates

In addition to Dongzheng and UUPAK, we have preliminarily granted a separate rate to certain respondents that we did not select for individual examination.[9] In calculating the rate for non-individually examined separate rate respondents in a non-market economy LTFV investigation, Commerce normally looks to section 735(c)(5)(A) of the Act, which pertains to the calculation of the all-others rate in a market economy LTFV investigation, for guidance. Pursuant to section 735(c)(5)(A) of the Act, normally this rate shall be an amount equal to the

[1] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 88 FR 41589 (June 27, 2023) (*Initiation Notice*).

[2] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 88 FR 68097 (October 3, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair Value Investigation of Certain Paper Shopping Bags from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice,* 88 FR at 41590.

[6] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

[7] *See Initiation Notice,* 88 FR at 4811.

[8] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at *http://enforcement.trade.gov/policy/bull05-1.pdf.*

[9] *See* the Preliminary Decision Memorandum for additional details.

weighted average of the estimated weighted-average dumping margins established for those companies individually examined, excluding zero and *de minimis* and any rates based entirely under section 776 of the Act. Commerce calculated individual estimated weighted-average dumping margins for Dongzheng and UUPAK that are not zero, *de minimis,* or based entirely on facts otherwise available. Thus, the weighted-average dumping margins calculated for Dongzheng and UUPAK are the basis to determine the weighted-average dumping margin for the non-examined, separate rate companies, investigation. *See* the table below in the ''Preliminary Determination'' section of this notice.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter	Producer	Weighted-average dumping margin (percent)	Cash deposit rate (adjusted for export subsidy offset(s)) (percent)
Dongzheng Paperbag (DaLian) Factory.	Dongzheng Paperbag (DaLian) Factory	59.41	48.86
UUPAK Co., Ltd	Tianjin Haishun Printing & Packing Co., Ltd	24.15	12.81
Fujian Eco Packaging Co., Ltd	Fujian Hongkai Packaging Co., Ltd	40.55	29.21
Fujian Eco Packaging Co., Ltd	Fujian Yihe Packaging Co., Ltd	40.55	29.21
Fujian Eco Packaging Co., Ltd	Guangdong Union Eco-Packaging Scien-Tech Co., Ltd	40.55	29.21
Fujian Eco Packaging Co., Ltd	Xiamen Huide Eco-friendly Paper Bags Co., Ltd	40.55	29.21
Fujian Eco Packaging Co., Ltd	Xiamen Jihong Technology Co., Ltd	40.55	29.21
Fujian Nanwang Environment Protection Scien-tech Co., Ltd.	Anhui Nanwang Environmental Protection Technology Co., Ltd	40.55	29.15
Fujian Nanwang Environment Protection Scien-tech Co., Ltd.	Fujian Nanwang Environment Protection Scien-tech CO., LTD	40.55	29.15
Fujian Nanwang Environment Protection Scien-tech Co., Ltd.	Hubei Nanwang Environmental Protection Scien-tech Co., Ltd	40.55	29.15
Fujian Nanwang Environment Protection Scien-tech Co., Ltd.	Xianghe Nanwang Environmental Protection Technology Co., Ltd	40.55	29.15
Fujian Nanwang Environment Protection Scien-tech Co., Ltd.	Zhuhai Zhongyue Paper CUP Container Co., Ltd	40.55	29.15
Grand Intelligent Limited	Ruichuang Limited	40.55	29.21
Max Fortune Industrial Ltd	Winner Printing and Packaging (He Yuan) Ltd	40.55	29.21
Ningbo Beiheng Import & Export Company Limited.	Wenzhou Weijie Packing Co., Ltd	40.55	29.21
Shanghai Miho Package & Product Co., Ltd.	Zhejiang Shengxiang Industrial Co., Ltd	40.55	29.21
Union Packaging Group Limited	Guangdong Union Eco-Packaging Scien-Tech Co., Ltd	40.55	29.21
Wuxi Hualite Metal Plastic Products Co., Ltd.	Wuxi Hualite Paper Products Co., Ltd	40.55	29.21
Xiamen Bag Imp. & Exp. Co., Ltd	Xiamen CYR Green-Tech Co., Ltd	40.55	29.21
Xiamen Huide Xiesheng Packaging Co., Ltd.	Xiamen Huide Eco-Friendly Paper Bags Co., Ltd	40.55	29.21
Xiamen Jihong Technology Co., Ltd	Xiamen Jihong Technology Co., Ltd	40.55	29.21
Xiamen Joy Supply Chain Co., Ltd	Fujian Huian Nice Paper Products Co., Ltd	40.55	29.21
Xiamen Joy Supply Chain Co., Ltd	Xiamen THINKER Packaging Products Co., Ltd	40.55	29.2
Xiamen Nice Packaging Products Co., Ltd.	Fujian Huian Nice Paper Products Co., Ltd	40.55	29.21
Xiamen Nice Packaging Products Co., Ltd.	Xiamen THINKER Packaging Products Co., Ltd	40.55	29.21
China-wide Entity [10]		146.32	135.77

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of subject merchandise, as described in the scope of the investigation section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, or earlier, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the weighted average amount by which normal value exceeds U.S. price, as indicated in the chart above, as follows: (1) for the producer/exporter combinations listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Chinese producers/exporters of subject merchandise that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the China-wide entity; and (3) for all third-country exporters of subject merchandise not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the Chinese producer/exporter combination (or China-wide entity) that supplied that third-country exporter.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise

[10] We have not granted a separate rate to Qingdao Deepack Co., Ltd.; thus, the China-wide Entity preliminarily includes Qingdao Deepack Co., Ltd. *See* the Preliminary Decision Memorandum for additional details.

entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise from Dongzheng, the non-selected respondents eligible for a separate rate, and the China-wide entity.[11] However, we have found that critical circumstances do not exist for UUPAK.[12] In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to all unliquidated entries of merchandise from Dongzheng, the non-selected respondents eligible for a separate rate, and the China-wide entity that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice in the **Federal Register**.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect. Accordingly, where Commerce has made a preliminary affirmative determination for domestic subsidy pass-through or export subsidies, Commerce offset the calculated estimated weighted-average dumping margin by the appropriate rate(s). Any such adjusted rates may be found in the chart of estimated weighted-average dumping margins in the ''Preliminary Determination'' section above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting cash deposits at a rate equal to the estimated weighted-average dumping margins calculated in this preliminary determination unadjusted for export subsidies at the time the CVD provisional measures expire. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register** in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[13] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[14]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[15] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[16]

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. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by respondents for postponement of a final antidumping duty determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On November 21, 2023, the Coalition For Fair Trade in Shopping Bags (the petitioner) timely requested that Commerce fully extend the deadline for the final determination in the event of a negative preliminary determination.[17] On December 19, 2023, Dongzheng timely requested that Commerce fully extend the deadline for the final determination in the event of an affirmative preliminary determination.[18] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of

[11] *See* Preliminary Decision Memorandum.

[12] *Id.*

[13] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[14] *See* 19 351.309(c)(2) and (d)(2).

[15] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[16] *See APO and Service Final Rule.*

[17] *See* Petitioner's Letter, ''Request to Postpone Final Determination,'' dated November 6, 2023.

[18] *See* Dongzheng's Letter, ''Request to Extend Final Determination,'' dated December 19, 2023.

publication of this preliminary determination, pursuant to section 735(a)(2) of the Act. Furthermore, as the final CVD determination has been aligned with the final LTFV determination, Commerce will make its final CVD determination no later than 135 days after the date of publication of this preliminary determination.[19]

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: December 27, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The products within the scope of this investigation are paper shopping bags with handles of any type, regardless of whether there is any printing, regardless of how the top edges are finished (*e.g.,* folded, serrated, or otherwise finished), regardless of color, and regardless of whether the top edges contain adhesive or other material for sealing closed. Subject paper shopping bags have a width of at least 4.5 inches and depth of at least 2.5 inches.

Paper shopping bags typically are made of kraft paper but can be made from any type of cellulose fiber, paperboard, or pressboard with a basis weight less than 300 grams per square meter (GSM).

A non-exhaustive illustrative list of the types of handles on shopping bags covered by the scope include handles made from any materials such as twisted paper, flat paper, yarn, ribbon, rope, string, or plastic, as well as die-cut handles (whether the punchout is fully removed or partially attached as a flap).

Excluded from the scope are:

- Paper sacks or bags that are of a 1/6 or 1/7 barrel size (*i.e.,* 11.5–12.5 inches in width, 6.5–7.5 inches in depth, and 13.5–17.5 inches in height) with flat paper handles or die-cut handles;
- Paper sacks or bags with die-cut handles, a grams per square meter paper weight of less than 86 GSM, and a height of less than 11.5 inches; and
- Paper sacks or bags (i) with non-paper handles made wholly of woven ribbon or other similar woven fabric[20] and (ii) that are finished with folded tops or for which tied knots or t-bar aglets (made of wood, metal, or plastic) are used to secure the handles to the bags.

The above-referenced dimensions are provided for paper bags in the opened position. The height of the bag is the distance from the bottom fold edge to the top edge (*i.e.,* excluding the height of handles that extend above the top edge). The depth of the bag is the distance from the front of the bag edge to the back of the bag edge (typically measured at the bottom of the bag). The width of the bag is measured from the left to the right edges of the front and back panels (upon which the handles typically are located).

This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 4819.30.0040 and 4819.40.0040. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2023–28938 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–DS–P

[19] *See Certain Paper Shopping Bags from the People's Republic of China and India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination with Final Antidumping Duty Determination,* 88 FR 76180 (November 6, 2023).

[20] Paper sacks or bags with handles made of braided or twisted materials, such as rope or cord, do not qualify for this exclusion.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD619]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Recreational Advisory Panel via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Monday, January 22, 2024, at 9 a.m.

ADDRESSES: Webinar registration URL information: *https://attendee.gotowebinar.com/register/5812975475550509918.*

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Recreational Advisory Panel will meet to discuss and develop recommendations to the Groundfish Committee on fishing year 2024 recreational measures for Georges Bank cod, Gulf of Maine cod and Gulf of Maine haddock. They will also receive an overview of the Council's groundfish priorities for 2024. Other business may be discussed as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: December 28, 2023.

Diane M. DeJames-Daly,

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

[FR Doc. 2023–28908 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD606]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Ecosystem-Based Fishery Management (EBFM) Committee via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Thursday, January 18, 2024, at 9 a.m.

ADDRESSES: Webinar registration URL information: *https://attendee.gotowebinar.com/register/8434885821923351 93.*

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Ecosystem-Based Fishery Management Committee will meet to consider strategies for furthering ecosystem approaches to fisheries management, including potential incorporation of ecosystem information into stock assessment and management advice. Other business will be discussed if necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: December 28, 2023.

Diane M. DeJames-Daly,

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

[FR Doc. 2023–28905 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD566]

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 89 South Atlantic Tilefish Life History Topical Working Group (LH–TWG) Webinar I.

SUMMARY: The SEDAR 89 assessment of the South Atlantic stock of tilefish will consist of a series of LH–TWG webinars. A SEDAR 89 LH–TWG Webinar is scheduled for January 24, 2024. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 89 South Atlantic Tilefish LH–TWG Webinar I has been scheduled for January 24, 2024, from 1 p.m. to 4 p.m., eastern. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from or completed prior to the time established by this notice.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Registration for the webinar is available by contacting the SEDAR coordinator via email at *Meisha.Key@safmc.net.*

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405; *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: Meisha Key, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366; email: *Meisha.Key@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion at the SEDAR 89 South Atlantic Tilefish LH–TWG Webinar I are as follows: Report findings of potential utility and incorporation of new life history data sources.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the South Atlantic Fishery Management Council office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: December 28, 2023.

Diane M. DeJames-Daly,

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

[FR Doc. 2023–28907 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD594]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Committee of the Whole (COTW) will hold a 2-day in-person work session that is open to the public.

DATES: The COTW meeting will be held Thursday, January 18, 2024 from 8 a.m. Pacific Standard Time, until business for the day has been completed. The COTW will reconvene Friday, January 19, 2024, from 8 a.m. until business for the day has been completed.

ADDRESSES: The meeting will be held at the Hyatt Place Portland Airport Cascade Station, Meeting Place 3–4 Room, 9750 NE Cascades Parkway, Portland, Oregon 97220. This work session is being conducted in person, with a web broadcast that provides the opportunity for remote public comment. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). Please contact Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, Oregon 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Merrick Burden, Executive Director, Pacific Council; telephone: (503) 820–2418 or (866) 806–7204 toll-free, or access the Pacific Council website, *www.pcouncil.org,* for the proposed agenda and meeting briefing materials.

SUPPLEMENTARY INFORMATION: The primary purpose of the Committee-of-the-whole meeting is to discuss the Council's fiscal status, and the alignment of Council finances with priorities and operational practices. The committee will discuss these matters in the context of the Council's next grant period, funding from the Inflation Reduction Act, and other possible sources of Council funding. No management actions will be decided by the COTW. The COTW's recommendations will be considered by the Council at the March Council meeting. A detailed agenda for the meeting will be available on the Pacific Council's website prior to the meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 business days prior to the meeting date.

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

Dated: December 28, 2023.

Diane M. DeJames-Daly,

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

[FR Doc. 2023–28903 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD601]

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The SEDAR 82 assessment of the South Atlantic stock of Gray Triggerfish will consist of a data workshop, a series of assessment webinars, and a review workshop. See **SUPPLEMENTARY INFORMATION.**

DATES: The SEDAR 82 South Atlantic Gray Triggerfish Assessment Webinar 9 is scheduled for January 18, 2024, from 1 p.m. to 4 p.m., eastern. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from or completed prior to the time established by this notice.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Registration for the webinar is available by contacting the SEDAR coordinator via email at *Meisha.Key@safmc.net.*

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405; *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: Meisha Key, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366; email: *Meisha.Key@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses

of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion at the SEDAR 82 South Atlantic Gray Triggerfish Assessment Webinar 9 are as follows: discuss any leftover data/modelling issues that were not cleared up during the data and assessment processes, answer any questions the analysts have, and determine if model development is complete.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the South Atlantic Fishery Management Council office (see **ADDRESSES**) at least 5 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: December 28, 2023.

Diane M. DeJames-Daly,

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

[FR Doc. 2023–28904 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD627]

Pacific Island Fisheries; Western Pacific Stock Assessment Review Steering Committee Meeting; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Western Pacific Stock Assessment Review (WPSAR) Steering Committee will convene a public meeting to discuss and approve the 5-year calendar for stock assessments, and to address any other concerns related to the WPSAR process.

DATES: The Steering Committee will meet from 2 p.m. to 3:30 p.m. Hawaii standard time on January 17, 2024.

ADDRESSES: The meeting will be open to the public and held in-person at the NMFS Honolulu Service Center at Pier 38, 1129 N Nimitz Hwy., Suite 220, Honolulu, HI 96817.

FOR FURTHER INFORMATION CONTACT: Todd Jones, (808) 725–5713, or *todd.jones@noaa.gov*.

SUPPLEMENTARY INFORMATION: The WPSAR steering committee consists of the Executive Director of the Western Pacific Fishery Management Council, the Science Director of the NMFS Pacific Islands Fisheries Science Center (PIFSC), and the Acting Regional Administrator of the NMFS Pacific Islands Regional Office. You may read more about WPSAR at *https://www.pifsc.noaa.gov/peer_reviews/wpsar/index.php.*

The public will have an opportunity to comment during the meeting. The agenda order may change. The meeting will run as late as necessary to complete scheduled business.

Meeting Agenda

1. Introductions
2. Stock assessments
   a. Discuss and update stock assessment review schedule
   b. Discuss and update review levels for stock assessments
3. Discuss and nominate additional science products for review by the Center for Independent Experts, if necessary
4. Finalizing the updates to the WPSAR Framework
   a. Incorporation of Research Track Assessment
5. Other business
6. Public comment

Special Accommodations

This meeting is physically accessible to people with disabilities. Please direct requests for sign language interpretation or other auxiliary aids to T. Todd Jones, Director, PIFSC Fisheries Research and Management Division, telephone: (808) 725–5713, or *todd.jones@noaa.gov* at least 5 days prior to the meeting date.

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

Dated: December 27, 2023.

Jon William Bell,

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

[FR Doc. 2023–28873 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Recruitment of First Responder Network Authority Board Members

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The National Telecommunications and Information Administration (NTIA) issues this Notice to initiate the annual process to seek expressions of interest from individuals who would like to serve on the Board of the First Responder Network Authority (FirstNet Authority Board or Board). The term of 11 of the 12 non-permanent members to the FirstNet Authority Board will be available for appointment or reappointment in 2024.

DATES: To be considered for the calendar year 2024 appointments, expressions of interest must be electronically transmitted on or before February 2, 2024.

ADDRESSES: Applicants should submit expressions of interest as described below to: Michael Dame, Deputy Associate Administrator, Office of Public Safety Communications, National Telecommunications and Information Administration, by email to *FirstNetBoardApplicant@ntia.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Dame, Deputy Associate Administrator, Office of Public Safety Communications, National Telecommunications and Information Administration; telephone: (202) 482–1181; email: *mdame@ntia.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, *press@ntia.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The Middle Class Tax Relief and Job Creation Act of 2012 (Act) created the First Responder Network Authority (FirstNet Authority) as an independent authority within NTIA. The Act charged the FirstNet Authority with ensuring the building, deployment, and operation of a nationwide, interoperable public safety broadband network, based on a single, national network architecture.[1] The FirstNet Authority holds the single nationwide public safety license granted for wireless public safety broadband deployment. The FirstNet Authority Board is responsible for providing overall policy direction and oversight of FirstNet to ensure that the nationwide network continuously meets the needs of public safety.

II. Structure

The FirstNet Authority Board is composed of 15 voting members. The Act names the Secretary of Homeland Security, the Attorney General of the United States, and the Director of the Office of Management and Budget as permanent members of the FirstNet Authority Board. The Secretary of Commerce (Secretary) appoints the 12 non-permanent members of the FirstNet Authority Board.[2]

The Act requires each Board member to have experience or expertise in at least one of the following substantive areas: public safety, network, technical, and/or financial.[3] Additionally, the composition of the FirstNet Authority Board must satisfy the other requirements specified in the Act, including that: (i) at least three members have served as public safety professionals; (ii) at least three members represent the collective interests of States, localities, Tribes, and Territories; and (iii) its members reflect geographic and regional, as well as rural and urban, representation.[4] An individual Board member may satisfy more than one of these requirements. The current non-permanent FirstNet Authority Board members are (noting expiration of term):

- Board Chair Richard Carrizzo, Fire Chief, Southern Platte Fire Protection District, MO (Term expires: September 2024)
- Brian Crawford, SVP/Chief Administrative Officer, Willis-Knighton Health System and retired Fire Chief and Municipal Government Executive (Term expires: September 2024)
- Alexandra Fernandez Navarro, Former Associate Member, Puerto Rico Public Service Regulatory Board (Term expires: September 2024)
- Kristin Graziano, Sheriff, Charleston County, SC (Term expires: September 2024)
- Billy Hewes, Mayor, Gulfport, MS (Term expires: September 2024)
- Peter Koutoujian, Sheriff, Middlesex County, MA (Term expires: September 2024)
- Sean McDevitt, Partner, Arthur D. Little (Term expires: September 2024)
- Warren Mickens, Retired technology executive (Term expires: September 2024)
- Sylvia Moir, Undersheriff, Marin County, CA and retired Police Chief (Term expires: September 2024)
- Jocelyn Moore, Board Member for Omaze, OppFi, and DraftKings (Term expires: September 2024)
- Paul Patrick, Division Director, Family Health and Preparedness, Utah Department of Health (Term expires: September 2024)
- Vice Chair Renee Gordon, Director, Department of Emergency and Customer Communications, Alexandria, VA (Term expires: September 2025)

Any Board member whose term has expired may serve until such member's successor has taken office, or until the end of the calendar year in which such member's term has expired, whichever is earlier.[5] Board members will be appointed for a term of three years. Board members may not serve more than two consecutive full three-year terms.[6] In 2024, four current Board members are ineligible for reappointment. More information about the FirstNet Authority Board is available at *www.firstnet.gov/about/Board.*

III. Compensation and Status as Government Employees

FirstNet Authority Board members are appointed as government employees. FirstNet Authority Board members are compensated at the daily rate of basic pay for level IV of the Executive Schedule (approximately $183,500 per year as of January 2023) for each day worked on the FirstNet Authority Board.[7] Board members work intermittent schedules and may not work more than 130 days per year during their term. Each Board member must be a United States citizen, cannot be a registered lobbyist, and cannot be a registered agent of, employed by, or receive payments from, a foreign government.[8]

IV. Financial Disclosure and Conflicts of Interest

FirstNet Authority Board members must comply with certain Federal conflict of interest statutes and ethics regulations, including some financial disclosure requirements. A FirstNet Authority Board member will generally be prohibited from participating on any FirstNet Authority matter that will have a direct and predictable effect on his or her personal financial interests or on the interests of the appointee's spouse, minor children, or non-Federal employer.

V. Selection Process

At the direction of the Secretary, NTIA will conduct outreach to the public safety community, State and local organizations, and industry to solicit nominations for candidates to the Board who satisfy the statutory requirements for membership. In addition, the Secretary, through NTIA, will accept expressions of interest from any individual, or from any organization proposing a candidate who satisfies the statutory requirements for membership on the FirstNet Authority Board. To be considered for a calendar year 2024 appointment, expressions of interest must be electronically transmitted on or before February 2, 2024.

All parties submitting an expression of interest should submit the candidate's (i) full name, title, organization, address, telephone number, email address; (ii) current resume; (iii) brief bio; (iv) statement of qualifications that references how the candidate satisfies the Act's expertise, representational, and geographic requirements for FirstNet Authority Board membership, as described in this Notice; and (v) a statement describing why the candidate wants to serve on the FirstNet Authority Board, affirming their ability and availability to take a regular and active role in the Board's work.

The Secretary will select FirstNet Authority Board candidates based on the eligibility requirements in the Act and recommendations submitted by NTIA. NTIA will recommend candidates based on an assessment of qualifications as well as demonstrated ability to work in a collaborative way to achieve the goals and objectives of the FirstNet Authority as set forth in the Act. NTIA may consult with FirstNet

[1] 47 U.S.C. 1422(b).
[2] 47 U.S.C. 1424(b).
[3] 47 U.S.C. 1424(b)(2)(B).
[4] 47 U.S.C. 1424(b)(2)(A).
[5] 47 U.S.C. 1424(c)(2)(B).
[6] 47 U.S.C. 1424(c)(2)(A)(ii).
[7] 47 U.S.C. 1424(g).
[8] *See* Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions, Office of Management and Budget, 79 FR 47482 (Aug. 13, 2014).

Authority Board members or executives in making its recommendation. Board candidates will be vetted through the Department of Commerce and are subject to an appropriate background check for security clearance.

Stephanie Weiner,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2023–28702 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–WL–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination Under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (''CAFTA–DR'')

AGENCY: The Committee for the Implementation of Textile Agreements.

ACTION: Determination to add a product in unrestricted quantities to Annex 3.25 of the CAFTA–DR.

DATES: *Applicable Date:* January 3, 2024.

SUMMARY: The Committee for the Implementation of Textile Agreements (''CITA'') has determined that certain two-way stretch polyester/spandex woven fabric (the ''subject product''), as specified below, is not available in commercial quantities in a timely manner in the CAFTA–DR countries. The product will be added to the list in Annex 3.25 of the CAFTA–DR in unrestricted quantities.

FOR FURTHER INFORMATION CONTACT: Laurie Mease, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–2043 or *Laurie.Mease@trade.gov.*

For Further Information Online: https://otexaprod.trade.gov/otexacapublicsite/requests/cafta under ''Approved Requests,'' File Number: CA2023001.

SUPPLEMENTARY INFORMATION:

Authority: The CAFTA–DR; section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (''CAFTA–DR Implementation Act''), Public Law 109–53; the Statement of Administrative Action accompanying the CAFTA–DR Implementation Act; and Presidential Proclamation 7987 (February 28, 2006).

Background: The CAFTA–DR provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA–DR have determined are not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA–DR provides that this list may be modified pursuant to Article 3.25.4 and 3.25.5, when the United States determines that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the territory of any Party. *See* Annex 3.25 of the CAFTA–DR; *see also* section 203(o)(4)(C) of the CAFTA–DR Implementation Act.

The CAFTA–DR Implementation Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamation 7987, the President delegated to CITA the authority under section 203(o)(4) of CAFTA–DR Implementation Act for modifying the Annex 3.25 list. Pursuant to this authority, on September 15, 2008, CITA published modified procedures it would follow in considering requests to modify the Annex 3.25 list of products determined to be not commercially available in the territory of any Party to the CAFTA–DR (*Modifications to Procedures for Considering Requests Under the Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement,* 73 FR 53200) (''CITA's procedures'').

On October 31, 2023, CITA received a commercial availability request from Konffetty S.A. de C.V. (''Konffetty'') for certain two-way stretch polyester/spandex woven fabric, as specified below. On November 2, 2023, in accordance with CITA's procedures, CITA notified interested parties of the Request, which was posted on the dedicated website for CAFTA–DR commercial availability proceedings. In its notification, CITA advised that any Response with an Offer to Supply (''response'') must be submitted by November 15, 2023, and any Rebuttal to a Response (''rebuttal'') must be submitted by November 21, 2023, in accordance with sections 6 and 7 of CITA's procedures.

Based on a request from an interested entity, and in accordance with section 6(a) of CITA's procedures, CITA extended the response deadline by two business days, through November 17, 2023. Correspondingly, the rebuttal deadline was extended by two business days, through November 24, 2023.

On November 17, 2023, Summitex Woven Textiles (''Summitex'') submitted a response to the pending request. On November 24, 2023, Konffetty submitted a rebuttal to Summitex's response. In accordance with section 203(o)(4) of the CAFTA–DR Implementation Act, Article 3.25 of the CAFTA–DR, and section 8(c)(4) of CITA's procedures, because there was insufficient information on the record to make a determination within 30 business days, CITA extended the period to make a determination by 14 U.S. business days. Further, in accordance with section 8(c)(4)(i) of its procedures, CITA called for a public meeting on December 6, 2023 with representatives of Konffetty and Summitex to provide the companies with an opportunity to submit additional evidence to substantiate their claims regarding Summitex's capability to supply the subject product in commercial quantities in a timely manner.

Section 203(o)(4)(C)(ii) of the CAFTA–DR Implementation Act provides that after receiving a request, a determination will be made as to whether the subject product is available in commercial quantities in a timely manner in the CAFTA–DR countries. In the instant case, the information on the record indicates that Konffetty made significant efforts to source the fabric in the CAFTA–DR region, specifically from Summitex. However, Summitex has not demonstrated its ability to supply the subject product in commercial quantities in a timely manner. Therefore, in accordance with section 203(o) of the CAFTA–DR Implementation Act and CITA's procedures, as no interested entity has substantiated its ability to supply the subject product in commercial quantities in a timely manner, CITA has determined to add the specified fabric to the list in Annex 3.25 of the CAFTA–DR.

The subject product has been added to the list in Annex 3.25 of the CAFTA–DR in unrestricted quantities. A revised list has been posted on the dedicated website for CAFTA–DR Commercial Availability proceedings, at *https://otexaprod.trade.gov/otexacapublicsite/shortsupply/cafta.*

Specifications: Certain Two-Way Stretch Polyester/Spandex Woven Fabric

HTS: 5407.51, 5407.52, or 5407.53
Fiber Content (AATCC 20A): 95% (94%–96%) polyester and 5% (4%–6%) spandex
Yarn Size:
Warp: 100D +40D polyester/spandex textured filament
Weft: (100D + 40D SP)*2 polyester/spandex textured filament
Thread Count (ASTM D3775):

English (yarns/inch2): 118 (116–120) warp x 82 (81–83) weft
Metric (yarns/cm2): 300 (296–305) warp x 209 (206–212) weft
Fabric Weight (ASTM D3776):
English: 3.72 (3.65–3.78) oz/yd2
Metric: 126 (124–128) g/m2
Weave Type: Woven Plain and Twill Weave
Fabric Width (ASTM D3774):
English: 61.25 (60.50–62.50) inches
Metric: 153 (151–155) cm
Stretch (ASTM D3107):
Warp: 15% (14%–16%)
Weft: 17% (16%–18%)
Finish: Optical white Prepared for printing/piece dyed/yarn dyed/with soft hand (no chemistry finish)

Jennifer Knight,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 2023–28876 Filed 1–2–24; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Personnel Development To Improve Services and Results for Children With Disabilities—Doctoral Training Consortia Associated With High-Intensity Needs

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2024 for Personnel Development to Improve Services and Results for Children with Disabilities—Doctoral Training Consortia Associated with High-Intensity Needs, Assistance Listing Number (ALN) 84.325H. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES:

Applications Available: January 3, 2024.

Deadline for Transmittal of Applications: March 4, 2024.

Deadline for Intergovernmental Review: May 2, 2024.

Pre-Application Webinar Information: No later than January 8, 2024, the Office of Special Education and Rehabilitative Services will post pre-recorded informational webinars designed to provide technical assistance to interested applicants. The webinars may be found at *www2.ed.gov/fund/grant/apply/osep/new-osep-grants.html.*

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs.*

FOR FURTHER INFORMATION CONTACT: Celia Rosenquist, U.S. Department of Education, 400 Maryland Avenue SW, Room 4A10, Washington, DC 20202. Telephone: 202–245–7373. Email: *Celia.Rosenquist@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:

Full Text of Announcement

I. Funding Opportunity Description

Purposes of Program: The purposes of this program are to (1) help address State-identified needs for personnel preparation in special education, early intervention, related services, and regular education to work with children, including infants and toddlers, with disabilities; and (2) ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined through scientifically based research and experience, to be successful in serving those children.

Priority: This competition includes one absolute priority. In accordance with 34 CFR 75.105(b)(2)(v), the absolute priority is from allowable activities specified in the statute (see sections 662 and 681 of the Individuals with Disabilities Education Act (IDEA); 20 U.S.C. 1462 and 1481).

Absolute Priority: For FY 2024 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Doctoral Training Consortia Associated with High-Intensity Needs.

Background: The Department is committed to equitable access to educational resources and opportunities for children with disabilities with high-intensity needs.[1] Leadership personnel play an essential role providing, or preparing others to provide, evidence-based interventions and services that improve opportunities and outcomes for children, including infants, toddlers, and youth (referred to as ''children'' hereafter) with disabilities with high-intensity needs. The Department also places a high priority on increasing the number of leadership personnel, including increasing the number of multilingual leadership personnel and leadership personnel from racially and ethnically diverse backgrounds, who provide, or prepare others to provide, services to children with disabilities with high-intensity needs. To support these goals, under this absolute priority, the Department will fund three cooperative agreements to support three doctoral training consortia to prepare and increase the number of personnel who are well qualified for, and can act effectively in, leadership positions as researchers and special education/early intervention/related services personnel preparers in institutions of higher education (IHEs), or as leaders in State educational agencies (SEAs), lead agencies (LAs) under Part C of IDEA, local educational agencies (LEAs), early intervention services programs (EIS programs), or schools.

There continues to be the need to advance the knowledge base of evidence-based interventions that meet the developmental, learning, and academic needs of children with high-intensity needs (*e.g.,* Chen et al., 2021; Grzadzinski et al., 2020; Kuntz and Carter, 2019; Miciak et al., 2018; Nelson & Bruce, 2019). This need has been compounded due to the disproportionate negative impact on educational outcomes for children with disabilities related to the COVID–19 pandemic (*e.g.,* Stelitano et al., 2022) and the significant shortages of educators with specialized preparation providing services to children with high-intensity needs (*e.g.,* Darling-Hammond et al., 2023). Leadership personnel who have the knowledge, skills, and expertise are needed to effectively address the complexity of issues that children with disabilities with high-intensity needs may have; prepare and support educators with the specialized knowledge and skills to

[1] For the purposes of this priority, ''high-intensity needs'' refers to a complex array of disabilities (*e.g.,* multiple disabilities, significant cognitive disabilities, significant physical disabilities, significant sensory disabilities, significant autism, significant emotional disabilities, or significant learning disabilities, including dyslexia) or the needs of children with these disabilities requiring intensive, individualized intervention(s) (*i.e.,* that are specifically designed to address persistent learning or behavior difficulties, implemented with greater frequency and for an extended duration than is commonly available in a typical classroom or early intervention setting, or which require personnel to have knowledge and skills in identifying and implementing multiple evidence-based interventions).

deliver evidence-based culturally and linguistically responsive and inclusive instruction, interventions, and services that effectively support children with disabilities with high-intensity needs; and inform how intervention and services can best be coordinated to address these needs in different educational settings.

There is a well-documented need for special education, early intervention, and related services leadership personnel to address the needs of children with high-intensity needs and who serve critical roles within different settings (National Association of School Psychologists, 2021; Montrosse & Young, 2012; NCSI, 2018a; NCSI, 2018b; Tucker et al., 2020). There is also the need to increase the number of multilingual leadership personnel and leadership personnel from racially and ethnically diverse backgrounds due to the significant benefits for both personnel and the children they serve (*e.g.,* Carver-Thomas, 2018) as well as bringing different perspectives, experiences, and contexts to research (*e.g.,* Hofstra et al., 2020).

The Office of Special Education Programs (OSEP) has made investments in a consortium approach to prepare future leadership personnel since 2004 in high-need areas (*e.g.,* sensory disabilities, children with high-intensity needs) and those investments have demonstrated success in producing future leadership personnel. For example, a majority of the scholars completed their programs, are working in the field as faculty or in other leadership positions, and are making contributions to the field through presentations and publications on improving outcomes and services for children with high-intensity needs (*e.g.,* see *https://nclii.org/*), including sensory disabilities (Kruemmeling et al., 2017). An initial evaluation of the 2004, 2009, and 2014 sensory consortia indicates that after completing their doctoral degrees, scholars received research and personnel preparation grants to improve interventions and services as well as grants to prepare personnel to address the needs of children with sensory disabilities (Kruemmeling et al., 2017). Leadership personnel have significant influence in preparing and supporting personnel, policy, and research. Critical competencies for special education, early intervention, and related services leadership personnel vary depending on the type of leadership personnel and the requirements of the preparation program, but can include, for example, skills needed for postsecondary instruction, administration and supervision, interpreting and applying research, policy development and implementation, organizational and systems change, communication, collaboration, and the use of technologies to support in-person, hybrid, and distance education. Networks, in particular, are integral to leadership development and critical to addressing complex problems (Cullen-Lester et al., 2017; Dave et al., 2021; Hoppe & Reinelt, 2010; Wallace et al., 2021).

Priority: The purpose of the Doctoral Training Consortia Associated with High-Intensity Needs priority is to increase the number of highly skilled doctoral leaders, including increasing the number of multilingual leadership personnel and leadership personnel from racially and ethnically diverse backgrounds, who provide, or prepare others to provide, services to children with disabilities with high-intensity needs [2] by funding three doctoral training consortia to prepare and increase the number of personnel who are well qualified for, and can act effectively in, leadership positions as researchers and special education/early intervention/related services personnel preparers in IHEs, or as leaders in SEAs, LAs under Part C of IDEA, LEAs, EIS programs, or schools. Each doctoral training consortium must support preparation programs that culminate in a doctoral degree (Ph.D. or Ed.D.).

Note: Project periods under this priority may be up to 60 months. Projects should be designed to ensure that all proposed scholars [3] successfully complete the project within 60 months from the start of the project. The Secretary may reduce continuation awards for any project in which scholars are not on track to complete the program by the end of that period.

To be considered for funding under this absolute priority, applicants must meet the application requirements contained in this priority. All projects funded under this absolute priority also must meet the programmatic and administrative requirements specified in the priority.

Note: Each doctoral training consortium must support preparation programs that culminate in a doctoral degree (Ph.D. or Ed.D.). Each IHE in the consortium must enroll and support scholars as part of the consortium. For additional information regarding group applications, refer to 34 CFR 75.127, 75.128, and 75.129.

Note: Doctoral training programs that lead to clinical doctoral degrees in related services (*e.g.,* a Doctor of Audiology degree or Doctor of Physical Therapy degree) are not included in this priority. These types of training programs are eligible to apply for funding under the Personnel Preparation of Special Education, Early Intervention, and Related Services Personnel at Historically Black Colleges and Universities, Tribally Controlled Colleges and Universities, and other Minority Serving Institutions competition (ALN 84.325M) or the Preparation of Related Services Personnel Serving Children with Disabilities who have High-Intensity Needs competition (ALN 84.325R) that OSEP intends to fund in FY 2024.

To meet the requirements of this priority, an applicant must—

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how—

(1) The proposed project would increase the number of leadership personnel who are well qualified to advance practice, policy, or research in the project's preparation focus area and how it will provide, or prepare others to provide, evidence-based [4] culturally and linguistically responsive instruction, interventions, and services that improve outcomes for children with disabilities with high-intensity needs;

(2) Data demonstrates the potential success of the project in producing leaders in special education, early intervention, or related services that address the needs of children with high-

[2] For the purposes of this priority, ''high-intensity needs'' refers to a complex array of disabilities (*e.g.,* multiple disabilities, significant cognitive disabilities, significant physical disabilities, significant sensory disabilities, significant autism, significant emotional disabilities, or significant learning disabilities, including dyslexia) or the needs of children with these disabilities requiring intensive, individualized intervention(s) (*i.e.,* that are specifically designed to address persistent learning or behavior difficulties, implemented with greater frequency and for an extended duration than is commonly available in a typical classroom or early intervention setting, or which require personnel to have knowledge and skills in identifying and implementing multiple evidence-based interventions).

[3] For the purposes of this priority, ''scholar'' is limited to an individual who (a) is pursuing a doctoral degree related to special education, early intervention, or related services; (b) receives scholarship assistance as authorized under section 662 of IDEA (34 CFR 304.3(g)); and (c) will be able to be employed in a position that serves children with disabilities for at least 51 percent of their time or case load. See *https://pdp.ed.gov/OSEP/Home/Regulation* for more information.

