FEDERAL REGISTER

Vol. 89 Thursday,
No. 12 January 18, 2024

Pages 3299–3532

OFFICE OF THE FEDERAL REGISTER

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

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

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

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

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

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

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

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

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

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

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–09512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

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

FEDERAL AGENCIES

Subscriptions:

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

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

Contents

Federal Register

Vol. 89, No. 12

Thursday, January 18, 2024

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

8 CFR
212.....3299
214.....3299
233.....3299

12 CFR
328.....3504
1209.....3331
1217.....3331
1250.....3331

14 CFR
25 (2 documents) 3333, 3335
39 (3 documents) ...3337, 3339, 3342

Proposed Rules:
25.....3364

16 CFR
1112.....3344
1250.....3344

27 CFR
16.....3351

31 CFR
380.....3352
591.....3353

33 CFR

Proposed Rules:
165.....3366

40 CFR
281.....3354
282.....3354

Proposed Rules:
281.....3368
282.....3368

50 CFR
635.....3361

Rules and Regulations

Federal Register
Vol. 89, No. 12
Thursday, January 18, 2024

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 212, 214, and 233

[Docket No. USCBP–2023–0020; CBP Dec. 23–07]

RIN 1651–AB37

Guam-Commonwealth of the Northern Mariana Islands (CNMI) Visa Waiver Program Automation and Electronic Travel Authorization; Creation of CNMI Economic Vitality & Security Travel Authorization Program (EVS–TAP)

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Interim final rule; request for comments.

SUMMARY: This rule amends the Department of Homeland Security regulations to require persons intending to travel to Guam or the Commonwealth of the Northern Mariana Islands (CNMI) under the Guam-CNMI Visa Waiver Program (G–CNMI VWP) to submit Form I–736 electronically in advance of travel and receive an electronic travel authorization prior to embarking on a carrier for travel to Guam or the CNMI. Under the current G–CNMI VWP regulations, a paper U.S. Customs and Border Protection (CBP) Form I–736 is presented to CBP upon arrival. This rule also establishes the CNMI Economic Vitality & Security Travel Authorization Program (EVS–TAP) as a restricted sub-program of the G–CNMI VWP. This program is being established based on recommendations made pursuant to consultations between the United States and the CNMI under Section 902 of the Covenant to Establish the Commonwealth of the Northern Mariana Islands in Political Union with the United States of America. Once implemented, the CNMI EVS–TAP will allow prescreened nationals of the People's Republic of China to travel to the CNMI without a visa under specified conditions.

DATES:

Effective date: This interim final rule is effective September 30, 2024.

Comment date: Comments must be received by March 18, 2024.

Implementation date: CNMI EVS–TAP will be implemented 45 days after publication of a subsequent notification in the **Federal Register**.

ADDRESSES: Please submit any comments, identified by docket number [USCBP–2023–0020], by the following method:

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

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Neyda Yejo, Office of Field Operations, U.S. Customs and Border Protection, (202) 344–2373, or via email at *Neyda.I.Yejo@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this interim final rule. The Department of Homeland Security (DHS) and CBP also invite comments that relate to the economic, environmental, or federalism effects that might result from this interim final rule. Comments that will provide the most assistance to CBP will reference a specific portion of the interim final rule, explain the reason for any recommended change, and include data,

information, or authority that supports the recommended change.

II. Background

A. Legal Authority

The Secretary of Homeland Security (Secretary) has broad authority to administer and enforce the immigration and naturalization laws of the United States. *See* section 103(a)(1) of the Immigration and Nationality Act of 1952 (INA) (Pub. L. 82–414, 66 Stat. 163), as amended (8 U.S.C. 1103(a)(1)); *see also* 6 U.S.C. 202. The Secretary is authorized to establish such regulations as the Secretary deems necessary to carry out this authority under the immigration laws. *See* INA sec. 103(a)(3) (8 U.S.C. 1103(a)(3)). Section 214(a)(1) of the INA specifically authorizes the Secretary to prescribe regulations specifying the period of admission and any conditions for the admission of nonimmigrants to the United States (8 U.S.C. 1184(a)(1)).[1]

The Secretary has authorized the Commissioner of U.S. Customs and Border Protection (CBP) to enforce and administer the immigration laws relating to the inspection and admission of noncitizens [2] seeking admission to the United States, including the authority to make admissibility determinations and set the duration, terms, and conditions of admission. *See* Delegation Order 7010.3, II.B.5 (Revision No. 03.1, Incorporating Change 1) (Nov. 25, 2019).