[4] For the purposes of this priority, ''evidence-based'' means, at a minimum, evidence that demonstrates a rationale (as defined in 34 CFR 77.1), where a key project component (as defined in 34 CFR 77.1) included in the project's logic model (as defined in 34 CFR 77.1) is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes (as defined in 34 CFR 77.1).

intensity needs (including data from each IHE participating in the proposed consortium, if available). Applicants must include data on the number of students who have completed each doctoral program disaggregated by race, national origin and primary language(s), and disability status; the types of leadership positions in which recent program graduates are employed related to their preparation; the professional accomplishments of program graduates that demonstrate their leadership in special education, early intervention, or related services (*e.g.,* public service, awards, publications), including those that address the needs of children with high-intensity needs; and the percentage of program graduates finding employment related to their preparation serving children with disabilities in underserved communities if applicable (*e.g.,* employed in districts with high rates of poverty); and

Note: Data on each individual consortium university's program should be no more than 5 years old on the start date of the project proposed in the application. When reporting percentages, the denominator (*i.e.,* the total number of scholars or program graduates) must be provided.

(3) The competencies each scholar acquires by participating in the consortium and by completing the university's program of study will relate to the knowledge and skills needed by the leadership personnel the applicant proposes to prepare.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how—

(1) The applicant will recruit and retain scholars participating in the project. To meet this requirement, the narrative must describe—

(i) The selection criteria the applicant will use to identify doctoral applicants for admission in the consortium;

Note: Consortium scholars must be first-time enrollees in a doctoral training program in the proposed project's preparation focus area.

(ii) The recruitment strategies the project will use to attract doctoral applicants, including from groups that are underrepresented in the field, including applicants with disabilities, multilingual applicants, and applicants from racially and ethnically diverse backgrounds, to ensure a diverse pool of applicants; and

Note: Applicants should engage in focused outreach and recruitment to increase the number of doctoral applicants from groups that are underrepresented in the field, including applicants with disabilities, multilingual applicants, and applicants from racially and ethnically diverse backgrounds, but the scholar selection criteria the applicant intends to use must ensure equal access and treatment of all applicants seeking admission to the program and must be consistent with applicable law, including Federal civil rights laws.

(iii) The approach that will be used to mentor and support all scholars in completing the program and prepare them for careers in special education, early intervention, or related services; and

(2) The project is designed to promote the acquisition of the competencies needed by leadership personnel in the project's proposed preparation focus area to provide, or prepare others to provide, evidence-based culturally and linguistically responsive and inclusive instruction, interventions, and services that improve outcomes for children with disabilities with high-intensity needs. To address this requirement, the applicant must—

(i) Describe how the proposed project components, such as the consortium curriculum, research, internship experiences, work-based experiences, program evaluation, and other opportunities provided to scholars, and sequence of the components will enable the scholars to acquire the competencies needed by leadership personnel;

(ii) Describe how the components of the consortium curriculum are integrated within and across the individual university program curricula in order to support the acquisition and enhancement of the identified competencies needed by leadership personnel in the project's proposed preparation focus area;

(iii) Describe how the project will provide scholars with high-quality work-based experiences (*e.g.,* internships, program evaluation) in a high-need LEA,[5] a high-poverty school,[6] a school implementing a comprehensive support and improvement plan,[7] a school implementing a targeted support and improvement plan [8] for children with disabilities, an SEA, an early childhood and early intervention program located within the geographical boundaries of a high-need LEA, or an early childhood and early intervention program located within the geographical boundaries of an LEA serving the highest percentage of schools identified for comprehensive support and improvement or implementing targeted support and improvement plans in the State;

(iv) Describe how the components of the consortium will enhance scholar's preparation to provide, or prepare others to provide, evidence-based culturally and linguistically responsive and inclusive instruction, interventions, and services that improve outcomes for children with disabilities with high-intensity needs, in a variety of educational or early childhood and early intervention settings, including in-person and remote settings;

(v) Describe how the proposed project will engage partners, including multilingual individuals, individuals and families from racially and ethnically diverse backgrounds, public or private entities (*e.g.,* organizations, centers, agencies, schools, programs) that provide services to multilingual children with disabilities and their families, and public or private entities that provide services to children of color with disabilities and their families, to inform project components;

(vi) Describe how the components of the consortium will enhance scholars' knowledge of strategies and approaches in attracting, preparing, and retaining future personnel with disabilities, multilingual personnel, and personnel from racially and ethnically diverse backgrounds, who will work with, and provide evidence-based culturally and linguistically responsive and inclusive instruction, interventions, and services to, children with disabilities with high-intensity needs and their families; and

[5] For the purposes of this priority, ''high-need LEA'' means an LEA (a) that serves not fewer than 10,000 children from families with incomes below the poverty line; or (b) for which not less than 20 percent of the children are from families with incomes below the poverty line.

[6] For the purposes of this priority, ''high-poverty school'' means a school in which at least 50 percent of students are from low-income families as determined using one of the measures of poverty specified in section 1113(a)(5) of the Elementary and Secondary Education Act of 1965, as amended (ESEA). For middle and high schools, eligibility may be calculated on the basis of comparable data from feeder schools. Eligibility as a high-poverty school under this definition is determined on the basis of the most currently available data.

[7] For the purposes of this priority, ''school implementing a comprehensive support and improvement plan'' means a school identified for comprehensive support and improvement by a State under section 1111(c)(4)(D) of the ESEA that includes (a) not less than the lowest performing 5 percent of all schools in the State receiving funds under title I, part A of the ESEA; (b) all public high schools in the State failing to graduate one third or more of their students; and (c) public schools in the State described in section 1111(d)(3)(A)(i)(II) of the ESEA.

[8] For the purposes of this priority, ''school implementing a targeted support and improvement plan'' means a school identified for targeted support and improvement by a State that has developed and is implementing a school-level targeted support and improvement plan to improve student outcomes based on the indicators in the statewide accountability system as defined in section 1111(d)(2) of the ESEA.

(vii) Describe how the project is designed to ensure that scholars have opportunities to work with faculty and scholars from other universities within the consortium on academic and professional opportunities in order to support the acquisition of the competencies identified in paragraph (a)(3).

(c) Demonstrate, in the narrative section of the application under ''Quality of the Project Personnel and Management Plan,'' how—

(1) The project director and key project personnel, are qualified to prepare scholars in the project's preparation focus area;

(2) The project director and other key project personnel will manage the components of the project; and

(3) The time commitments of the project director and other key project personnel are adequate to meet the objectives of the proposed project.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources,'' how—

(1) Information regarding the types of accommodations and resources available to fully support scholars' well-being and a work-life balance (*e.g.,* university and community mental health supports, counseling services, health resources, housing resources, childcare) will be disseminated and how the project will support scholars accessing those accommodations and resources on a timely basis, if needed, while the scholar is in the project;

(2) The types of accommodations and resources provided to support scholars' well-being and a work-life balance will be individualized based on scholars' cultural, academic, and social and emotional needs with the goal of providing them support to complete the project; and

(3) The budget is adequate for meeting the project objectives and mitigating financial burden to scholars while completing the project requirements.

Note: Scholar support does not need to be uniform for all scholars and should be customized for individual scholars based on the scholar's financial needs, including a consideration of all costs associated with the attendance, even if that means enrolling fewer scholars as part of the proposed project. Scholar support can include support for cost of attendance (*i.e.,* tuition and fees; university student health insurance; an allowance for books, materials, and supplies; an allowance for miscellaneous personal expenses; an allowance for dependent care, such as childcare; an allowance for transportation; and an allowance for room and board), travel in conjunction with training assignments, including conference registration, and stipends to support scholars' completion of the program and professional development. Projections for scholar support should consider tuition increases and cost of living increases over the project period.

(e) Demonstrate, in the narrative section of the application under ''Quality of the project evaluation,'' how the applicant will—

(1) Evaluate how well the goals or objectives of the proposed project have been met. The applicant must describe the outcomes to be measured for both the project and the scholars, particularly the acquisition of scholars' competencies, and the evaluation methodologies to be employed, data collection methods, and possible analyses;

(2) Collect, analyze, and use data on scholars supported by the project to inform the proposed project on an ongoing basis;

(3) Disseminate project outcomes, including the consortium structure and components critical to attaining positive scholar competencies;

(4) Dedicate sufficient resources toward revising, refining, and conducting evaluation activities;

(5) Contribute to the evaluation and dissemination of the consortium model by collaborating with the other consortia in developing an evaluation plan that includes sharing data on project components and scholars; and

(6) Report the evaluation results to OSEP in the applicant's annual and final performance reports.

(f) Demonstrate, in the appendices or narrative under ''Required project assurances'' as directed, that the following requirements are met. The applicant must—

(1) Include at least six IHEs with doctoral programs in the project that will prepare scholars for leadership positions to address the needs of children with disabilities with high-intensity needs;

(2) Include at least one or more IHEs with doctoral programs in the project that will prepare scholars for leadership positions to address the needs of children with disabilities with high-intensity needs that meet the definition of a Minority-Serving Institution; [9]

(3) Include at least one IHE with a doctoral program in the project that will prepare scholars for leadership positions to address the needs of children with disabilities with high-intensity needs that has not received funding under ALN 84.325D or ALN 84.325H at any point in the preceding five fiscal years (*i.e.,* FY 2019–FY 2023);

(4) Include, in Appendix A of the application charts, tables, figures, graphs, screen shots, and visuals that provide information directly relating to the application requirements for the narrative. Appendix A should not be used for supplementary information. Please note that charts, tables, figures, graphs, and screen shots can be single-spaced when placed in Appendix A;

(5) Include in the application budget attendance by the project director at a 3-day project directors' meeting in Washington, DC, during each year of the project. The budget may also provide for the attendance of scholars at the same 3-day project directors' meetings in Washington, DC. The project must reallocate funds for travel to the project directors' meeting no later than the end of the third quarter of each budget period if the meeting is conducted virtually;

(6) Include in the application budget two in-person meetings for project scholars and faculty each year of the project. Meetings may be scheduled to coincide with a professional conference or meeting but must include designated time for a meeting of project scholars and faculty; and

(7) Provide an assurance that—

(i) The project will establish policies, procedures, standards, and guidelines for the work of the consortium, in consultation with and approved by the OSEP project officer prior to implementation, in the following areas:

(A) Recruitment and selection of scholars who will be supported by the consortium;

(B) Distribution of tuition and stipends among participating scholars;

(C) Fiscal management;

(D) Measurement and reporting of scholar progress;

(E) Contingency planning in case of scholar or consortium faculty losses;

(F) Governance of the consortium; and

(G) Sustainability plan;

(ii) The project will ensure that all scholars enrolled participate in and complete, in addition to the scholar's university program of study, the unique consortium curriculum;

(iii) The project will meet the requirements in 34 CFR 304.23, particularly those related to paragraph (a) informing all scholarship recipients of their service obligation commitment;

[9] For purposes of this priority, ''Minority-Serving Institution (MSI)'' means an institution that is eligible to receive assistance under sections 316 through 320 of part A of title III, under part B of title III, or under title V of the Higher Education Act of 1965, as amended. For purposes of this priority, the Department will use the FY 2023 Eligibility Matrix to determine MSI eligibility (see *www2.ed.gov/about/offices/list/ope/idues/eligibility.html*).

and 34 CFR 304.22, disbursing scholarships. Failure by a grantee to properly meet these requirements is a violation of the grant award that may result in the grantee being liable for returning any misused funds to the Department;

(iv) The project will meet the statutory requirements in section 662(e) through (h) of IDEA;

(v) The project will be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws;

(vi) At least 65 percent of the total award over the project period (*i.e.,* up to 5 years) will be used for scholar support;

(vii) Scholar support provided by the project (*e.g.,* tuition and fees; university student health insurance; an allowance for books, materials, and supplies; an allowance for miscellaneous personal expenses; an allowance for dependent care, such as childcare; and an allowance for room and board) will not be conditioned on the scholar working for the grantee (*e.g.,* personnel at the IHE);

(viii) The project director, key personnel, and scholars will actively participate in the cross-project collaboration, advanced trainings, and cross-site learning opportunities (*e.g.,* webinars, briefings) supported by OSEP. This network is intended to promote opportunities for participants to share resources and generate new knowledge by addressing topics of common interest to participants across projects including Department priorities and needs in the field;

(ix) The project will maintain a website that contains relevant information and documents relating to the participating universities and faculty, components of the consortium curriculum, and scholar accomplishments; and that is of high quality, with an easy-to-navigate design that meets government or industry-recognized standards for accessibility;

(x) Scholar accomplishments (*e.g.,* public service, awards, publications) will be reported in annual and final performance reports; and

(xi) Annual data will be submitted on each scholar who receives grant support (OMB Control Number 1820–0686). The primary purposes of the data collection are to track the service obligation fulfillment of scholars who receive funds from OSEP grants and to collect data for program performance measure reporting under 34 CFR 75.110. Data collection includes the submission of a signed, completed pre-scholarship agreement and exit certification for each scholar funded under an OSEP grant (see paragraph (iii) of this section). Applicants are encouraged to visit the Personnel Development Program Data Collection System website at *https://pdp.ed.gov/osep* for further information about this data collection requirement.

References

Carver-Thomas, D. (2018). *Diversifying the teaching profession: How to recruit and retain teachers of color.* Learning Policy Institute. *https://learningpolicyinstitute.org/product/diversifying-teaching-profession-report.*

Chen, C., Sutherland, K.S., Kunemund, R., Sterrett, B., Wilkinson, S., Brown, C., & Maggin, D.M. (2021). Intensifying interventions for students with emotional and behavioral difficulties: A conceptual synthesis of practice elements and adaptive expertise. *Journal of Emotional and Behavioral Disorders, 29,* 56–66. *https://doi.org/10.1177/1063426620953086.*

Cullen-Lester, K.L., Maupin, C.K., & Carter, D.R. (2017). Incorporating social networks in leadership development: A conceptual model and evaluation of research and practice. *The Leadership Quarterly, 28*(1), 130–152. *https://doi.org/10.1016/j.leaqua.2016.10.005.*

Darling-Hammond, L., DiNapoli, M., & Kini, T. (2023). *The Federal role in ending teacher shortages.* Learning Policy Institute. *https://doi.org/10.54300/649.892.*

Dave, G., Noble, C., Chandler, C., Corbie-Smith, G., & Ferndandez, C.S.P. (2021). Clinical scholars: Using program data to inform leadership development. In C.S.P. Fernandez & G. Corbie-Smith (Eds.), Leading community based changes in the culture of health in the US—Experiences in developing the team and impacting the community. IntechOpen. doi: 10.5772/intechopen.80243.

Grzadzinski, R., Janvier, D., & Kim, S.H. (2020). Recent developments in treatment outcome measures for young children with autism spectrum disorder (ASD). *Seminars Pediatric Neurology, 34,* 100806. *https://doi.org/10.1016/j.spen.2020.100806.*

Kruemmling, B., Hayes, H., & Smith, D.W. (2017). Enriching doctoral-level preparation programs through a nationwide consortium model: The national leadership consortium in sensory disabilities. *Journal of Visual Impairment & Blindness, 111*(6), 557–567. *https://doi.org/10.1177/0145482X1711100606.*

Kuntz, E.M., & Carter, E.W. (2019). Review of interventions supporting secondary students with intellectual disability in general education classes. *Research and Practice for Persons with Severe Disabilities, 44,* 103–121. *https://doi.org/10.1177/1540796919847483.*

Hofstra, B., Kulkarni, V.V., Munoz-Najar Galvez, S., He, B., Jurafsky, D., & McFarland, D.A. (2020). The Diversity-Innovation paradox in science. *Proceedings of the National Academy of Sciences, 117,* 9284–9291. *https://doi.org/10.1073/pnas.1915378117.*

Hoppe, B., & Reinelt, C. (2010). Social network analysis and the evaluation of leadership networks. *The Leadership Quarterly, 21*(4), 600–619. *https://doi.org/10.1016/j.leaqua.2010.06.004.*

Miciak, J., Roberts, G., Taylor, W.P., Solis, M., Ahmed, Y., Vaughn, S., & Fletcher, J.M. (2018). The effects of one versus two years of intensive reading intervention implemented with late elementary struggling readers. *Learning Disability Research & Practice, 33,* 24–36. *https://doi.org/10.1111/ldrp.12159.*

Montrosse, B.E., & Young, C.J. (2012). Market demand for special education faculty. *Teacher Education and Special Education, 35*(2), 140–153. *https://doi.org/10.1177/0888406412444763.*

National Association of School Psychologists. (2021). *Workforce shortages. www.nasponline.org/research-and-policy/policy-priorities/critical-policy-issues/shortage-of-school-psychologists.*

National Center for Systemic Improvement (NCSI). (2018a). *Leadership turnover: The impact on State special education systems. https://ncsi-library.wested.org/resources/250.*

National Center for Systemic Improvement (NCSI). (2018b). *Leadership turnover: The impact on State early intervention systems. https://osepideasthatwork.org/sites/default/files/500_NCSI%20LT_EI.pdf.*

Nelson, C, & Bruce, S.M. (2019). Children who are deaf/hard of hearing with disabilities: Paths to language and literacy. *Education Sciences, 9*(2), 134. *https://doi.org/10.3390/educsci9020134.*

Stelitano, L., Ekin, S., & Rhim, L.M. (2022). *How has the pandemic affected students with disabilities? An update on the evidence fall 2022.* Center on Reinventing Public Education. *https://crpe.org/how-has-the-pandemic-affected-students-with-disabilities-an-update-on-the-evidence-fall-2022/.*

Tucker, D.A, Compton, M.V., Allen, S.J., Mayo, R., Hooper, C., Ogletree, B., Flynn, P., Frazier, A., & McMurry, S. (2020). Exploring barriers to doctoral education in communication sciences and disorders: Insights from practicing professionals. *Perspectives of the ASHA Special Interest Groups,* 1–12. *https://doi.org/10.1044/2020_PERSP-20-00019.*

Wallace, D.M., Torres, E.M., & Zaccaro, S.J. (2021). Just what do we think we are doing? Learning outcomes of leader and leadership development. *The Leadership Quarterly, 32,* 101494. *https://doi.org/10.1016/j.leaqua.2020.101494.*

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priorities in this notice.

Program Authority: 20 U.S.C. 1462 and 1481.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 304.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Cooperative agreements.

Estimated Available Funds: The Administration has requested $250,000,000 for the Personnel Development to Improve Services and Results for Children with Disabilities program for FY 2024, of which we intend to use an estimated $3,900,000 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2025 from the list of unfunded applications from this competition.

Estimated Range of Awards: $5,500,000–$6,500,000.

Estimated Average Size of Awards: $6,000,000.

Maximum Award: We will not make an award exceeding $6,500,000 per project for a project period of 60 months or an award that exceeds $1,950,000 for any single budget period.

Note: Applicants must describe, in their applications, the amount of funding being requested for each 12-month budget period.

Estimated Number of Awards: 3.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* IHEs and private nonprofit organizations that have legal authority to enter into grants and cooperative agreements with the Federal government on behalf of an IHE.

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2. a. *Cost Sharing or Matching:* Cost sharing or matching is not required for this competition.

b. *Indirect Cost Rate Information:* This program uses a training indirect cost rate. This limits indirect cost reimbursement to an entity's actual indirect costs, as determined in its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less. For more information regarding training indirect cost rates, see 34 CFR 75.562. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c) a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: IHEs and private nonprofit organizations. The grantee may award subgrants to entities it has identified in an approved application or that it selects through a competition under procedures established by the grantee, consistent with 34 CFR 75.708(b)(2).

4. *Other General Requirements:*

a. Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

b. Applicants for, and recipients of, funding must, with respect to the aspects of their proposed projects relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 775045) and available at *www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages; and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget

justification; the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance (10 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project will prepare personnel for fields in which shortages have been demonstrated; and

(ii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project.

(b) *Quality of project services (45 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice;

(ii) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services;

(iii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services; and

(iv) The extent to which the proposed activities constitute a coherent, sustained program of training in the field.

(c) *Quality of project personnel and quality of the management plan (20 points).*

(1) The Secretary considers the quality of the project personnel and the quality of the management plan for the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of key project personnel;

(ii) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks; and

(iii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(d) *Adequacy of resources (10 points).*

(1) The Secretary considers the adequacy of resources of the proposed project.

(2) In determining the adequacy of resources of the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization; and

(ii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(e) *Quality of the project evaluation (15 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project; and

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions, and under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period

may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

6. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115—232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* For the purposes of Department reporting under 34 CFR 75.110, the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Personnel Development to Improve Services and Results for Children with Disabilities program. These measures include (1) the percentage of preparation programs that incorporate scientifically based research or evidence-based practices (EBPs) into their curricula; (2) the percentage of scholars completing the preparation program who are knowledgeable and skilled in EBPs that improve outcomes for children with disabilities; (3) the percentage of scholars who exit the preparation program prior to completion due to poor academic performance; (4) the percentage of scholars completing the preparation program who are working in the area(s) in which they were prepared upon program completion; (5) the Federal cost per scholar who completed the preparation program; (6) the percentage of scholars who completed the preparation program and are employed in high-need districts; and (7) the percentage of scholars who completed the preparation program and who are rated effective by their employers.

In addition, the Department will gather information on the following outcome measures: (1) the number and percentage of scholars proposed by the grantee in their application that were actually enrolled and making satisfactory academic progress in the current academic year; (2) the number and percentage of enrolled scholars who are on track to complete the training program by the end of the project's original grant period; and (3) the percentage of scholars who completed the preparation program and are employed in the field of special education for at least two years.

Grantees may be asked to participate in assessing and providing information on these aspects of program quality.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its

approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package 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.

Danté Allen,

Commissioner, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services.

[FR Doc. 2023–28896 Filed 1–2–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Educational Technology, Media, and Materials for Individuals With Disabilities Program—National Center on Digital Access in Education

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2024 for Educational Technology, Media, and Materials for Individuals with Disabilities Program—National Center on Digital Access in Education, Assistance Listing Number 84.327Z. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES:

Applications Available: January 3, 2024.

Deadline for Transmittal of Applications: March 4, 2024.

Deadline for Intergovernmental Review: May 2, 2024.

Pre-Application Webinar Information: No later than January 8, 2024, the Office of Special Education and Rehabilitative Services will post details on pre-recorded informational webinars designed to provide technical assistance (TA) to interested applicants. Links to the webinars may be found at *https://www2.ed.gov/fund/grant/apply/osep/new-osep-grants.html.*

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *www.federalregister.gov/d/2022-26554.*

FOR FURTHER INFORMATION CONTACT: Rebecca Sheffield, U.S. Department of Education, 400 Maryland Avenue SW, Room 4A10, Washington, DC 20202. Telephone: (202) 245–6490. Email: *rebecca.sheffield@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:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purposes of the Educational Technology, Media, and Materials for Individuals with Disabilities Program are to improve results for children with disabilities by (1) promoting the development, demonstration, and use of technology; (2) supporting educational activities designed to be of educational value in the classroom for children with disabilities; (3) providing support for captioning and video description that is appropriate for use in the classroom; and (4) providing accessible educational materials to children with disabilities in a timely manner.

Priority: This competition includes one absolute priority. In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 674(b)(2) and 681(d) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 *et seq.*).

Absolute Priority: For FY 2024 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

National Center on Digital Access in Education

Background: In order for children with disabilities served under IDEA to benefit from education, special education, and early intervention services, agencies (State educational agencies (SEAs), local educational agencies (LEAs), and Part C lead agencies) and schools must provide accommodations needed by children and families to ensure their access to and participation in learning. Section 504 of the Rehabilitation Act prohibits discrimination against people with disabilities in federally funded programs, and Title II of the Americans with Disabilities Act prohibits discrimination against people with disabilities by public entities, requiring that children with disabilities and their families have equal access to public schools and other government programs. Under Part B of IDEA, special education includes specially designed instruction, defined as ''adapting, as appropriate to the needs of an eligible child . . . the content, methodology or delivery of instruction—(i) to address the unique needs of the child that result from the child's disability; and (ii) to ensure access of the child to the general curriculum'' (34 CFR 300.39(b)(3)). SEAs, LEAs, and schools are required to provide individualized accommodations, including assistive technologies (34 CFR 300.105), assessment accommodations (34 CFR 300.160), and timely access to accessible materials (34 CFR 300.172), whenever

necessary for a child with a disability to fully access and participate in education in the least restrictive environment. Under Part C of IDEA, early intervention services are designed to meet the developmental needs of infants and toddlers with disabilities, as identified through a multidisciplinary evaluation. These services may include assistive technology and supports for communication development for young children (34 CFR 300.13) to enable them to make measurable progress towards results or outcomes identified in their individualized family services plans. Additionally, early intervention services include ''the design of learning environments and activities that promote the infant's or toddler's acquisition of skills'' (34 CFR 300.13). For these young learners and their families, special instruction, assistive technology, and supports for communication increasingly incorporate digital materials and technologies, including mobile applications, video, and tools for developing print and braille awareness (American Printing House for the Blind, 2022; National Center for Accessible Educational Materials, 2020).

While there have been improvements in the accessibility of digital content in early intervention and education systems, other significant accessibility barriers persist, which deny children with disabilities equitable access and participation in education and early intervention systems. This can ultimately lead to inequities in long-term outcomes such as employment and quality of life opportunities for Americans with disabilities (Shaheen & Watulak, 2019).

A review of the literature on accessibility in K–12 education concluded that there has been a consistent pattern over the last fifteen years of accessibility challenges for learners with disabilities (Shaheen and Watulak, 2019). Increased remote and web-based instruction during the COVID–19 pandemic revealed continued needs for improvement; a study by the American Foundation for the Blind (Rosenblum et al., 2020) found that 85 percent of the 710 teachers of students with visual impairments who responded to an online survey served one or more children enrolled in online general or special education classes during the pandemic who experienced accessibility barriers. Examples of these barriers included lack of support or interoperability for assistive and augmentative technologies needed to access instruction as well as inaccessible online learning materials, which required adults to read or navigate digital materials on a child's behalf. Public concern about the use of inaccessible technologies and digital materials is further confirmed by ongoing receipt by the Department's Office for Civil Rights of numerous allegations concerning the inaccessibility of elementary and secondary schools' websites and online courses.

The wide variety of modern, digital resources and technologies produced by a range of publishers and vendors hold promise for individualized and inclusive learning for children with disabilities in schools and other learning environments. Learners are increasingly presented with open educational resources (OERs), online platforms, and learning management systems which can facilitate faster, greater access to an increasing array of materials and learning tools. Even the youngest learners can benefit when families and service providers are aware of and experienced with digital learning tools and strategies. However, accessibility must be meaningfully and routinely considered during creation, procurement, and curation processes to ensure equitable access to materials and instruction, a process which can sometimes be confusing, time-consuming, and expensive for schools and agencies (Shaheen, 2022). Agencies, administrators, educators, service providers, and other partners in special education and early intervention need support, including training and resources, on current and evidence-based strategies, tools, and systemic interventions to effectively and efficiently provide materials and instruction which are accessible for children with disabilities.

Priority: The purpose of this priority is to fund a cooperative agreement to establish and operate a National Center on Digital Access in Education (Center). The Center will work with key partners [1] to improve the quality, availability, and timely provision of accessible digital educational materials and instruction,[2] for children with disabilities.[3] The Center funded under this priority will consider digital access to learning for children with disabilities in all learning environments in which children with disabilities are served under Part B and Part C of IDEA.

The Center must achieve, at a minimum, the following expected outcomes:

(a) Increased procurement and production of accessible digital educational technologies and materials by SEAs, LEAs, Part C lead agencies, educators, and service providers, including in areas with the highest percentages of children living in low-income families and in rural and remote areas.

(b) Increased SEA, LEA, and Part C Lead Agency adoption and use of policies and practices which ensure the procurement, curation, and provision of accessible materials, educational tools, and assessments for children with disabilities.

(c) Increased efficiency of SEA and LEA internal accessibility reviews of digital educational technologies, resulting in reduced costs and duplication of efforts.

(d) Increased knowledge and skills of pre-service and in-service general and special educators, related service providers, and TA providers in Office of Special Education Programs (OSEP) funded projects in the selection and preparation of accessible digital educational materials and instruction.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will address the need for accessible digital educational materials and instruction, to support equal opportunities for all children with

[1] For the purposes of this priority, ''key partners'' must include SEAs, LEAs, Part C lead agencies, and relevant OSEP-funded TA centers and may include other partners identified by the Center as essential to the required outcomes of the grant.

[2] For the purposes of this priority, ''accessible digital educational materials and instruction'' means electronic educational materials and accompanying technologies, including assessments, which are accessible to children with disabilities, along with any necessary instruction in the use of these materials and technologies and instruction which effectively incorporates these materials and technologies. Children with disabilities and their families must be able to acquire the same information, engage in the same interactions, and enjoy the same services as people who do not have disabilities in an equally integrated and equally effective manner, with substantially equivalent ease of use (U.S. Department of Justice and U.S. Department of Education, June 29, 2010; U.S. Department of Education, May 26, 2011).

[3] Applicants should note that other laws, including the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.;* 28 CFR part 35) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794; 34 CFR part 104), may require that State educational agencies and local educational agencies provide captioning, video description, and other accessible educational materials to children with disabilities when such materials are necessary to provide children with disabilities with equally integrated and equally effective access to the benefits of the educational program or activity, or as part of a ''free appropriate public education'' as defined in the Department of Education's Section 504 regulation.

disabilities. To meet this requirement the applicant must—

(1) Present applicable national, State, regional, or local data demonstrating the need for accessible digital educational materials and instruction in schools and other learning environments, for children with disabilities, including underserved children [4] and children whose families may be underserved; [5] and

(2) Demonstrate knowledge of the following:

(i) Benefits, services, and opportunities accessible digital educational materials and instruction make available to children with disabilities, including children whose families may be underserved;

(ii) Accepted accessibility standards and technical and industry-developed specifications for digital materials and technologies (including those applicable to efficient conversion of educational media into accessible formats [6]);

(iii) TA resources available to personnel in early learning programs and schools to support the evaluation, design, development, maintenance, distribution, timely delivery, and use of accessible digital educational materials and instruction; and

(iv) Systemic and policy-related barriers, gaps, and challenges with the evaluation and use of OERs, teacher and provider-created resources, and interactive digital resources, to ensure equitable access to learning; and

(v) Challenges and opportunities for personnel preparation programs and TA providers, including projects in OSEP's Technical Assistance and Dissemination Network,[7] in ensuring that current and future personnel and staff members create accessible digital content and evaluate accessibility of digital content and technologies prior to use.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that services and products meet the needs of the intended recipients of the Center's services;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes;

(ii) In Appendix A, the logic model (as defined in 34 CFR 77.1) by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project; and

(iii) A conceptual framework (provide a copy in Appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: The following websites provide more information on logic models and conceptual frameworks: *https://osepideasthatwork.org/sites/default/files/2021-12/ConceptualFramework_Updated.pdf* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(3) Be based on current research and make use of evidence-based [8] practices (EBPs). To meet this requirement, the applicant must describe—

(i) How the proposed project will align with current research, and evidence-based policies, procedures, and practices which support key partners in the selection, procurement, and use of accessible digital educational materials and instruction, for children with disabilities, including those who may be underserved; and

(ii) The current research about adult learning principles and implementation science that will inform the proposed TA;

(4) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to sustain and continuously expand the dynamic knowledge base on—

(A) Evidence-based practices for the evaluation, procurement, curation, and provision of accessible digital educational materials, in schools and other learning environments;

(B) Implementation supports for State and local systems to apply strategies which increase awareness, capacity, and commitment to the procurement, curation, creation, and use of accessible digital educational materials and instruction, for children with disabilities;

(C) Evidence-based approaches to pre-service and in-service preparation of educators, administrators, and service providers that build adult learners' awareness, capacity, and commitment to procurement, curation, creation, and use of accessible digital educational materials and instruction, for children with disabilities; and

(D) Technology design and evaluation criteria that conform to or exceed accepted accessibility standards (*e.g.,* National Instructional Materials Accessibility Standard) and, when appropriate, widely used electronic publishing industry standards (*e.g.,* electronic publication (EPUB) accessibility, Web Content Accessibility Guidelines (WCAG) 2.2 AA, World Wide Web Consortium (W3C) web standards, voluntary product accessibility templates (VPATs));

(ii) Its proposed approach to universal, general TA,[9] which must describe—

[4] For the purpose of this priority, ''underserved children'' refers to children living in poverty or served by schools with high concentrations of children living in poverty; children of color; children who are members of a federally recognized Indian Tribe; English learners; disconnected youth; technologically unconnected youth; migrant children; children experiencing homelessness or housing insecurity; lesbian, gay, bisexual, transgender, queer or questioning, or intersex (LGBTQI+) children; children in foster care; children without documentation of immigration status; pregnant, parenting, or caregiving children; children impacted by the justice system, including those formerly incarcerated; children performing significantly below grade level; and military- or veteran-connected children.

[5] For the purposes of this priority, ''underserved families'' refers to foster, kinship, migrant, technologically unconnected, and military- or veteran-connected families; and families of color, living in poverty, without documentation of immigration status, experiencing homelessness or housing insecurity, or impacted by the justice system, including the juvenile justice system. Underserved families also refers to families that include: members of a federally or State recognized Indian Tribe; English learners; adults who experience a disability; members who are lesbian, gay, bisexual, transgender, queer or questioning, or intersex (LGBTQI+); adults in need of improving their basic skills or with limited literacy; and disconnected adults.

[6] ''Accessible Format'' is defined in Section 121 of the Copyright Act as ''[A]n alternative manner or form that gives an eligible person access to the work when the copy or phonorecord in the accessible format is used exclusively by the eligible person to permit him or her to have access as feasibly and comfortably as a person without such disability.''

[7] See *https://osepideasthatwork.org/find-center-or-grant* for information about centers funded by the Office of Special Education Programs.

[8] For the purposes of this priority, ''evidence-based'' means, at a minimum, evidence that demonstrates a rationale (as defined in 34 CFR 77.1) based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve relevant outcomes.

[9] ''Universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA project staff and including one-time, invited or offered conference presentations by

Continued

(A) The intended recipients, including the type and number of recipients, that will receive the products and services;

(B) The products and services that the Center proposes to make available;

(C) The development and maintenance of a high-quality website, with an easy to navigate design, that meets or exceeds government or industry-recognized standards for accessibility;

(D) The expected reach and impact of universal, general TA;

(E) Its proposed plan to disseminate information gained from the work of the National Center on Accessible Educational Materials, from recognized experts and national partners in digital accessibility, and from ongoing knowledge development activities;

(F) Its proposed plan to provide, at a minimum, web-based professional development on the preparation, selection, curation, and provision of accessible digital educational materials, to meet the needs of pre-service and in-service educators and service providers (in both general and special education) in diverse geographic and demographic areas of the United States, using the information described in paragraph (b)(3) of this priority;

(G) Its proposed plan to develop a searchable, user-friendly platform that includes accessibility reviews, accessibility best practices, and strategies for aligning policies and practices to current statutes and standards on accessibility to—

(1) Increase efficiency of SEA and LEA internal accessibility reviews of digital educational technologies, resulting in reduced costs and duplication of efforts; and

(2) Increase access to comprehensive and accurate information about the digital accessibility in schools and other learning environments, including information about IDEA requirements and resources for SEAs and LEAs related to the National Instructional Materials Accessibility Standard; and

(iii) The proposed approach to targeted, specialized TA,[10] which must describe—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services;

(B) The proposed plan to provide TA to key partners based on—

(1) The findings of the Center's ongoing work to sustain and continuously expand the dynamic knowledge base described in paragraph (b)(4)(i);

(2) The Quality Indicators for the Provision of Accessible Educational Materials and Technologies and the aligned Critical Components and Innovation Configurations developed by the OSEP-funded National Center for Accessible Educational Materials; [11]

(C) The products and services that the Center proposes to make available;

(D) The proposed approach to measure the readiness of potential TA recipients to work with the project, including, at a minimum, an assessment of potential recipients' current infrastructure, available resources, and ability to build capacity at the local level;

(E) The proposed plan to support key partners in collecting and reporting data to identify gaps and facilitate systematic improvements in the production, curation, and provision of accessible digital educational materials and instruction;

(F) The proposed plan to work with SEAs, assessment developers, and other key partners as necessary to resolve challenges specific to digital accessibility in large-scale assessments of children with disabilities; and

(G) The proposed plan to include publishers, OER producers, and technology vendors, in collaboration with key partners, to increase accessibility of digital educational materials, in schools and other learning environments; and

(iv) How the proposed project will intentionally engage families of children with disabilities and individuals with disabilities, including underserved families and individuals in the development, implementation, and evaluation of its products and services across all levels of TA;

(5) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes; and

(6) How the project will systematically disseminate information, products, and services to varied intended audiences. To address this requirement the applicant must describe—

(i) The variety of dissemination strategies the Center will use throughout the four years of the project to promote awareness and use of its products and services.

(ii) How the project will evaluate and tailor its dissemination strategies across all planned levels of TA on an ongoing basis to ensure that products and services reach intended recipients and those recipients can access and use those products and services;

(iii) How the project's dissemination plan is connected to the proposed outcomes of the project; and

(iv) How the project will evaluate and, if necessary, remediate all digital products and external communications to ensure they meet or exceed government or industry-recognized standards for accessibility.

(c) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan for the project developed in consultation with and implemented by a third-party evaluator.[12] The evaluation plan must—

(1) Articulate formative and summative evaluation questions across all planned levels of TA, including important process and outcome evaluation questions. These questions should be related to the project's proposed logic model required in paragraph (b)(2)(ii) of this notice;

(2) Describe how progress in and fidelity of implementation, as well as project outcomes, will be measured to answer the evaluation questions.

Note: In measuring progress of implementation across all levels of TA, the plan should include criteria for determining the extent to which the project's products and services reached intended recipients, data, including

TA project staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA project's website by independent users. Brief communications by TA project staff with recipients, either by telephone or email, are also considered universal, general TA.

[10] ''Targeted, specialized TA'' means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA project staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

[11] See *https://aem.cast.org/coordinate/quality-indicators-provision-accessible-materials-technologies.*

[12] A ''third-party'' evaluator is an independent and impartial program evaluator who is contracted by the grantee to conduct an objective evaluation of the project. This evaluator must not have participated in the development or implementation of any project activities, except for the evaluation activities, nor have any financial interest in the outcome of the evaluation.

feedback from recipients, on how recipients used the products and services, and the impact of the products and services. The plan should also specify sources for data, and measures and instruments appropriate to the evaluation questions, including information on reliability and validity of the measures and associated instruments where appropriate.