B. Guam-Commonwealth of the Northern Mariana Islands Visa Waiver Program (G–CNMI VWP)

On May 8, 2008, the Consolidated Natural Resources Act of 2008 (CNRA), Public Law 110–229, 122 Stat. 754, became law. Section 702 of the CNRA extended, subject to a transition period, the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) [3] and provides for a visa waiver program for travel to Guam or the CNMI.[4] Specifically, section 702(b)(3) of the CNRA amends the INA to provide for such visa waiver program, the G–CNMI VWP, and provides that all necessary regulations to implement the G–CNMI VWP shall be promulgated by the Secretary of Homeland Security, in consultation with the Secretary of the Interior and the Secretary of State.[5] Section 702(b)(3) of the CNRA directs that at a minimum the regulations should include a listing of all countries whose nationals may participate in the G–CNMI VWP, except that such regulations shall provide for a listing of any country from which the CNMI has received a significant economic benefit from the number of visitors for pleasure within the one-year period preceding the date of enactment of the CNRA, unless the Secretary of Homeland Security determines that such country's inclusion on such list would represent a threat to the welfare, safety, or security of the United States or its territories.[6] Section 702(b)(3) of the CNRA also provides that the promulgation of such regulations shall be considered a foreign affairs function for purposes of 5 U.S.C. 553(a), section 553(a) of the Administrative Procedure Act (APA), excepting such regulations from the rule making requirements, including notice and comment, detailed in 5 U.S.C. 553.[7] Section 702(b)(3) of the CNRA also provides for the addition of countries to the G–CNMI VWP, stating that the Governor of Guam and the Governor of the CNMI may request the Secretary of the Interior and the Secretary of Homeland Security to add a particular country to the list of countries whose nationals may obtain a visa waiver under the G–CNMI VWP, and the Secretary of Homeland Security may grant such request after consultation with the Secretary of the Interior and the Secretary of State, and may promulgate regulations with respect to the inclusion of that country and any special requirements the Secretary of Homeland Security, in the Secretary's sole discretion, may impose prior to allowing nationals of that country to obtain the visa waiver under the G–CNMI VWP.[8]

On January 16, 2009, DHS, through CBP, published an interim final rule (IFR) in the **Federal Register** (74 FR 2824) replacing the then-existing Guam Visa Waiver Program with the G–CNMI VWP and setting forth the requirements for nonimmigrant visitors seeking admission into Guam or the CNMI under the G–CNMI VWP. As directed by section 702(b)(3) of the CNRA,[9] DHS considered this rulemaking a foreign affairs function for purposes of section 553(a) of the APA and noted that consequently DHS was not ''required to provide prior public notice or an opportunity to comment.'' 74 FR at 2829. DHS ''nevertheless provid[ed] the opportunity for public comments'' prior to the implementation date of the G–CNMI VWP. 74 FR at 2824–5, 2829.

The January 2009 IFR provided that, beginning June 1, 2009, DHS would begin the administration and enforcement of the G–CNMI VWP. 74 FR at 2824, 2829. This program allows certain nonimmigrant visitors to seek admission for business or pleasure and solely for entry into and stay on Guam or the CNMI without a visa for a period of authorized stay not to exceed 45 days. Travelers from the following countries and geographic areas are eligible to participate in the G–CNMI VWP: Australia, Brunei, Hong Kong Special Administrative Region (Hong Kong), Japan, Malaysia, Nauru, New Zealand, Papua New Guinea, Republic of Korea, Singapore, Taiwan, and the United Kingdom. 8 CFR 212.1(q)(2)(ii).

On March 31, 2009, the Secretary of Homeland Security, after the necessary consultations, announced the delayed start of the transition period until November 28, 2009.[10] On May 28, 2009, a technical amendment to the January 2009 IFR was published in the **Federal Register** (74 FR 25387), extending the implementation date of the G–CNMI VWP from June 1, 2009 to November 28, 2009. DHS noted that, as indicated in the January 2009 IFR, pursuant to section 702(b) of the CNRA, the implementation of the G–CNMI VWP is considered a foreign affairs function for purposes of section 553(a) of the APA, and that accordingly, this technical amendment to the IFR was statutorily

[1] *See also* sections 402, 1512, and 1517 of the Homeland Security Act of 2002 (Pub. L. 107–296, 116 Stat. 2142, 2187), as amended (6 U.S.C. 202, 552, and 557) (regarding transfer of authority to enforce immigration laws and prescribe regulations necessary to carry out that authority from the Attorney General to the Secretary).

[2] For purposes of this document, CBP uses terms such as ''traveler,'' ''individual,'' and ''noncitizen'' in place of the term ''alien.'' However, DHS regulations continue to use the term ''alien,'' as defined by the INA. *See* INA sec. 101(a)(3) (8 U.S.C. 1101(a)(3)).

[3] Section 702(a) of the CNRA. *See* section 6 of the Joint Resolution entitled ''A Joint Resolution to approve the 'Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America', and for other purposes'', approved Mar. 24, 1976 (Pub. L. 94–241, 90 Stat. 263), as amended (48 U.S.C. 1806).

[4] Section 702(b) of the CNRA. *See* sections 212 and 214 of the INA (8 U.S.C. 1182 and 1184).

[5] INA sec. 212(l)(1), (3) (8 U.S.C. 1182(l)(1), (3)). Although section702 (b)(3) of the CNRA also provides that such regulations shall be promulgated on or before the 180th day after the date of enactment of the CNRA, DHS has interpreted this timeline to only apply to the initial implementing regulations and that it does not prevent DHS from promulgating amendments to the regulations under this section now.

[6] INA sec. 212(l)(3) (8 U.S.C. 1182(l)(3)).

[7] INA sec. 212(l)(3) (8 U.S.C. 1182(l)(3)).

[8] INA sec. 212(l)(6) (8 U.S.C. 1182(l)(6)).

[9] INA sec. 212(l)(3) (8 U.S.C. 1182(l)(3)).

[10] Section 702(a) of the CNRA provides that the Secretary of Homeland Security, in consultation with the Secretary of the Interior, the Secretary of Labor, the Secretary of State, the Attorney General, and the Governor of the CNMI, may delay the transition program effective date for up to 180 days. 122 Stat. at 855 (section 6(a)(3)(A) of Public Law 94–241, as amended (48 U.S.C. 1806(a)(3)(A))).

exempt from the requirements of the APA. 74 FR at 25387.

On March 23, 2011, another amendment to the January 2009 IFR was published as an interim final rule in the **Federal Register** (76 FR 16231), clarifying that individuals holding British National (Overseas) (BN(O)) passports as a result of their connection to the Hong Kong Special Administrative Region (Hong Kong) are eligible for participation in the G–CNMI VWP. Again, DHS noted that like the January 2009 IFR, this 2011 IFR was implementing the G–CNMI VWP and should be considered a foreign affairs function for purposes of section 553(a) of the APA pursuant to section 702(b) of the CNRA and exempt from the requirements of the APA. 76 FR at 16232. Also like the January 2009 IFR, DHS nevertheless provided the opportunity for public comments. 76 FR at 16232.

Executive Order (E.O.) 13936, entitled ''The President's Executive Order on Hong Kong Normalization,'' was issued on July 14, 2020 (85 FR 43413). The E.O. reports the President's determination of U.S. policy with respect to the treatment of Hong Kong under U.S. law, and the President's order, pursuant to section 202 of the United States-Hong Kong Policy Act of 1992 (HKPA), to suspend the application of section 201(a) of the HKPA to U.S. laws enumerated in the E.O. Section 1 of the E.O. states that ''[i]t shall be the policy of the United States to suspend or eliminate different and preferential treatment for Hong Kong to the extent permitted by law and in the national security, foreign policy, and economic interest of the United States.'' [11] Section 2 of the E.O. lists statutes targeted by the E.O. and section 2(b) explicitly refers to INA section 212(l) (8 U.S.C. 1182(l)), which is the statute that authorizes the G–CNMI VWP.[12] Section 3(a) of the E.O. directs federal agencies to ''commence all appropriate actions to further the purposes of this order,'' including amending any regulations implementing the provisions specified earlier in section 2 of the E.O., and, consistent with applicable law and executive orders, under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), which provides different treatment for Hong Kong as compared to the PRC.[13] The G–CNMI VWP regulations provide different treatment for Hong Kong as compared to the PRC, because under the regulations, travelers with a connection to Hong Kong may be eligible to participate in the G–CNMI VWP, while nationals of the PRC are not eligible. *See* 8 CFR 212.1(q)(2)(ii). However, pursuant to section 1 of the E.O., the U.S. Government has determined that it is not in the foreign policy interest of the United States to eliminate Hong Kong from the G–CNMI VWP.

1. Current Paper CBP Form I–736 Process

The current process for the G–CNMI VWP is a paper-based process that requires travelers to fill out paper CBP Form I–736, present the form to a carrier of choice prior to departure and to CBP upon arrival, and then request admittance into Guam or the CNMI. *See* 8 CFR 212.1(q)(1)(v).[14] CBP Form I–736 collects biographic and other information specified by the Secretary that is necessary to determine the eligibility of the individual to travel to Guam or the CNMI under the G–CNMI VWP, and whether such travel poses a law enforcement or security risk. The information from the paper form is not available to CBP until a traveler arrives at the Port of Entry (POE). CBP uses the information collected on the paper CBP Form I–736 to determine the applicant's admissibility under the G–CNMI VWP. After entry, CBP collects the forms and then regularly mails batches to a third-party contractor for data entry into the G–CNMI database. The paper forms must be stored in a storage facility for nine years to adhere to CBP data retention policies.