(3) Describe strategies for analyzing data and how data collected as part of this plan will be used to inform and improve service delivery over the course of the project and to refine the proposed logic model and evaluation plan, including subsequent data collection;

(4) Provide a timeline for conducting the evaluation and include staff assignments for completing the plan. The timeline must indicate that the data will be available annually for the annual performance report (APR); and

(5) Dedicate sufficient funds in each budget year to cover the costs of developing or refining the evaluation plan in consultation with a third-party evaluator, as well as the costs associated with the implementation of the evaluation plan by the third-party evaluator.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources and quality of project personnel,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities;

(4) The proposed project will have processes, resources, and funds in place to provide equitable access for project staff, contractors, and partners, who require digital accessibility accommodations; [13] and

(5) The proposed costs are reasonable in relation to the anticipated results and benefits, and funds will be spent in a way that increases their efficiency and cost-effectiveness, including by reducing waste or achieving better outcomes.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of partner perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A three-day project directors' conference in Washington, DC, during each year of the project period. The project must reallocate funds for travel to the project directors' conference no later than the end of the third quarter of each budget period if the conference is conducted virtually; and

(iii) Two annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(3) Include, in the budget, a line item for an annual set-aside of 5 percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(4) Engage doctoral students or post-doctoral fellows, including those who are multilingual and racially, ethnically, and culturally diverse, in the project to increase the number of future leaders in the field who are knowledgeable about digital accessibility and related technologies in educational and early-learning contexts;

(5) Maintain a high-quality website;

(6) Ensure that annual project progress toward meeting project goals is posted on the project website; and

(7) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to a new award at the end of this award period, as appropriate.

Under 34 CFR 75.253, the Secretary may reduce continuation awards or discontinue awards in any year of the project period for excessive carryover balances, a failure to make substantial progress, or has not maintained financial and administrative management systems that meet requirements in 2 CFR 200.302, Financial Management, and 200.303, Internal controls. The Department intends to closely monitor unobligated balances and substantial progress under this program and may reduce or discontinue funding accordingly.

References:

American Printing House for the Blind. (2022). Building your early childhood toolkit. *www.aph.org/building-your-early-childhood-toolkit/.*

National Center on Accessible Educational Materials. (2020). *AEM Quality Indicators with Critical Components for Early Childhood. https://aem.cast.org/binaries/content/assets/common/publications/aem/ec-aem-qualityindicators-criticalcomponents.pdf.*

Rosenblum, L.P., Herzberg, T.S., Wild, T., Botsford, K.D., Fast, D., Kaiser, J.T., Cook, L.K., Hicks, M.A., DeGrant, J.N., & McBride, C.R. (2020). Access and engagement: Examining the impact of COVID–19 on students birth-21 with visual impairments, their families, and professionals in the United States and Canada, executive summary. *https://afb.org/research-and-initiatives/education/covid19-education-research.*

Shaheen, N.L. (2022). Technology accessibility: How U.S. K–12 schools are enacting policy and addressing the equity imperative. *Computers &*

[13] For information about digital accessibility and accessibility standards from Section 508 of the Rehabilitation Act, visit *https://osepideasthatwork.org/resources-grantees/508-resources.*

Education, 179. https://doi.org/10.1016/j.compedu.2021.104414.

Shaheen, N.L., & Watulak, S.L. (2019). Bringing disability into the discussion: Examining technology accessibility as an equity concern in the field of instructional technology. *Journal of Research on Technology in Education, 51*(2), 187–201. *https://doi.org/10.1080/15391523.2019.1566037.*

U.S. Department of Education. (2011, May 26). Frequently asked questions about the June 29, 2010 dear colleague letter. *www.ed.gov/ocr/docs/dcl-ebook-faq-201105.pdf.*

U.S. Department of Justice and U.S. Department of Education. (2010, June 29). Joint ''Dear Colleague'' letter: Electronic book readers. *https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20100629.html.*

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1474 and 1481.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: The Administration has requested $41,433,000 for the Educational Technology, Media, and Materials for Individuals with Disabilities program for FY 2024, of which we intend to use an estimated $1,800,000 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2025 from the list of unfunded applications from this competition.

Maximum Award: We will not make an award exceeding $1,800,000 for a single budget period of 12 months.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

2. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c), a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: IHEs, nonprofit organizations suitable to carry out the activities proposed in the application, and public agencies. The grantee may award subgrants to entities it has identified in an approved application or that it selects through a competition under procedures established by the grantee, consistent with 34 CFR 75.708(b)(2).

4. *Other General Requirements:*

(a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Applicants for, and recipients of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *www.federalregister.gov/d/2022-26554,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 70 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, image descriptions provided for accessibility,

or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed below:

(a) *Significance (10 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses; and

(ii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project.

(iii) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population.

(b) *Quality of project services (35 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable;

(ii) The extent to which there is a conceptual framework underlying the proposed research or demonstration activities and the quality of that framework;

(iii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice;

(iv) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services;

(v) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services; and

(vi) The extent to which the TA services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

(c) *Quality of the project evaluation (20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible;

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(d) *Adequacy of resources and quality of project personnel (15 points).*

(1) The Secretary considers the adequacy of resources for the proposed project and the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator.

(ii) The qualifications, including relevant training and experience, of key project personnel.

(iii) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(iv) The qualifications, including relevant training, experience, and independence, of the evaluator.

(v) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(vi) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

(vii) The extent to which the budget is adequate to support the proposed project.

(viii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(e) *Quality of the management plan (20 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project;

(iii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the

Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions, and under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

6. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with:

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* For the purpose of Department reporting under 34 CFR 75.110, we have established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Educational Technology, Media, and Materials for Individuals with Disabilities Program. These measures are:

- *Program Performance Measure #1:* The percentage of Educational Technology, Media, and Materials Program products and services judged to be of high quality by an independent review panel of experts qualified to review the substantial content of the products and services.
- *Program Performance Measure #2:* The percentage of Educational Technology, Media, and Materials

Program products and services judged to be of high relevance to improving outcomes for infants, toddlers, children, and youth with disabilities.

• *Program Performance Measure #3:* The percentage of Educational Technology, Media, and Materials Program products and services judged to be useful in improving results for infants, toddlers, children, and youth with disabilities.

• *Program Performance Measure #4.1:* The Federal cost per unit of accessible educational materials funded by the Educational Technology, Media, and Materials Program.

• *Program Performance Measure #4.2:* The Federal cost per unit of accessible educational materials from the National Instructional Materials Accessibility Center funded by the Educational Technology, Media, and Materials Program.

• *Program Performance Measure #4.3:* The Federal cost per unit of video description funded by the Educational Technology, Media, and Materials Program (long-term measure).

The measures apply to projects funded under this competition, and grantees are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

The Department will also closely monitor the extent to which the products and services provided by the Center meet needs identified by partners and may require the Center to report on such alignment in their annual and final performance reports.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package 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.

Danté Allen,

Commissioner, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services.

[FR Doc. 2023–28871 Filed 1–2–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of cancellation of open virtual meeting.

SUMMARY: On December 20, 2023, the Department of Energy published a notice of open meeting announcing a virtual meeting on January 16, 2024, of the Secretary of Energy Advisory Board (SEAB). This notice announces the cancellation of this virtual meeting.

DATES: The virtual meeting scheduled for January 16, 2024, announced in the December 20, 2023, issue of the **Federal Register** (FR Doc. 2023–27904, 88 FR 88057), is cancelled.

FOR FURTHER INFORMATION CONTACT: David Borak, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585; email: *seab@hq.doe.gov;* telephone: (202) 586–5216.

Signing Authority

This document of the Department of Energy was signed on December 27, 2023, by David Borak, Deputy Committee Management Officer, Secretarial Office of Boards & Councils, 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 December 28, 2023.

Treena V. Garrett,

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

[FR Doc. 2023–28934 Filed 1–2–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL24–50–000.

Applicants: Salsa Solar Energy, LLC and Towner Wind Energy III LLC v. Public Service Company of Colorado.

Description: Complaint of Salsa Solar Energy, LLC and Towner Wind Energy III LLC v. Public Service Company of Colorado.

Filed Date: 12/22/23.

Accession Number: 20231222–5335.

Comment Date: 5 p.m. ET 1/11/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24–172–001.

Applicants: FirstEnergy Pennsylvania Electric Company.

Description: Tariff Amendment: 2023.12.22—Deficiency Letter Response to be effective 12/31/9998.

Filed Date: 12/26/23.

Accession Number: 20231226–5000.

Comment Date: 5 p.m. ET 1/16/24.

Docket Numbers: ER24–262–000.

Applicants: Mustang Hills, LLC.

Description: Supplement to October 31, 2023 Mustang Hills, LLC tariff filing.
Filed Date: 12/26/23.
Accession Number: 20231226–5130.
Comment Date: 5 p.m. ET 1/16/24.
Docket Numbers: ER24–753–000.
Applicants: New York State Reliability Council, L.L.C.
Description: Informational Filing of the Revised Installed Capacity Requirement of the New York Control Area by the New York State Reliability Council, L.L.C.
Filed Date: 12/20/23.
Accession Number: 20231220–0001.
Comment Date: 5 p.m. ET 1/10/24.
Docket Numbers: ER24–756–000.
Applicants: Avista Corporation.
Description: Compliance filing: Avista Corp FERC Order 2023 Compliance Filing to be effective 3/15/2024.
Filed Date: 12/22/23.
Accession Number: 20231222–5289.
Comment Date: 5 p.m. ET 1/12/24.
Docket Numbers: ER24–757–000.
Applicants: Viridon Midcontinent LLC.
Description: Baseline eTariff Filing: Formula Rate Baseline to be effective 2/26/2024.
Filed Date: 12/26/23.
Accession Number: 20231226–5089.
Comment Date: 5 p.m. ET 1/16/24.
Docket Numbers: ER24–758–000.
Applicants: Puget Sound Energy, Inc.
Description: § 205(d) Rate Filing: Amcor NITSA, NOA and IA to be effective 1/1/2024.
Filed Date: 12/26/23.
Accession Number: 20231226–5123.
Comment Date: 5 p.m. ET 1/16/24.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC24–2–000.
Applicants: I Squared Capital.
Description: I Squared Capital submits Notice of Self-Certification of Foreign Utility Company Status.
Filed Date: 12/21/23.
Accession Number: 20231221–5307.
Comment Date: 5 p.m. ET 1/11/24.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: December 26, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–28864 Filed 1–2–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL24–36–000; EL24–39–000]

Chalk Point Power, LLC, Dickerson Power, LLC; Notice of Institution of Section 206 Proceedings and Refund Effective Date

On December 21, 2023, the Commission issued an order in Docket Nos. EL24–36–000 and EL24–39–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation to determine whether Dickerson Power, LLC's and Chalk Point Power, LLC's Rate Schedules are unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. *Chalk Point Power, LLC,* 185 FERC ¶ 61,213 (2023).

The refund effective date in Docket Nos. EL24–36–000 and EL24–39–000 established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket Nos. EL24–36–000 and EL24–39–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2022), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* 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 Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: December 21, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–28902 Filed 1–2–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–26–000]

Florida Gas Transmission Company, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on December 14, 2023, Florida Gas Transmission Company, LLC (FGT), 1300 Main St., Houston, Texas 77002, filed in the above referenced docket, a prior notice request pursuant to sections 157.205, 157.208, 157.210, and 157.211 of the Commission's regulations under the Natural Gas Act (NGA), and FGT's blanket certificate issued in Docket No. CP82–553–000, for authorization to: (1) construct two sections of approximately 900 feet of parallel 24-inch-diameter mainline extensions; (2) construct the new Compressor Station 6.5 and install one 5,000 horsepower compressor unit; and (3) install a new delivery Meter & Regulation (M&R) station. All of the above facilities are located in Calcasieu Parish, Louisiana and Orange County, Texas (Southeast Texas Project). The project will allow FGT to provide 150 million cubic feet per day of firm transportation capacity to Entergy Texas, Inc. at the proposed Orange-Entergy M&R Station. The estimated cost for the project is $35.4 million, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*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. Public access to records formerly available in the Commission's physical Public Reference Room, which was located at the Commission's headquarters, 888 First Street NE, Washington, DC 20426, are now available via the Commission's website. For assistance, contact the Federal Energy Regulatory Commission at *FercOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY (202) 502–8659.

Any questions concerning this request should be directed to Blair Lichtenwalter, Senior Director of Certificates, Florida Gas Transmission Company, LLC, 1300 Main St., Houston, Texas 77002, by phone at (713) 989–2605, or by email at *blair.lichtenwalter@energytransfer.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on February 26, 2024. How to file protests, motions to intervene, and comments is explained below.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[1] any person [2] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[3] and must be submitted by the protest deadline, which is February 26, 2024. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

[1] 18 CFR 157.205.

[2] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[3] 18 CFR 157.205(e).

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is February 26, 2024. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before February 26, 2024. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP24–26–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [6]

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP24–26–000.

To file via USPS: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other method: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: Blair Lichtenwalter, Senior Director of Certificates, 1300 Main St., Houston, Texas 77002, or by email at *blair.lichtenwalter@energytransfer.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: December 26, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–28862 Filed 1–2–24; 8:45 am]

BILLING CODE 6717–01–P

[6] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–27–000]

Kern River Gas Transmission Company; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on December 15, 2023, Kern River Gas Transmission Company (Kern River), 2755 East Cottonwood Parkway, Suite 300, Salt Lake City, Utah 84121, filed in the above referenced docket a prior notice request pursuant to sections 157.205, 157.211(a)(2), and 157.211(b) of the Commission's regulations under the Natural Gas Act (NGA), and Kern River's blanket certificate issued in Docket No. CP89–2048–000 for authorization to construct and operate a new delivery point, the Lanes Crossing meter station, located in San Bernardino County, California (Victorville Lanes Crossing Bypass). The project will allow Kern River to deliver natural gas to City of Victorville, which is currently being served by Southwest Gas Corporation, the local distribution company. The estimated cost for the project is $1,112,171, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*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. Public access to records formerly available in the Commission's physical Public Reference Room, which was located at the Commission's headquarters, 888 First Street NE, Washington, DC 20426, are now available via the Commission's website. For assistance, contact the Federal Energy Regulatory Commission at *FercOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY (202) 502–8659.

Any questions concerning this request should be directed to Bret Fritch, Senior Regulatory Analyst, Kern River Gas Transmission Company, P.O. Box 3330, Omaha, Nebraska 68124–0330, by telephone at (402)-398–7140 or by email at *bret.fritch@nngco.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on February 26, 2024. How to file protests, motions to intervene, and comments is explained below.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[1] any person [2] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the

[1] 18 CFR 157.205.

[2] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[3] and must be submitted by the protest deadline, which is February 26, 2024. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is February 26, 2024. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

[3] 18 CFR 157.205(e).

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before February 26, 2024. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP24–27–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov)* under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [6]

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP24–27–000.

To file via USPS: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other method: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: Bret Fritch, Senior Regulatory Analyst, Kern River Gas Transmission Company, P.O. Box 3330, Omaha, Nebraska 68124–0330, or at *bret.fritch@nngco.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

[6] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

Tracking the Proceeding

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Dated: December 26, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–28860 Filed 1–2–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–738–000]

PNY BESS LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of PNY BESS LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard

to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 15, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) 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.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: December 26, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–28859 Filed 1–2–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–729–000]

Holyoke BESS LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Holyoke BESS LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 15, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) 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.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: December 26, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–28858 Filed 1–2–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP24–263–000.

Applicants: Stagecoach Pipeline & Storage Company LLC.

Description: 4(d) Rate Filing: Negotiated Rate Agreements Filing—MorganStanley_Castleton (MSCG–005_390928) to be effective 1/1/2024.

Filed Date: 12/27/23.

Accession Number: 20231227–5080.

Comment Date: 5 p.m. ET 1/8/24.

Docket Numbers: RP24–264–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: Compliance filing: Cash Out Surcharge True Up Filing 2024 to be effective 2/1/2024.

Filed Date: 12/27/23.

Accession Number: 20231227–5087.

Comment Date: 5 p.m. ET 1/8/24.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: December 27, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–28878 Filed 1–2–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP24–262–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rate Agreements Update (Pioneer Jan 2024) to be effective 1/1/2024.

Filed Date: 12/22/23.

Accession Number: 20231222–5287.

Comment Date: 5 p.m. ET 1/3/24.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: December 26, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–28863 Filed 1–2–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC24–30–000.

Applicants: Wisconsin Electric Power Company, Madison Gas and Electric Company, Power & Light Company.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Wisconsin Electric Power Company, et al.

Filed Date: 12/22/23.

Accession Number: 20231222–5349.

Comment Date: 5 p.m. ET 2/20/24.

Docket Numbers: EC24–31–000.

Applicants: Blue Harvest Solar Park LLC, Timber Road Solar Park LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Blue Harvest Solar Park LLC, et. al.

Filed Date: 12/22/23.

Accession Number: 20231222–5359.

Comment Date: 5 p.m. ET 2/20/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1862–043; ER10–1871–013; ER10–1893–043; ER10–1934–043; ER10–1938–044; ER10–1942–041; ER10–2042–050; ER10–2985–047; ER10–3049–048; ER10–3051–048; ER11–4369–028; ER16–2218–029; ER17–696–029; ER23–944–006.

Applicants: Calpine Community Energy, LLC, Calpine Energy Solutions, LLC, North American Power Business, LLC, North American Power and Gas, LLC, Champion Energy, LLC, Champion Energy Services, LLC, Champion Energy Marketing LLC, Calpine Energy Services, L.P., Calpine Construction Finance Co., L.P., Calpine Power America—CA, LLC,CES Marketing IX, LLC,CES Marketing X, LLC, Morgan Energy Center, LLC, Power Contract Financing, L.L.C.

Description: Triennial Market Power Analysis for Southeast Region of Power Contract Financing, L.L.C., et. al.

*Filed Date:*12/27/23.

Accession Number: 20231227–5242.

Comment Date: 5 p.m. ET 2/26/24.

Docket Numbers: ER10–2127–025.

Applicants: Invenergy TN LLC.

Description: Triennial Market Power Analysis for Southeast Region of Invenergy TN LLC.

Filed Date: 12/22/23.

Accession Number: 20231222–5355.

Comment Date: 5 p.m. ET 2/20/24.

Docket Numbers: ER10–2134–016.

Applicants: Hardee Power Partners Limited.

Description: Triennial Market Power Analysis for Southeast Region of Hardee Power Partners Limited.

Filed Date: 12/22/23.

Accession Number: 20231222–5352.

Comment Date: 5 p.m. ET 2/20/24.

Docket Numbers: ER10–2211–009.

Applicants: Vandolah Power Company, L.L.C.

Description: Triennial Market Power Analysis for Southeast Region of Vandolah Power Company, L.L.C.

Filed Date: 12/22/23.

Accession Number: 20231222–5351.
Comment Date: 5 p.m. ET 2/20/24.

Docket Numbers: ER10–2358–008; ER10–2819–007; ER14–413–005; ER14–1390–006; ER14–1397–006; ER19–1778–003; ER22–2500–001; ER22–2501–001; ER22–2502–001.

Applicants: DLS—Sylvan Project Co, LLC, DLS—Laskin Project Co, LLC, DLS—Jean Duluth Project Co, LLC, Glen Ullin Energy Center, LLC, Storm Lake Power Partners II, LLC, Lake Benton Power Partners LLC,ALLETE Clean Energy, Inc., ALLETE, Inc., Storm Lake Power Partners I LLC.

Description: Triennial Market Power Analysis for Central Region of Storm Lake Power Partners I LLC, et. al.

Filed Date: 12/22/23.
Accession Number: 20231222–5357.
Comment Date: 5 p.m. ET 2/20/24.

Docket Numbers: ER10–2570–037; ER19–381–003.

Applicants: Power Holding LLC, Shady Hills Power Company LLC.

Description: Triennial Market Power Analysis for Southeast Region of Shady Hills Power Company L.L.C., et. al.

Filed Date: 12/22/23.
Accession Number: 20231222–5358.
Comment Date: 5 p.m. ET 2/20/24.

Docket Numbers: ER10–2877–004.

Applicants: Cobb Electric Membership Corporation.

Description: Triennial Market Power Analysis for Southeast Region of Cobb Electric Membership Corporation.

Filed Date: 12/22/23.
Accession Number: 20231222–5353.
Comment Date: 5 p.m. ET 2/20/24.

Docket Numbers: ER16–1720–026.

Applicants: Invenergy Energy Management LLC.

Description: Triennial Market Power Analysis for Southeast Region of Invenergy Energy Management LLC.

Filed Date: 12/22/23.
Accession Number: 20231222–5356.
Comment Date: 5 p.m. ET 2/20/24.

Docket Numbers: ER18–1197–009.

Applicants: Camilla Solar Energy LLC.

Description: Triennial Market Power Analysis for Southeast Region of Camilla Solar Energy LLC.

Filed Date: 12/22/23.
Accession Number: 20231222–5354.
Comment Date: 5 p.m. ET 2/20/24.

Docket Numbers: ER20–813–002; ER15–1378–003.

Applicants: Mercuria Commodities Canada Corporation, Mercuria Energy America, Inc.

Description: Triennial Market Power Analysis for Southeast Region of Mercuria Commodities Canada Corporation, et al.

Filed Date: 12/22/23.
Accession Number: 20231222–5348.
Comment Date: 5 p.m. ET 2/20/24.

Docket Numbers: ER20–1505–006.

Applicants: Basin Electric Power Cooperative.

Description: Triennial Market Power Analysis for Central Region of Basin Electric Power Cooperative.

Filed Date: 12/22/23.
Accession Number: 20231222–5346.
Comment Date: 5 p.m. ET 2/20/24.

Docket Numbers: ER23–2764–002.

Applicants: Northeastern Power & Gas, LLC.

Description: Tariff Amendment: Amendment to 10 to be effective 9/25/2023.

Filed Date: 12/27/23.
Accession Number: 20231227–5113.
Comment Date: 5 p.m. ET 1/17/24.

Docket Numbers: ER24–759–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to WMPA, SA No. 5545; Queue No. AE2–125 re: FirstEnergy Reorganization to be effective 12/31/9998.

Filed Date: 12/26/23.
Accession Number: 20231226–5172.
Comment Date: 5 p.m. ET 1/16/24.

Docket Numbers: ER24–760–000.

Applicants: Consolidated Edison Company of New York, Inc.

Description: 205(d) Rate Filing: Con Edison WDS RY 2 and ACOS filing to be effective 1/1/2024.

Filed Date: 12/27/23.
Accession Number: 20231227–5000.
Comment Date: 5 p.m. ET 1/17/24.

Docket Numbers: ER24–761–000.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.

Description: 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: Wilsonville Solar LGIA Filing to be effective 12/15/2023.

Filed Date: 12/27/23.
Accession Number: 20231227–5107.
Comment Date: 5 p.m. ET 1/17/24.

Docket Numbers: ER24–762–000.

Applicants: Elevate Renewables F7, LLC.

Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 2/26/2024.

Filed Date: 12/27/23.
Accession Number: 20231227–5118.
Comment Date: 5 p.m. ET 1/17/24.

Docket Numbers: ER24–763–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 205(d) Rate Filing: 2023–12–27_SA 4210 Ameren IL-Knox County Wind Farm FCA (J844) to be effective 12/21/2023.

Filed Date: 12/27/23.
Accession Number: 20231227–5121.
Comment Date: 5 p.m. ET 1/17/24.

Docket Numbers: ER24–764–000.

Applicants: GB Arthur Kill Storage LLC.

Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 2/26/2024.

Filed Date: 12/27/23.
Accession Number: 20231227–5123.
Comment Date: 5 p.m. ET 1/17/24.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: December 27, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–28879 Filed 1–2–24; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Tuesday, January 9, 2024 at 10:30 a.m. and its continuation at the conclusion of the open meeting on January 11, 2024.

PLACE: 1050 First Street NE, Washington, DC and Virtual (This meeting will be a hybrid meeting).

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance matters pursuant to 52 U.S.C. 30109. Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

(Authority: Government in the Sunshine Act, 5 U.S.C. 552b)

Vicktoria J. Allen,

Deputy Secretary of the Commission.

[FR Doc. 2023–28963 Filed 12–29–23; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 23–11]

Bal Container Line Co., Limited, Complainant v. SA Terminals (Pier A), LLC; and SSA Containers, Inc., Respondents; Notice of Filing of Amended Complaint and Assignment

Served: December 27, 2023.

Notice is given that an amended complaint has been filed with the Federal Maritime Commission (the ''Commission'') by Bal Container Line Co., Limited (the ''Complainant'') against SSA Marine Terminal; SSA Terminals (Pier A), LLC; and SSA Containers, Inc. (the ''Respondents''). Complainant states that the Commission has jurisdiction over the amended complaint under the Shipping Act of 1984, as amended, 46 U.S.C. 40101 *et seq.,* and jurisdiction over the Respondents as a ''marine terminal operator'' within the meaning of the Shipping Act at 46 U.S.C. 40102(15).

Complainant is an entity with a principal place of business in Hong Kong and a vessel-operating common carrier.

Complainant identifies Respondent SSA Marine Terminal as a Delaware limited liability company with a principal place of business in Seattle, Washington.

Complainant identifies Respondent SSA Terminals (Pier A), LLC as a Delaware limited liability company with a principal place of business in Seattle, Washington.

Complainant identifies Respondent SSA Containers, Inc. as a Washington corporation with a principal place of business in Seattle, Washington.

Complainant alleges that Respondents violated 46 U.S.C. 41102(c) and 46 CFR part 545 regarding a failure to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property. Complainant alleges these violations arose from an assessment of a flat rate congestion surcharge without stating the purpose of the surcharge, the triggering event, the ending date or an event that would end the surcharge, how the surcharge would help alleviate congestion, or any other relevant required information; a continued assessment of congestion surcharges while containers were placed in inaccessible terminal areas or the ability to pick up the containers was constrained due to circumstances outside the Complainant's control; and a seizure of eighteen containers, money owed to Complainant, and demurrage fees collected on Complainant's behalf until payment of the congestion surcharges.

An answer to the amended complaint must be filed with the Commission within 25 days after the date of service.

The full text of the amended complaint can be found in the Commission's electronic Reading Room at *https://www2.fmc.gov/readingroom/proceeding/23-11/.* This proceeding has been assigned to the Office of Administrative Law Judges. The initial decision of the presiding judge shall be issued by October 21, 2024, and the final decision of the Commission shall be issued by May 5, 2025.

Alanna Beck,

Federal Register Alternate Liaison Officer, Federal Maritime Commission.

[FR Doc. 2023–28865 Filed 1–2–24; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') requests that the Office of Management and Budget (''OMB'') extend for an additional three years the current Paperwork Reduction Act (''PRA'') clearance for information collection requirements contained in the FTC's Use of Prenotification Negative Option Plans (''Negative Option Rule'' or ''Rule''). That clearance expires on January 31, 2024.

DATES: Comments must be filed by February 2, 2024.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. 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: Katherine Johnson, Attorney, Division of Enforcement, Federal Trade Commission, Room CC–9528, 600 Pennsylvania Avenue NW, Washington, DC 20580, (202) 326–2185.

SUPPLEMENTARY INFORMATION:

Title of Collection: Use of Prenotification Negative Option Plans (Negative Option Rule or Rule), 16 CFR part 425.[1]

OMB Control Number: 3084–0104.

Type of Review: Extension without change of currently approved collection.

Abstract: The Negative Option Rule governs the operation of prenotification subscription plans. Under these types of plans—which can include things such as a book of the month club, food of the month club, or clothing items of the month club—a seller provides a consumer with automatic shipments of merchandise unless the consumer affirmatively notifies the seller they do not want the shipment. The Rule requires that a seller notify a member that they will automatically ship merchandise to the member and bill the member for the merchandise if the subscriber fails to expressly reject the merchandise beforehand within a prescribed time. The Rule protects consumers by: (1) requiring that promotional materials disclose the terms of membership clearly and conspicuously; and (2) establishing procedures for the administration of such ''negative option'' plans.

[1] The Commission recently published a Notice of Proposed Rulemaking seeking comment on proposed amendments to the Commission's Negative Option Rule. 88 FR 24716 (Apr. 24, 2023). The present PRA Notice is not part of that proceeding and merely seeks comment on the existing burden estimates for the current Rule, which applies only to ''prenotification'' negative option plans.

Affected Public: Private Sector: Sellers of prenotification subscription plans.

Estimated Annual Burden Hours: 2,500 hours.

Estimated Annual Labor Costs: $152,350 (solely related to labor costs).

Estimated Annual Non-Labor Costs: $0 or *de minimis.*

Request for Comment:

On August 30, 2023, the FTC sought public comment on the information collection requirements associated with the Rule. 88 FR 59922 (Aug. 30, 2023). No relevant comments were received during the public comment period. Pursuant to OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.,* the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rule. For more details about the Rule requirements and the basis for the calculations summarized below, see 88 FR 59922.

Your comment—including your name and your state—will be placed on the public record of this proceeding. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number; date of birth; driver's license number or other state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for ensuring that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential''—as provided in Section 6(f) of the FTC Act 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information, such as costs, sales statistics, inventories, formulas, patterns devices, manufacturing processes, or customer names.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2023–28899 Filed 1–2–24; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') requests that the Office of Management and Budget (''OMB'') extend for an additional three years the current Paperwork Reduction Act (''PRA'') clearance for information collection requirements contained in the FTC's Business Opportunity Rule (''Rule''). That clearance expires on January 31, 2024.

DATES: Comments must be filed by February 2, 2024.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. 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: Christine M. Todaro, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, 600 Pennsylvania Ave. NW, CC–6316, Washington, DC 20580, (202) 326–3711, *ctodaro@ftc.gov.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Disclosure Requirements Concerning Business Opportunities, 16 CFR part 437.

OMB Control Number: 3084–0142.

Type of Review: Extension without change of currently approved collection.

Abstract: The Business Opportunity Rule requires business opportunity sellers to furnish prospective purchasers a disclosure document that provides information regarding the seller, the seller's business, and the nature of the proposed business opportunity, as well as additional information to substantiate any claims about actual or potential sales, income, or profits for a prospective business opportunity purchaser. The seller must also preserve information that forms a reasonable basis for such claims.

The Rule is designed to ensure that prospective purchasers receive information to help them evaluate business opportunities. Sellers must disclose five key items of information in a simple, one-page document: (1) The seller's identifying information; (2) whether the seller makes a claim about the purchaser's likely earnings (and, if yes, the seller must provide information supporting any such claims); (3) whether the seller, its affiliates, or key personnel have been involved in certain legal actions (and, if yes, the seller must provide a separate list of those actions); (4) whether the seller has a cancellation or refund policy (and, if yes, the seller must provide a separate document stating the material terms of such policies); and (5) a list of persons who have purchased the business opportunity within the previous three years. Misrepresentations and omissions are prohibited under the Rule, and for sales conducted in languages other than English, all disclosures must be provided in the language in which the sale is conducted.

Affected Public: Private Sector: Businesses and other for-profit entities.

Estimated Annual Burden Hours: 10,065.

Estimated Annual Labor Costs: $792,518.

Estimated Annual Non-Labor Costs: $3,361,014.

Request for Comment:

On August 2, 2023, the FTC sought public comment on the information collection requirements associated with the Rule. 88 FR 50865 (Aug. 2, 2023). No relevant comments were received during the public comment period. Pursuant to OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.,* the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rule. For more details about the Rule requirements and the basis for the calculations summarized below, see 88 FR 50865.

Your comment—including your name and your state—will be placed on the public record of this proceeding. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number; date of birth; driver's license number or other state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for ensuring that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential''—as provided in Section 6(f) of the FTC Act 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information, such as costs,

sales statistics, inventories, formulas, patterns devices, manufacturing processes, or customer names.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2023–28898 Filed 1–2–24; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Solicitation for Nominations for Members of the U.S. Preventive Services Task Force (USPSTF)

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Solicits nominations for new members of the USPSTF.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) invites nominations of individuals qualified to serve as members of the U.S. Preventive Services Task Force (USPSTF).

DATES: Nominations must be received electronically by March 15th of a given year to be considered for appointment to begin in January of the following year.

ADDRESSES: Submit your responses electronically via: *https://uspstfnominations.ahrq.gov/register*.

FOR FURTHER INFORMATION CONTACT: Lydia Hill at (301) 427–1587.

SUPPLEMENTARY INFORMATION:

Arrangement for Public Inspection

Nominations and applications are kept on file at the Center for Evidence and Practice Improvement, AHRQ, and are available for review during business hours. AHRQ does not reply to individual nominations, but considers all nominations in making recommendation for appointment. Information regarded as private and personal, such as a nominee's social security number, home and email addresses, home telephone and fax numbers, or names of family members will not be disclosed to the public in accord with the Freedom of Information Act. 5 U.S.C. 552(b)(6); 45 CFR 5.31(f).

Nomination Submissions

Nominations must be submitted electronically, and should include:

1. The applicant's current curriculum vitae and contact information, including mailing address, and email address; and

2. A letter explaining how this individual meets the qualification requirements and how he or she would contribute to the USPSTF. The letter should also attest to the nominee's willingness to serve as a member of the USPSTF.

AHRQ will later ask people under serious consideration for USPSTF membership to provide detailed information that will permit evaluation of possible significant conflicts of interest. Such information will concern matters such as financial holdings, consultancies, non-financial scientific interests, and research grants or contracts.

To obtain a diversity of perspectives, AHRQ particularly encourages nominations of women, members of underrepresented populations, and persons with disabilities. Interested individuals can nominate themselves. Organizations and individuals may nominate one or more people qualified for membership on the USPSTF at any time. Individuals nominated prior to March 15, 2023, who continue to have interest in serving on the USPSTF should be re-nominated.

Qualification Requirements

To qualify for the USPSTF and support its mission, an applicant or nominee should, at a minimum, demonstrate knowledge, expertise, and national leadership in the following areas:

1. The critical evaluation of research published in peer-reviewed literature and in the methods of evidence review;

2. Clinical prevention, health promotion and primary health care; and

3. Implementation of evidence-based recommendations in clinical practice including at the clinician-patient level, practice level, and health-system level.

Additionally, the Task Force benefits from members with expertise in the following areas:

- Public Health
- Health Equity and The Reduction of Health Disparities
- Application of Science to Health Policy
- Decision modeling
- Dissemination and Implementation
- Behavioral Medicine/Clinical Health Psychology
- Communication of Scientific Findings to Multiple Audiences Including Health Care Professionals, Policy Makers, and the General Public.

Candidates with experience and skills in any of these areas should highlight them in their nomination materials.

Applicants must have no substantial conflicts of interest, whether financial, professional, or intellectual, that would impair the scientific integrity of the work of the USPSTF and must be willing to complete regular conflict of interest disclosures.

Applicants must have the ability to work collaboratively with a team of diverse professionals who support the mission of the USPSTF. Applicants must have adequate time to contribute substantively to the work products of the USPSTF.

Nominee Selection

Nominated individuals will be selected for the USPSTF on the basis of how well they meet the required qualifications and the current expertise needs of the USPSTF. It is anticipated that new members will be invited to serve on the USPSTF beginning in January, 2025. All nominated individuals will be considered; however, strongest consideration will be given to individuals with demonstrated training and expertise in the areas of Internal Medicine, Family Medicine, and Obstetrics and Gynecology. AHRQ will retain and may consider for future vacancies nominations received this year and not selected during this cycle.

Some USPSTF members without primary health care clinical experience may be selected based on their expertise in methodological issues such as meta-analysis, analytic modeling, or clinical epidemiology. For individuals with clinical expertise in primary health care, additional qualifications in methodology would enhance their candidacy.

Background

Under title IX of the Public Health Service Act, AHRQ is charged with enhancing the quality, appropriateness, and effectiveness of health care services and access to such services. 42 U.S.C. 299(b). AHRQ accomplishes these goals through scientific research and promotion of improvements in clinical practice, including clinical prevention of diseases and other health conditions. See 42 U.S.C. 299(b).

The USPSTF, an independent body of experts in prevention and evidence-based medicine, works to improve the health of people nationwide by making evidence-based recommendations about the effectiveness of clinical preventive services and health promotion. The recommendations made by the USPSTF address clinical preventive services for adults and children, and include screening tests, counseling services, and preventive medications.

The USPSTF was first established in 1984 under the auspices of the U.S. Public Health Service. AHRQ provides ongoing scientific, administrative, and dissemination support for the USPSTF's operation. See 42 U.S.C. 299b–4(a)(3). Members are appointed by the Secretary of the U.S. Department of Health and

Human Services to serve four-year terms. New members are selected each year to replace those members who are completing their appointments.

The USPSTF rigorously evaluates the effectiveness of clinical preventive services and formulating or updating recommendations regarding the appropriate provision of preventive services. Current USPSTF recommendations and associated evidence reviews are available on the internet (*www.uspreventiveservices taskforce.org*).

USPSTF members meet three times a year for two days in the Washington, DC area or virtually if necessary. A significant portion of the USPSTF's work occurs between meetings during conference calls and via email discussions. Member duties include prioritizing topics, designing research plans, reviewing and commenting on systematic evidence reviews, discussing evidence and making recommendations on preventive services, reviewing stakeholder comments, drafting final recommendation documents, and participating in workgroups on specific topics and methods. Members can expect to receive frequent emails, can expect to participate in multiple conference calls each month, and can expect to have periodic interaction with stakeholders. AHRQ estimates that members devote approximately 250 hours a year outside of in-person meetings to their USPSTF duties. The members are all volunteers and do not receive any compensation beyond support for travel to attend the thrice yearly meetings and trainings.

Dated: December 27, 2023.

Marquita Cullom,

Associate Director.

[FR Doc. 2023–28870 Filed 1–2–24; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–5653]

Food and Drug Administration's Draft Report and Plan on Best Practices for Guidance; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability, request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft document entitled ''Food and Drug Administration's Draft Report and Plan on Best Practices for Guidance.'' This draft report responds to the Consolidated Appropriations Act of 2023, which directs FDA to issue a report identifying best practices for the efficient prioritization, development, issuance, and use of guidance documents and a plan for implementation of such best practices. It also directs FDA to publish a draft report and plan no later than 1 year after enactment of the Consolidated Appropriations Act and to consult with stakeholders in developing the report and implementation plan.