2. Need To Automate the G–CNMI VWP

CBP's national security strategy follows a layered approach, including the pre-vetting of individuals prior to their travel. This allows the CBP officer to have all of the information from systems checks readily available as part of the officer's comprehensive admissibility determination. As described above, CBP currently relies on a paper-based process that occurs after the individual arrives in Guam or the CNMI. This means that the vetting of the traveler does not begin until the traveler presents the form on arrival. The absence of pre-arrival vetting due to the lack of automation and submission of a paper CBP Form I–736 limits CBP's ability to implement an essential part of its national security strategy to pre-vet individuals arriving in Guam and the CNMI. Implementation of an automated process, whereby CBP systems will be able to automatically cross-check information submitted electronically by travelers against law enforcement databases, will allow CBP to notify carriers whether passengers attempting to travel to Guam or the CNMI without a visa have completed the travel authorization process, and will serve to prevent travel from individuals who may pose a threat to national security or otherwise likely to be found inadmissible upon arrival.

Automating the G–CNMI VWP paper-based processes will not only increase national security, but will also provide operational and programmatic benefits to travelers and CBP. For travelers, automating the Form I–736 will decrease their wait times upon arrival at the port of entry, which could lead to increased overall traveler satisfaction. For CBP, automating the Form I–736 will allow CBP officers to spend more time focusing on a traveler's purpose and intent, rather than forms processing, data entry, and hard copy storage. The transition to a paperless environment will save CBP time and money. Migrating from the paper CBP Form I–736 to the electronic Form I–736 likewise allows CBP to meet operational requirements such as, but not limited to, performing data capture, data retrieval, data sharing, and data security, because CBP will no longer need to rely on the transcription of paper forms. Lastly, an electronic format allows CBP to provide applicants with email assistance and online self-help.

C. Treatment of Travelers From the People's Republic of China (PRC) to the CNMI

1. Exclusion of PRC From the G–CNMI VWP

The PRC is not among the countries whose nationals are currently eligible for participation in the G–CNMI VWP. Although DHS concluded in the January 2009 IFR that travel by Chinese nationals to the CNMI provides a ''significant economic benefit,'' as defined in the CNRA, a prerequisite for inclusion in the program, DHS also concluded that political and security concerns weighed against including nationals from the PRC in the G–CNMI VWP.[15] For similar reasons, the Russian Federation (Russia) is also not among the countries whose nationals are currently eligible for participation in the G–CNMI VWP.[16] DHS left open the possibility that nationals from the PRC and Russia could be included in the G–CNMI VWP at a later point if additional

[11] 85 FR 43413, 43414.

[12] *Id.*

[13] *Id.*

[14] While the current regulatory language does not explicitly require a paper form, the paper-based process detailed here has been the practice since the G–CNMI VWP was implemented.

[15] 74 FR at 2826–27.

[16] *Id.*

security measures were introduced, such as electronic travel authorization to screen and approve potential visitors.[17]

2. Parole

Although not included in the G–CNMI VWP, in recognition of the economic significance of visitors from the PRC and Russia, on October 21, 2009, former Secretary of Homeland Security Janet Napolitano announced that, effective November 28, 2009, DHS would favorably consider, on a case-by-case basis, requests for discretionary parole into the CNMI from eligible nationals of the PRC or Russia who are temporary visitors for business or pleasure, pursuant to INA section 212(d)(5) (8 U.S.C. 1182(d)(5)).[18] Effective January 15, 2012, this policy was extended to Russian visitors to Guam.[19]

Although parole is an authorized entry into the United States, it is not an admission to the United States. INA secs. 101(a)(13)(B), 212(d)(5)(A) (8 U.S.C. 1101(a)(13)(B), 1182(d)(5)(A)). Parole may be granted to a noncitizen, regardless of the noncitizen's inadmissibility, as a matter of discretion ''on a case-by-case basis for urgent humanitarian reasons or significant public benefit.'' INA sec. 212(d)(5)(A) (8 U.S.C. 1182(d)(5)(A)).

Under the 2009 and 2012 discretionary parole policies, nationals of Russia were allowed to enter Guam and the CNMI and to travel between Guam and the CNMI, and nationals of the PRC were allowed to enter the CNMI for a period of stay up to 45 days, provided the traveler met certain conditions developed by CBP, in close coordination with DHS.[20] Pursuant to these policies, nationals of Russia and the PRC seeking entry without a visa: (1) must possess a valid, unexpired machine readable passport; (2) must not have previously violated the terms of any prior travel to the United States; and (3) must present a valid completed CBP Form I–94, Arrival/Departure Record, and CBP Form I–736, Guam-CNMI Visa Waiver Information.[21] Also pursuant to these policies, visitors paroled under this authority could not engage in local employment or labor for hire and this parole authorization did not permit travel to another location within the United States.[22] This meant that nationals of Russia may travel to Guam and the CNMI only and nationals of the PRC may travel to the CNMI only.