DATES: Submit either electronic or written comments on the draft report and plan by March 4, 2024.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2023–N–5653 for ''Draft Report and Plan on Best Practices for Guidance.'' 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.

See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft report and plan.

FOR FURTHER INFORMATION CONTACT: Julie Finegan, Office of Policy, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 4252, Silver Spring, MD 20993–0002, 301–827–4830.

SUPPLEMENTARY INFORMATION:

I. Background

Clear, concise, and timely communication through guidance documents is essential to the public health mission of FDA. FDA guidance documents are prepared for regulated industry, FDA staff, and the public to describe the Agency's interpretation of, or policy on, a regulatory issue. (§ 10.115(b) (21 CFR 10.115(b))). Unlike statutes and regulations, guidance documents generally do not establish legally enforceable rights or responsibilities (§ 10.115(d)), and are thus exempt from notice and comment requirements applicable to most rulemaking under the Administrative Procedure Act. (5 U.S.C. 553(b)(A); (d)(2)). However, the Federal Food, Drug, and Cosmetic Act (FD&C Act) and FDA's Good Guidance Practices (GGP) regulation (§ 10.115) require FDA to provide an opportunity for public comment prior to implementation for all Level 1 guidance documents (*i.e.,* guidance documents that include initial interpretations of a statute or regulation, changes in interpretation or policy that are of more than a minor nature, complex scientific issues, or highly controversial issues), unless FDA determines that prior public participation is not feasible or appropriate. (21 U.S.C.371(h)(1)(C)(i); 10.115(g)). If FDA decides that public participation is not feasible or appropriate prior to implementation of a guidance document, FDA must provide for public comment upon publication and take such comment into consideration. (21 U.S.C. 371(h)(1)(C)(i); 10.115(g)(3)). For Level 2 guidance documents (*i.e.,* guidance documents that set forth existing practices or minor changes in policy), the FD&C Act and FDA's GGP regulation require that FDA provide for public comment upon implementation. (21 U.S.C. 371(h)(1)(D); 10.115(g)(4)).

As part of FDA's Transparency Initiative, in 2011, FDA publicly released a comprehensive report entitled ''Food and Drug Administration Report on Good Guidance Practices: Improving Efficiency and Transparency'' (2011 GGP Report, available at *https://www.fda.gov/about-fda/transparency/transparency-initiative*). The 2011 GGP Report identified ''best practices'' and made recommendations to streamline the development of guidance documents, reduce the time between issuing draft and final guidance documents, and improve access to guidance documents on FDA's website. Since 2011, FDA has continued to make significant strides to modernize and improve our best practices for the efficient prioritization, development, review, clearance, and issuance of our guidance documents.

The Coronavirus Disease 2019 (COVID–19) Public Health Emergency (PHE) pushed us to consider innovative approaches to streamline guidance issuance and regulatory submissions to reach a broad audience in an expedited manner. The facts and circumstances surrounding COVID–19 and the COVID–19 PHE enabled FDA to rapidly disseminate Agency recommendations and policies related to COVID–19 to industry and other interested parties, FDA staff, and the public, including patients and consumers. The Agency used Paperwork Reduction Act waivers, issuance of Level 1 guidance documents without prior public participation, and expedited external review of guidance documents, which translated into significant time savings. These tools were critical to the significant work FDA accomplished during the COVID–19 pandemic. Now that the PHE determined under section 319 of the Public Health Service Act is over, FDA is considering the lessons learned from that experience and reassessing our current best practices for guidance to look for additional areas for improvement consistent with our statutory and regulatory framework.

In accordance with section 2505(a) of the Consolidated Appropriations Act of 2023 (Pub. L. 117–328), FDA's ''Draft Report and Plan on Best Practices for Guidance'' identifies our current best practices for the efficient prioritization, development, issuance, and use of guidance documents. As a part of this draft report and plan, FDA is also considering opportunities to streamline processes for regulatory submissions through the revision and issuance of guidance documents and to implement innovative guidance development processes and practices. Pursuant to section 2505(c) of the Consolidated Appropriations Act, in this **Federal Register** notice announcing the availability of this document, FDA is seeking public comment on this ''Draft Report and Plan on Best Practices for Guidance.''

II. Request for Comments

FDA is soliciting comments on its ''Draft Report and Plan on Best Practices for Guidance'' from a broad range of commenters, including regulated industry; researchers; academic organizations; pharmaceutical, biotechnology, and medical device developers; clinical research organizations; clinical laboratories; healthcare providers; food manufacturers; and consumer and patient groups. We are particularly interested in feedback on the following areas:

1. FDA regularly considers its processes for the development, clearance, and issuance of guidance documents, with a goal of streamlining these processes and making the best use of Agency resources. The draft report summarizes FDA's current best practices for the initiation, prioritization, development, review, clearance, and issuance of guidance documents that FDA has implemented in response to the 2011 report and other continual improvement efforts not described in the 2011 report. The draft report also proposes additional initiatives that FDA could consider to further improve its processes for the issuance of guidance documents. FDA solicits input on whether there are additional or revised practices, consistent with our statutory and regulatory framework, for the Agency to consider.

2. Level 1 guidance documents are guidance documents that include initial interpretations of a statute or regulation, changes in interpretation or policy that are of more than a minor nature, complex scientific issues, or highly controversial issues. Level 2 guidance documents describe existing practices or minor changes in interpretation or policy. Pursuant to FDA's statutory and regulatory requirements, while the public may comment on a guidance document at any time, public participation is directly solicited prior to the implementation of Level 1 guidance documents unless we determine that such prior public participation is not feasible or appropriate. In the preamble to the final GGP rule, we noted that we anticipated that this exception would generally be applicable when there are public health reasons for the immediate implementation of the guidance document; there is a statutory requirement, executive order, or court order that requires immediate implementation; or the guidance document presents a less burdensome policy that is consistent with public health.[1] Issuing more guidance documents either as Level 1 guidance documents for immediate implementation, as FDA did during the COVID–19 PHE, or as Level 2 guidance documents would allow FDA to allocate its limited resources more efficiently, which would help FDA keep pace with rapid scientific developments and better serve the public health. In addition,

[1] 65 FR 56468 at 56472 (September 19, 2000).

FDA's GGP regulation provides that the public may comment on any guidance at any time, including Level 1 guidance documents for immediate implementation and Level 2 guidance documents, and FDA may delay implementation of any guidance document.

a. In light of the above, we seek input on whether there are any additional circumstances, categories of guidance documents, or topics for guidance for which it may be appropriate and consistent with the FD&C Act and FDA's GGP regulation for FDA to consider issuance as a Level 1 guidance document for immediate implementation without prior public comment.

b. We also seek comment on whether there are additional categories or types of guidance documents that FDA should consider issuing as Level 2 guidance documents to streamline the guidance process and allow the Agency to better leverage its resources for the timely development of more guidance documents.

3. FDA requests comment on any novel guidance document formats that would be of particular utility, such as use of templates to accompany a guidance document, Q&A formats, flowcharts, etc., that are used in FDA guidance documents or that were used in guidance documents issued in response to the COVID–19 PHE.

4. FDA makes robust use of guidance documents to assist industry in making regulatory submissions. As described in the report, examples of such guidances include device-specific guidance documents, disease or indication specific guidance documents that include recommendations on developing drugs intended to treat a specific disease or for a specific indication to support submissions of New Drug Applications (NDAs) or Supplemental NDAs, product specific guidances for generic drug development to support submission of Abbreviated New Drug Applications (ANDAs), Data Technical Conformance Guides to accompany guidance documents, and guidance documents that provide assistance with registration and listing requirements. FDA requests comment on the utility of guidances in streamlining regulatory submissions and whether there are additional categories or types of guidance that would be helpful to streamline processes for regulatory submissions to the Agency.

5. Currently, FDA's GGP regulation (§ 10.115) provides that interested persons can suggest areas for guidance document development and that such suggestions should address why a guidance document is necessary. (§ 10.115(f)(2)). In addition, proposed guidance documents can be submitted to a specified docket for FDA consideration. (§ 10.115(f)(3)). FDA requests comments on whether the currently available mechanisms for submitting suggested areas for guidance development and proposed guidance documents are useful and sufficient or whether additional mechanisms, for example, a Center-specific or Office-specific mailbox for such suggestions would ease the process for such submissions.

6. FDA Centers publish guidance agendas on their web pages to give interested parties and the public notice of the areas in which FDA is considering upcoming guidance. We request comment on the utility of these guidance agendas and what, if any, modifications to these agendas would be helpful for the Agency to consider.

III. Electronic Access

Persons with access to the internet may obtain the draft report and plan at *https://www.fda.gov/about-fda/reports/reports-agency-policies-and-initiatives* or *https://www.regulations.gov.*

Dated: December 22, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–28872 Filed 1–2–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine and Oral Fluid Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITFs) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs using Urine or Oral Fluid (Mandatory Guidelines).

FOR FURTHER INFORMATION CONTACT: Anastasia Flanagan, Division of Workplace Programs, SAMHSA/CSAP, 5600 Fishers Lane, Room 16N06B, Rockville, Maryland 20857; 240–276–2600 (voice); *Anastasia.Flanagan@samhsa.hhs.gov* (email).

SUPPLEMENTARY INFORMATION: In accordance with section 9.19 of the Mandatory Guidelines, a notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at *https://www.samhsa.gov/workplace/resources/drug-testing/certified-lab-list.*

The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITFs) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines) using Urine and of the laboratories currently certified to meet the standards of the Mandatory Guidelines using Oral Fluid.

The Mandatory Guidelines using Urine were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); April 30, 2010 (75 FR 22809); and on January 23, 2017 (82 FR 7920).

The Mandatory Guidelines using Oral Fluid were first published in the **Federal Register** on October 25, 2019 (84 FR 57554) with an effective date of January 1, 2020.

The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71 and allowed urine drug testing only. The Mandatory Guidelines using Urine have since been revised, and new Mandatory Guidelines allowing for oral fluid drug testing have been published. The Mandatory Guidelines require strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on specimens for Federal agencies. HHS does not allow IITFs to conduct oral fluid testing.

To become certified, an applicant laboratory or IITF must undergo three

rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines using Urine and/or Oral Fluid. An HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that the test facility has met minimum standards. HHS does not allow IITFs to conduct oral fluid testing.

HHS-Certified Laboratories Approved To Conduct Oral Fluid Drug Testing

In accordance with the Mandatory Guidelines using Oral Fluid dated October 25, 2019 (84 FR 57554), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on oral fluid specimens:

At this time, there are no laboratories certified to conduct drug and specimen validity tests on oral fluid specimens.

HHS-Certified Instrumented Initial Testing Facilities Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine dated January 23, 2017 (82 FR 7920), the following HHS-certified IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Dynacare*, 6628 50th Street NW, Edmonton, AB Canada T6B 2N7, 780–784–1190, (Formerly: Gamma-Dynacare Medical Laboratories).

HHS-Certified Laboratories Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine dated January 23, 2017 (82 FR 7920), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Clinical Reference Laboratory, Inc., 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917

Desert Tox, LLC, 5425 E Bell Rd. Suite 125, Scottsdale, AZ, 85254, 602–457–5411/623–748–5045

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890

Dynacare*, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630, (Formerly: Gamma-Dynacare Medical Laboratories)

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295, (Formerly: Legacy Laboratory Services Toxicology MetroLab)

Laboratory Corporation of America Holdings, 7207 N Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 TW Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

MedTox Laboratories, Inc., 402 W County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088. Testing for Veterans Affairs (VA) Employees Only

Omega Laboratories, Inc.,* 2150 Dunwin Drive, Unit 1 & 2, Mississauga, ON, Canada L5L 5M8, 289–919–3188

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888–635–5840

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085, Testing for Department of Defense (DoD) Employees Only

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (61 FR 37015) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on January 23, 2017 (82 FR 7920). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Anastasia D. Flanagan,

Public Health Advisor, Division of Workplace Programs.

[FR Doc. 2023–28882 Filed 1–2–24; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–WSFR–2023–0231; FVWF97820900000–XXX–FF09W13000 and FVWF54200900000–XXX–FF09W13000; OMB Control Number 1018–0088]

Agency Information Collection Activities; National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (FHWAR)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), we, the U.S. Fish and Wildlife Service (Service), are proposing to revise a currently approved information collection.

DATES: Interested persons are invited to submit comments on or before March 4, 2024.

ADDRESSES: Send your comments on the information collection request (ICR) by one of the following methods (please reference OMB Control No. 1018–0088 in the subject line of your comment):

- *Internet (preferred): https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–WSFR–2023–0231.
- *U.S. mail:* Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W); Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at *https://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act (PRA, 44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again inviting the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your that your entire comment—including your personal identifying information—may be publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The information collected for the National Survey of Fishing, Hunting and Wildlife-Associated Recreation (FHWAR, or National Survey) assists the Fish and Wildlife Service in administering the Wildlife and Sport Fish Restoration grant programs. The FHWAR, conducted about every 5 years since 1955, is a comprehensive survey of anglers, hunters, and wildlife watchers and includes information on their participation and how much they spend on these activities in the United States. The FHWAR provides up-to-date information on the uses and demands for wildlife-related recreation resources and a basis for developing and evaluating programs and projects to meet existing and future needs.

We collect the information in conjunction with carrying out our responsibilities under the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777–777m) and the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669–669i). Under these Acts, we provide approximately $1 billion in grants annually to States for projects that support sport fish and wildlife management and restoration, including:

- Improvement of fish and wildlife habitats,
- Fishing and boating access,
- Fish stocking, and
- Hunting and fishing opportunities.

We also provide grants for aquatic education and hunter education, maintenance of completed projects, and research into problems affecting fish and wildlife resources. These projects help to ensure that the American people have adequate opportunities for fish and wildlife recreation. We conduct the survey about every 5 years. The 2027 FHWAR survey will be the 15th conducted since 1955. We coordinate the survey at the States' request, which is made through the Association of Fish and Wildlife Agencies. We will contract with a data collector to collect the information using internet, telephone, or mail-in paper-and-pencil instrument (PAPI).

Respondents are invited to take the survey with a mailed letter. The data collector will select a sample of sportspersons and wildlife watchers from a household screen and conduct three detailed interviews during the survey year. The survey collects information on the number of days of participation, and expenditures for trips and equipment. Information on the characteristics of participants includes age, income, sex, education, race, and State of residence. The Freshwater/Saltwater Ratio Questionnaire is designed to get freshwater and saltwater fishing data for coastal States. The Service's Wildlife and Sportfish Restoration Program is required to divide fishing management funds according to the ratio of freshwater and saltwater anglers in each coastal State.

Federal and State agencies use information from the survey to make policy decisions related to fish and wildlife restoration and management. Participation patterns and trend information help identify present and future needs and demands. Land management agencies use the data on expenditures and participation to assess

the value of wildlife-related recreational uses of natural resources. Wildlife-related recreation expenditure information is used to estimate the impact on the economy and to support the dedication of tax revenues for fish and wildlife restoration programs.

Proposed Revision

Pre-test: Cognitive Interviews—We anticipate the need to conduct web-based cognitive interviews prior to the next FHWAR. The cognitive interviews will enable the research team to identify problems with survey items and with the organization and order of items in the instrument. We expect the data from the cognitive interviews to reveal potential sources of response error in the National Survey and to inform the redesign efforts. The objective of the cognitive interviews is to test and refine the proposed instruments from the full survey, with particular focus on the revised questions on bounding, expenditure reporting, and 5-year recall of activities. We will use the results of this research to refine the survey instruments in preparation for fielding the next National Survey (likely to be held in 2027 or 2028). Respondents will have the option to pause/resume the pretest as they work through the questionnaire.

We anticipate a maximum of 70 respondents will participate in the web-based study. Respondents will be individuals who have participated in fishing, hunting, and wildlife-watching activities in within 1 year of the cognitive interviews. Respondents will be adults ages 18 and over and children ages 16 and 17 who participate with the consent of a parent or guardian. The participants will represent a range of demographic characteristics (*e.g.,* age, gender, education level, State of residence).

We plan to recruit a non-probability sample of respondents for this research. The Association of Fish & Wildlife Agencies will work with State fish and wildlife directors to obtain lists of license holders. The data collector will send an invitation via email or text message to invite license holders to participate in a survey. Further, the data collector will place advertisements on Facebook in selected geographies in order to recruit individuals interested in being interviewed and will disseminate information about the study through word of mouth. People responding to an invitation to participate in the research will complete a brief eligibility screening to determine whether they have recently participated in fishing, hunting, or wildlife watching activities and to collect household composition and demographic information.

Potential participants will also be asked whether other household members would be interested in participating in the study. Adult participants for screener interviews will be household members who would likely complete a screener questionnaire, such as a head of household or adult sportsperson or wildlife watcher. We plan to request that a screener respondent (a respondent who finished the screen interview), or another household member aged 16 and up, who participates in fishing, hunting, or wildlife watching activities, complete the wave questionnaires. In addition, two to three respondents who do not participate in the relevant activities will be recruited for interviews in order to test the functioning of the instruments with non-participants.

Title of Collection: National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (FHWAR).

OMB Control Number: 1018–0088.

Form Number: None.

Type of Review: Revision of a currently approved information collection.

Respondents/Affected Public: Individuals/households.

Respondent's Obligation: Voluntary.

Frequency of Collection: We estimate the pre-test/cognitive interviews to begin in 2025 or 2026. The results will be used to inform the next full survey estimated to be conducted in 2027, or possibly 2028.

Total Estimated Annual Nonhour Burden Cost: None.

Activity	Estimated number of household responses	Median completion time per response (minutes)	Estimated burden hours *
Screener Survey:			
Screener: Web	27,639	9	4,146
Screener: Phone	1,000	15	250
Screener: PAPI	31,361	10	5,227
Wave 1 Survey:			
Wave Questionnaires: Web	43,068	13	9,331
Wave Questionnaires: Phone	833	22	305
Wave Questionnaires: PAPI	6,972	14	1,627
Wave 2 Survey:			
Wave Questionnaires: Web	32,173	13	6,971
Wave Questionnaires: Phone	833	22	305
Wave Questionnaires: PAPI	3,645	14	851
Wave 3 Survey:			
Wave Questionnaires: Web	46,773	13	10,134
Wave Questionnaires: Phone	950	22	348
Wave Questionnaires: PAPI	11,811	14	2,756
Wave 3 Coastal Freshwater/Saltwater Ratio Questionnaire	13,500	3	675
Pre-test/Cognitive Interviews *(NEW)*	70	70	82
Grand Total	220,628	.....	43,008

* Rounded.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2023–28883 Filed 1–2–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–LE–2023–N095; FXLE12200900000–245–FF09L01300; OMB Control Number 1018–0180]

Agency Information Collection Activities; Submission to the Office of Management and Budget; U.S. Fish and Wildlife Service Law Enforcement Training System

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to revise a currently approved information collection.

DATES: Interested persons are invited to submit comments on or before February 2, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of publication of this notice at *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference ''1018-0180'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Madonna Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the information collection request (ICR) at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

On August 17, 2023, we published in the **Federal Register** (88 FR 56046) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on October 16, 2023. In an effort to increase public awareness of, and participation in, our public commenting processes associated with information collection requests, the Service also published the **Federal Register** notice on *Regulations.gov* (Docket No. FWS–HQ–LE–2023–0105) to provide the public with an additional method to submit comments (in addition to the typical *Info_Coll@fws.gov* email and U.S. mail submission methods). We received one comment which did not address the information collection requirements; therefore, no response is required.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Service's Office of Law Enforcement at the Federal Law Enforcement Training Centers (FLETC) coordinates and conducts training for Service special agents, wildlife inspectors, and administrative staff, as well as for State, Tribal, and foreign individuals responsible for wildlife and habitat protection. Over the past decade, there have been substantial increases in the numbers of programs and individuals trained, hours of training provided, and numbers of training sites.

The Training and Development Unit (TDU) at FLETC collects the required information necessary to administer training programs as authorized by the following:

- Bald and Golden Eagle Protection Act (16 U.S.C. 668–668c);
- Lacey Act (18 U.S.C. 42–43; 16 U.S.C. 3371–3378);
- National Wildlife Refuge System Administration Act (16 U.S.C 668dd–668ee);
- Migratory Bird Hunting Stamp Act (16 U.S.C. 718–718h);
- Migratory Bird Treaty Act (16 U.S.C. 703–712);
- Endangered Species Act (16 U.S.C. 1531–1543);
- Marine Mammal Protection Act (16 U.S.C. 1361–1407);
- Refuge Recreation Act (16 U.S.C. 460k–460k–4);
- Tariff Act of 1930 (19 U.S.C. 1202–1527);
- Uniform Federal Crime Reporting Act (28 U.S.C. 534);
- USA PATRIOT Act of 2001 (Pub. L. 107–56);
- USA PATRIOT Improvement and Reauthorization Act of 2005 (Pub. L. 109–177);
- Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. L. 108–458);

• Homeland Security Act of 2002 (Pub. L. 107–296);
• Homeland Security Presidential Directive 12—Policy for a Common Identification Standard for Federal Employees and Contractors; and
• Criminal Intelligence Systems Operating Policies, 28 CFR part 23.

The TDU collects the below listed information from prospective domestic trainees requesting attendance in a training program:
• Applicant's full legal name, contact, and identifying information;
• Emergency contact name and phone number;
• Photograph;
• Biography;
• Highest education level; and
• Law enforcement affiliation information, to include title/rank, experience, and agency contacts.

Course participants automatically receive the post-course evaluation form soliciting provide feedback on the following:
• Length of experience;
• Program length;
• Overall ratings;
• Content, presentation, and course materials;
• Labs, practical exercises, and written exams;
• Program outcomes; and
• General comments.

We use the information collected to administratively record, track, and manage training records of domestic and foreign students affiliated with law enforcement agencies who attend training offered by the Service. The information also allows us to verify the records of previous attendees (upon official inquiry only) by name, country of origin, or specific identifying number.

Proposed Revisions

The Service is proposing to revise this information collection as follows:

1. (Discontinue) Account Registration (Foreign Students): We will request OMB approval to discontinue the previously approved information collection associated with the registration of international students attending TDU training. The State Department coordinates the vetting process for all prospective students. The State Department relies on the host country to vet the prospective students and uses a certification process for final selections which is exempt from the requirements of the PRA. Therefore, they do not have a control number for their selection/registration process.

The Service does not collect registration information for international students; therefore, we will request OMB approve our request to discontinue this specific information collection within OMB Control No. 1018–0180. Approval of this request to discontinue the information collection associated with registration of international students will result in an annual burden decrease of 1,000 responses and 250 burden hours. We will continue to request OMB approval of the burden associated with international students completing the course evaluations.

2. (New) Pre-Course Evaluation: We also propose to request OMB approval of the pre-test administered prior to the start of training. The pre-test gauges the participant's knowledge on topics such as adaptive leadership, adaptive challenges, use of intervention techniques, how to manage disequilibrium while exercising leadership, the use of interpretation during the diagnostic process, and systems thinking. At this time, we use Microsoft Office to deliver the pre-test. A link is sent to the participants, and they click on the link, take the test, and submit. This is an anonymous test, as we do not ask their name and it is used to show that knowledge of the curriculum has been gained during the program.

Title of Collection: U.S. Fish and Wildlife Service Law Enforcement Training System.

OMB Control Number: 1018–0180.

Form Number: None.

Type of Review: Revision of a currently approved information collection.

Respondents/Affected Public: Domestic and international students who attend the law enforcement/conservation training offered by the TDU.

Total Estimated Number of Annual Respondents: 164.

Total Estimated Number of Annual Responses: 164.

Estimated Completion Time per Response: Completion times vary from 10 minutes to 20 minutes, depending on activity.

Total Estimated Number of Annual Burden Hours: 29.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: One time for the initial registration, and on occasion for pre- and post-course evaluations.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2023–28884 Filed 1–2–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037156; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Hopewell Culture National Historical Park, Chillicothe, OH

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, National Park Service, Hopewell Culture National Historical Park 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 Ross County, OH.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 2, 2024.

ADDRESSES: Chris Alford, Superintendent, Hopewell Culture National Historical Park, 16062 State Route 104, Chillicothe, OH 45601, telephone (740) 774–1126, email *chris_alford@nps.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Superintendent, Hopewell Culture National Historical Park. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by Hopewell Culture National Historical Park.

Description

Human remains representing one individual were removed from the

Higby Site, Ross County, OH, in or around 1962 by an unknown person. The human remains were gifted to Mound City Group National Monument (now Hopewell Culture National Historical Park) by L. D. Hurley in September 1962. The age of the human remains is unknown. No associated funerary objects are present.

Human remains representing, at minimum, one individual were removed from the North 40 Site (33RO338; also known as the Drill Field Site), Ross County, OH in 1964 by National Park Service archeologist Richard Faust and were accessioned into the museum collection at Mound City Group National Monument (now Hopewell Culture National Historical Park). The age of the human remains is unknown. No associated funerary objects are present.

Human remains representing, at minimum, one individual were removed from Maurice Eugene Morrison's farm in the vicinity of archeological sites 33RO0120 and 33RO121, Ross County, OH in 1965 by National Park Service archeologist Lee Hanson and were accessioned into the museum collection at Mound City Group National Monument (now Hopewell Culture National Historical Park). The age of the human remains is unknown. No associated funerary objects are present.

Human remains representing, at minimum, one individual were removed from the property of Robert Williamson, Ross County, OH in 1966 during excavations by National Park Service archeologist Lee Hanson and Rev. Arthur Hayes and were accessioned into the museum collection at Mound City Group National Monument (now Hopewell Culture National Historical Park). Based on the limited excavation records and the funerary objects, the human remains most probably date to the Early Woodland or Middle Woodland period. The 11 associated funerary objects are one ceramic sherd, one retouched flake, two soil samples, and seven charcoal fragments.

Human remains representing, at minimum, one individual were removed from or near the Baum Earthworks, Ross County, OH, in the 1970s during the excavation of a utility trench. The human remains were gifted to Hopewell Culture National Historical Park in 1995 by Bill Anderson Jr. The age of the human remains is unknown. No associated funerary objects are present.

Human remains representing, at minimum, five individuals were most probably removed from an unknown site in or near Ross County, OH at an unknown date. The human remains were located within the collections at Hopewell Culture National Historical Park in 1990 and 1996 with no known provenience. The age of the human remains is unknown. No associated funerary objects are present.

Human remains representing, at minimum, one individual were removed from the Overly Site (33RO110), Ross County, OH in 1995 by an Ohio State University archeological field school. The site is located on private land. The National Park Service acquired the human remains through a cooperative agreement with the university. An osteological analysis concluded the human remains were a 30–40 year old Native American male. A radiocarbon date obtained on wood charcoal from the pit suggests the individual likely lived in the Archaic period, ca. 2000–1650 BCE. The 21 associated funerary objects are three collections of red ocher, one piece of limestone, and 17 samples of charcoal.

Human remains representing, at minimum, two individuals were removed from the Overly Site (33RO110), Ross County, OH by National Park Service archeologist Bret J. Ruby in 1996. The site is located on private land. These human remains were collected from the surface of the site, having been disturbed by graveling operations. The National Park Service acquired these human remains through a donation from the landowner. The age of the human remains is unknown. No associated funerary objects are present.

Human remains representing, at minimum, one individual were removed from an unknown site on private property, Ross County, OH during a construction project in the 1970s. These human remains and the objects recovered alongside them were donated to Hopewell Culture National Historical Park in 1996 by a local resident, Jack Hatton. The age of the human remains is unknown. The 49 associated funerary objects are one quartz stone, one chert tool, one piece of chert debitage, and 46 pieces of fire-cracked rock.

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: anthropological information, archeological information, geographical information, historical information, linguistics, oral tradition.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, Hopewell Culture National Historical Park has determined that:

- The human remains described in this notice represent the physical remains of 14 individuals of Native American ancestry.
- The 81 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.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Absentee-Shawnee Tribe of Indians of Oklahoma; Eastern Shawnee Tribe of Oklahoma; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Miami Tribe of Oklahoma; Nottawaseppi Huron Band of the Potawatomi, Michigan; Shawnee Tribe; and The Osage Nation.

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 February 2, 2024. If competing requests for repatriation are received, Hopewell Culture National Historical Park 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. Hopewell Culture National Historical Park 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: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28912 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037165; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Oregon Health & Science University, Portland, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Oregon Health & Science University (OHSU) has completed an inventory of human remains and has determined that there is no cultural affiliation between the human remains and any Indian Tribe. The human remains were removed from an unknown geographic location in Oregon or Washington.

DATES: Disposition of the human remains in this notice may occur on or after February 2, 2024.

ADDRESSES: Alice Cuprill Comas, Oregon Health & Science University, 3181 SW Sam Jackson Park Rd., Portland, OR 97239, telephone (503) 494–5222, email *legal@ohsu.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the OHSU. 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 the OHSU.

Description

Human remains representing, at minimum, two individuals were removed from an unknown geographic location or locations, believed to be in Oregon or Washington. On an unknown date, the human remains (MMC–2008–16.1.6[3]; MMC–2008–16.1.6[5]) came to the OHSU, where they became a part of the Medical Museum Collection. No associated funerary objects are present.

Human remains representing, at minimum, one individual were removed from an unknown geographic location, believed to be in Oregon or Washington. On an unknown date, the human remains (teeth) (SOD–2010.281.17) were removed from an unknown patient of Dr. Ernest Starr, Interim Dean of the University of Oregon Dental School from 1944 to 1946, or one of his colleagues. The University of Oregon Dental School then became the OHSU. On an unknown date, the human remains were transferred to the Oregon Health & Science University School of Dentistry, where they became part of what was called the ''Ernest E. Starr Memorial Museum of Dental Anomalies.'' No associated funerary objects are present.

Human remains representing, at minimum, four individuals were removed from an unknown geographic location or locations, believed to be in Oregon or Washington. On an unknown date, the human remains (SOD–2010–2.281.17[5]; SOD–2010–2.281.17[9]; SOD–2010–2.281.17[10]; SOD–2010–2.281.17[1]) were transferred to the School of Dentistry at Oregon Health & Science University, where they were used for teaching purposes. The School of Dentistry changed buildings in 2011 or 2012. Based on institutional knowledge, the 2010 catalog numbers that include ''SOD'' were likely assigned in anticipation of that move, when the School of Dentistry collections were moved to the OHSU Archives. No associated funerary objects are present.

Aboriginal Land

The human remains in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more Indian Tribes. The following information was used to identify the aboriginal land: a final judgment of the Indian Claims Commission, the United States Court of Claims, a treaty, an Act of Congress, an Executive Order, and other information, such as expert testimony.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, the OHSU has determined that:

- The human remains described in this notice represent the physical remains of seven individuals of Native American ancestry.
- No relationship of shared group identity can be reasonably traced between the human remains and any Indian Tribe.
- The human remains described in this notice were removed from the aboriginal land of the Big Pine Paiute Tribe of the Owens Valley; Bishop Paiute Tribe; Bridgeport Indian Colony; Burns Paiute Tribe; Cedarville Rancheria, California; Chemehuevi Indian Tribe of the Chemehuevi Reservation, California; Coeur D'Alene Tribe; Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of Siletz Indians of Oregon; Confederated Tribes of the Chehalis Reservation; Confederated Tribes of the Colville Reservation; Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Umatilla Indian Reservation; Confederated Tribes of the Warm Springs Reservation of Oregon; Coquille Indian Tribe; Cow Creek Band of Umpqua Tribe of Indians; Cowlitz Indian Tribe; Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada; Eastern Shoshone Tribe of the Wind River Reservation, Wyoming; Ely Shoshone Tribe of Nevada; Fort Bidwell Indian Community of the Fort Bidwell Reservation of California; Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Hoh Indian Tribe; Jamestown S'Klallam Tribe; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Kalispel Indian Community of the Kalispel Reservation; Klamath Tribes; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Lone Pine Paiute-Shoshone Tribe; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Lower Elwha Tribal Community; Lummi Tribe of the Lummi Reservation; Makah Indian Tribe of the Makah Indian Reservation; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Modoc Nation; Muckleshoot Indian Tribe; Nez Perce Tribe; Nisqually Indian Tribe; Nooksack Indian Tribe; Northwestern Band of the Shoshone Nation; Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes); Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Port Gamble S'Klallam Tribe; Puyallup Tribe of the Puyallup Reservation; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Quartz Valley Indian Community of the Quartz Valley Reservation of California; Quileute Tribe of the Quileute Reservation; Quinault Indian Nation; Reno-Sparks Indian

Colony, Nevada; Samish Indian Nation; San Juan Southern Paiute Tribe of Arizona; Sauk-Suiattle Indian Tribe; Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation; Shoshone-Bannock Tribes of the Fort Hall Reservation; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Skokomish Indian Tribe; Snoqualmie Indian Tribe; Spokane Tribe of the Spokane Reservation; Squaxin Island Tribe of the Squaxin Island Reservation; Stillaguamish Tribe of Indians of Washington; Summit Lake Paiute Tribe of Nevada; Suquamish Indian Tribe of the Port Madison Reservation; Susanville Indian Rancheria, California; Swinomish Indian Tribal Community; Te-Moak Tribe of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band; and Wells Band); Timbisha Shoshone Tribe; Tulalip Tribes of Washington; Twenty-Nine Palms Band of Mission Indians of California; Upper Skagit Indian Tribe; Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California; Walker River Paiute Tribe of the Walker River Reservation, Nevada; Winnemucca Indian Colony of Nevada; Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada; and the Yomba Shoshone Tribe of the Yomba Reservation, Nevada.

Requests for Disposition

Written requests for disposition of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes 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, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains described in this notice to a requestor may occur on or after February 2, 2024. If competing requests for disposition are received, the OHSU must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains are considered a single request and not competing requests. The OHSU is responsible for sending a copy of this notice to the Indian Tribes 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 and 10.11.

Dated: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28920 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037175; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Gilcrease Museum, Tulsa, OK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Gilcrease Museum has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Tulsa County, OK.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 2, 2024.

ADDRESSES: Laura Bryant, Gilcrease Museum, 800 S Tucker Dr., Tulsa, OK 74104, telephone (918) 596–2747, email *laura-bryant@utulsa.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Gilcrease Museum. 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 the Gilcrease Museum.

Description

Human remains representing, at minimum, 14 individuals were removed from Tulsa County, OK, by Frank Soday, an avocational archaeologist, in 1971. The Thomas Gilcrease Foundation purchased Soday's collection in 1982. The 176 associated funerary objects are 94 lots of lithic tools, four lots of sherds, 35 lots of nails and metal fasteners and belt buckles, seven lots of glass jar or bottle fragments, 11 lots of porcelain fragments and dishes, three lots of buttons, four lots of metal utensils, one lot of wood fragments, one lot of bullets, two lots of shell, seven lots of faunal remains, two lots of marbles, two lots of beads, one lot of textile fragments, one pipe, and one tin cup.

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: anthropological information, geographical information, historical information, kinship, and other relevant information.

Lineal Descent

The human remains and associated funerary objects in this notice are connected to an identifiable individual whose descendants can be traced directly and without interruption by means of a traditional kinship system or by the common law system of descendance. The following types of information were used to reasonably trace the relationship: anthropological information, geographical information, historical information, kinship, and other relevant information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Gilcrease Museum has determined that:

- The human remains described in this notice represent the physical remains of 14 individuals of Native American ancestry.
- The 176 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.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and The Muscogee (Creek) Nation.
- There is a relationship between the human remains and associated funerary objects described in this notice and lineal descendants.

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 February 2, 2024. If competing requests for repatriation are received, the Gilcrease Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Gilcrease Museum is responsible for sending a copy of this notice to the Indian Tribe and the lineal descendants 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: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28928 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037159; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Alabama Department of Archives and History, Montgomery, AL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Alabama Department of Archives and History (ADAH) 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 Dallas County, Montgomery County, Elmore County, and Russell County, AL.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 2, 2024.

ADDRESSES: Kellie Bowers, NAGPRA Coordinator, the Alabama Department of Archives and History, P.O. Box 300100, 624 Washington Avenue, Montgomery, AL 36130, telephone (334) 353–4731, email *nagpra.adah@archives.alabama.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Alabama Department of Archives and History. 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 the Alabama Department of Archives and History.

Description

Dallas County, AL

At an unknown date, human remains representing, at minimum, one individual were removed from the Durant Bend site by members of the Alabama Anthropological Society. Between 1916 and 1951, the human remains were donated to the ADAH (Human Remains Identification Number 4107). No associated funerary objects are present.

Montgomery County, AL

On October 24, 1915, human remains representing, at minimum, one individual were removed from the 30 Acre Field site by members of the Alabama Anthropological Society. Between 1916 and 1951, the human remains were donated to the ADAH (Human Remains Identification Number 4105). No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from the Toasi site by members of the Alabama Anthropological Society. Between 1916 and 1951, the human remains were donated to the ADAH (Human Remains Identification Number 4099). No associated funerary objects are present.

On March 15, 1918, human remains representing, at minimum, one individual were removed from the Toasi site by members of the Alabama Anthropological Society. Between 1916 and 1951, the human remains were donated to the ADAH (Human Remains Identification Number 4100). The six associated funerary objects are six Mississippian Plain ceramic sherds.

At an unknown date, human remains representing, at minimum, one individual were removed from the Big Eddy site by member(s) of the Montgomery Art and Archaeology Society (MAS). A former member of the MAS donated the material to the ADAH in 2021 (Human Remains Identification Number 1MT5–1). The ADAH accepted these materials for the sole purpose of repatriation under NAGPRA. The two associated funerary objects are stone debitage fragments.

At an unknown date, human remains representing, at minimum, one individual were removed from the Jere Shine site by member(s) of the Montgomery Art and Archaeology Society. A former member of the MAS donated the material to the ADAH in 2021 (Human Remains Identification Number 1MT6–1). The ADAH accepted these materials for the sole purpose of repatriation under NAGPRA. The six associated funerary objects are one shell fragment, one stone object, one ceramic object, one lot of faunal remains, one lot of mixed shell, charcoal, and soil, and one lot of fragmentary shells.