3. Review of U.S. Parole Policies

On January 25, 2017, former President Trump signed E.O. 13767, *Border Security and Immigration Enforcement Improvements,* 82 FR 8793 (Jan. 30, 2017),[23] which has since been revoked.[24] E.O. 13767 directed the Secretary of Homeland Security to ''take appropriate action to ensure that parole authority under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) is exercised only on a case-by-case basis in accordance with the plain language of the statute, and in all circumstances only when an individual demonstrates urgent humanitarian reasons or a significant public benefit derived from such parole.''

In compliance with E.O. 13767, and prior to its revocation by E.O. 14010, DHS reviewed a broad spectrum of existing parole policies, including the parole policies applicable to Guam and the CNMI. The CNMI requested a 902 Consultation detailed in Section II.C.4. below to address the impact of this review on the CNMI. Subsequently, on September 3, 2019, DHS published a notice in the **Federal Register** announcing that as of October 3, 2019, DHS was rescinding its policy relating to the exercise of its discretionary parole authority for certain nationals of Russia and no longer giving favorable consideration to parole requests simply because the individual was a national of Russia who was seeking entry into Guam or the CNMI solely for a temporary visit for business or pleasure. 84 FR 46029, 46030. However, as noted in the **Federal Register** notice, affected individuals could still apply for parole pursuant to INA section 212(d)(5) (8 U.S.C. 1182(d)(5)) by filing USCIS Form I–131 Application for Travel Document, consistent with the instructions for that form. 84 FR at 46031. The September 2019 **Federal Register** notice did not impact DHS policy relating to the exercise of discretionary parole authority for certain PRC nationals. However, as discussed in Section II.C.4 below, on October 2, 2019, CBP announced that beginning October 3, 2019, PRC nationals traveling to the CNMI for the purpose of a temporary visit for business or pleasure without a visa would be limited to a period of parole not to exceed 14 days.[25] All other conditions for PRC nationals traveling to the CNMI under the 2009 parole policy described in Section II.C.2 above continue to apply.

4. 902 Consultations

a. The Covenant and 902 Consultation Process

The Covenant to Establish the Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Covenant) governs relations between the United States and the CNMI. *See* Public Law 94–241, 90 Stat. 263; 48 U.S.C. 1801 and note. Section 902 of the Covenant provides that the Federal Government of the United States and the Government

[17] 74 FR at 2827.

[18] DHS Notification to Congress, Oct. 21, 2009; *see* CBP Carrier Liaison Program, *Important Update in Entry Requirements Parole for Citizens of the Russian Federation and the People's Republic of China for the CNMI Only,* 2009 CLP Bulletin (Nov. 16, 2009), available at *https://www.justice.gov/sites/default/files/eoir/legacy/2014/08/15/CNMI%20CLP%20Bulletin.pdf* (last visited July 20, 2023); *see also* DHS, *Significant Economic Benefit,* Guam-CNMI Visa Waiver Program, *https://www.dhs.gov/guam-cnmi-visa-waiver-program* (last visited July 20, 2023).

[19] *See* CBP Carrier Liaison Program, *Important Update in U.S. Entry Requirements Parole of Citizens of Russia into Guam,* 2011 CLP Bulletin (Dec. 19, 2011); *see also* National Media Release, CBP, *Russian Citizens Now Eligible to Travel to Guam Visa-Free* (Jan. 26, 2012), *https://www.cbp.gov/newsroom/national-media-release/russian-citizens-now-eligible-travel-guam-visa-free* (last visited July 20, 2023).

[20] *See* CBP Carrier Liaison Program, *Important Update in Entry Requirements Parole for Citizens of the Russian Federation and the People's Republic of China for the CNMI Only,* 2009 CLP Bulletin (Nov. 16, 2009), available at *https://www.justice.gov/sites/default/files/eoir/legacy/2014/08/15/CNMI%20CLP%20Bulletin.pdf* (last visited July 20, 2023); CBP Carrier Liaison Program, *Important Update in U.S. Entry Requirements Parole of Citizens of Russia into Guam,* 2011 CLP Bulletin (Dec. 19, 2011); CBP, Carrier Information Guide 10 (2019), available at *https://www.cbp.gov/sites/default/files/assets/documents/2019-Mar/2019%20Carrier%20Information%20Guide%20-%20ENGLISH.pdf* (last visited July 20, 2023). *See also* DHS, *Significant Economic Benefit,* Guam-CNMI Visa Waiver Program, *https://www.dhs.gov/guam-cnmi-visa-waiver-program* (last visited July 20, 2023) (detailing requirements for noncitizens to be eligible for the parole provision); National Media Release, CBP, *Russian Citizens Now Eligible to Travel to Guam Visa-Free* (Jan. 26, 2012), *https://www.cbp.gov/newsroom/national-media-release/russian-citizens-now-eligible-travel-guam-visa-free* (last visited July 20, 2023).

[21] *Id.*

[22] *Id.*

[23] Available at *https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-border-security-immigration-enforcement-improvements/* (last visited July 20, 2023).

[24] President Biden revoked E.O. 13767 on February 2, 2021, signing E.O. 14010, *Creating a Comprehensive Regional Framework To Address the Causes of Migration, To Manage Migration Throughout North and Central America, and To Provide Safe and Orderly Processing of Asylum Seekers at the United States Border,* 86 FR 8267 (Feb. 5, 2021), available at *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/executive-order-creating-a-comprehensive-regional-framework-to-address-the-causes-of-migration-to-manage-migration-throughout-north-and-central-america-and-to-provide-safe-and-orderly-processing/* (last visited July 20, 2023).

[25] *See* CBP, Carrier Liaison Program, Limit of Parole of Nationals of the PRC into the CNMI (Oct. 2, 2019), CBP Publication Number 0966–1019, *available at https://www.cbp.gov/sites/default/files/assets/documents/2019-Nov/20191002%20PRC%20CNMI%20Parole%20Program.pdf* (last visited July 20, 2023).

of the Northern Mariana Islands ''will designate special representatives to meet and consider in good faith such issues affecting the relationship between the Northern Mariana Islands and the United States as may be designated by either Government and to make a report and recommendations with respect thereto.'' Public Law 94–241, 90 Stat. 263, 276; 48 U.S.C. 1801 note. These intermittent discussions between the United States Federal Government and the CNMI have become known as 902 Consultations.

By letter dated October 19, 2018, CNMI Governor Ralph DLG Torres requested that former President Trump initiate the 902 Consultation process regarding discretionary parole policies of DHS.[26] This letter identified the primary issue as the impact of a possible revocation of the existing parole policy for PRC nationals would have on the CNMI's access to the Chinese tourist market and how it would imperil the CNMI's economic survival.[27] On February 26, 2019, former President Trump designated Douglas W. Domenech, U.S. Department of the Interior Assistant Secretary Insular and International Affairs, as the Special Representative for the United States Federal Government for this 902 Consultation.[28] In addition to the Special Representative, the U.S. Federal Government team included other high-level officials from the Department of the Interior and the Department of State, as well as other offices.[29] Governor Torres was designated the Special Representative for the CNMI.[30]

This 902 Consultation process involved two rounds of meetings between the Special Representatives and their teams on February 26, 2019, and on April 2–3, 2019.[31] These meetings involved presentation of position papers, discussion among the teams, panel presentations, and site visits.[32] After the meetings, the Special Representatives and their teams developed mutually agreeable language for the *Report to the President on 902 Consultations Related to the DHS Discretionary Parole Program* (2019 Report).[33]

b. Recommendations

As set forth in the 2019 Report, as a result of the 902 Consultation process, both Special Representatives found that the CNMI's access to the PRC tourist market is of critical importance to the CNMI's economy and should be facilitated to the greatest degree possible, while at the same time recognizing that national security, public safety, and immigration concerns warrant that certain modifications be made to either the parole system or the existing G–CNMI VWP.[34] With that as a basis, the Special Representatives agreed to four recommendations, provided in the 2019 Report, the first two of which are relevant to this IFR.[35]

The first recommendation was to modify the parole policies with enhanced security provisions.[36] This modification would reduce the period of parole for PRC nationals from a maximum of 45 days to a maximum of 14 days. This modification would also add electronic screening and vetting prior to arrival at the port of entry, allowing for information exchange and cooperation to combat human trafficking and unlawful employment. This modification would be an interim step until the second recommendation regarding the creation of the CNMI EVS–TAP could be implemented. Existing parole policies would remain in place until this modification was enacted, and DHS would work with CNMI officials to ensure a smooth transition.

The second recommendation was to create the CNMI EVS–TAP as a sub-program of the G–CNMI VWP.[37] The Special Representatives noted that the CNRA provides for the addition of a country to the G–CNMI VWP and authorizes the Secretary of Homeland Security to impose special requirements on nationals of that country to allow them to participate in the program, such as installing an electronic automated screening platform for use by PRC nationals entering into the CNMI under the G–CNMI VWP. INA sec. 212(l)(6) (8 U.S.C. 1182(l)(6)). Thus, the Special Representatives recommended that DHS create a restricted travel authorization program under the authorities of the G–CNMI VWP and add the PRC to this sub-program. The sub-program, the CNMI EVS–TAP, would include additional restrictions that do not currently pertain to the rest of the G–CNMI VWP. Under CNMI EVS–TAP, travelers would be allowed to enter only the CNMI without a visa, and would not be permitted to enter Guam, the mainland, or any other U.S. location. Travelers under the CNMI EVS–TAP would be subject to electronic screening and vetting prior to entry. As discussed in the CNRA, DHS would explore adding bonding requirements. Travel authorization under the CNMI EVS–TAP would be for a maximum of 14 days in lieu of exceptional circumstances.