At an unknown date, human remains representing, at minimum, one individual were removed from the Jere Shine site by member(s) of the Montgomery Art and Archaeology Society (MAS). A former member of the MAS donated the material to the ADAH in 2021 (Human Remains Identification Number 1MT6–2). The ADAH accepted these materials for the sole purpose of repatriation under NAGPRA. The eight associated funerary objects are five ceramic sherds, two faunal remains, and a one lot of mixed shell, charcoal, and soil.

At an unknown date, human remains representing, at minimum, one individual were removed from the Jere Shine site by member(s) of the Montgomery Art and Archaeology Society (MAS). A former member of the MAS donated the material to the ADAH in 2021 (Human Remains Identification Number 1MT6–3). The ADAH accepted these materials for the sole purpose of repatriation under NAGPRA. The ten associated funerary objects are five ceramic sherds, one unidentifiable fragmentary metal object, one lump of burnt organic material (charcoal), two stones, and one lot of mixed shell, charcoal, and soil.

At an unknown date, human remains representing, at minimum, one individual were removed from the Jere Shine site by member(s) of the Montgomery Art and Archaeology Society (MAS). A former member of the MAS donated the material to the ADAH in 2021 (Human Remains Identification Number 1MT6–4). The ADAH accepted these materials for the sole purpose of repatriation under NAGPRA. The five associated funerary objects are four faunal remains and one lot of mixed shell, charcoal, and soil.

At an unknown date, human remains representing, at minimum, one individual were removed from the Jere Shine site by member(s) of the Montgomery Art and Archaeology Society (MAS). A former member of the MAS donated the material to the ADAH in 2021 (Human Remains Identification Number 1MT6–5). The ADAH accepted these materials for the sole purpose of repatriation under NAGPRA. The ten associated funerary objects are nine faunal remains and one lot of mixed shell, charcoal, and soil.

Elmore County, AL

At an unknown date, human remains representing, at minimum, one individual were removed from the site of Lyon's Plantation by members of the Alabama Anthropological Society. On November 8, 1909, the human remains were donated to the ADAH (Human Remains Identification Number 4112). No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from unnamed site 1MC6 by member(s) of the Montgomery Art and Archaeology Society (MAS). A former member of the MAS donated the material to the ADAH in 2021 (Human Remains Identification Number 1MC6–1). The ADAH accepted these materials for the sole purpose of repatriation under NAGPRA. The 50 associated funerary objects are five stone debitage fragments, one silver earring, two shell knobbed pins, one glass shard, one decorated ceramic sherd, 38 glass trade beads, one lot of faunal remains, and one lot of mixed shell, charcoal, and soil.

Russell County, AL

At an unknown date, human remains representing, at minimum, one individual were removed from the Coweta site by members of the Alabama Anthropological Society. Between 1916 and 1951, the human remains were donated to the ADAH (Human Remains Identification Numbers 4117). No associated funerary objects are present.

On March 11, 1906, human remains representing, at minimum, one individual were removed from the Coweta site by members of the Alabama Anthropological Society. Between 1916 and 1951, the human remains were donated to the ADAH (Human Remains Identification Numbers 4118). The one associated funerary object is a ceramic vessel.

At an unknown date, human remains representing, at minimum, one individual were removed from the Coweta site by members of the Alabama Anthropological Society. Between 1916 and 1951, the human remains were donated to the ADAH (Human Remains Identification Numbers 4124). No associated funerary objects are present.

On December 28, 1911, human remains representing, at minimum, one individual were removed from the Coweta site by members of the Alabama Anthropological Society. Between 1916 and 1951, the human remains were donated to the ADAH (Human Remains Identification Numbers 4127). The 14 associated funerary objects are eight stone projectile points, one brass tube, one smoking pipe, three stone celts, and one stone preform.

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: archaeological information, geographical information, historical information, kinship, and linguistics.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Alabama Department of Archives and History has determined that:

- The human remains described in this notice represent the physical remains of 16 individuals of Native American ancestry.
- The 112 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.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Alabama-Coushatta Tribe of Texas; Alabama-Quassarte Tribal Town; Coushatta Tribe of Louisiana; Jena Band of Choctaw Indians; Kialegee Tribal Town; Miccosukee Tribe of Indians; Mississippi Band of Choctaw Indians; Poarch Band of Creek Indians; Seminole Tribe of Florida; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; and the Thlopthlocco Tribal Town.

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 in this notice to a requestor may occur on or after February 2, 2024. If competing requests for repatriation are received, the Alabama Department of Archives and History must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Alabama Department of Archives and History is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28915 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037164; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Los Rios Community College District, Sacramento, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Los Rios Community College District (LRCCD) has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were removed from Sacramento County, CA.

DATES: Repatriation of the human remains in this notice may occur on or after February 2, 2024.

ADDRESSES: Jamey Nye, Los Rios Community College District, 1919 Spanos Ct., Arden-Arcade, CA 95825, telephone (916) 709–3724, email *nyej@losrios.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 LRCCD. 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 LRCCD.

Description

Sometime in the 1950s on or before July 13, 1952, human remains representing, at minimum, three individuals were removed from CA–SAC–171 (P–34–000198) in Sacramento County, CA, during the excavation of a cellar on private property. Sometime prior to July of 2006, the human remains of these individuals were located on the American River College campus, which is one of four colleges within the Los Rios Community College District.

Cultural Affiliation

The human remains 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: geographical.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, LRCCD has determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- There is a relationship of shared group identity that can be reasonably traced between the human remains described in this notice and the Buena Vista Rancheria of Me-Wuk Indians of California; California Valley Miwok Tribe, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Ione Band of Miwok Indians of California; Jackson Band of Miwuk Indians; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California; United Auburn Indian Community of the Auburn Rancheria of California; and the Wilton Rancheria, California.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after February 2, 2024. If competing requests for repatriation are received, LRCCD must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. LRCCD is responsible for sending a copy of this notice to the Indian Tribes 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: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28919 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037168; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: San Jose State University, San Jose, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), San Jose State University (SJSU) has completed an inventory of human remains and associated funerary objects and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any federally-recognized Indian Tribe. The human remains and associated funerary objects were removed from Santa Clara County, CA.

DATES: Disposition of the human remains and associated funerary objects in this notice may occur on or after February 2, 2024.

ADDRESSES: Charlotte Sunseri, Ph.D., San Jose State University, One Washington Square, San Jose, CA 95192–0113, telephone (408) 924–5713, email *charlotte.sunseri@sjsu.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 San Jose State University. 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 San Jose State University.

Description

Human remains representing, at minimum, 89 individuals were removed from Santa Clara County, CA. The Santa Clara County collection was recovered in various projects from 1960 to 1995. Some West Valley College holdings were transferred to SJSU in a memorandum establishing legal control by SJSU in 2022 and comprise a fraction of the overall holdings. The collections come from the sites of CA–SCL–2A,

CA–SCL–7A, CA–SCL–68, CA–SCL–125, CA–SCL–128, CA–SCL–134, CA–SCL 204, CA–SCL–314, CA–SCL–870 Schiele Ave, CA–SCL–895, Stockard House, Pfeiffer Ranch, Capitol Expressway STA–001, Campbell School District, Izora Way, Wardell Court Saratoga, Warburton Collection, Dick's Market Site (WVC–8), and Rajkevich Site (WVC–13/14). The 77 lots of associated funerary objects include groundstone (mortars, pestles), other artifacts, faunal remains and shell, charcoal, and soil samples.

Aboriginal Land

The human remains and associated funerary objects in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more federally-recognized Indian Tribes. These locations are also the aboriginal lands of the Ohlone/Costanoan Tribes recognized by the State of California. The following information was used to identify the aboriginal land: California Native American Heritage Commission (NAHC) Tribal Consultation Contact List for implementing AB275 (dated: 7/28/2021, 9/30/2021), Unratified Treaty A ''Treaty at Camp Belt (May 13, 1851)'', Unratified Treaty B ''Treaty at Camp Keyes (May 30, 1851)'', Unratified Treaty M ''Treaty at Camp Fremont (March 19, 1851)'', and Unratified Treaty N ''Treaty at Camp Barbour (April 29, 1851)'' (Heizer 1972).

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, San Jose State University has determined that:

- The human remains described in this notice represent the physical remains of 89 individuals of Native American ancestry.
- The 77 boxes of 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.
- No relationship of shared group identity can be reasonably traced between the human remains and associated funerary objects and any federally-recognized Indian Tribe.
- The human remains and associated funerary objects described in this notice were removed from the aboriginal land of the Buena Vista Rancheria of Me-Wuk Indians of California; California Valley Miwok Tribe, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Ione Band of Miwok Indians of California; Jackson Band of Miwuk Indians; Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria; and the Tule River Indian Tribe of the Tule River Reservation, California.

Requests for Disposition

Written requests for disposition of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes 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, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains and associated funerary objects described in this notice to a requestor may occur on or after February 2, 2024. If competing requests for disposition are received, San Jose State University must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains and associated funerary objects are considered a single request and not competing requests. San Jose State University is responsible for sending a copy of this notice to the Indian Tribes 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 and 10.11.

Dated: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28923 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037166; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: San Jose State University, San Jose, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), San Jose State University has completed an inventory of human and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were removed from Ventura County, CA.

DATES: Repatriation of the human remains in this notice may occur on or after February 2, 2024.

ADDRESSES: Charlotte Sunseri, Ph.D., San Jose State University, One Washington Square, San Jose, CA 95192–0113, telephone (408) 924–5713, email *charlotte.sunseri@sjsu.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 San Jose State University. 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 San Jose State University.

Description

Human remains representing, at minimum, two individuals were removed from Ventura County, CA. In an unknown year, human remains were removed from Ferndale Ranch (CA–VEN–404). One lot of teeth were donated to the San Jose State University College of Science with labels that indicate site provenience. The excavation or collection dates are unknown, yet other investigations at this site were conducted in 1976–1977 by C. W. Clewlow and the University of Santa Clara, and in 1977 by Dr. Christopher L. Moser. No associated funerary objects are present.

Cultural Affiliation

The human remains 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: oral history and traditional territorial boundaries provided during consultation.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, San Jose State University has determined that:

• The human remains described in this notice represent the physical remains of at least two individuals of Native American ancestry.

• There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES.** Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after February 2, 2024. If competing requests for repatriation are received, San Jose State University must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. San Jose State University is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28921 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037171; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: San Jose State University, San Jose, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), San Jose State University (SJSU) has completed an inventory of human remains and has determined that there is no cultural affiliation between the human remains and any federally-recognized Indian Tribe. The human remains were removed from Hollister in San Benito County, CA.

DATES: Disposition of the human remains in this notice may occur on or after February 2, 2024.

ADDRESSES: Charlotte Sunseri, Ph.D., San Jose State University, One Washington Square, San Jose, CA 95192–0113, telephone (408) 924–5713, email *charlotte.sunseri@sjsu.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 San Jose State University. 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 San Jose State University.

Description

Human remains representing, at minimum, one individual were removed from San Benito County, CA. The Hollister collection was donated to the College of Science at SJSU and identified in 2023. No associated funerary objects are present.

Aboriginal Land

The human remains in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more federally-recognized Indian Tribes. These locations are also the aboriginal lands of the Ohlone/Costanoan Tribes recognized by the State of California. The following information was used to identify the aboriginal land: California Native American Heritage Commission Native American Contact List for implementing AB275 (dated: 6/1/2023), Unratified Treaty A ''Treaty at Camp Belt (May 13, 1851)'', Unratified Treaty B ''Treaty at Camp Keyes (May 30, 1851)'', and Unratified Treaty N ''Treaty at Camp Barbour (April 29, 1851)'' (Heizer 1972).

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, San Jose State University has determined that:

• The human remains described in this notice represent the physical remains of one individual of Native American ancestry.

• No relationship of shared group identity can be reasonably traced between the human remains and any federally-recognized Indian Tribe.

• The human remains and associated funerary objects described in this notice were removed from the aboriginal land of the Buena Vista Rancheria of Me-Wuk Indians of California; California Valley Miwok Tribe, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Ione Band of Miwok Indians of California; Jackson Band of Miwuk Indians; Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria; and the Tule River Indian Tribe of the Tule River Reservation, California.

Requests for Disposition

Written requests for disposition of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes 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, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains described in this notice to a requestor may occur on or after February 2, 2024. If competing requests for disposition are received, San Jose State University must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains are considered a single request and not competing requests. San Jose State University is responsible for sending a copy of this notice to the Indian Tribes 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 and 10.11.

Dated: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28926 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037178; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: The Filson Historical Society, Louisville, KY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Filson Historical Society has completed an inventory of human remains and has determined that there is no cultural affiliation between the human remains and any Indian Tribe. The human remains were removed from an unknown location.

DATES: Disposition of the human remains in this notice may occur on or after February 2, 2024.

ADDRESSES: Kelly Hyberger, The Filson Historical Society, 1310 South 3rd Street, Louisville, KY 40208, telephone (502) 635–5083, email *khyberger@filsonhistorical.org*.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Filson Historical Society. 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 the Filson Historical Society.

Description

Human remains representing, at minimum, seven individuals were removed from an unknown location. During a collection inventory, these ancestors were located in Filson collections storage and lack any documentation as to their origin or how they came to be in the possession of the Filson. Based on Filson Historical Society collecting practice, it is reasonable to assume that these individuals were most likely collected within the state of Kentucky. No associated funerary objects are present.

Human remains representing, at minimum, one individual were removed from an unknown location. These human remains were donated to the Filson by the estate of Reuben T. Durrett in 1913 and lack any documentation as to their origin or how they came to be in the possession of Durrett. Based on the collecting practices of Durrett and the Filson Historical Society, it is reasonable to assume that this individual was most likely collected within the state of Kentucky. No associated funerary objects are present.

Aboriginal Land

The human remains in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more Indian Tribes. The following information was used to identify the aboriginal land: a treaty.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, the Filson Historical Society has determined that:

- The human remains described in this notice represent the physical remains of eight individuals of Native American ancestry.
- No relationship of shared group identity can be reasonably traced between the human remains and associated funerary objects and any Indian Tribe.
- The human remains described in this notice were removed from the aboriginal land of the Absentee Shawnee Tribe of Indians of Oklahoma; Cherokee Nation; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe; The Chickasaw Nation; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Requests for Disposition

Written requests for disposition of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes 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, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains described in this notice to a requestor may occur on or after February 2, 2024. If competing requests for disposition are received, the Filson Historical Society must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains are considered a single request and not competing requests. The Filson Historical Society is responsible for sending a copy of this notice to the Indian Tribes 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 and 10.11.

Dated: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28930 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037162; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Alabama Department of Archives and History, Montgomery, AL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Alabama Department of Archives and History (ADAH) 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 unknown locations, though likely from the state of Alabama.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 2, 2024.

ADDRESSES: Kellie Bowers, NAGPRA Coordinator, the Alabama Department of Archives and History, P.O. Box 300100, 624 Washington Avenue, Montgomery, AL 36130, telephone (334) 353–4731, email *nagpra.adah@archives.alabama.gov*.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Alabama Department of Archives and History. 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 the Alabama Department of Archives and History.

Description

On March 13, 1911, and on various unknown dates, human remains representing, at minimum, 38 individuals were removed from an unknown location by members of the Alabama Anthropological Society. Between 1916 and 1951, the human remains were donated to the ADAH (Human Remains Identification Numbers 4102, 4108, 4109, 4115, 4129, 4130, 4131, 4132, 4133, 4141, 4142, 4143, 4144, 4145, 4146, 4147, 4148, 4149, 4150, 4151, 4152, 4153, 4154, 4155, 4156, 4157, 4158, 4159, 4160, 4161, 4162, 4163, 4164, 4165, 4166, 4168, 4169). No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown location by members of the Alabama Anthropological Society. Between 1916 and 1951, the human remains were donated to the ADAH (Human Remains Identification Number 4167). The eight associated funerary objects are eight copper or brass bracelets.

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown location by members of the Alabama Anthropological Society. Between 1916 and 1951, the human remains were donated to the ADAH (Human Remains Identification Number AAS159–1). The one associated funerary object is one lot of faunal remains.

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown location by members of the Montgomery Art and Archaeology Society. In 2021, the human remains were donated to the ADAH (Human Remains Identification Number UNK1). The ADAH accepted these materials for the sole purpose of repatriation under NAGPRA. The one associated funerary object is one lot of faunal remains.

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown location by members of the Montgomery Art and Archaeology Society. In 2021, the human remains were donated to the ADAH (Human Remains Identification Number UNK2). The ADAH accepted these materials for the sole purpose of repatriation under NAGPRA. The two associated funerary objects are ceramic sherds.

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: geographical and historical information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Alabama Department of Archives and History has determined that:

- The human remains described in this notice represent the physical remains of 42 individuals of Native American ancestry.
- The 12 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.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribe of Texas; Alabama-Quassarte Tribal Town; Cherokee Nation; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Jena Band of Choctaw Indians; Kialegee Tribal Town; Miccosukee Tribe of Indians; Mississippi Band of Choctaw Indians; Poarch Band of Creek Indians; Seminole Tribe of Florida; Shawnee Tribe; The Chickasaw Nation; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; and the Thlopthlocco Tribal Town.

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 in this notice to a requestor may occur on or after February 2, 2024. If competing requests for repatriation are received, the Alabama Department of Archives and History must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Alabama Department of Archives and History is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28917 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037157; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Hopewell Culture National Historical Park, Chillicothe, OH

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, National Park Service, Hopewell Culture National Historical Park 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 Ross County, OH.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 2, 2024.

ADDRESSES: Chris Alford, Superintendent, Hopewell Culture

National Historical Park, 16062 State Route 104, Chillicothe, OH 45601, telephone (740) 774–1126, email *chris_alford@nps.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Superintendent, Hopewell Culture National Historical Park. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by Hopewell Culture National Historical Park.

Description

Human remains representing, at minimum, three individuals were removed from the Mound City Group, Ross County, OH, between 1920 and 1921 by William C. Mills of the Ohio State Archaeological and Historical Society (now Ohio History Connection). The human remains were removed from federal property and were accessioned into the collections at Mound City Group National Monument (now Hopewell Culture National Historical Park). The human remains most probably date to the Late Woodland and/or Late Precontact Periods. No associated funerary objects are present.

Human remains representing, at minimum, one individual were removed from the farm of Alva McGraw in Ross County, OH in 1962 by an unknown person. The human remains and funerary objects were gifted to Mound City Group National Monument (now Hopewell Culture National Historical Park) by Alva McGraw in 1963. The human remains and associated funerary objects most probably date from the Middle Woodland, Late Woodland, or Late Precontact Period. The 94 associated funerary objects are one utilized flake and 93 ceramic sherds.

Human remains representing one individual were removed from Gartner Bottoms, Ross County, OH in 1964 by National Park Service archeologist Richard Faust and added to the museum collection at Mound City National Monument (now Hopewell Culture National Historical Park). The human remains most probably date to the Late Precontact period and are associated with Fort Ancient archeological culture. 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: anthropological information, archeological information, geographical information, historical information, linguistics, oral tradition.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, Hopewell Culture National Historical Park has determined that:

- The human remains described in this notice represent the physical remains of five individuals of Native American ancestry.
- The 94 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.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Absentee-Shawnee Tribe of Indians of Oklahoma; Eastern Shawnee Tribe of Oklahoma; Miami Tribe of Oklahoma; and the Shawnee Tribe.

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 February 2, 2024. If competing requests for repatriation are received, Hopewell Culture National Historical Park 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. Hopewell Culture National Historical Park 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: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28913 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037155; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Buffalo National River, Harrison, AR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), U.S. Department of the Interior, National Park Service, Buffalo National River (BUFF) has completed an inventory of human remains and has determined that there is no cultural affiliation between the human remains and any Indian Tribe. The human remains were removed from Marion and Searcy Counties, AR.

DATES: Disposition of the human remains in this notice may occur on or after February 2, 2024.

ADDRESSES: Angela Boyers, Superintendent, Buffalo National River, 402 North Walnut, Suite 136, Harrison, AR 72601–1173, telephone (870) 365–2700, email *BUFF_Superintendent@nps.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the superintendent, BUFF. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by BUFF.

Description

Human remains representing, at minimum, one individual were removed from Searcy County, AR. In August 1990, human remains of one individual were removed from site 3SE279 by National Park Service archeologists as part of an Archeological Resource Protection Act (ARPA) investigation. No associated funerary objects are present.

Human remains representing, at minimum, 10 individuals were removed from Marion County, AR. Between 1988 and 1990, human remains were recovered from site 3MR80. The human remains were recovered during two separate excavation projects led by the Sponsored Research Program of the Arkansas Archeological Survey under contract to the National Park Service. No associated funerary objects are present.

Aboriginal Land

The human remains in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more Indian Tribes. The following information was used to identify the aboriginal land: a treaty.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, BUFF has determined that:

- The human remains described in this notice represent the physical remains of 11 individuals of Native American ancestry.
- No relationship of shared group identity can be reasonably traced between the human remains and any Indian Tribe.
- The human remains described in this notice were removed from the aboriginal land of The Osage Nation.

Requests for Disposition

Written requests for disposition of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES.** Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes 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, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains described in this notice to a requestor may occur on or after February 2, 2024. If competing requests for disposition are received, BUFF must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains are considered a single request and not competing requests. BUFF is responsible for sending a copy of this notice to the Indian Tribes 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 and 10.11.

Dated: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28911 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037172; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Yale University Art Gallery, New Haven, CT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Yale University Art Gallery (YUAG) intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice. The cultural items were removed from Elmore County and Macon County, AL.

DATES: Repatriation of the cultural items in this notice may occur on or after February 2, 2024.

ADDRESSES: Stephanie Wiles, Director, Yale University Art Gallery, 1111 Chapel Street, New Haven, CT 06510, telephone (203) 432–7802, email *stephanie.wiles@yale.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 YUAG. 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 summary or related records held by YUAG.

Description

Eight lots of cultural items were probably removed from several locations in Elmore County and Macon County, AL, by Peter A. Brannon, most likely between 1909 and 1934. Brannon was employed at the Alabama Department of Archives and History and donated the cultural items to YUAG in 1935. Of the eight lots of unassociated funerary objects, seven were probably removed from Elmore County and include 171 ceramic and glass beads from the Upper Creek Town Fusihatchi. Three bronze ornaments and 106 glass and ceramic beads were probably removed from the Upper Creek Town Huithlewalli. Three metal ring fragments and 224 glass beads were probably removed from Tallapoosa Swamp at Fort Toulouse. Forty-five glass and ceramic beads were probably removed from the Tallapoosa River area. One lot of 1,000 glass beads was probably removed from the Upper Creek Town Thlopthlocco (Laplako) in Macon County.

Cultural Affiliation

The cultural items in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological information, archeological information, and geographical information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, YUAG has determined that:

- The eight lots of cultural items described above 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 and are believed, by a preponderance of the evidence, to have been removed from specific burial sites of Native American individuals.
- There is a relationship of shared group identity that can be reasonably traced between the cultural items and The Muscogee (Creek) Nation.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be

submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after February 2, 2024. If competing requests for repatriation are received, YUAG must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. YUAG is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004, and the implementing regulations, 43 CFR 10.8, 10.10, and 10.14.

Dated: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28927 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037169; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: San Jose State University, San Jose, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), San Jose State University (SJSU) has completed an inventory of human remains and associated funerary objects and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any federally-recognized Indian Tribe. The human remains and associated funerary objects were removed from CA–SCR–12 and CA–SCR–7 Sandhill Bluff of Santa Cruz County, CA.

DATES: Disposition of the human remains and associated funerary objects in this notice may occur on or after February 2, 2024.

ADDRESSES: Charlotte Sunseri, Ph.D., San Jose State University, One Washington Square, San Jose, CA 95192–0113, telephone (408) 924–5713, email *charlotte.sunseri@sjsu.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 San Jose State University. 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 San Jose State University.

Description

Human remains representing, at minimum, two individuals were removed from Santa Cruz County, CA, from the locales of CA–SCR–12 and CA–SCR–7. The CA–SCR–12 collection was excavated in 1986 by Stephen Dietz and includes burials and cultural remains. The CA–SCR–7 collection from Sandhill Bluff was collected on March 18, 1974, and donated to SJSU; the skull was identified in the College of Science teaching collection in 2023. A separate collection from CA–SCR–12 housed at the University of California Santa Cruz was returned in 2019 to the Amah Mutsun Tribal Band. The 21 boxes of associated funerary objects include faunal remains, shell, lithics, groundstone, and soil samples.

Aboriginal Land

The human remains and associated funerary objects in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more federally-recognized Indian Tribes. These locations are also the aboriginal lands of the Ohlone/Costanoan tribes recognized by the State of California. The following information was used to identify the aboriginal land: California Native American Heritage Commission Native American Contact List for implementing AB275 (dated: 6/22/2021 for CA–SCR–12 and 9/11/2023 for CA–SCR–7), Unratified Treaty A ''Treaty at Camp Belt (May 13, 1851)'', Unratified Treaty B ''Treaty at Camp Keyes (May 30, 1851)'', and Unratified Treaty N ''Treaty at Camp Barbour (April 29, 1851)'' (Heizer 1972).

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, San Jose State University has determined that:

- The human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- The 21 boxes of 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.
- No relationship of shared group identity can be reasonably traced between the human remains and associated funerary objects and any federally-recognized Indian Tribe.
- The human remains and associated funerary objects described in this notice were removed from the aboriginal land of the Buena Vista Rancheria of Me-Wuk Indians of California; California Valley Miwok Tribe, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Ione Band of Miwok Indians of California; Jackson Band of Miwuk Indians; Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria; and the Tule River Indian Tribe of the Tule River Reservation, California.

Requests for Disposition

Written requests for disposition of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes 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, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains and associated funerary objects described in this notice to a requestor may occur on or after February 2, 2024. If competing requests for disposition are received, San Jose State University must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains and associated funerary objects are considered a single request and not competing requests. San Jose State University is responsible for sending a copy of this notice to the Indian Tribes 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 and 10.11.

Dated: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28924 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037161; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Alabama Department of Archives and History, Montgomery, AL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Alabama Department of Archives and History (ADAH) 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 Elmore County, Covington County, Montgomery County, and Russell County, AL.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 2, 2024.

ADDRESSES: Kellie Bowers, NAGPRA Coordinator, the Alabama Department of Archives and History, P.O. Box 300100, 624 Washington Avenue, Montgomery, AL 36130, telephone (334) 353–4731, email *nagpra.adah@archives.alabama.gov*.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Alabama Department of Archives and History. 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 the Alabama Department of Archives and History.

Description

Elmore County, AL

On an unknown date, human remains representing, at minimum, one individual were removed from the Taskigi site by members of the Alabama Anthropological Society. Between 1916 and 1951, the human remains were donated to the ADAH (Human Remains Identification Number 4104). No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, one individual were removed from the Taskigi site by members of the Alabama Anthropological Society. Between 1916 and 1951, the human remains were donated to the ADAH (Human Remains Identification Number 4113). No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, one individual were removed from the Taskigi site by members of the Alabama Anthropological Society. Between 1916 and 1951, the human remains were donated to the ADAH (Human Remains Identification Number 4120). The 2,112 associated funerary objects are 2,111 glass trade beads and one mirror.

On an unknown date, human remains representing, at minimum, one individual were removed from the site of Ft. Toulouse/Ft. Jackson by the Alabama Historical Commission (AHC) and transferred to the ADAH in the late 1970s or early 1980s (Human Remains Identification Number 4090). Associated funerary objects were discovered in the collections of the AHC as part of research prior to NAGPRA consultation and were transferred to the ADAH on August 17, 2022. The 1,456 associated funerary objects are 52 flakes/stone debitage, 48 miscellaneous stones, one stone celt, 1,354 sand and shell tempered ceramic sherds representing a minimum of 17 vessels, and one lot of faunal remains.

On an unknown date, human remains representing, at minimum, one individual were removed from the site of Coosada/Koasati by members of the Alabama Anthropological Society. Between 1916 and 1951, the human remains were donated to the ADAH (Human Remains Identification Number 4121). No associated funerary objects are present.

Covington County

At an unknown date, human remains representing, at minimum, one individual were removed from the site of Searight by members of the Alabama Anthropological Society. Between 1916 and 1951, the human remains were donated to the ADAH (Human Remains Identification Number 4114). No associated funerary objects are present.

Montgomery County

At an unknown date, human remains representing, at minimum, one individual were removed from the site of Ashley Place/Catoma Creek by members of the Alabama Anthropological Society. Between 1916 and 1951, the human remains were donated to the ADAH (Human Remains Identification Number 4111). No associated funerary objects are present.

Russell County

At an unknown date, human remains representing, at minimum, one individual were removed from the site of Girard by members of the Alabama Anthropological Society. On February 25, 1916, the human remains were donated to the ADAH (Human Remains Identification Number 4123). No associated funerary objects are present.

Cultural Affiliation

The human remains 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 information, geographical information, historical information, kinship, and linguistics.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Alabama Department of Archives and History has determined that:

- The human remains described in this notice represent the physical remains of eight individuals of Native American ancestry.
- The 3,568 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.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Alabama-Coushatta Tribe of Texas; Alabama-Quassarte Tribal Town; Coushatta Tribe of Louisiana; Kialegee Tribal Town; Miccosukee Tribe of Indians; Poarch Band of Creek Indians; Seminole Tribe of Florida; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; and the Thlopthlocco Tribal Town.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES.** Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after February 2, 2024. If competing requests for repatriation are received, the Alabama Department of Archives and History must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The Alabama Department of Archives and History is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28916 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037170; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: San Jose State University, San Jose, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), San Jose State University (SJSU) has completed an inventory of human remains and associated funerary objects and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any federally-recognized Indian Tribe. The human remains and associated funerary objects were removed from Uvas/Little Arthur Creek in Santa Clara County, CA.

DATES: Disposition of the human remains and associated funerary objects in this notice may occur on or after February 2, 2024.

ADDRESSES: Charlotte Sunseri, Ph.D., San Jose State University, One Washington Square, San Jose, CA 95192–0113, telephone (408) 924–5713, email *charlotte.sunseri@sjsu.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 San Jose State University. 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 San Jose State University.

Description

Human remains representing, at minimum, one individual were removed from Santa Clara County, CA. The Uvas/Little Arthur Creek Site in Gilroy was excavated by West Valley College. The collection was temporarily housed at San Jose State University, and then title to the collection was transferred from West Valley College to SJSU in 2021–2022. The one box of associated funerary objects includes lithics.

Aboriginal Land

The human remains and associated funerary objects in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more federally-recognized Indian Tribes. These locations are also the aboriginal lands of the Ohlone/Costanoan tribes recognized by the State of California. The following information was used to identify the aboriginal land: California Native American Heritage Commission Native American Contact List for implementing AB275 (dated: 9/30/2021), Unratified Treaty A ''Treaty at Camp Belt (May 13, 1851)'', Unratified Treaty B ''Treaty at Camp Keyes (May 30, 1851)'', and Unratified Treaty N ''Treaty at Camp Barbour (April 29, 1851)'' (Heizer 1972).

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, San Jose State University has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The one box of 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.
- No relationship of shared group identity can be reasonably traced between the human remains and associated funerary objects and any federally recognized Indian Tribe.
- The human remains and associated funerary objects described in this notice were removed from the aboriginal land of the Buena Vista Rancheria of Me-Wuk Indians of California; California Valley Miwok Tribe, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Ione Band of Miwok Indians of California; Jackson Band of Miwuk Indians; Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria; and the Tule River Indian Tribe of the Tule River Reservation, California.

Requests for Disposition

Written requests for disposition of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes 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, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains and associated funerary objects described in this notice to a requestor may occur on or after February 2, 2024. If competing requests for disposition are received, San Jose State University must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains and associated funerary objects are considered a single request and not competing requests. San Jose State University is responsible for sending a copy of this notice to the Indian Tribes 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 and 10.11.

Dated: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28925 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037158; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Hopewell Culture National Historical Park, Chillicothe, OH

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, National Park Service, Hopewell Culture National Historical Park 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 Ross County, OH.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 2, 2024.

ADDRESSES: Chris Alford, Superintendent, Hopewell Culture National Historical Park, 16062 State Route 104, Chillicothe, OH 45601, telephone (740) 774–1126, email *chris_alford@nps.gov*.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Superintendent, Hopewell Culture National Historical Park. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by Hopewell Culture National Historical Park.

Description

Human remains representing, at minimum, two individuals were removed from the Hopewell Mound Group (33RO27) or a nearby locale in Ross County, OH, most likely in the late 19th century by a member of the Biszantz family. A collection including these human remains and funerary objects was gifted to Mound City National Monument (now Hopewell Culture National Historical Park) by Miss Anna Biszantz in 1964. The 167 associated funerary objects are four ceramic sherds, one ceramic disk, one copper earspool fragment, three cut mica disks, four chert bifaces, two quartz bifaces, three prismatic blades, one hematite ring, one chlorite schist gorget, one fragmented chisel of meteoric iron, two fragments of galena, 10 shark teeth fragments, three fragments of crystal quartz objects, 20 animal teeth, 105 shell beads, four bone beads, one faunal remain, and one animal bone object.

Human remains representing, at minimum, one individual were removed from the Mound City Group, Ross County, OH, between 1917 and 1921 by a Lt. Kuhn. The human remains were removed from federal property and were accessioned into the collections at Mound City Group National Monument (now Hopewell Culture National Historical Park). The human remains most probably date to the Middle Woodland period. No associated funerary objects are present.

Human remains representing, at minimum, six individuals were removed from the Mound City Group, Ross County, OH between 1920 and 1921 by William C. Mills of the Ohio State Archaeological and Historical Society (now Ohio History Connection). The human remains and funerary objects were removed from federal property and were accessioned into the collections at Mound City Group National Monument (now Hopewell Culture National Historical Park). The human remains most probably date to the Middle Woodland period. The 279 associated funerary objects are one copper axe, one copper headplate, one copper headdress, four copper strips, 14 copper beads, one copper earspool, two obsidian bifaces, one chert biface, one quartz fragment, six marine shell containers, 34 stones, 204 mica, and nine pearls.

Human remains representing, at minimum, 25 individuals were removed from the Mound City Group, Ross County, OH in 1963 by James Brown. The human remains and funerary objects were removed from federal property and were accessioned into the collections at Mound City Group National Monument (now Hopewell Culture National Historical Park). The human remains and funerary objects most probably date to the Middle Woodland period. The 381 associated funerary objects are 11 pearl beads, 31 shell beads, two prismatic blades, four bone artifacts, one stone celt, one copper celt, one copper headplate, nine chert bifaces, eight copper artifacts, six fossilized coral, 178 faunal remains, one obsidian flake, 100 mica, one pipe, eight shells and shell fragments, five ceramic sherds, three red ocher fragments, and 11 stones.

Human remains representing one individual were removed from the Mound City Group, Ross County, OH in 1965 by National Park Service archeologist Lee Hanson. The human remains were removed from federal property and were accessioned into the collections at Mound City Group National Monument (now Hopewell Culture National Historical Park). The human remains most probably date to the Middle Woodland period. No associated funerary objects are present.

Human remains representing, at minimum, six individuals were removed from the Mound City Group, Ross County, OH in 1971 by Raymond S. Baby and colleagues of the Ohio Historical Society (now Ohio History Connection). The human remains and funerary objects were removed from federal property and were accessioned into the collections at Mound City Group National Monument (now Hopewell Culture National Historical Park). The human remains and funerary objects most probably date to the Middle Woodland period. The 389 associated funerary objects are six shell fragments, 123 mica, 31 chert flakes, 55 ceramic sherds, one fossil, 118 faunal remains, two chert tools, one prismatic blade, one chert biface, and 51 stones.

Human remains representing, at minimum, one individual were removed from the Mound City Group, Ross County, OH in 1972 by Bert Drennan of the Ohio Historical Society (now Ohio History Connection). The human remains were removed from federal property and were accessioned into the collections at Mound City Group National Monument (now Hopewell Culture National Historical Park). The human remains most probably date to the Middle Woodland period. No associated funerary objects are present.

Human remains representing, at minimum, one individual were removed from the Mound City Group, Ross County, OH in 1973 by Raymond S. Baby and Bert Drennan of the Ohio Historical Society (now Ohio History Connection). The human remains and funerary objects were removed from federal property and were accessioned into the collections at Mound City Group National Monument (now Hopewell Culture National Historical

Park). The human remains most probably date to the Middle Woodland period. The 59 associated funerary objects are 59 faunal remains.

Human remains representing, at minimum, three individuals were removed from the Mound City Group, Ross County, OH in 1975 by Raymond S. Baby of the Ohio Historical Society (now Ohio History Connection). The human remains were removed from federal property and were accessioned into the collections at Mound City Group National Monument (now Hopewell Culture National Historical Park). The human remains most probably date to the Middle Woodland period. The nine associated funerary objects are two shell fragments, three faunal remains, two mica, one ceramic sherd, and one prismatic blade.

Human remains representing, at minimum, 11 individuals were removed from the Mound City Group, Ross County, OH between 1920 and 1975 by an unknown individual or individuals. The human remains and funerary objects were removed from federal property and were accessioned into the collections at Mound City Group National Monument (now Hopewell Culture National Historical Park). The human remains and associated funerary objects most probably date to the Middle Woodland period. The 84 associated funerary objects are 28 shark teeth, seven shell beads, six bone beads, three animal teeth, 10 mica, and 30 faunal remains.

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: anthropological information, archeological information, geographical information, historical information, linguistics, oral tradition.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, Hopewell Culture National Historical Park has determined that:

- The human remains described in this notice represent the physical remains of 57 individuals of Native American ancestry.
- The 1,368 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.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Absentee-Shawnee Tribe of Indians of Oklahoma; Eastern Shawnee Tribe of Oklahoma; and the Shawnee Tribe.

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 February 2, 2024. If competing requests for repatriation are received, Hopewell Culture National Historical Park 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. Hopewell Culture National Historical Park 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: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28914 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037167; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: San Jose State University, San Jose, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), San Jose State University (SJSU) has completed an inventory of human remains and associated funerary objects and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any federally recognized Indian Tribe. The human remains and associated funerary objects were removed from Alameda County, CA.

DATES: Disposition of the human remains and associated funerary objects in this notice may occur on or after February 2, 2024.