c. Implementation of 902 Consultation Recommendations

As noted above, in accordance with the first part of the first recommendation, as of October 3, 2019, the parole policy for PRC nationals was modified to reduce the maximum period of parole from 45 days to 14 days. In order to meet the second part of the first recommendation (to modify the parole policy to include electronic screening and vetting prior to arrival at the port of entry as an interim step), CBP is first implementing an electronic travel authorization process for the G–CNMI VWP generally. In this rule, CBP is also establishing the CNMI EVS–TAP, a restricted sub-program of the G–CNMI VWP which includes an electronic travel authorization process for travelers from the PRC, under section 702(b)(3) of the CNRA.[38] CBP will implement CNMI EVS–TAP 45 days after CBP publishes notification in the **Federal Register**. This will satisfy the second 902 Consultation recommendation.

III. Overview of Regulatory Changes

In this rule, promulgated in consultation with the Secretary of the Interior and the Secretary of State, DHS is amending the regulations to establish an electronic travel authorization process for individuals traveling to Guam or the CNMI under the G–CNMI VWP. DHS is also amending the regulations to establish the CNMI EVS–TAP program that will also include an electronic travel authorization process for certain nationals of the PRC traveling to the CNMI. To fully integrate the two automated systems in an efficient and cost-effective manner, DHS will implement the CNMI EVS–TAP program after the system for G–CNMI VWP automation is fully operational. This rule provides the regulatory framework necessary for automation of the G–CNMI VWP and to establish CNMI EVS–TAP. When DHS is ready to fully implement CNMI EVS–TAP, we will provide notification in the **Federal Register**, which will take effect 45 days after publication.

[26] *Report to the President on 902 Consultations Related to the DHS Discretionary Parole Program* (May 15, 2019), p. 3, *available at https://www.doi.gov/sites/doi.gov/files/uploads/final_902_report.pdf.*

[27] *Id.*

[28] *Id.*

[29] *Id.*

[30] *Id.*

[31] *Id.* p.4

[32] *Id.*

[33] *Id.*

[34] *Id.* p. 9. The 2019 Report is silent on the CNMI's access to the Russian tourist market.

[35] *Id.* pp. 9–11.

[36] *Id.* pp. 9–10.

[37] *Id.* p. 10.

[38] INA sec. 212(l)(6) (8 U.S.C. 1182(l)(6)).

Various regulatory changes are necessary to mandate that G–CNMI VWP travelers receive electronic travel authorization and to establish the CNMI EVS–TAP. The process established under the current regulations, 8 CFR 212.1(q)(1)(v), requires G–CNMI VWP travelers to submit a paper CBP Form I–736; thus, the regulations need to be amended to require travelers to use an online version to be submitted pre-departure and to receive electronic travel authorization prior to departure. CBP must also add regulations to establish the requirements of the CNMI EVS–TAP.

IV. G–CNMI VWP Automation and Electronic Travel Authorization

This IFR requires G–CNMI VWP travelers to obtain electronic travel authorization to travel to Guam or the CNMI prior to embarking on such travel. To implement this requirement, this IFR adds a new paragraph (q)(9) to 8 CFR 212.1 titled ''Electronic Travel Authorization'' and makes certain revisions to 8 CFR 212.1(q).

A. Electronic Travel Authorization

1. Electronic Travel Authorization Requirement and Transition Period

By requiring a G–CNMI VWP electronic travel authorization, CBP will be able to screen travelers seeking to enter Guam or the CNMI under the G–CNMI VWP prior to their arrival in Guam or the CNMI. Individuals intending to travel under the G–CNMI VWP will be able to obtain travel authorization in advance of travel to Guam or the CNMI. DHS notes that an electronic authorization to travel to Guam or the CNMI under the G–CNMI VWP is not a determination that the traveler ultimately is admissible to Guam or the CNMI. That determination is made by a CBP officer only after an applicant for admission is inspected by the CBP officer at a U.S. port of entry. In addition, a G–CNMI VWP electronic travel authorization is not a visa. The grant of a G–CNMI VWP electronic travel authorization is distinct from the visa application process. Travel authorization under the G–CNMI VWP allows a G–CNMI VWP participant to travel to Guam or the CNMI and does not confer on the traveler admissibility to Guam or the CNMI. Requiring a G–CNMI VWP electronic travel authorization allows DHS to identify potential grounds of ineligibility for admission before the G–CNMI VWP traveler embarks on a carrier destined for Guam or the CNMI.