ADDRESSES: Charlotte Sunseri, Ph.D., San Jose State University, One Washington Square, San Jose, CA 95192–0113, telephone (408) 924–5713, email *charlotte.sunseri@sjsu.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 San Jose State University. 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 San Jose State University.

Description

Human remains representing, at minimum, five individuals were removed from Alameda County, CA. The CA–ALA–342 collection includes human remains which were excavated by a team from Ohlone College. The one box of associated funerary objects is comprised of faunal shell. The collection was inadvertently left behind when the rest of the human remains were returned to Ohlone College and then subsequently reburied by Andrew Galvan of the Ohlone Tribe. The Niles/Alvarado Ancestor (George Herbert Collection) was donated to San Jose State University by George Herbert; documentation supports that the remains were excavated by an unknown

college in 1940–1950s from the Alvarado area (present-day Union City).

Aboriginal Land

The human remains and associated funerary objects in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more Federally recognized Indian Tribes. These locations are also the aboriginal lands of the Ohlone/Costanoan Tribes recognized by the State. The following information was used to identify the aboriginal land: California Native American Heritage Commission Native American Contact List for implementing AB275 (dated: 9/30/2021), Unratified Treaty E ''Treaty at Dent's and Valentine's Crossing (May 28, 1851)'' (Heizer 1972).

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, San Jose State University has determined that:

- The human remains described in this notice represent the physical remains of five individuals of Native American ancestry.
- The one box of associated funerary objects described in this notice is 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.
- No relationship of shared group identity can be reasonably traced between the human remains and associated funerary objects and any federally-recognized Indian Tribe.
- The human remains and associated funerary objects described in this notice were removed from the aboriginal land of the Wilton Rancheria, California.

Requests for Disposition

Written requests for disposition of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes 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, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains and associated funerary objects described in this notice to a requestor may occur on or after February 2, 2024. If competing requests for disposition are received, San Jose State University must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains and associated funerary objects are considered a single request and not competing requests. San Jose State University is responsible for sending a copy of this notice to the Indian Tribes 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 and 10.11.

Dated: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28922 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037163; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items Amendment: Animas Museum/La Plata County Historical Society, Durango, CO

AGENCY: National Park Service, Interior.

ACTION: Notice; amendment.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Animas Museum/La Plata County Historical Society has amended a Notice of Intent to Repatriate published in the **Federal Register** on April 4, 2018. This notice amends the number of cultural items in a collection removed from San Juan County, NM.

DATES: Repatriation of the cultural items in this notice may occur on or after February 2, 2024.

ADDRESSES: Susan Jones, Museum, Collections Manager, Animas Museum/La Plata County Historical Society, 3065 W 2nd Avenue, Durango, CO 81301, telephone (970) 259–2402, email *susanjones@animasmuseum.org.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Animas Museum. The National Park Service is not responsible for the determinations in this notice. Additional information on the amendments and determinations in this notice, including the results of consultation, can be found in the summary or related records held by the Animas Museum.

Amendment

This notice amends the determinations published in a Notice of Intent to Repatriate in the **Federal Register** (83 FR 14497–14498, April 4, 2018). Repatriation of the items in the original Notice of Intent to Repatriate has not occurred. During further analysis of the artifacts in the Museum's collection, documentation was found concerning one bowl excavated by George F. Stewart from 31 archeological sites within Dolores, La Plata, and Montezuma Counties in Colorado and San Juan and Rio Arriba Counties in New Mexico was found not to have been associated with a burial. This notice amends the number of unassociated funerary objects as listed in the original notice as follows:

Between 1951 and 1971, 116 unassociated funerary objects (previously identified as 117 unassociated funerary objects) were removed from 31 archeological sites within Dolores, La Plata, and Montezuma Counties in Colorado and San Juan and Rio Arriba Counties in New Mexico. They were excavated by George F. Stewart, an amateur archeologist and private collector from La Plata County, CO, who donated most of his collection to the La Plata County Historical Society in 1978. These unassociated funerary objects are all from Ancestral Puebloan sites dating from the Basketmaker III (A.D. 500) to the Pueblo III (A.D. 1300) periods. The 116 unassociated funerary objects include 106 ceramic objects (53 bowls, 16 jars, 13 pitchers, seven seed jars, six ladles, five ollas, four pipes, and two dippers), two stone pendants, one stone pipe, one flake, one concretion, one sandstone bowl, one bone awl, one bone bead, and two unidentifiable objects.

Determinations (as Amended)

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Animas Museum has determined that:

- The 118 cultural items 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 and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- There is a relationship of shared group identity that can be reasonably traced between the cultural items in this

notice and the Hopi Tribe of Arizona; Ohkay Owingeh, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of 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 San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Santo Domingo Pueblo; Ysleta del Sur Pueblo; and the Zuni Tribe of the Zuni Reservation, New Mexico.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after February 2, 2024. If competing requests for repatriation are received, the Animas Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Animas Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.8, 10.10, 10.13, and 10.14.

Dated: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28918 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037176; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Army Corps of Engineers, Nashville District, Nashville, TN, and University of Tennessee, Department of Anthropology, Knoxville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Army Corps of Engineers, Nashville District in cooperation with the University of Tennessee, Department of Anthropology (UTK) has completed an inventory of human remains and associated funerary objects and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any Indian Tribe. The human remains and associated funerary objects were removed from Stewart County, TN.

DATES: Disposition of the human remains and associated funerary objects in this notice may occur on or after February 2, 2024.

ADDRESSES: Crystal Geiger, Archaeologist, U.S. Army Corps of Engineers, Nashville District, 110 9th Avenue South, Room A–405, Nashville, TN 37203, telephone (615) 736–2472, email *crystal.l.geiger@usace.army.mil* and Dr. Ozlem Kilic, Vice Provost for Academic Affairs, University of Tennessee, 527 Andy Holt Tower, Knoxville, TN 37996–0152, telephone (865) 974–2454, email *okilic@utk.edu* and *vpaa@utk.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the U.S. Army Corps of Engineers, Nashville District. 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 the U.S. Army Corps of Engineers, Nashville District.

Description

In 1959, Michael D. Coe and F. William Fischer of the University of Tennessee undertook archeological research at the Stone site (40SW23) prior to the inundation of Lake Barkley. Coe and Fisher documented extensive looting and encountered few undisturbed areas of the site. Artifacts indicate a Mississippian occupation. Notices of Inventory Completion were published in the **Federal Register** on July 19, 2017 (82 FR 33155–33156), July 6, 2020 (85 FR 40314), and May 24, 2023 (88 FR 33635) listing human remains and associated funerary objects from this site that have been repatriated. Subsequently, 19 additional funerary objects associated with these individuals were discovered in University of Tennessee collections. The collection is stored in the McClung Museum, University of Tennessee, Knoxville, TN. The 19 associated funerary objects are four lots of faunal bones, four lots of lithics, four lots of ceramic sherds, two lots of botanical material, three lots of coal fragments, and two dog mandible fragments.

In 1959, human remains representing, at minimum, six individuals were removed from the Shamble site (40SW41) in Stewart County, TN. Michael D. Coe and F. William Fischer of the University of Tennessee undertook archeological research at the Shamble site prior to the inundation of Lake Barkley. Artifacts indicate Woodland and Mississippian occupation and a mound at the site dates to the Mississippian period. The collection is stored in the McClung Museum, University of Tennessee, Knoxville, TN. The human remains belong to four adults of indeterminate sex and two subadults. The 23 associated funerary objects are one lot of lithics, three lots, 15 faunal bones, three lots of ceramics sherds, and one lot of coal fragments. (A Notice of Inventory Completion for additional human remains and associated funerary objects from this site was published in the **Federal Register** on July 19, 2017 (82 FR 33155–33156). The repatriation and reburial of those human remains and associated funerary objects took place in August of 2018.)

Aboriginal Land

The human remains and associated funerary objects in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more Indian Tribes. The following information was used to identify the aboriginal land: a final judgment of the Indian Claims Commission or the United States Court of Claims and treaties.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate

Indian Tribes, the U.S. Army Corps of Engineers, Nashville District has determined that:

- The human remains described in this notice represent the physical remains of six individuals of Native American ancestry.
- The 42 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.
- No relationship of shared group identity can be reasonably traced between the human remains and associated funerary objects and any Indian Tribe.
- The associated funerary objects described in this notice were removed from the aboriginal land of the Cherokee Nation; Eastern Band of Cherokee Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Requests for Disposition

Written requests for disposition of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes 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, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains and associated funerary objects described in this notice to a requestor may occur on or after February 2, 2024. If competing requests for disposition are received, the U.S. Army Corps of Engineers, Nashville District must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains and associated funerary objects are considered a single request and not competing requests. The U.S. Army Corps of Engineers, Nashville District is responsible for sending a copy of this notice to the Indian Tribes 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 and 10.11.

Dated: December 20, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–28929 Filed 1–2–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1228E]

Established Aggregate Production Quotas for Schedule I and II Controlled Substances and Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2024

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final order.

SUMMARY: This final order establishes the initial 2024 aggregate production quotas for controlled substances in schedules I and II of the Controlled Substances Act and the assessment of annual needs for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine.

DATES: This Notice is effective January 3, 2024.

FOR FURTHER INFORMATION CONTACT: Scott A. Brinks, Regulatory Drafting and Policy Support Section, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, VA 22152, Telephone: (571) 776–3882.

SUPPLEMENTARY INFORMATION:

I. Legal Authority

Section 306 of the Controlled Substances Act (CSA) (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for each basic class of controlled substance listed in schedule I and II and for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine. The Attorney General has delegated this function to the Administrator of the Drug Enforcement Administration (DEA) pursuant to 28 CFR 0.100.

II. Background

The 2024 aggregate production quotas (APQ) and assessment of annual needs (AAN) represent those quantities of schedule I and II controlled substances and the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine that may be manufactured in the United States in 2024, in order to provide for the estimated medical, scientific, research, and industrial needs of the U.S., lawful export requirements, and the establishment and maintenance of reserve stocks. These quotas include imports of ephedrine, pseudoephedrine, and phenylpropanolamine, but do not include imports of controlled substances for use in industrial processes.

On November 2, 2023, a notice titled ''Proposed Aggregate Production Quotas for Schedule I and II Controlled Substances and Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2024'' was published in the **Federal Register**. 88 FR 75312. This notice proposed the 2024 APQ for each basic class of controlled substance listed in schedules I and II and the 2024 AAN for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine. All interested persons were invited to comment on or object to the proposed APQ and the proposed AAN on or before December 4, 2023.

III. Comments Received

Within the public comment period, DEA received 4,699 comments from DEA registrants, people with chronic pain, patients with attention deficit/hyperactivity disorder (ADHD), pain advocacy associations, U.S. professional associations, U.S. nurses, the Royal Australian and New Zealand College of Psychiatrists, the Australian ADHD Professionals Association, the ADHD Foundation Australia, and others. The comments included concerns about potential domestic opioid drug shortages due to further quota reductions; stimulant drug shortages in the United States and Australia; concerns that medical professionals might be impeded from exercising their medical expertise regarding opioid prescriptions; two requests for a public hearing; concerns with the implementation of quarterly quota allotments, and comments not pertaining to DEA regulated activities. DEA restricted seven comments from public view due to confidential business information and/or confidential personal identifying information.

Opioid Adequacy

Issue (Medication Out of Stock at Pharmacy Level): Commenters questioned whether the 2024 proposed APQs for Schedule II opioids will be adequate to meet legitimate medical needs of patients. Commenters said that because of decreases in aggregate production quotas for specific opioids, they have had difficulty filling legitimate prescriptions at pharmacies.

These issues have negatively impacted their quality of life and caused mental health-related issues, possibly leading to suicide.

DEA Response: DEA is committed to ensuring an adequate and uninterrupted supply of controlled substances in order to meet legitimate medical, scientific, and export needs of the United States. DEA sets the APQs for controlled substances based on the available data and information received at that specific point in time set by the regulations, however, subsequent factors and manufacturers' business practices may arise afterwards and potentially contribute to a temporary lack of inventory of controlled substances at the point of dispensation. In recent years, this has included labor shortages and a lack of production capacity. In such circumstances, DEA, in coordination with the Food and Drug Administration (FDA), can utilize tools under the CSA to prevent or alleviate drug shortages and ensure that patients are able to fill legitimate prescriptions for controlled substances without undue delay. Additionally, if a patient is faced with a delay in receiving their medications, the patient may request a one-time transfer of initial dispensing of an electronic prescription for Schedules II–V controlled substances from one retail pharmacy to another retail pharmacy. If the medication is a controlled substance in Schedules III–V and includes authorized refills, the refills can also be transferred with the initial prescription to the receiving pharmacy.

Issue (Nationwide Shortages): Some commenters stated that there is a nationwide shortage of opioid medication because their local pharmacies were often out of stock. One commenter also stated that the American Society of Health-System Pharmacists (ASHP) has warned about shortages of immediate release oxycodone and hydrocodone medications, but shortages have not been publicly acknowledged by DEA or FDA.

DEA Response: DEA utilizes the available, reliable data and information received by the agency at the time APQs are proposed and proactively monitors drug production, distribution and supply during the year. However, drug shortages may occur subsequently due to factors outside of DEA control such as manufacturing and quality problems, processing delays, supply chain disruptions, or discontinuations. In such circumstances, if the drug manufacturer notifies the FDA Drug Shortage Staff, FDA will coordinate with DEA to address and minimize the impact of drug shortages if both agencies believe action is warranted. Currently, FDA has not issued any nationwide shortages of oxycodone and hydrocodone products.

Issue (Patients Switching to Illicit Fentanyl or Medications Obtained from Illegal Sources): Several commenters expressed concerns that because of DEA's reduction of quotas for pain relieving controlled substances, patients with chronic pain who were unable to fill their legitimate prescriptions eventually turned to illegal fentanyl or medications obtained from illegitimate sources as a substitute relief that could increase the risk of overdose death. These commenters stated that overdose deaths in the United States continue to rise because of illegal fentanyl or illegitimate medications, not from pharmaceutical medications prescribed to patients with chronic pain.

DEA Response: In proposing and establishing APQs for opioids, DEA considers rates of overdose deaths. Congress, in 21 U.S.C. 826(i), mandates DEA to estimate diversion for five controlled substances—fentanyl, hydrocodone, hydromorphone, oxycodone, and oxymorphone. This estimation must consider the rates of overdose deaths, among other factors. While overdose deaths may occur as a result of use of illicit substances, DEA's quotas help prevent misuse and diversion of pharmaceutical controlled substances. In this way, these quotas can reduce the occurrence of overdose and death from the use of legitimate controlled substances. Patients should work closely with their providers to utilize other FDA-approved medications for their conditions and fill their prescriptions only from DEA-registered pharmacies. The only safe medications are ones prescribed by a trusted, DEA-registered medical professional and dispensed by a licensed pharmacist at a DEA-registered pharmacy. The medications received from unregistered internet sources may, in fact, be manufactured or laced with illicit substances including illicit fentanyl, which contributes to rates of overdose deaths.

Issue (Prescribing Hesitancy): Many commenters, mostly self-identified patients with chronic pain patients, expressed that the goal of the 2016 Centers for Disease Control and Prevention (CDC) Guidelines was to decrease opioid overdoses, but instead there has been an increase in overdoses nationwide of over 400 percent due to illegal fentanyl or illegally manufactured pain pills. Commenters stated that many patients with chronic pain patients have been harmed, and some have died by suicide, due to the inability to get prescriptions because of the APQ reductions made by DEA. Many commenters also stated that restrictions imposed by DEA have caused opioid medications to be under-prescribed due to fear of prosecution. Commenters said doctors should have latitude in making treatment decisions to prescribe opioid pain medications based on individual patient needs.

DEA Response: Pursuant to the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act, DEA is mandated to estimate diversion for 5 controlled substances—fentanyl, hydrocodone, hydromorphone, oxycodone and oxymorphone, and this estimation includes the consideration of rates of overdose deaths. While overdose deaths may occur as a result of the use of illegal fentanyl or illegally manufactured pain medications, quotas are being set by the DEA to prevent misuse and diversion of pharmaceutical controlled substances, and thus reducing the occurrence of overdose and death from the use of legitimate controlled substances. Additionally, DEA's regulations do not impose restrictions on the amount and the type of medication that licensed practitioners can prescribe. DEA has consistently emphasized and supported the authority of individual practitioners under the CSA to administer, dispense, and prescribe controlled substances for the legitimate treatment of pain within acceptable medical standards, as outlined in DEA's policy statement published in the **Federal Register** on September 6, 2006, titled Dispensing Controlled Substances for the Treatment of Pain. 71 FR 52716.

Attention Deficit/Hyperactivity Disorder Medications Medication Shortages

Issue: DEA received comments expressing general concerns regarding the ongoing shortages experienced with ADHD medications produced from amphetamine and methylphenidate.

DEA Response: DEA is committed to ensuring an adequate and uninterrupted supply of controlled substances in order to meet the estimated legitimate medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks. DEA sets the APQs to provide for all legitimate medical purposes and for anticipated foreign demand. Additionally, DEA and FDA coordinate efforts to prevent or alleviate drug shortages. Such efforts may include the adjustment of the APQs and individual domestic manufacturers' quotas, FDA's approval of additional

market competitors, and coordination between the agencies to allow importation of foreign-manufactured drug products that meet FDA approval. Based on the data DEA considers in setting the APQs, including any new FDA approved drug products, as well as manufacturing issues that DEA considers under 21 CFR 1303.11(b)(7), DEA determined that the proposed APQs for amphetamine, lisdexamfetamine and methylphenidate are sufficient to supply legitimate medical needs, reserve stocks, and export requirements for 2024. If the actual prescribing rates of these substances are significantly higher than the 2024 estimates of medical needs, the Administrator has the authority to increase the aggregate production quota at any time. 21 CFR 1303.13(a). For example, in 2023, DEA adjusted the methylphenidate (for sale) APQ to address shortages of methylphenidate HCL extended release tablets upon consideration of the criteria in accordance with 21 CFR 1303.13. Adjustment of Aggregate Production Quota for Methylphenidate (for sale) for 2023, 88 FR 68147 (October 3, 2023).

Issue (Lisdexamfetamine Shortages in Australia): DEA received comments from The ADHD Foundation Australia, Australian ADHD Professionals Association and the Royal Australian and New Zealand College of Psychiatrists. The ADHD Foundation Australia stated that the Australian Therapeutic Goods Administration (TGA) has advised of current shortages of lisdexamfetamine, with more shortages predicted into 2024, under the current production quotas. This commenter also asserted that Australia's domestic prescriptions of lisdexamfetamine have increased by over 150% from 2020–2022 due to increased awareness and diagnosis of ADHD. The Royal Australian and New Zealand College of Psychiatrists commented that they endorse the guidelines from the Australian ADHD Professionals Association. Both the ADHD Foundation Australia and Australian ADHD Professionals Association stated that Vyvanse (lisdexamfetamine) and methylphenidate are the only two extended-release medications approved by the TGA to treat ADHD in Australia. Although Vyvanse's patent expired in August 2023 in the United States, Vyvanse remains under patent in Australia and generic lisdexamfetamine products will not be available. The commenters are concerned that the proposed 2024 lisdexamfetamine APQ has not been increased from 2023 levels despite reports of shortages in both the United States and Australia. They are also concerned that any U.S. production quotas allocated for production of Vyvanse will decrease as U.S. production quotas will instead be allotted to manufacture domestic generic products instead. The commenters requested that DEA consider increasing 2024 lisdexamfetamine APQ to resolve shortages in Australia and Aotearoa New Zealand.

DEA Responses: DEA considered the comments, additional export data, recent domestic consumption data, and determined that the proposed APQ for lisdexamfetamine will remain at the level proposed based on its belief that inventory of bulk active pharmaceutical ingredient (API) and the quantities which will be produced in 2024 will be sufficient to meet the growing medical usage in domestic and foreign markets. DEA is closely monitoring manufacturing and distribution data from manufacturers of FDA-approved drug products as reported by the company, Automation of Reports and Consolidated Orders System (ARCOS) reports, prescription dispensing data from IQVIA, and estimated and actual inventories to ensure that there is an adequate and uninterrupted supply. In addition, DEA is pursuing the purchase of additional third-party data to better understand market penetration and demand in foreign countries—such as Australia—where American-made API and/or pharmaceutical preparations are dispensed.

Market Entry of Generic Lisdexamfetamine Products

Issue: DEA received comments from one association representing manufacturers and one dosage form manufacturer. They stated that DEA generally allocates procurement quotas using a company's historical sales of a drug. They asserted that this practice denies greater quota allocation to generic drug manufacturers who are entering the market following the expiration of a patent, due to the fact that new entrants do not have an established sales history. The association claimed that DEA's application process does not solicit information tailored to this situation. The association said that DEA's practice hindered the competition of generic lisdexamfetamine products, with the patent holder of Vyvanse holding onto a high share of the market.

DEA Response: DEA typically grants individual commercial manufacturing procurement quotas based on the sales history of the drug as reported by the company, ARCOS and IQVIA data, inventory estimated and actual, inventory allowed by regulation, and manufacturing process loss of existing manufacturers. DEA has always been cognizant that new manufacturers entering the market for the first time would not have any established sales history, and thus the manufacturer's past sales history is not a factor when determining the amount of quota needed to launch a new product. Instead, DEA considers other data including the historic timelines of the shift in prescribing from a branded product to a generic product(s) for controlled substances. For example, when the patent for Vyvanse expired in August 2023, DEA solicited additional information from each FDA-approved manufacturer and considered the following factors to determine the amount of quota a dosage form manufacturer needed to launch a new generic lisdexamfetamine product: (1) the overall patient utilization for the branded product for the past 3 years, (2) the current estimated patient utilization for the current year, (3) the remaining months in the current year needed to meet patient needs, (4) the amount of quota previously granted for saleable validation, (5) current inventory of finished goods, in-process material and API, and (6) the amount of finished goods already shipped into the distribution chain.

The assertion that DEA's practice allowed the patent holder of Vyvanse to hold onto a higher share of the market is incorrect. However, DEA did consider that the current year (2023) would only allow for 4 months of brand erosion when allocating quota necessary to launch the generic lisdexamfetamine products. Some manufacturers were denied additional quota because their current inventory of saleable products was sufficient for a product launch during the remaining four months of the calendar year.

Diversion Estimates

Issue (Impact of Diversion Estimate on Opioids): Several commenters stated that the APQs of prescription opioids should not be reduced from calendar year 2023 APQ levels, given that less than 1 percent of prescription opioids are diverted.

DEA Response: DEA not only considers the extent of diversion, but it also considers other factors, as required by regulation, when determining the APQ. 21 U.S.C. 826(a), 21 CFR 1303.11(b). These factors include total net disposal of the class by all manufacturers during the current and 2 preceding years, trends in the national

rate of net disposal of the class, total actual or estimated inventories of the class and of all substances manufactured from the class, information obtained from the Food and Drug Administration, and changes in the currently accepted medical use in treatment. Additional factors considered can be found in 21 CFR 1303.11(b). After considering all of the relevant factors, DEA has determined that the APQs of prescription opioids should be reduced from calendar year 2023 APQ levels and they are sufficient to meet the forecasted domestic and foreign medical needs.

Issue (Underestimation of Opioid Diversion): One pharmaceutical company suggested that DEA underestimated actual diversion of opioids. The commenter said nonmedical use of prescription opioids is not a legitimate medical purpose, but DEA rejected this point in calculating diversion, and thus the 2024 APQ must be reduced for nonmedical use of prescription opioids. The commenter also asserted that the estimate is incomplete because a number of states did not provide Prescription Drug Monitoring Program (PDMP) data for the five covered controlled substances. Additionally, the commenter asserted that DEA rejected CDC guidelines of not prescribing greater than 90 morphine milligram equivalence (MME) daily and used 240 MME to calculate diversion.

DEA Response: The cited 2016 report [1] provides insightful information regarding the relationship between nonmedical prescription-opioid use and heroin use. However, it does not provide data in a form which DEA could utilize to modify its nationwide estimate for the diversion of oxycodone. Additionally, as stated in the published 2024 Proposed APQ, DEA used available data at wholesale distribution and retail dispensing channels, *i.e.,* DEA's Theft/Loss Reports and available individual state PDMP data.

The state PDMP data submitted was adequate to allow DEA to draw reliable inferences regarding the state and U.S. population. The sample is large enough to allow DEA to accurately generalize the data to the whole population of the United States for use in the calculation of estimated national levels of diversion of the covered controlled substances.

The 2022 CDC Clinical Practice Guideline includes information that updates and replaces the 2016 CDC Guideline for Prescribing Opioids for Chronic Pain. The 2022 CDC guidelines no longer set rigid dosage thresholds or duration of opioid therapy. Although DEA accepts CDC guidelines for prescribing opioids, DEA believes that higher dosages place individuals at higher risk of overdose and death, and prescriptions involving dosages exceeding 240 MME daily may indicate diversion, such as illegal distribution of controlled substances or prescribing outside the usual course of professional practice.

Issue (Use of Diversion Estimate for all Controlled Substances): One commenter questioned why diversion estimates were not considered for the stimulants when proposing the initial 2024 APQ.

DEA Response: Pursuant to 21 CFR 1303.11(b)(5), DEA considered the extent of diversion of the basic class as a factor in setting each APQ for each respective basic class, as well as the extent of diversion for all other schedule I and II controlled substances in proposing the estimated APQ. Under 21 U.S.C. 826(i)(A), DEA is only required to publish the diversion estimates for 5 specific opioids.

Data Collection and Analysis

Issue (Data Accuracy): Several commenters stated FDA's estimation of medical needs and DEA's data collection process are flawed and inaccurate.

DEA Response: FDA utilizes a variety of data sources in developing its estimates of domestic medical needs. When determining the 2024 APQs, DEA considered the estimation of domestic medical needs data provided by FDA, and also considered other data sources including prescriptions dispensed in prior and current years reported in IQVIA, research and clinical trials information from DEA-registered researchers and manufacturers, information provided in quota applications from DEA-registered manufacturers, as well as historic and current year export data and future estimations of export requirements. DEA is actively reevaluating and improving the data collection process to ensure the APQs are set at an adequate level to meet legitimate medical, scientific, research, and export needs while establishing and maintaining reserve stocks.

Issue (Lack of Real-Time Data): One commenter opined that DEA lacks real-time data on opioid production and distribution. The lack of real-time data makes it difficult to accurately assess legitimate medical needs of patients and ensure adequate supply of opioid pain medications.

DEA Response: DEA has access to sales data provided by manufacturers from the Quota and Year-end Reporting Management System (QMS), ARCOS reports, and monthly IQVIA data when determining legitimate medical needs to ensure an adequate supply of medications containing schedule II controlled substances. Additionally, DEA is considering regulatory changes to gain access to more real-time data such as requiring manufacturers and distributors to report sales data into the ARCOS database on a monthly basis to improve the timeliness and accuracy of data points being used to estimate legitimate medical needs.

Issue (Lack of Data Transparency): Two commenters stated that there is a lack of transparency in the quota setting process.

DEA Response: DEA is considering methods that might increase transparency in its quota setting process. Future regulatory proposals may include steps such as public notification and an opportunity for public input when prescribing rates for controlled substances substantially deviate from FDA's estimate of medical needs. DEA must strike a balance between increasing transparency and complying with laws and regulations aimed at protecting confidential business and patient information.

Schedule I Controlled Substances

Issue (Religious Use of Schedule I Substances): Two commenters requested that DEA increase APQs for certain schedule I controlled substances, including: psilocin, psilocybin, mescaline, ibogaine, lysergic acid diethylamide (LSD), 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2CI), dimethyltryptamine (DMT), 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT) for religious use. They also commented that the APQ for mescaline should be increased in order to allow access to members of the Native American Church, as well as replanting into the wild because of shortages. They opined that DEA has disregarded their legal religious use of psychedelics as a factor when setting the production quotas of these substances. They also requested a hearing with the Administrator if DEA does not take their freedom of religion into consideration.

DEA Response: In the past, DEA held discussions with representatives of indigenous communities when requested and continued to welcome further engagement and input. The APQs are determined in part by the individual manufacturing quota requests submitted by DEA-registered manufacturers of these substances. DEA

[1] Compton WM, Jones CM, Baldwin J. *Relationship between nonmedical prescription-opioid use and heroin use.* N Engl J Med. 2016;374(2):154–63, accessed from *https://www.nejm.org/doi/full/10.1056/NEJMra1508490.*

received quota applications from DEA-registered manufacturers for 5-MeO-DMT, psilocin, psilocybin, mescaline, LSD, 2CI, DMT and 5-MeO-DMT. DEA has considered these applications, along with the factors listed in 21 CFR 1303.11 (b) when determining the aggregate production quotas.

Issue: Two commenters commented that the APQs should include fruiting bodies containing psilocybin and psilocin and peyote buttons containing mescaline, rather than pure chemicals only.

DEA Response: Psilocybin and psilocin are schedule I controlled substances naturally occurring in psychedelic mushrooms, while mescaline is the schedule I controlled substance naturally occurring in peyote. Because the CSA controls psilocybin and psilocin specifically, DEA will continue to establish APQ for those two substances. The APQs apply to psilocybin and psilocin that is manufactured synthetically as well as to substances that are derived naturally. Peyote is controlled under 21 U.S.C. 812(e) Schedule I (c) as a separate controlled substance from mescaline. As noted below, the APQ for peyote was proposed and is established at zero

Comments and Quota Applications From DEA-Registered Manufacturers

Issue: DEA received comments from three DEA-registered manufacturers regarding 3 different schedule I and II controlled substances, requesting that the proposed APQ for dexmethylphenidate (for conversion), lisdexamfetamine, and psilocybin be established at sufficient levels to allow for manufacturers to meet medical and scientific needs. DEA also received additional or revised quota applications for 4-Anilino-N-phenethyl-4-piperidine (4-ANPP), all other tetrahydrocannabinol, delta-9-tetrahydrocannabinol, dimethyltryptamine, fentanyl and pentobarbital.

DEA Response: DEA considered the comments and quota applications from the DEA-registered manufacturers and determined that DEA's proposed APQs will be increased for the abovementioned controlled substances, except lisdexamfetamine. The increases are reflected below in the section titled Determination of 2024 Aggregate Production Quotas and Assessment of Annual Needs.

List 1 Chemical (Pseudoephedrine)

Issue: Several pharmaceutical companies and healthcare organizations asserted that at a recent advisory meeting convened by the FDA, the advisory committee voted that phenylephrine, a common ingredient found in many over-the counter (OTC) cold and cough medications, is a safe but is ineffective as a decongestant at the 10 mg dose. According to FDA's website,[2] FDA has yet to make a final decision on the status of phenylephrine. In light of this information, the commenters suggested that DEA should re-evaluate whether the 2024 pseudoephedrine (for sale) AAN is adequate given potential repercussions on the supply of and demand for phenylephrine-containing products, should FDA no longer designate phenylephrine as ''generally recognized as safe and effective'' (GRASE).

DEA Response: DEA considered the comments and consulted with the FDA and determined that an increase of the 2024 pseudoephedrine (for sale) AAN from its proposed value currently is appropriate, and will continue to monitor inventory and use to ensure that there will be sufficient supply to address a potential increase in consumer demand for pseudoephedrine products should FDA determine that products containing phenylephrine are ineffective. The increase finalized herein will ensure that there is sufficient pseudoephedrine API for the manufacturing of OTC medications that are commonly used to treat congestion from cold, flu, allergy and COVID.

Quarterly Quota Allotment Implementation

Issue: DEA received comments from DEA-registered manufacturers and an association representing manufacturers regarding how DEA will implement quarterly quota allotment. They expressed concerns that DEA did not give sufficient notice of this significant change to adjust their business planning and schedules. They also believe that the quarterly quota allotment will cause a bottleneck and exacerbate shortages of medications.

DEA Response: As part of its commitment to ensure that all Americans have access to appropriately prescribed medications, DEA studied the supply chain dynamics for controlled substances subject to quotas, especially for those schedule II controlled substances in shortage. Beyond the lack of real-time data and gaps in its understanding of production lead times which DEA is seeking to resolve in forthcoming proposed regulatory changes, DEA also concluded that its existing quota allocation model did not allow it to remain nimble when patent exclusivity for Vyvanse expired and FDA authorized fourteen (14) generic manufacturers to begin marketing. DEA's challenges with its existing allocation model were exacerbated because the loss of patent exclusivity occurred late in the quota year, a time when DEA had already allocated significant authority to the manufacturer of Vyvanse and due to the Food and Drug Administration's (FDA) decision that it would not provide 6-months of patent exclusivity to the first applicant who files a substantially complete abbreviated new drug application (commonly referred to as ''first filer exclusivity'').

With regard to comments that quarterly quotas will create bottlenecks and exacerbate drug shortages, DEA disagrees. There are several reasons why manufacturers of drugs containing controlled substances subject to quotas either gain (or lose) market share in any given calendar year for which a quota applies and include: changes in demand and a manufacturer's ability to adjust to those changes relative to its competitors; inflationary pressures which impact a manufacturer's profit margin and subsequent decisions to either continue (or discontinue) marketing; labor shortages in certain geographic areas; and supply chain difficulties which impact access to API, excipients, equipment and packaging material. In order for DEA to ensure an adequate and uninterrupted supply of schedule II controlled substances necessary to meet legitimate medical, commercial, and scientific needs, DEA believes that changes in its approach to allocating procurement quotas will ensure that it is best positioned to respond appropriately to changes in market demand. Along similar lines, DEA does not believe that applying these changes to schedule II drugs only after they enter shortage would be sufficient, as DEA would then need to gather data and information for those drugs, a process which would delay DEA's efforts to address shortages and potentially exacerbate them.

DEA has elected to make these changes at the beginning of the 2024 quota year and will be providing guidance to manufacturers. Information gained from its approach will inform rulemaking which it is currently pursuing.

Administrative Procedures Act

Issue: DEA received comments from DEA-Registered manufacturers, an association representing manufacturers and the generic public that the quarterly quota allotment implementation did not go through a notice-and-comment

[2] FDA clarifies results of recent advisory committee meeting on oral phenylephrine | FDA.

rulemaking procedure as required by the Administrative Procedure Act.

DEA Response: DEA has elected to make changes at the beginning of the 2024 quota year as it believes that information gained from its approach will inform rulemaking which is currently being pursued. In addition, as discussed above, DEA is undertaking these changes for the 2024 quota year to allow it to more quickly and nimbly respond to fast-changing market trends, including potential shortages, with respect to medications subject to quotas. While these changes to the quota allotment process will impact the adjudication of individual quota applications, they do not affect any APQs set pursuant to this final order.

Request for Public Hearing

Issue: One pharmaceutical company requested a public hearing prior to publishing the Final Order to establish the initial 2024 APQ. This company requested a public hearing ''to correct the omissions and inaccurate diversion calculation in the 2023 oxycodone Quota.'' The company asserted that these omissions led to an inaccurate diversion calculation for oxycodone and that the 2024 APQ requires a significant reduction from the 2023 APQ.

DEA Response: The decision whether to grant a hearing on the issues raised by the commenter lies solely within the discretion of the Administrator. 21 CFR 1303.11(c). While hearings are required when requested by states in certain situations, this commenter is not a state. This request does not present any evidence that would lead to the conclusion that a hearing is necessary or warranted. DEA has addressed specific points raised by the commenter in Issues and Responses above.

Out of Scope Comments

DEA received comments that are outside the scope of this order. The comments were general in nature and raised issues with respect to specific medical illnesses, medical treatments and medication costs. These comments do not impact the analysis involved in establishing the 2024 APQ.

IV. Determination of 2024 Aggregate Production Quotas and Assessment of Annual Needs

In determining the established 2024 aggregate production quotas and assessment of annual needs, DEA has considered the above comments along with the factors set forth in 21 CFR 1303.11 and 21 CFR 1315.11, in accordance with 21 U.S.C. 826(a). These factors include, but are not limited to, the 2023 manufacturing quotas, current 2023 sales and inventories, anticipated 2024 export requirements, industrial use, additional applications for 2024 quotas, and information on research and product development requirements.

On July 19, 2023, DEA published a temporary scheduling order placing Etizolam, Flualprazolam, Clonazolam, Flubromazolam, and Diclazepam in schedule I of the CSA (88 FR 48112), making all regulatory controls pertaining to schedule I controlled substances applicable to the manufacture of these substances, including the requirement to establish an aggregate production quota pursuant to 21 U.S.C. 826 and 21 CFR part 1303.

On December 12, 2023, DEA published a temporary scheduling order placing 4F-MDMB-BUTICA, 5F-EDMB-PICA, ADB-4en-PINACA, CUMYL-PEGACLONE, MDMB-4en-PINACA, MMB-FUBICA in schedule I of the CSA (88 FR 86040), making all regulatory controls pertaining to schedule I controlled substances applicable to the manufacture of these substances, including the requirement to establish an aggregate production quota pursuant to 21 U.S.C. 826 and 21 CFR part 1303.

On December 13, 2023, DEA published a final rule placing N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-butyl-1H-indazole-3-carboxamide (ADB-BUTINACA), 4-methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one (α-PiHP or alpha-PiHP), and 2-(methylamino)-1-(3-methylphenyl)propan-1-one (3-MMC or 3-methylmethcathinone) in schedule I of the Controlled Substances Act (CSA) (88 FR 86266), making all regulatory controls pertaining to schedule I controlled substances applicable to the manufacture of these substances, including the requirement to establish an aggregate production quota pursuant to 21 U.S.C. 826 and 21 CFR part 1303. Based on all of the above, the Administrator is establishing the 2024 APQs for Etizolam, Flualprazolam, Clonazolam, Flubromazolam, and Diclazepam, 4F-MDMB-BUTICA, 5F-EDMB-PICA, ADB-4en-PINACA, CUMYL-PEGACLONE, MDMB-4en-PINACA, MMB-FUBICA, N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-butyl-1H-indazole-3-carboxamide (ADB-BUTINACA), 4-methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one (a-PiHP or alpha-PiHP), and 2-(methylamino)-1-(3-methylphenyl)propan-1-one (3-MMC or 3-methylmethcathinone) at greater than zero; and 4-Anilino-N-phenethyl-4-piperidine (4-ANPP), all other tetrahydrocannabinol, dexmethylphenidate (for conversion), delta-9-tetrahydrocannabinol, dimethyltryptamine, fentanyl, pentobarbital and psilocybin at higher levels than previously proposed.

The Administrator establishes the 2024 AAN for pseudoephedrine (for sale) at a higher level than was proposed.

Estimates of Diversion Pursuant to the SUPPORT Act

As specified in the proposal, and as required by 21 U.S.C. 826(i), DEA calculated a national diversion estimate for each of the covered controlled substances.

This data, which remains unchanged, was published in the *Proposed Aggregate Production Quotas for Schedule I and II Controlled Substances and Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2024.* 88 FR 75312 (November 2, 2023).

In accordance with 21 U.S.C. 826, 21 CFR 1303.11, and 21 CFR 1315.11, the Administrator hereby establishes the 2024 APQ for the following schedule I and II controlled substances and the 2024 AAN for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine, expressed in grams of anhydrous acid or base, as follows:

Basic class	Established 2024 quotas (g)
New Temporary Controlled Schedule I Substances	
4F-MDMB-BUTICA	30
5F-EDMB-PICA	30
ADB-4en-PINACA	30
Clonazolam	30
CUMYL-PEGACLONE	30
diclazepam	30

Basic class	Established 2024 quotas (g)
etizolam	30
flualprazolam	30
flubromazolam	30
MDMB-4en-PINACA	30
MMB-FUBICA	30
Schedule I	
-[1-(2-Thienyl)cyclohexyl]pyrrolidine	20
1-(1-Phenylcyclohexyl)pyrrolidine	30
1-(2-Phenylethyl)-4-phenyl-4-acetoxypiperidine	10
1-(5-Fluoropentyl)-3-(1-naphthoyl)indole (AM2201)	30
1-(5-Fluoropentyl)-3-(2-iodobenzoyl)indole (AM694)	30
1-[1-(2-Thienyl)cyclohexyl]piperidine	15
2′-fluoro 2-fluorofentanyl	30
1-Benzylpiperazine	25
1-Methyl-4-phenyl-4-propionoxypiperidine	10
2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E)	30
2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D)	30
2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N)	30
2-(2,5-Dimethoxy-4-n-propylphenyl)ethanamine (2C-P)	30
2-(2,5-Dimethoxyphenyl)ethanamine (2C-H)	100
2-(4-Bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36)	30
2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C)	30
2-(4-Chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82)	25
2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I)	30
2-(4-Iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe; 2C-I-NBOMe; 25I; Cimbi-5)	30
2,5-Dimethoxy-4-ethylamphetamine (DOET)	25
2,5-Dimethoxy-4-n-propylthiophenethylamine	25
2,5-Dimethoxyamphetamine	25
2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2)	30
2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4)	30
3,4,5-Trimethoxyamphetamine	30
3,4-Methylenedioxyamphetamine (MDA)	12,000
3,4-Methylenedioxymethamphetamine (MDMA)	12,000
3,4-Methylenedioxy-N-ethylamphetamine (MDEA)	40
3,4-Methylenedioxy-N-methylcathinone (methylone)	5,200
3,4-Methylenedioxypyrovalerone (MDPV)	35
3-FMC; 3-Fluoro-N-methylcathinone	25
3-Methylfentanyl	30
3-Methylmethcathinone	30
3-Methylthiofentanyl	30
4,4′-Dimethylaminorex	30
4-Bromo-2,5-dimethoxyamphetamine (DOB)	30
4-Bromo-2,5-dimethoxyphenethylamine (2-CB)	5,100
4-Chloro-alpha-pyrrolidinovalerophenone (4-chloro-alpha-PVP)	25
4-CN-Cumyl-Butinaca	25
4-Fluoroisobutyryl fentanyl	30
4F-MDMB-BINACA	30
4-FMC; Flephedrone	25
4-MEC; 4-Methyl-N-ethylcathinone	25
4-Methoxyamphetamine	150
4-methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one (alpha-PiHP)	30
4-Methyl-2,5-dimethoxyamphetamine (DOM)	25
4-Methylaminorex	25
4-Methyl-N-methylcathinone (mephedrone)	45
4-Methyl-alpha-ethylaminopentiophenone (4-MEAP)	25
4-Methyl-alpha-pyrrolidinohexiophenone (MPHP)	25
4′-Methyl acetyl fentanyl	30
4-Methyl-α-pyrrolidinopropiophenone (4-MePPP)	25
5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol	50
5-(1,1-Dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP-47,497 C8-homolog)	40
5F-AB-PINACA ; (1-Amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide	25
5F-ADB; 5F-MDMB-PINACA (methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	25
5F-CUMYL-P7AICA; 1-(5-Fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3carboximide	25
5F-CUMYL-PINACA	25
5F-EDMB-PINACA	25
5F-MDMB-PICA	25
5F-AMB (methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate)	25
5F-APINACA; 5F-AKB48 (N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide)	25
5-Fluoro-PB-22; 5F-PB-22	25
5-Fluoro-UR144, XLR11 ([1-(5-fluoro-pentyl)-1Hindol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone	25

Basic class	Established 2024 quotas (g)
5-Methoxy-3,4-methylenedioxyamphetamine	25
5-Methoxy-N,N-diisopropyltryptamine	25
5-Methoxy-N,N-dimethyltryptamine	11,000
AB-CHMINACA	30
AB-FUBINACA	50
AB-PINACA	30
ADB-BUTINACA	30
ADB-FUBINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	30
Acetorphine	25
Acetyl Fentanyl	100
Acetyl-alpha-methylfentanyl	30
Acetyldihydrocodeine	30
Acetylmethadol	25
Acryl Fentanyl	25
ADB-PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	50
AH-7921	30
All other tetrahydrocannabinol	1,166,130
Allylprodine	25
Alphacetylmethadol	25
alpha-Ethyltryptamine	25
Alphameprodine	25
Alphamethadol	25
alpha-Methylfentanyl	30
alpha-Methylthiofentanyl	30
alpha-Methyltryptamine (AMT)	25
alpha-Pyrrolidinobutiophenone (α-PBP)	25
alpha-pyrrolidinoheptaphenone (PV8)	25
alpha-pyrrolidinohexabophenone (alpha-PHP)	25
alpha-Pyrrolidinopentiophenone (α-PVP)	25
Amineptine	30
Aminorex	25
Anileridine	20
APINCA, AKB48 (N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide)	25
Benzethidine	25
Benzylmorphine	30
Betacetylmethadol	25
beta-Hydroxy-3-methylfentanyl	30
beta-Hydroxyfentanyl	30
beta-Hydroxythiofentanyl	30
beta-Methyl fentanyl	30
beta′-Phenyl fentanyl	30
Betameprodine	25
Betamethadol	4
Betaprodine	25
Brorphine	30
Bufotenine	15
Butonitazene	30
Butylone	25
Butyryl fentanyl	30
Cathinone	40
Clonitazene	25
Codeine methylbromide	30
Codeine-N-oxide	192
Crotonyl Fentanyl	25
Cyclopentyl Fentanyl	30
Cyclopropyl Fentanyl	20
Cyprenorphine	25
d-9-THC	1,523,040
Desomorphine	25
Dextromoramide	25
Diapromide	20
Diethylthiambutene	20
Diethyltryptamine	25
Difenoxin	9,300
Dihydromorphine	639,954
Dimenoxadol	25
Dimepheptanol	25
Dimethylthiambutene	20
Dimethyltryptamine	11,000
Dioxyaphetyl butyrate	25
Dipipanone	25
Drotebanol	25

Basic class	Established 2024 quotas (g)
Ethylmethylthiambutene	25
Ethylone	25
Etodesnitazene	30
Etonitazene	25
Etorphine	30
Etoxeridine	25
Eutylone	30
Fenethylline	30
Fentanyl carbamate	30
Fentanyl related substances	600
Flunitazene	30
FUB-144	25
FUB-AKB48	25
Fub-AMB, MMB-Fubinaca, AMB-Fubinaca	25
Furanyl fentanyl	30
Furethidine	25
gamma-Hydroxybutyric acid	29,417,000
Heroin	150
Hydromorphinol	40
Hydroxypethidine	25
Ibogaine	150
Isobutyryl Fentanyl	25
Isotonitazine	25
JWH-018 and AM678 (1-Pentyl-3-(1-naphthoyl)indole)	35
JWH-019 (1-Hexyl-3-(1-naphthoyl)indole)	45
JWH-073 (1-Butyl-3-(1-naphthoyl)indole)	45
JWH-081 (1-Pentyl-3-[1-(4-methoxynaphthoyl)]indole)	30
JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole)	30
JWH-200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole)	35
JWH-203 (1-Pentyl-3-(2-chlorophenylacetyl)indole)	30
JWH-250 (1-Pentyl-3-(2-methoxyphenylacetyl)indole)	30
JWH-398 (1-Pentyl-3-(4-chloro-1-naphthoyl)indole)	30
Ketobemidone	30
Levomoramide	25
Levophenyacylmorphan	25
Lysergic acid diethylamide (LSD)	1,200
MAB-CHMINACA; ADB-CHMINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	30
MDMB-CHMICA; MMB-CHMINACA(methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate)	30
MDMB-FUBINACA (methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	30
MMB-CHMICA-(AMB-CHIMCA); Methyl-2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate	25
Mesocarb	30
Metodesnitazene	30
Metonitazene	30
Marijuana	6,675,000
Marijuana extract	1,000,000
Mecloqualone	30
Mescaline	1,200
Methaqualone	60
Methcathinone	25
Methiopropamine	30
Methoxetamine	30
Methoxyacetyl fentanyl	30
Methyldesorphine	5
Methyldihydromorphine	25
Morpheridine	25
Morphine methylbromide	5
Morphine methylsulfonate	5
Morphine-N-oxide	150
MT-45	30
Myrophine	25
NM2201: Naphthalen-1-yl 1-(5-fluorpentyl)-1H-indole-3-carboxylate	25
N,N-Dimethylamphetamine	25
Naphyrone	25
N-Ethyl-1-phenylcyclohexylamine	25
N-Ethyl-3-piperidyl benzilate	10
N-Ethylamphetamine	24
N-Ethylhexedrone	25
N-Ethylpentylone, ephylone	30
N-Hydroxy-3,4-methylenedioxyamphetamine	24
Nicocodeine	25
Nicomorphine	25

Basic class	Established 2024 quotas (g)
N-methyl-3-piperidyl benzilate	30
N-Pyrrolidino Etonitazene	30
Noracymethadol	25
Norlevorphanol	2,550
Normethadone	25
Normorphine	40
Norpipanone	25
Ocfentanil	25
ortho-Fluoroacryl fentanyl	30
ortho-Fluorobutyryl fentanyl	30
Ortho-Fluorofentanyl,2-Fluorofentanyl	30
ortho-Fluoroisobutyryl fentanyl	30
ortho-Methyl acetylfentanyl	30
ortho-Methyl methoxyacetyl fentanyl	30
Para-Chlorisobutyrl fentanyl	30
Para-flourobutyryl fentanyl	25
Para-fluorofentanyl	25
para-Fluoro furanyl fentanyl	30
Para-Methoxybutyrl fentanyl	30
Para-methoxymethamphetamine	30
para-Methylfentanyl	30
Parahexyl	5
PB-22; QUPIC	20
Pentedrone	25
Pentylone	25
Phenadoxone	25
Phenampromide	25
Phenomorphan	25
Phenoperidine	25
Phenyl fentanyl	30
Pholcodine	5
Piritramide	25
Proheptazine	25
Properidine	25
Propiram	25
Protonitazene	30
Psilocybin	20,000
Psilocin	24,000
Racemoramide	25
SR-18 and RCS-8 (1-Cyclohexylethyl-3-(2-methoxyphenylacetyl)indole)	45
SR-19 and RCS-4 (1-Pentyl-3-[(4-methoxy)-benzoyl]indole)	30
Tetrahydrofuranyl fentanyl	15
Thebacon	25
Thiafentanil	25
Thiofentanyl	25
Thiofuranyl fentanyl	30
THJ-2201 ([1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone)	30
Tilidine	25
Trimeperidine	25
UR-144 (1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone	25
U-47700	30
Valeryl fentanyl	25
Zipeprol	30
Schedule II	
1-Phenylcyclohexylamine	15
1-Piperidinocyclohexanecarbonitrile	25
4-Anilino-N-phenethyl-4-piperidine (ANPP)	937,874
Alfentanil	5,000
Alphaprodine	25
Amobarbital	20,100
Bezitramide	25
Carfentanil	20
Cocaine	60,492
Codeine (for conversion)	942,452
Codeine (for sale)	19,262,957
d-amphetamine (for sale)	21,200,000
d,l-amphetamine	21,200,000
d-amphetamine (for conversion)	20,000,000
Dexmethylphenidate (for sale)	6,200,000
Dexmethylphenidate (for conversion)	5,374,683

Basic class	Established 2024 quotas (g)
Dextropropoxyphene	35
Dihydrocodeine	115,227
Dihydroetorphine	25
Diphenoxylate (for conversion)	14,100
Diphenoxylate (for sale)	770,800
Ecgonine	60,492
Ethylmorphine	30
Etorphine hydrochloride	32
Fentanyl	731,360
Glutethimide	25
Hydrocodone (for conversion)	1,250
Hydrocodone (for sale)	27,143,545
Hydromorphone	1,951,801
Isomethadone	30
L-amphetamine	30
Levo-alphacetylmethadol (LAAM)	25
Levomethorphan	30
Levorphanol	20,000
Lisdexamfetamine	26,500,000
Meperidine	681,184
Meperidine Intermediate-A	30
Meperidine Intermediate-B	30
Meperidine Intermediate-C	30
Metazocine	15
Methadone (for sale)	25,619,700
Methadone Intermediate	27,673,600
d,l-Methamphetamine	150
d-methamphetamine (for conversion)	485,020
d-methamphetamine (for sale)	47,000
l-methamphetamine	587,229
Methylphenidate (for sale)	53,283,000
Methylphenidate (for conversion)	19,975,468
Metopon	25
Moramide-intermediate	25
Morphine (for conversion)	2,393,200
Morphine (for sale)	20,805,957
Nabilone	62,000
Norfentanyl	25
Noroxymorphone (for conversion)	22,044,741
Noroxymorphone (for sale)	1,000
Oliceridine	25,100
Opium (powder)	250,000
Opium (tincture)	530,837
Oripavine	33,010,750
Oxycodone (for conversion)	437,827
Oxycodone (for sale)	53,658,226
Oxymorphone (for conversion)	28,204,371
Oxymorphone (for sale)	464,464
Pentobarbital	40,000,000
Phenazocine	25
Phencyclidine	35
Phenmetrazine	25
Phenylacetone	100
Piminodine	25
Racemethorphan	5
Racemorphan	5
Remifentanil	3,000
Secobarbital	172,100
Sufentanil	4,000
Tapentadol	10,390,226
Thebaine	57,137,944
List I Chemicals	
Ephedrine (for conversion)	41,100
Ephedrine (for sale)	3,933,336
Phenylpropanolamine (for conversion)	14,878,320
Phenylpropanolamine (for sale)	7,990,000
Pseudoephedrine (for conversion)	1,000
Pseudoephedrine (for sale)	186,617,466

The Administrator also establishes APQ for all other schedule I and II controlled substances included in 21 CFR 1308.11 and 1308.12 at zero. In accordance with 21 CFR 1303.13 and 21 CFR 1315.13, upon consideration of the relevant factors, the Administrator may adjust the 2024 APQ and AAN as needed.

Signing Authority

This document of the Drug Enforcement Administration was signed on December 28, 2023, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Scott Brinks,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2023–28962 Filed 12–29–23; 8:45 am]

BILLING CODE 4410–09–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–382; NRC–2023–0046]

Entergy Operations, Inc.; Waterford Steam Electric Station, Unit 3; License Amendment Application

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; withdrawal by applicant.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC, the Commission) has granted the request of Entergy Operations, Inc. (the licensee) to withdraw its application dated November 1, 2022, for a proposed amendment to Renewed Facility Operating License No. NPF–38 for the Waterford Steam Electric Station, Unit 3. The proposed amendment would have revised Technical Specification 3/4.3–2, Table 4.3–2, ''Engineered Safety Features Actuation System Instrumentation Surveillance Requirements,'' Table Notation (3), to remove the exemption from testing relays K114, K305, and K313 at power.

DATES: This document was published in the **Federal Register** on January 3, 2024.

ADDRESSES: Please refer to Docket ID NRC–2023–0046 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0046. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jason Drake, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–8378; email: *Jason.Drake@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC has granted the request of the licensee to withdraw its application dated November 1, 2022 (ADAMS Accession No. ML22305A693) for the proposed amendment to Renewed Facility Operating License No. NPF–38 for the Waterford Steam Electric Station, Unit 3, located in St. Charles Parish, Louisiana.

The proposed amendment would have revised TS 3/4.3–2, Table 4.3–2, ''Engineered Safety Features Actuation system Instrumentation Surveillance Requirements,'' Table Notation (3), to remove the exemption from testing relays K114, K305, and K313 at power.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on February 21, 2023 (88 FR 10557). However, by letter dated September 28, 2023 (ADAMS Accession No. ML23271A178), the licensee withdrew the proposed amendment.

Dated: December 28, 2023.

For the Nuclear Regulatory Commission.

Jason J. Drake,

Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2023–28891 Filed 1–2–24; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255; NRC–2023–0193]

Holtec Decommissioning International, LLC and Holtec Palisades, LLC; Palisades Nuclear Plant; Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued an exemption in response to a request from Holtec Decommissioning International, LLC (HDI), an indirect wholly owned subsidiary of Holtec International, that would allow HDI and Holtec Palisades, LLC, to reduce the minimum coverage limit for onsite property damage insurance from $1.06 billion to $50 million for the Palisades Nuclear Plant.

DATES: The exemption was issued on December 21, 2023.

ADDRESSES: Please refer to Docket ID NRC–2023–0193 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0193. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select

''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tanya E. Hood, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1387; email: *Tanya.Hood@nrc.gov*.

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: December 28, 2023.

For the Nuclear Regulatory Commission.

Tanya E. Hood,

Project Manager, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

Attachment—Exemption

Nuclear Regulatory Commission

Docket No. 50–255

Holtec Decommissioning International, LLC, and Holtec Palisades, LLC; Palisades Nuclear Plant, Exemption

I. Background

By letter dated October 19, 2017 (Agencywide Documents Access and Management System Accession No. ML17292A032), Entergy Nuclear Operations, Inc. (ENOI) certified to the U.S. Nuclear Regulatory Commission (NRC, or Commission) that it planned to permanently cease power operations at the Palisades Nuclear Plant (Palisades) no later than May 31, 2022. On May 20, 2022, ENOI permanently ceased power operations at Palisades, and by letter dated June 13, 2022 (ML22164A067), ENOI certified to the NRC that the fuel was permanently removed from the Palisades reactor vessel and placed in the spent fuel pool (SFP) on June 10, 2022. Accordingly, pursuant to paragraphs 50.82(a)(2) of title 10 of the *Code of Federal Regulations* (10 CFR), the 10 CFR part 50 renewed facility operating license for Palisades no longer authorizes operation of the reactor or emplacement or retention of fuel in the reactor vessel. The facility is still authorized to possess, and store irradiated (*i.e.,* spent) nuclear fuel. Palisades spent fuel is currently stored in the SFP and in dry cask storage at the independent spent fuel storage installation (ISFSI).

II. Request/Action

By letter dated October 26, 2022 (ML22299A062), Holtec Decommissioning International, LLC (HDI), one of the licensees of Palisades and an indirect wholly owned subsidiary of Holtec International (Holtec), requested an exemption on behalf of Holtec Palisades, LLC, the other Palisades licensee, from 10 CFR 50.54(w)(1) concerning onsite liability insurance. HDI and Holtec Palisades, LLC, are hereafter collectively referred to as the licensee. The exemption from 10 CFR 50.54(w)(1) would permit the licensee to reduce the required level of onsite property damage insurance from $1.06 billion to $50 million for Palisades.

The regulation at 10 CFR 50.54(w)(1) requires licensees to have and maintain onsite property damage insurance to stabilize and decontaminate the reactor and reactor site in the event of an accident. The onsite insurance coverage must be either $1.06 billion or whatever amount of insurance is generally available from private sources (whichever is less).

The licensee states that the risk of an incident at a permanently shutdown and defueled reactor is much less than the risk from an operating power reactor. In addition, since reactor operation is no longer authorized at Palisades, there are no events that would require the stabilization of reactor conditions after an accident. Similarly, the risk of an accident that would result in significant onsite contamination at Palisades is also much lower than the risk of such an event at operating reactors. Therefore, the licensee requested an exemption from 10 CFR 50.54(w)(1) to reduce its onsite property damage insurance from $1.06 billion to $50 million, commensurate with the reduced risk of an incident at the permanently shutdown and defueled Palisades site.

III. Discussion

Under 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) any of the special circumstances listed in 10 CFR 50.12(a)(2) are present.

The financial protection limits of 10 CFR 50.54(w)(1) were established after the Three Mile Island Nuclear Station, Unit 2 accident out of concern that licensees may be unable to financially cover onsite cleanup costs in the event of a major nuclear accident. The specified $1.06 billion coverage amount requirement was developed based on an analysis of an accident at a nuclear reactor operating at power, resulting in a large fission product release and requiring significant resource expenditures to stabilize the reactor and ultimately decontaminate and cleanup the site.

These cost estimates were developed based on the spectrum of postulated accidents for an operating nuclear reactor. Those costs were derived from the consequences of a release of radioactive material from the reactor. Although the risk of an accident at an operating reactor is very low, the consequences onsite and offsite can be significant. In an operating plant, the high temperature and pressure of the reactor coolant system (RCS) and the inventory of relatively short-lived radionuclides contribute to both the risk and consequences of an accident. With the permanent cessation of reactor operations at Palisades and the permanent removal of the fuel from the reactor vessel, such accidents are no longer possible. As a result, the reactor vessel, RCS, and supporting systems no longer operate and have no function related to the storage of the irradiated fuel. Therefore, postulated accidents involving failure or malfunction of the reactor, RCS, or supporting systems are no longer applicable.

During reactor decommissioning, the largest radiological risks are associated with the storage of spent fuel onsite. In the exemption request dated October 26, 2022, the licensee discussed both design-basis and beyond design-basis events involving irradiated fuel stored in the SFP. The licensee determined that there are no possible design-basis events at Palisades that could result in an offsite radiological release exceeding the limits established by the U.S. Environmental Protection Agency's (EPA) early phase Protective Action Guides (PAGs) of 1 roentgen equivalent man (rem) at the exclusion area boundary, as a way to demonstrate that any possible radiological releases would be minimal and would not require precautionary protective actions (*e.g.,* sheltering in place or evacuation).

The NRC staff evaluated the radiological consequences associated with various decommissioning activities and the design-basis accidents (DBAs) at Palisades in consideration of a permanently shutdown and defueled condition. The possible DBA scenarios at Palisades have greatly reduced radiological consequences. Based on its review, the NRC staff concluded that no reasonably conceivable DBA exists that could cause an offsite release greater than the EPA PAGs.

The only incident that has the potential to lead to a significant radiological release at a decommissioning reactor is a zirconium fire. The zirconium fire scenario is a postulated, but highly unlikely, beyond DBA scenario that involves loss of water inventory from the SFP resulting in a significant heatup of the spent fuel and culminating in substantial zirconium cladding oxidation and fuel damage. The probability of a zirconium fire scenario is related to the decay heat of the irradiated fuel stored in the SFP. Therefore, the risks from a zirconium fire scenario continue to decrease as a function of the time since Palisades has been permanently shutdown.

The Commission has previously authorized a lesser amount of onsite financial protection based on this analysis of the zirconium fire risk. In SECY–96–256, ''Changes to Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors, 10 CFR 50.54(w) and 10 CFR 140.11,'' dated December 17, 1996 (ML15062A483), the NRC staff recommended changes to the power reactor financial protection regulations that would allow licensees to lower onsite insurance levels to $50 million upon demonstration that the fuel stored in the SFP can be air-cooled. In its Staff Requirements Memorandum to SECY–96–256, dated January 28, 1997 (ML15062A454), the Commission supported the NRC staff's recommendation that, among other things, would allow permanently shutdown power reactor licensees to reduce commercial onsite property damage insurance coverage to $50 million when the licensee was able to demonstrate the technical criterion that the spent fuel could be air-cooled if the SFP was drained of water.

The NRC staff has used this technical criterion to grant similar exemptions to other decommissioning reactors (*e.g.,* Pilgrim Nuclear Power Station, published in the **Federal Register** on January 14, 2020 (85 FR 2153); Three Mile Island Nuclear Station, Unit 1, published in the **Federal Register** on March 26, 2021 (86 FR 16241); and Duane Arnold Energy Center, published in the **Federal Register** on May 18, 2021 (86 FR 26946)). These prior exemptions were based on these licensees demonstrating that the SFP could be air-cooled, consistent with the technical criterion discussed above.

In its October 26, 2022 request, the licensee compared Palisades fuel storage parameters with those used in NRC generic evaluations of fuel cooling included in NUREG/CR–6451, ''A Safety and Regulatory Assessment of Generic BWR [Boiling-Water Reactor] and PWR [Pressurized-Water Reactor] Permanently Shutdown Nuclear Power Plants,'' dated August 1997 (ML082260098). The analysis described in NUREG/CR–6451 determined that natural air circulation would adequately cool fuel that has decayed for 17 months after operation in a typical PWR. The licensee compared the post-shutdown fuel storage conditions with those assumed for the analysis presented in NUREG/CR–6451.

In SECY–00–0145, ''Integrated Rulemaking Plan for Nuclear Power Plant Decommissioning,'' dated June 28, 2000, and SECY–01–0100, ''Policy Issues Related to Safeguards, Insurance, and Emergency Preparedness Regulations at Decommissioning Nuclear Power Plants Storing Fuel in Spent Fuel Pools,'' dated June 4, 2001 (ML003721626 and ML011450420, respectively), the NRC staff discussed additional information concerning SFP zirconium fire risks at decommissioning reactors and associated implications for onsite property damage insurance. Providing an analysis of when the spent fuel stored in the SFP is capable of air-cooling is one measure that can be used to demonstrate that the probability of a zirconium fire is exceedingly low. However, the NRC staff has more recently used an additional analysis that bounds an incomplete drain down of the SFP water, or some other catastrophic event (such as a complete drainage of the SFP with rearrangement of spent fuel rack geometry and/or the addition of rubble to the SFP). The analysis postulates that decay heat transfer from the spent fuel via conduction, convection, or radiation would be impeded. This analysis is often referred to as an adiabatic heatup.

In its exemption dated October 26, 2022, the licensee stated, and the NRC staff confirmed, that the bounding analyses for the Palisades SFP for beyond design basis events demonstrate that 12 months after shutdown of Palisades a minimum of 10 hours is available before the fuel cladding temperature of the hottest fuel assembly in the SFP reaches 900 °C with a complete loss of SFP water inventory. This analysis, ''Holtec Spent Fuel Pool Calculations,'' dated July 8, 2022, [non-public] was submitted as Attachment 1 by the licensee in support of the letter dated July 11, 2022 (ML22192A134), in which the licensee requested exemptions from specific portions of 10 CFR 50.47 and appendix E to 10 CFR part 50 for the Palisades license.

As stated in NUREG–1738, ''Technical Study of Spent Fuel Pool Accident Risk at Decommissioning Nuclear Power Plants,'' dated February 2001 (ML010430066), 900 °C is an acceptable temperature to use for assessing the onset of fission product release, where the SFP is drained and air cooling is not possible; at least 10 hours would be available from the time spent fuel cooling is lost until the hottest fuel assembly reaches a temperature of 900 °C. The 10-hour criterion, conservatively, does not consider the time to uncover the fuel and assumes instantaneous loss of cooling to the fuel. The 10-hour time period is also not intended to represent the time that it would take to repair all key safety systems or to repair a large SFP breach. The 10-hour criterion is a conservative period of time in which pre-planned mitigation measures to provide makeup water or spray to the SFP can be reliably implemented before the onset of a zirconium cladding ignition. In addition, in the unlikely event that a release is projected to occur, 10 hours would provide sufficient time for offsite agencies, if deemed warranted, to take appropriate action to protect the health and safety of the public.

In the NRC staff's evaluation contained in SECY–23–0043, ''Request by Holtec Decommissioning International, LLC for Exemptions from Certain Emergency Planning Requirements for Palisades Nuclear Plant,'' dated May 15, 2023 (ML23054A179), the NRC staff assessed the licensee's accident analyses associated with the radiological risks from a zirconium fire at a permanently shutdown and defueled Palisades after 12 months of fuel decay. For the highly unlikely beyond design-basis accident scenario where the SFP coolant inventory is lost in such a manner that all methods of heat removal from the spent fuel are no longer available, the NRC staff found that there will be a minimum of 10 hours from the initiation of the accident until the cladding reaches a temperature where offsite radiological release might occur. The NRC staff finds that 10 hours is sufficient time to support deployment of mitigation equipment, consistent with

plant conditions, to prevent the zirconium cladding from reaching a point of rapid oxidation. As a result, the likelihood that such a scenario would progress to a zirconium fire is deemed not credible.

However, the NRC staff has postulated that there is still a potential for other radiological incidents at a decommissioning reactor that could result in significant onsite contamination besides a zirconium fire. In SECY–96–256, the NRC staff cited the rupture of a large, contaminated liquid storage tank (~450,000 gallons) causing soil contamination and potential groundwater contamination as the costliest postulated event to decontaminate and remediate (other than an SFP zirconium fire). The postulated large liquid radiological waste storage tank rupture event was determined to have a bounding onsite cleanup cost of approximately $50 million. Therefore, the NRC staff determined that the licensee's proposal to reduce onsite insurance to a level of $50 million would be consistent with the bounding cleanup and decontamination cost, as discussed in SECY–96–256, to account for the postulated rupture of a large liquid radiological waste tank at the Palisades site, should such an event occur.

The NRC staff has determined that the licensee's proposed reduction in onsite property damage insurance coverage to a level of $50 million is consistent with SECY–96–256 and subsequent insurance considerations resulting from additional zirconium fire risks as discussed in SECY–00–0145 and SECY–01–0100, as well as NUREG/CR–6451 and NUREG–1738. In addition, the NRC staff notes that similar exemptions have been granted to other permanently shutdown and defueled power reactors, upon demonstration that the criterion of the zirconium fire risks from the irradiated fuel stored in the SFP is of negligible concern.

A. The Exemption Is Authorized by Law

The requested exemption from 10 CFR 50.54(w)(1) would allow the licensee to reduce the minimum coverage limit for onsite property damage insurance. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR part 50 when the exemptions are authorized by law.

As explained above, the NRC staff has determined that the licensee's proposed reduction in onsite property damage insurance coverage to a level of $50 million is consistent with SECY–96–256. Moreover, the NRC staff concluded that 12 months after the permanent cessation of power operations, sufficient irradiated fuel decay time will have elapsed at Palisades to decrease the probability of an onsite and offsite radiological release from a postulated zirconium fire accident to negligible levels. In addition, the licensee's proposal to reduce onsite insurance to a level of $50 million is consistent with the maximum estimated cleanup costs for the recovery from the rupture of a large liquid radiological waste storage tank.

The NRC staff has determined that granting the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, based on its review of the licensee's exemption request as discussed above, and consistent with SECY–96–256, the NRC staff concludes that the exemption is authorized by law.

B. The Exemption Presents No Undue Risk to the Public Health and Safety

The onsite property damage insurance requirements of 10 CFR 50.54(w)(1) were established to provide financial assurance that following a significant nuclear incident, onsite conditions could be stabilized and the site decontaminated. The requirements of 10 CFR 50.54(w)(1) and the existing level of onsite insurance coverage for Palisades are predicated on the assumption that the reactor is operating. However, Palisades was permanently shut down on May 20, 2022, and defueled on June 10, 2022. The permanently shutdown and defueled status of the facility results in a significant reduction in the number and severity of potential accidents and, correspondingly, a significant reduction in the potential for and severity of onsite property damage. The proposed reduction in the amount of onsite insurance coverage does not impact the probability or consequences of potential accidents. The proposed level of insurance coverage is commensurate with the reduced consequences of potential nuclear accidents at Palisades. Therefore, the NRC staff concludes that granting the requested exemption will not present an undue risk to the health and safety of the public.

C. The Exemption Is Consistent With the Common Defense and Security

The proposed exemption would not eliminate any requirements associated with physical protection of the site and would not adversely affect the licensee's ability to physically secure the site or protect special nuclear material. Physical security measures at Palisades are not affected by the requested exemption. Therefore, the proposed exemption is consistent with the common defense and security.

D. Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present whenever application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the regulation. The underlying purpose of 10 CFR 50.54(w)(1) is to provide reasonable assurance that adequate funds will be available to stabilize reactor conditions and cover onsite cleanup costs associated with site decontamination following an accident that results in the release of a significant amount of radiological material. Since Palisades permanently shut down on May 20, 2022, and defueled on June 10, 2022, it is no longer possible for the radiological consequences of DBAs or other credible events at Palisades to exceed the limits of the EPA PAGs at the exclusion area boundary.

The licensee has evaluated the consequences of highly unlikely, beyond-design-basis conditions involving a loss of inventory from the SFP. The analyses show that 12 months after the permanent cessation of power operations on May 20, 2022, the likelihood of such an event leading to a large radiological release is negligible. The NRC staff's evaluation of the licensee's analyses confirms this conclusion.

The NRC staff also finds that the licensee's proposed $50 million level of onsite insurance is consistent with the bounding cleanup and decontamination cost as discussed in SECY–96–256 to account for the hypothetical rupture of a large liquid radiological waste tank at the Palisades site should such an event occur. Therefore, the NRC staff concludes that the application of the current requirements in 10 CFR 50.54(w)(1) to maintain $1.06 billion in onsite insurance coverage is not necessary to achieve the underlying purpose of the rule for the permanently shutdown and defueled Palisades reactor.

Under 10 CFR 50.12(a)(2)(iii), special circumstances are present whenever compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated.

The NRC staff concludes that if the licensee was required to continue to maintain an onsite insurance level of

$1.06 billion, the associated insurance premiums would be in excess of those necessary and commensurate with the radiological contamination risks posed by the site. In addition, such insurance levels would be significantly in excess of other decommissioning reactor facilities that have been granted similar exemptions by the NRC.

The NRC staff finds that compliance with the existing rule would result in an undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted and are significantly in excess of those incurred by others similarly situated. Therefore, the special circumstances required by 10 CFR 50.12(a)(2)(ii) and 10 CFR 50.12(a)(2)(iii) exist.

E. Environmental Considerations

The NRC's approval of an exemption from insurance or indemnity requirements belongs to a category of actions that the Commission, by rule or regulation, has declared to be a categorical exclusion after first finding that the category of actions does not individually or cumulatively have a significant effect on the human environment. Specifically, the exemption is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement in accordance with 10 CFR 51.22(c)(25).

Under 10 CFR 51.22(c)(25), granting of an exemption from the requirements of any regulation of Chapter I to 10 CFR is a categorical exclusion provided that: (i) there is no significant hazards consideration; (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involve surety, insurance, or indemnity requirements.

As the Director of the Division of Decommissioning, Uranium Recovery, and Waste Programs in the NRC's Office of Nuclear Material Safety and Safeguards, I have determined that approval of the exemption request involves no significant hazards consideration, as defined in 10 CFR 50.92, because reducing the licensee's onsite property damage insurance for Palisades does not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The exempted financial protection regulation is unrelated to the operation of Palisades or site activities. Accordingly, there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite and no significant increase in individual or cumulative public or occupational radiation exposure. The exempted regulation is not associated with construction so there is no significant construction impact. The exempted regulation does not concern the source term (*i.e.,* potential amount of radiation in an accident) nor any activities conducted at the site. Therefore, there is no significant increase in the potential for, or consequences of, a radiological accident. In addition, there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region resulting from issuance of the requested exemption. The requirement for onsite property damage insurance involves surety, insurance, and indemnity matters only.

Therefore, pursuant to 10 CFR 51.22(b) and 51.22(c)(25), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present as set forth in 10 CFR 50.12.

Therefore, the Commission hereby grants Holtec Palisades and HDI an exemption from the requirements of 10 CFR 50.54(w)(1) for Palisades. Palisades permanently ceased power operations on May 20, 2022. The exemption permits Palisades to lower the minimum required onsite insurance to $50 million 12 months after permanent cessation of power operations, which was May 20, 2023. Because this period had already elapsed, the exemption is effective upon issuance.

Dated this 21st day of December, 2023.

For the Nuclear Regulatory Commission.

Jane Marshall,

Director, Division of Decommissioning, Uranium, Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2023–28909 Filed 1–2–24; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2024–132 and CP2024–138; MC2024–135 and CP2024–141; MC2024–136 and CP2024–142; MC2024–137 and CP2024–143; MC2024–138 and CP2024–144; MC2024–139 and CP2024–145; MC2024–140 and CP2024–146; MC2024–141 and CP2024–147; MC2024–142 and CP2024–148; MC2024–143 and CP2024–149; MC2024–144 and CP2024–150]

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:* January 4, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each

request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2024–132 and CP2024–138; *Filing Title:* USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Contract 32 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 26, 2023; *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:* January 4, 2024.

2. *Docket No(s).:* MC2024–135 and CP2024–141; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 39 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 22, 2023; *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:* January 4, 2024.

3. *Docket No(s).:* MC2024–136 and CP2024–142; *Filing Title:* USPS Request to Add USPS Ground Advantage & Parcel Select Contract 1 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 22, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* January 4, 2024.

4. *Docket No(s).:* MC2024–137 and CP2024–143; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 154 to Competitive Product List of Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 22, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* January 4, 2024.

5. *Docket No(s).:* MC2024–138 and CP2024–144; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 155 to Competitive Product List of Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 22, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* January 4, 2024.

6. *Docket No(s).:* MC2024–139 and CP2024–145; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, USPS Ground Advantage & Parcel Select Contract 3 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 22, 2023; *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:* January 4, 2024.

7. *Docket No(s).:* MC2024–140 and CP2024–146; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, USPS Ground Advantage & Parcel Select Contract 2 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 22, 2023; *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:* January 4, 2024.

8. *Docket No(s).:* MC2024–141 and CP2024–147; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 156 to Competitive Product List of Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 26, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* January 4, 2024.

9. *Docket No(s).:* MC2024–142 and CP2024–148; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 157 to Competitive Product List of Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 26, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* January 4, 2024.

10. *Docket No(s).:* MC2024–143 and CP2024–149; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 158 to Competitive Product List of Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 26, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Arif Hafiz; *Comments Due:* January 4, 2024.

11. *Docket No(s).:* MC2024–144 and CP2024–150; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 159 to Competitive Product List of Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 26, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Arif Hafiz; *Comments Due:* January 4, 2024.

This Notice will be published in the **Federal Register**.

Mallory Richards,

Federal Register Liaison.

[FR Doc. 2023–28869 Filed 1–2–24; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

International Product Change—Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: Date of notice: January 3, 2024.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

[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).

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 27, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 33 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2024–145 and CP2024–151.

Sarah Sullivan,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2023–28933 Filed 1–2–24; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35083; File No. 812–15429]

AB CarVal Opportunistic Credit Fund, et al.

December 27, 2023.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of application for an order under section 17(d) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by section 17(d) of the Act and rule 17d–1 under the Act.

Summary of Application: Applicants request an order to permit certain closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

Applicants: AB CarVal Opportunistic Credit Fund; AB CarVal Investors, L.P.; CarVal CLO Management, LLC; CarVal Investors GB LLP; CarVal Investors Pte, Ltd,; CarVal Wengsheng Private Fund Management (Shanghai) Co., Ltd; CarVal CCF US Corporation; CarVal Contingent Credit Fund LP; Centre Street CarVal Partnership LP; CarVal CSC US Corporation; CVI EMCOF US, LLC; CVI AIF Cayman Securities Ltd; CVI AIF Master Fund I LP; CVI AIF Master Fund II LP; CarVal CCF Luxembourg S.A R.L.; CarVal CCF Singapore Subfund; CarVal CCOF Luxembourg S.A R.L.; CVI CCOF Cayman Finance Corporation; CVI CCOF Cayman Securities Ltd; CVI CCOF Master Fund I LP; CVI CCOF Singapore Subfund; CVI CEF Cayman Securities Ltd; CVI CEF Luxembourg S.A R.L.; CVI CEF Master Fund I LP; CVI CEF Master Fund II LP; CVI CEF Master Fund III LP; CVI CEF Master Fund IV LP; CVI CEF II Master Fund I LP; CVI CEF II Master Fund II LP; CVI CEF II Master Fund III LP; CVI CEF II Master Fund IV LP; CVI CEF II Pooling Fund I LP; CVI CEF II Pooling Fund II LP; CVI CEF II Pooling Fund III LP; CVI CEF II Pooling Fund IV LP; CVI CEF II Cayman Finance Corporation; CVI CEF II Cayman Securities Ltd; CVI CEF II Luxembourg S.A R.L.; CarVal CLO I Ltd.; CarVal CLO II Ltd.; CarVal CLO III Ltd.; CarVal CLO IV Ltd.; CarVal CLO V–C Ltd.; CarVal CLO VII–C Ltd.; CarVal CSC Cayman Securities Ltd; CarVal CSC Cayman Finance Corporation; CarVal CSC Luxembourg S.A R.L.; CVI CSF US LLC; CVI CSF Cayman Finance Corporation; CVI CSF Master Fund I LP; CVI CSF Master Fund II LP; CVI CSF Master Fund III LP; CVI CSF Cayman Securities LP; CVI CSF Luxembourg S.A R.L.; CVI CVF IV Lux Master S.A R.L.; CVI CVF IV Master Fund I LP; CVI CVF IV Master Fund II LP; CVI CVF IV Master Fund III LP; CVI CVF IV Master Fund IV, LLC; CVI CVF IV Cayman Finance Corporation; CVI CVF IV Cayman Securities Ltd; CVI CVF IV Singapore Subfund; CVI Group Pooling RAIF S.C.A.–CVF V Sub-Fund; CVI CVF V Master Fund I LP; CVI CVF V Master Fund II LP; CVI CVF V Master Fund III LP; CVI CVF V Master Fund IV LP; CVI CVF V Pooling Fund I LP; CVI CVF V Pooling Fund II LP; CVI CVF V Pooling Fund III LP; CVI CVF V Cayman Finance Corporation; CVI CVF V Cayman Securities Ltd; CVI CVF V Renewables, LLC; CVI CVF V Singapore Subfund; CVI CVF VI Master Fund I LP; CVI CVF VI Master Fund II LP; CVI CVF VI Master Fund III LP; CVI CVF VI Pooling Fund I LP; CVI CVF VI Pooling Fund II LP; CVI CVF VI Pooling Fund III LP; CVI CVF VI Cayman Finance Corporation; CVI CVF VI Cayman Securities LP; CVI CVF VI Renewables, LLC; CVIC Cayman Holdings GP Corporation; CVIC Cayman Finance Corporation; CVIC Cayman Securities Ltd; CVIC Lux Finance S.A R.L.; CVIC Master Fund II, LLC; CVIC Master Fund III, LLC; CVIC Master Fund IV LP; CVIC Master Fund LP; CVIC Singapore Subfund; CVIC US Holdings II LP; CVIC Lux Securities Trading S.A R.L.; CVI EMCOF Lux S.A R.L.; CVI EMCOF Cayman Finance Corporation; CVI EMCOF Cayman Securities Ltd; CVI EMCOF Master Fund LP; CVI EMCOF Singapore Subfund; CVI GOF Cayman Securities Ltd; Britannica Recoveries S.A R.L.; Bohai Investment Holdings S.A R.L.; Insubria S.A R.L.; Mincio S.A R.L.; Lienza GP S.A R.L.; CVF III Mortgage Loan Trust II; CVF III Residential Investments II LLC; CVF III Mortgage Loan II Holdings LP; CVI CGS Mortgage Loan Trust I; CVI GCS Residential Investments I LLC; CVI CGS Mortgage Loan I Holdings LP; CVI LCF Mortgage Loan Trust I; CVI LCF Residential Investments I LLC; CVI SGP Acquisition Trust; CVI SGP–CO Acquisition Trust; CVI SGP LLC; Mill City Mortgage Loan Trust; CVI MC Residential Investments A LLC; CVI MC Residential Investments I LLC; Mill City Acquisition Holdings LP; Mill City Investment Holdings LP; Lyndale Holdings Limited; CVI Investment Holdings Limited; CVI AGL AssetCo Holdings, LLC; CVI VGY DevCo Holdings, LLC; CVI VGY Holdings, LLC; CVI Funding (TRS) I, LLC; CVI Loan Sub Holdings IV, LLC; CVI Loan Sub Holdings V, LLC; CVI SL Investment Trust; CVI SL Investment Trust II; CVI SKP FF Acquisition Trust; CVI SA1Senior Loan Holdings, LLC; CVI SKP Equity Holdings, LLC; Lyndale Investment Holdings LP; Mill City Holdings LLC; CVI REIT I, LLC; CarVal CCF Cayman Finance Corporation; CarVal CCF Cayman Securities Ltd; CarVal CLO VI–C Ltd.; CarVal CLO VIII–C Ltd.; CarVal CLO IX–C Ltd.; CVI CVF IV Lux Finance S.A R.L.; CVI CVF IV Lux Sub Holdings S.A R.L.; CVI CVF IV Lux Holdings S.A R.L.; CVI CVF IV Lux Securities S.A R.L.; CVI CVF IV Luxembourg S.A R.L.; CVIC Lux Master S.A R.L.; AB CarVal Euro CLO I–C Designated Activity Company; Shanghai CarVal Wensheng Equity Investment Partnership Enterprise (Limited Partnership); Lienza SCSp; Aergo Holdings Limited; Aergo Leasing II Limited; CVI Mezz Loan Sub Holdings VII, LLC; CVI SS CRE Holdings, LLC; CVI SA3 Senior Loan Holdings, LLC; Tesnik Tres Holdings Limited; CVI SL Investment Trust III; CVI SL FF Holdings, LLC; Wellington Lease Holding Limited; Wellington Lease Turbo Limited.

Filing Dates: The application was filed on January 27, 2023, and amended on June 28, 2023 and September 15, 2023.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on January 18, 2024 and should be accompanied by proof of service on the Applicants, in the form

of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Matthew Bogart *matthew.bogart@abcarval.com,* Kenneth Young *ken.young@dechert.com,* William J. Bielefeld *william.bielefeld@dechert.com,* and Matthew Barsamian *matthew.barsamian@dechert.com.*

FOR FURTHER INFORMATION CONTACT: Priscilla Dao, Senior Counsel, or Robert Shapiro, Assistant Director, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' second amended and restated application, dated September 15, 2023, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system.

The SEC's EDGAR system may be searched at *http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Christina Z. Milnor,

Assistant Secretary.

[FR Doc. 2023–28867 Filed 1–2–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99247; File No. SR–CboeBZX–2023–063]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Adopt an Alternative to the Minimum $4 Price Requirement for Companies Seeking To List Tier II Securities on the Exchange

December 27, 2023.

On September 19, 2023, Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt an alternative to the minimum $4 price requirement for companies seeking to list Tier II securities on the Exchange. The proposed rule change was published for comment in the **Federal Register** on October 2, 2023.[3] On November 6, 2023, 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 determine whether to disapprove the proposed rule change.[5] The Commission received two comments letters on the proposed rule change.[6] This order institutes proceedings under Section 19(b)(2)(B) of the Act[7] to determine whether to approve or disapprove the proposed rule change.

I. Summary of the Proposed Rule Change[8]

The Exchange proposes to adopt an alternative to the current minimum $4 price requirement for companies seeking to list securities on Tier II of the Exchange that are excluded from the definition of a ''penny stock'' under Exchange Act Rule 3a51–1(g) (the ''Penny Stock Rule'').[9] Specifically, under proposed Exchange Rule 14.9(b)(1)(A)(ii), a company whose security maintains a $2 or $3 closing price for at least five consecutive business days prior to approval would qualify for listing as a Tier II security, if among other things, it meets the net tangible assets or average revenue tests of the alternative penny stock exclusion set forth in Exchange Act Rule 3a51–1(g)[10] and meets all existing listing standards except for the $4 price requirement. Such a company must instead have a minimum $3 price if it qualifies under the $5 million equity[11] or $750,000 net income alternatives[12] or a minimum $2 price if it qualifies under the $50 million market value of listed securities alternative.[13] In addition, a company qualifying under the proposed standard must have either: (a) net tangible assets in excess of $2 million, if the company has been in continuous operation for at least three years; or (b) net tangible assets in excess of $5 million, if the company has been in continuous operation for less than three years; or (c) average revenue of at least $6 million for the last three years. For this purpose, net tangible assets or revenue must be demonstrated on the company's most recently filed audited financial statements, satisfying the requirements of the Commission, and which are dated less than 15 months prior to the date of listing.[14]

As proposed under new Interpretation and Policies .01(a) to Exchange Rule 14.9, an Exchange-listed security could become subject to the Penny Stock Rule following initial listing if it no longer meets the tangible assets or average revenue tests of the alternative exclusion and does not qualify for another exclusion under the penny stock rules. Further, unlike securities listed under the Exchange's existing initial standards, which have a blanket exclusion from the Penny Stock Rule, broker-dealers that effect recommended transactions in securities that originally qualified for listing under the Exchange's alternative price standard would, among other things, under Exchange Act Rule 3a51–1(g), need to

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 98532 (Sept. 26, 2023) 88 FR 67852.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 98860, 88 FR 77647 (Nov. 13, 2023). The Commission designated December 31, 2023 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] Comments received on the proposed rule change are available at: *https://www.sec.gov/comments/sr-cboebzx-2023-063/srcboebzx2023063.htm.*

[7] 15 U.S.C. 78s(b)(2)(B).

[8] For a full description of all aspects of the proposed rule change, please see the Notice, *supra* note 3.

[9] 17 CFR 240.3a51–1(g).

[10] *See* 17 CFR 240.3a51–1(g). A company seeking to qualify under only the Market Value of Listed Securities Standard would, among other things, also be required to maintain for 90 consecutive trading days the market value of its listed securities at $50 million and the $2 price requirement prior to applying to list under the alternative standard. *See* proposed Exchange Rule 14.9(b)(2)(B). Under the Market Value of Listed Securities Standard, a company would need to achieve, among other things: (A) market value of listed securities of at least $50 million (current publicly traded issuers must meet this requirement and the price requirement for 90 consecutive trading days prior to applying for listing if qualifying to list only under the market value of listed securities standard); (B) stockholders' equity of at least $4 million; and (C) market value of publicly held shares of at least $15 million. The Exchange proposes to revise Rule 14.9(b)(2)(B) in order to make it consistent with the proposal. In particular, Rule 14.9(b)(2)(B)(i) would be revised to delete the specific reference to $4 bid price requirement, since an issuer seeking to initially list its securities under the Market Value of Listed Securities Standard using the proposed alternative price requirement would have to maintain a closing price of at least $2 per share for 90 consecutive trading days.

[11] *See* Exchange Rule 14.9(b)(2)(A).

[12] *See* Exchange Rule 14.9(b)(2)(C).

[13] *See* proposed Exchange Rule 14.9(b)(2)(B).

[14] The Exchange states that the proposed rule adopts the 15-month requirement to assure consistency with the timing requirements contained in Exchange Act Rule 3a51–1(g).

review current financial statements of the issuer to verify that it meets the applicable net tangible assets or average revenue test, have a reasonable basis for believing they remain accurate, and preserve copies of those financial statements as part of its records. As provided in proposed Interpretation and Policies .01 to Rule 14.9, in order to assist brokers' and dealers' compliance with the requirements of the Penny Stock Rule, the Exchange would monitor companies listed under the proposed alternative and publish a list of any company that initially listed under that requirement, which does not then meet the requirements of Exchange Act Rule 3a51–1(g), described above, or any of the other exclusions from being a penny stock contained in Rule 3a51–1.[15] Such list would be updated on a daily basis.[16]

If a company initially lists its security with a bid price below $4 under the alternative requirement contained in Rule 14.9(b)(1)(A)(ii), but subsequently achieves a $4 closing price for at least five consecutive business days and, at the same time, satisfies all other initial listing criteria, it would no longer be considered as having listed under the alternative requirement and the Exchange would notify the Company that it has qualified for listing under the price requirement contained in Rule 14.9(b)(1)(A)(i).[17] If a security obtains a $4 closing price, the Exchange would determine whether the security meets all other initial listing requirements for Tier II securities, including both the quantitative and qualitative requirements.[18] If the security meets all initial Tier II listing requirements, it would satisfy the requirements for the exclusion contained in Rule 3a51–1(a)(2) and would no longer be monitored by the Exchange for compliance with the other exclusions from the definition of a penny stock. Proposed Interpretations and Policies .01(a) to Exchange Rule 14.9 would remind brokers and dealers that the list published by the Exchange is only an aid and that the Penny Stock Rule imposes specific obligations on brokers and dealers with respect to transactions in penny stocks. Proposed Interpretation and Policy .01(b) to Exchange Rule 14.9 provides that the proposed alternative price test will be based on the BZX Official Closing Price[19] in the security.

The Exchange also proposes that the required closing price must be achieved for at least five consecutive business days before approval of the listing application.[20] The Exchange may extend the minimum five-day compliance period required to satisfy these tests based on any fact or circumstance, including the margin of compliance, the trading volume, the trend of the security's price, or information or concerns raised by other regulators concerning the trading of the security.[21] The Exchange states that requiring the minimum $2 or $3 closing price to be maintained for a period of five days (as opposed to one day) should reduce the risk that some might attempt to manipulate or otherwise artificially inflate the closing price in order to allow a security to qualify for listing. In addition, the Exchange represents that it will exercise its discretionary authority to deny initial listing if there are particular concerns about a company, such as its ability to maintain compliance with continued listing standards or if there are other public interest concerns.[22]

II. Proceedings To Determine Whether To Approve or Disapprove SR–CboeBZX–2023–063 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[23] 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 proposal. 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 additional comment on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[24] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the consistency of the proposal with Sections 6(b)(5)[25] and 6(b)(8)[26] of the Act. Section 6(b)(5) of the Act requires that the rules of a national securities exchange be designed, among other things, 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Section 6(b)(8) of the Act requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Commission has consistently recognized the importance of exchange listing standards. Among other things, such listing standards help ensure that exchange-listed companies will have sufficient public float, investor base, and trading interest to provide the depth and liquidity necessary to promote fair and orderly markets.[27] Under the

[15] The Exchange believes that the other exclusion most likely to be implicated would be Rule 3a51–1(d), 17 CFR 240.3a51–1(d), which provides an exclusion from the definition of a penny stock for a security with a minimum bid price of $5. However, the Exchange states that if a Company obtains a $4 minimum bid price at a time when it meets all other initial listing requirements, the Exchange would no longer consider the company as having listed under the proposed alternative standard.

[16] *See* proposed Interpretations and Policies .01(a) to Exchange Rule 14.9.

[17] *See id.*

[18] The security would have to meet the $4 bid price requirement contained in proposed Exchange Rule 14.9(b)(1)(A)(i). In addition, proposed Rule 14.9(b)(2)(B) requires a company qualifying only under the Market Value of Listed Securities requirement to satisfy that requirement and the price requirement for 90 consecutive trading days prior to applying for listing. Such a company would have to achieve a $4 bid price for 90 consecutive trading days and a $4 closing price for five days, although these periods may overlap.

[19] *See* Exchange Rule 11.23(a)(3). As provided in Exchange Rule 11.23(c)(2)(B), ''[f]or a BZX-listed corporate security, the Closing Auction price will be the BZX Official Closing Price. In the event that there is no Closing Auction for a BZX-listed corporate security, the BZX Official Closing Price will be the price of the Final Last Sale Eligible Trade. *See* Exchange Rule 11.23(a)(9) for the definition of ''Final Last Sale Eligible Trade.''

[20] *See* proposed Interpretations and Policies .01(b) to Exchange Rule 14.9. The Exchange states that it will work with FINRA to adopt surveillance procedures to monitor securities listed under the proposed alternative as they approach $4. *See* Notice, *supra* note 3, at 67853. According to the Exchange, these procedures will be designed to identify anomalous trading that could be indicative of potential manipulation of the price. *See id.*

[21] *See* proposed Interpretations and Policies .01(b) to Exchange Rule 14.9.

[22] *See* Exchange Rule 14.2. *See also* Notice, *supra* note 3, at 67854.

[23] 15 U.S.C. 78s(b)(2)(B).

[24] *Id.*

[25] 15 U.S.C. 78f(b)(5).

[26] 15 U.S.C. 78f(b)(8).

[27] The Commission has stated in approving exchange listing requirements that the development and enforcement of adequate standards governing the listing of securities on an exchange is an activity of critical importance to the financial markets and the investing public. In addition, once a security has been approved for initial listing, maintenance criteria allow an exchange to monitor the status and trading characteristics of that issue to ensure that it continues to meet the exchange's standards for market depth and liquidity so that fair and orderly markets can be maintained. *See, e.g.,* Securities Exchange Act Release No. 91947 (May 19, 2021), 86 FR 28169 (May 25, 2021) (SR–NASDAQ–2020–057); Securities Exchange Act Release Nos. 90768 (Dec. 22, 2020), 85 FR 85807, 85811 n.55 (Dec. 29, 2020) (SR–NYSE–2019–67) (''NYSE 2020 Order''); 82627

proposed rule change, shares subject to resale restrictions (''Restricted Securities'') are counted in the calculations of the company's publicly held shares, market value of publicly held shares, and round lot holder. The Commission believes that a company's publicly held shares, market value of publicly held shares, and the number of round lot holders are indicators of the liquidity of its shares. To the extent Restricted Securities are counted when calculating a company's publicly held shares, market value of publicly held shares, and round lot holders, the company's shares could be less liquid, potentially making them more susceptible to price manipulation.

Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the [Exchange Act] and the rules and regulations issued thereunder . . . is on the [SRO] that proposed the rule change.'' [28] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[29] and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the applicable rules and regulations.[30] The Commission is instituting proceedings to allow for additional consideration and comment on the issues raised herein.

III. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their data, views, 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 proposed rule change is consistent with the Exchange 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 data, views, and arguments, the Commission will consider, pursuant to Rule 19b–4 under the Act,[31] any request for an opportunity to make an oral presentation.[32]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by January 24, 2024. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by February 7, 2024.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBZX–2023–063 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–2023–063. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2023–063 and Should be submitted by January 24, 2024. Rebuttal comments should be submitted by February 7, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Christina Z. Milnor,

Assistant Secretary.

[FR Doc. 2023–28868 Filed 1–2–24; 8:45 am]

BILLING CODE 8011–01–P

(Feb. 2, 2018), 83 FR 5650, 5653 n.53 (Feb. 8, 2018) (SRNYSE–2017–30) (''NYSE 2018 Order''); 81856 (Oct. 11, 2017), 82 FR 48296, 48298 (Oct. 17, 2017) (SR–NYSE–2017–31); 81079 (July 5, 2017), 82 FR 32022, 32023 (July 11, 2017) (SR–NYSE–2017–11). The Commission has stated that adequate listing standards, by promoting fair and orderly markets, are consistent with Section 6(b)(5) of the Exchange Act, in that they are, among other things, designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and protect investors and the public interest. *See, e.g.,* NYSE 2020 Order, 85 FR at 85811 n.55; NYSE 2018 Order, 83 FR at 5653 n.53; Securities Exchange Act Release Nos. 87648 (Dec. 3, 2019), 84 FR 67308, 67314 n.42 (Dec. 9, 2019) (SR–NASDAQ–2019–059); 88716 (Apr. 21, 2020), 85 FR 23393, 23395 n.22 (Apr. 27, 2020) (SR–NASDAQ–2020–001).

[28] 17 CFR 201.700(b)(3).

[29] *See id.*

[30] *See id.*

[31] 17 CFR 240.19b–4.

[32] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29 (Jun. 4, 1975), grants to 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 Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[33] 17 CFR 200.30–3(a)(57).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2023–1114]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Noise Certification Standards for Subsonic Jet Airplanes and Subsonic Transport Category Large Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on May 8, 2023.

DATES: Written comments should be submitted by February 2, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Sandy Liu by email at: *sandy.liu@faa.gov;* phone: 202–267–4748.

SUPPLEMENTARY INFORMATION: The collection involves the noise certification regulations of 14 CFR part 36 for aircraft. This includes information collection requirements for the noise certification of subsonic aircraft—jet airplanes and subsonic transport category large airplanes, small propeller driven airplanes and rotorcraft. The information collected are the results of noise certification tests that demonstrate compliance with 14 CFR part 36. The original information collection was implemented to show compliance in accordance with the Aircraft Noise Abatement Act of 1968; that statute is now part of the overall codification of the FAA's regulatory authority over aircraft noise in 49 U.S.C. 44715. The noise compliance report is used by the FAA in making a finding that the airplane is in noise compliance with the regulations. These compliance reports are required only once when an applicant wants to certificate an aircraft type. Without this data collection, the FAA would be unable to make the required noise certification compliance finding.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0659.

Title: Noise Certification Standards for Subsonic Jet Airplanes and Subsonic Transport Category Large Airplanes.

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on May 8, 2023 (FR 29801). The aircraft noise information collected are the results of noise certification tests that demonstrate compliance with 14 CFR part 36. The original information collection was implemented to show compliance in accordance with the Aircraft Noise Abatement Act of 1968; that statute is now part of the overall codification of the FAA's regulatory authority over aircraft noise in 49 U.S.C. 44715. For this renewal, the FAA proposes to maintain this PRA collection at 14 total noise certification projects per year. Each applicant's collected information is incorporated into a noise compliance report that is provided to and approved by the FAA. The noise compliance report is used by the FAA in making a finding that the airplane is in noise compliance with the regulations. These compliance reports are required only once when an applicant wants to certificate an aircraft type. Without this data collection, the FAA would be unable to make the required noise certification compliance finding.

Respondents: Aircraft manufacturer/applicant seeking type certification;

Frequency: Estimated 15 total applicants per year;

Estimated Average Burden per Response: Estimated 200 hours per applicant for the compliance report;

Estimated Total Annual Burden: $20,160 per applicant or cumulative total $302,400 per year for 15 applicants.

Issued in Washington, DC, on December 28, 2023.

Sandy Liu,

Engineer, Office of Environment and Energy, Noise Division (AEE–100).

[FR Doc. 2023–28897 Filed 1–2–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA–2022–0547; Summary Notice No.–2023–48]

Petition for Exemption; Summary of Petition Received; Equinox Innovative Systems

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

ACTION: Notice; extension of comment period.

SUMMARY: On December 14, 2023, the Federal Aviation Administration (FAA) published a notice in the **Federal Register** containing a summary of a petition from Equinox Innovative Systems seeking relief from specified requirements of Federal Aviation Regulations. The FAA is extending the comment period for this petition for exemption to allow commenters additional time to analyze the petition and prepare a response.

DATES: The comment period for the notice published December 14, 2023 at 88 FR 86718 and scheduled to close on January 3, 2024, is extended until January 10, 2024. Comments on this petition must identify the petition docket number.

ADDRESSES: Send comments identified by docket number FAA–2022–0547 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *https://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.*

Docket: Background documents or comments received may be read at *https://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Alexander Kem at (202) 267–7571, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on December 28, 2023.

Brandon Roberts,

Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2022–0547.

Petitioner: Equinox Innovative Systems.

Section(s) of 14 CFR Affected: §§ 21 Subpart H, 61.3(a)(1)(i), 91.103(b)(2), 91.105, 91.107, 91.119, 91.121, 91.151(b), 91.405(a), 91.407(a)(1), 91.409(a)(1), 91.409(a)(2), 91.417(a), and 91.417(b).

Description of Relief Sought: On December 14, 2023, the FAA published in the **Federal Register** a notice seeking comment regarding a petition for exemption from Equinox Innovative Systems (88 FR 86718). The petitioner seeks an exemption to conduct commercial flight operations with the Falcon Heavy tethered unmanned aircraft system (UAS). The comment period for this petition for exemption was to close January 3, 2024.

Subsequently, the FAA received a request from the Transport Workers Union of America (TWU) to extend the comment period. The TWU noted its vested interest in this petition for exemption, and further noted the upcoming Federal holidays during which its offices would be closed. Given that this petition could be precedent setting and lead to similar exemption requests from other petitioners, the TWU requested an extension to ensure ample time to scrutinize and respond to this petition.

The FAA grants the petitioner's request for an extension of the comment period. The FAA recognizes the precedent-setting potential of the petition for exemption and that an extension would help commenters craft complete and thoughtful responses. The FAA agrees that a one-week extension is appropriate. With this extension, the comment period will now close on January 10, 2024. The FAA will not grant any additional requests to further extend the comment period for this petition for exemption.

Extension of Comment Period

This notice extends the comment period for Notice No. 23–48, published December 14, 2023, at 88 FR 86718 from January 3, 2024 until January 10, 2024.

[FR Doc. 2023–28952 Filed 1–2–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2023–0025]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 10 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

DATES: The exemptions are applicable on January 3, 2024. The exemptions expire on January 3, 2026.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001, (202) 366–4001, *fmcsamedical@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number (FMCSA–2023–0025) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Older-Newer),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov.* As described in the system of records notice DOT/ALL 14 (Federal Docket Management System), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices,* the comments are searchable by the name of the submitter.

II. Background

On November 24, 2023, FMCSA published a notice announcing receipt of applications from 10 individuals requesting an exemption from the hearing requirement in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (88 FR 82499). The public comment period ended on December 26, 2023, and one comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(11).

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid (35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 8, 1971), respectively).

III. Discussion of Comments

FMCSA received one comment in this proceeding. An anonymous individual commented in favor granting the individuals listed in this notice a hearing exemption as they believe being deaf should not negatively impact an individual's ability to drive commercially.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be

achieved absent such exemption. The statutes also allow the Agency to renew exemptions at the end of the 5-year period. However, FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on relevant scientific information and literature, and the 2008 Evidence Report, ''Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety.'' The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) no studies that examined the relationship between hearing loss and crash risk exclusively among CMV drivers were identified; and (2) evidence from studies of the private driver's license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System, for commercial driver's license (CDL) holders, and inspections recorded in the Motor Carrier Management Information System. For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency. Each applicant's record demonstrated a safe driving history. Based on an individual assessment of each applicant that focused on whether an equal or greater level of safety would likely be achieved by permitting each of these drivers to drive in interstate commerce, the Agency finds the drivers granted this exemption have demonstrated that they do not pose a risk to public safety.

Consequently, FMCSA finds further that in each case exempting these applicants from the hearing standard in § 391.41(b)(11) would likely achieve a level of safety equal to that existing without the exemption, consistent with the applicable standard in 49 U.S.C. 31315(b)(1).

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and include the following: (1) each driver must report any crashes or accidents as defined in § 390.5T; (2) each driver must report all citations and convictions for disqualifying offenses under 49 CFR parts 383 and 391 to FMCSA; and (3) each driver is prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 10 exemption applications, FMCSA exempts the following drivers from the hearing standard; in § 391.41(b)(11), subject to the requirements cited above:

Jesse Aguiar (AZ)
Antonio Brown (LA)
Daniel Crawford (VA)
Scott Humpal (CA)
Ryan King (NC)
Jordan Marqus (RI)
John Mast (OH)
Lacey McLaughlin (NC)
Barry Schmidt (CO)
Grover Vincent (TX)

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136, 49 U.S.C. chapter 313, or the FMCSRs.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2023–28885 Filed 1–2–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0443; FMCSA–2014–0380; FMCSA–2021–0025]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for three individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: The exemptions are applicable on January 10, 2024. The exemptions expire on January 10, 2026. Comments must be received on or before February 2, 2024.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2013–0443, Docket No. FMCSA–2014–0380, or Docket No. FMCSA–2021–0025 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number (FMCSA–2013–0443, FMCSA–2014–0380, or FMCSA–2021–0025) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click on the ''Comment'' button. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, (202) 366–4001, *fmcsamedical@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2013–0443, Docket No. FMCSA–2014–0380, or FMCSA–2021–0025), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov/,* insert the docket number (FMCSA–2013–0443, FMCSA–2014–0380, or FMCSA–2021–0025) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number (FMCSA–2013–0443, FMCSA–2014–0380, or FMCSA–2021–0025) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov.* As described in the system of records notice DOT/ALL 14 (Federal Docket Management System), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices,* the comments are searchable by the name of the submitter.

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statutes also allow the Agency to renew exemptions at the end of the 5-year period. However, FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

The three individuals listed in this notice have requested renewal of their exemptions from the epilepsy and seizure disorders prohibition in § 391.41(b)(8), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the three applicants has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition. The three drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous 2-year exemption period. In addition, for commercial driver's license (CDL) holders, the Commercial Driver's License Information System and the Motor Carrier Management Information System are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency. These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

As of January 10, 2023, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following three individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Phillip Halfmann (WI)
Ronald Hartl (WI)
Benjamin Reineke (OH)

The drivers were included in docket number FMCSA–2013–0443, FMCSA–2014–0380, or FMCSA–2021–0025. Their exemptions are applicable as of January 10, 2024 and will expire on January 10, 2026.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) each driver must remain seizure-free and maintain a stable treatment during the 2-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified ME, as

[1] These criteria may be found in APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. *Epilepsy:* § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

defined by § 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based on its evaluation of the three exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8). In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for 2 years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2023–28887 Filed 1–2–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2023–0026]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 10 individuals for an exemption from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions would enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

DATES: Comments must be received on or before February 2, 2024.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2023–0026 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number (FMCSA–2023–0026) in the keyword box and click ''Search.'' Next, choose the only notice listed, and click on the ''Comment'' button. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001, (202) 366–4001, *fmcsamedical@dot.gov.* Office hours are 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2023–0026), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *https://www.regulations.gov/docket/FMCSA-2023-0026.* Next, sort the results by ''Posted (Newer-Older),'' choose the only notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number (FMCSA–2023–0026) in the keyword box and click ''Search.'' Next, choose the only notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov.* As described in the system of records notice DOT/ALL 14 (Federal Docket Management System), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices,* the comments are searchable by the name of the submitter.

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statutes also allow the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The 10 individuals listed in this notice have requested an exemption from the hearing requirement in 49 CFR 391.41(b)(11). Accordingly, the Agency

will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, (35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 8, 1971), respectively).

On February 1, 2013, FMCSA announced in a Notice of Final Disposition titled, ''Qualification of Drivers; Application for Exemptions; National Association of the Deaf,'' (78 FR 7479), its decision to grant requests from 40 individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers. Since that time the Agency has published additional notices granting requests from hard of hearing and deaf individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers.

III. Qualifications of Applicants

Crystal Anderson-Grose

Crystal Anderson-Grose, 41, holds a class D driver's license in Massachusetts.

Ricardo Cabrera

Ricardo Cabrera, 40, holds a class E driver's license in Florida.

Cody DeVries

Cody DeVries, 19, holds a class C driver's license in Texas.

Elexis Fernandez Quian

Elexis Fernandez Quian, 30, holds a class A commercial driver's license (CDL) in Florida.

Joshua Grant

Joshua Grant, 51, holds a class A CDL in Maine.

Kennard Johnson

Kennard Johnson, 51, holds a class A CDL in Illinois.

Barbara Nacarelli

Barbara Nacarelli, 52, holds a class O driver's license in Nebraska.

Bridgette Nielson

Bridgette Nielson, 40, holds a class D driver's license in Utah.

Darrious Smith

Darrious Smith, 31, holds a class C driver's license in Texas.

Steven Warren

Steven Warren, 35, holds a class D driver's license in Arizona.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated under the **DATES** section of the notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2023–28886 Filed 1–2–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0122; FMCSA–2013–0123; FMCSA–2015–0326; FMCSA–2015–0329; FMCSA–2016–0003; FMCSA–2017–0058; FMCSA–2019–0111; FMCSA–2020–0024; FMCSA–2021–0015]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for 16 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates provided below. Comments must be received on or before February 2, 2024.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2013–0122, Docket No. FMCSA–2013–0123, Docket No. FMCSA–2015–0326, Docket No. FMCSA–2015–0329, Docket No. FMCSA–2016–0003, Docket No. FMCSA–2017–0058, Docket No. FMCSA–2019–0111, Docket No. FMCSA–2020–0024, or Docket No. FMCSA–2021–0015 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number (FMCSA–2013–0122, FMCSA–2013–0123, FMCSA–2015–0326, FMCSA–2015–0329, FMCSA–2016–0003, FMCSA–2017–0058, FMCSA–2019–0111, FMCSA–2020–0024, or FMCSA–2021–0015) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click on the ''Comment'' button. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001, (202) 366–4001, *fmcsamedical@dot.gov.* Office hours are 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2013–0122, Docket No. FMCSA–2013–0123, Docket No. FMCSA–2015–0326, Docket No. FMCSA–2015–0329, Docket No. FMCSA–2016–0003, Docket No. FMCSA–2017–0058, Docket No. FMCSA–2019–0111, Docket No. FMCSA–2020–0024, or Docket No. FMCSA–2021–0015), indicate the

specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov/,* insert the docket number (FMCSA–2013–0122, FMCSA–2013–0123, FMCSA–2015–0326, FMCSA–2015–0329, FMCSA–2016–0003, FMCSA–2017–0058, FMCSA–2019–0111, FMCSA–2020–0024, or FMCSA–2021–0015) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number (FMCSA–2013–0122, FMCSA–2013–0123, FMCSA–2015–0326, FMCSA–2015–0329, FMCSA–2016–0003, FMCSA–2017–0058, FMCSA–2019–0111, FMCSA–2020–0024, or FMCSA–2021–0015) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov.* As described in the system of records notice DOT/ALL 14 (Federal Docket Management System), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices,* the comments are searchable by the name of the submitter.

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statutes also allow the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, (35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 8, 1971), respectively).

The 16 individuals listed in this notice have requested renewal of their exemptions from the hearing standard in § 391.41(b)(11), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the 16 applicants has satisfied the renewal conditions for obtaining an exemption from the hearing requirement. The 16 drivers in this notice remain in good standing with the Agency. In addition, for commercial driver's license (CDL) holders, the Commercial Driver's License Information System and the Motor Carrier Management Information System are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency. These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each of these drivers for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of January and are discussed below. As of January 6, 2024, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following four individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Steven Andrews (FL)
John Brown (MN)
Jerry Doose (MN)
Donald Howton (AL)

The drivers were included in docket numbers FMCSA–2015–0326,

FMCSA–2015–0329, or FMCSA–2017–0058. Their exemptions are applicable as of January 6, 2024 and will expire on January 6, 2026.

As of January 8, 2024, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following three individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Matthew Burgoyne (MN)
Joshua Gelona (OK)
Eduardo Pedregal (TX)

The drivers were included in docket number FMCSA–2016–0003. Their exemptions are applicable as of January 8, 2024 and will expire on January 8, 2026.

As of January 14, 2024, and in accordance with 49 U.S.C. 31136(e) and

31315(b), the following four individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Geoffrey Canoyer (MN)
Chase Cooke (VA)
Douglas Gray (OR)
Sue Gregory (UT)

The drivers were included in docket numbers FMCSA–2013–0122, FMCSA–2013–0123, or FMCSA–2017–0058. Their exemptions are applicable as of January 14, 2024 and will expire on January 14, 2026.

As of January 21, 2024, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following five individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Mario Alvarado (CA)
Kevin Clickner (MI)
Herman Fleck (PA)
Matthew Honkanen (MN)
Michael Steffen (IN)

The drivers were included in docket numbers FMCSA–2017–0058, FMCSA–2019–0111, FMCSA–2020–0024, or FMCSA–2021–0015. Their exemptions are applicable as of January 21, 2024 and will expire on January 21, 2026.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) each driver must report any crashes or accidents as defined in § 390.5T; and (2) report all citations and convictions for disqualifying offenses under 49 CFR parts 383 and 391 to FMCSA; and (3) each driver prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements. Each exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 16 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in § 391.41(b)(11). In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for 2 years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2023–28888 Filed 1–2–24; 8:45 am]

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List December 28, 2023

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