Requiring a G–CNMI VWP electronic travel authorization will reduce the number of travelers who are determined to be inadmissible to Guam or the CNMI during inspection by a CBP officer at a port of entry, thereby saving, among other things, the cost of return travel to the carrier, inspection time, and delays and inconvenience for the traveler. Requiring a G–CNMI VWP electronic travel authorization also will enable CBP to allocate existing resources more efficiently to screening passengers at U.S. ports of entry, thereby facilitating legitimate travel. Requiring a G–CNMI VWP electronic travel authorization increases the amount of information available to DHS regarding G–CNMI VWP travelers before such travelers arrive at U.S. ports of entry; and, by recommending that travelers submit such information a minimum of 5 days in advance of departure, provides DHS with additional time to screen G–CNMI VWP travelers destined for Guam or the CNMI, thus enhancing security by allowing CBP to conduct pre-vetting and cross-checking information against law enforcement databases. Furthermore, it will allow carriers to know in advance whether the traveler is approved to board the conveyance using existing messaging capabilities between CBP and the carriers.

The G–CNMI VWP electronic travel authorization requirement allows DHS to eliminate the requirement that G–CNMI VWP travelers be in possession of a completed and signed paper CBP Form I–736. Although this rule is effective on September 30, 2024, in this rule CBP is incorporating a 60-day transition period to facilitate travelers adjusting to the new collection method. *See* new 8 CFR 212.1(q)(9)(i). Prior to September 30, 2024, travelers should continue to use the paper CBP Form I–736 or print out the form as they are doing today. On September 30, 2024, the 60-day transition period will begin. During this transition period, travelers can choose whether to submit the Form I–736 in advance electronically and receive prior electronic travel authorization or to submit the paper CBP Form I–736 upon arrival.

At the end of the transition period, the paper CBP Form I–736 will become obsolete and travelers must input and submit in advance their personal information and respond to the eligibility questions using the new electronic format Form I–736. *See* new 8 CFR 212.1(q)(9)(i). The travelers' information will be pre-screened or vetted against law enforcement databases. Based on the results of the pre-screening, the application will be approved or denied. The system will generate a ''board'' or ''no board'' status message to the carrier indicating a denied or approved authorization to board before the flight. The applicant also receives a message with the application status: approved, denied, canceled, or pending. Beginning November 29, 2024, when the 60-day transition period ends, carriers must deny boarding to travelers without an approved electronic travel authorization. *See* new 8 CFR 212.1(q)(5)(iv). All information will be saved in the newly created G–CNMI VWP database.

2. Obtaining Travel Authorization

This IFR establishes data fields by which G–CNMI VWP travelers must electronically submit to CBP, in advance of travel to Guam or the CNMI, including biographic and other information specified by the Secretary. The information specified by the Secretary is necessary to determine the eligibility of the individual to travel to Guam or the CNMI under the G–CNMI VWP and whether such travel poses a law enforcement or security risk. This is the same information currently required on the paper CBP Form I–736, which G–CNMI VWP travelers must present to a CBP officer at a port of entry. This IFR does not impose any new data collection requirements on air or vessel carriers. For example, this rule does not require air carriers to transmit any G–CNMI VWP electronic travel authorization data elements on behalf of travelers to CBP, nor does it require carriers to submit any additional data.

In determining a traveler's eligibility for a G–CNMI VWP electronic travel authorization, CBP will assess each application to determine whether the individual is eligible to travel to Guam or the CNMI and whether there exists any law enforcement or security risk in permitting such travel under the G–CNMI VWP. The information submitted by the individual in the travel authorization application will be checked by CBP against all appropriate databases, including, but not limited to, lost and stolen passport databases and appropriate watchlists. Additionally, if a traveler does not provide the information required or provides false information in the travel authorization application or if any evidence exists indicating that an individual is ineligible to travel to Guam or the CNMI under the G–CNMI VWP or that permitting such travel poses a law enforcement or security risk, CBP may deny the application for a travel authorization. The Secretary, acting through CBP, retains discretion to revoke a travel authorization determination at any time and for any reason. If a travel authorization

application is denied, the individual may still seek to obtain a visa to travel to Guam or the CNMI from the appropriate U.S. embassy or consulate. *See* INA sec. 221(a)(1)(B) (8 U.S.C. 1201(a)(1)(B)).

3. Timeline for Submitting Travel Authorization Data

With this IFR after the 60-day transition period, each nonimmigrant visitor wishing to travel to Guam or the CNMI under the G–CNMI VWP must have a travel authorization prior to embarking on a carrier. DHS, however, recommends that G–CNMI VWP travelers obtain travel authorizations prior to the time of reservation or purchase of the ticket, or at least 5 days before departure to Guam or the CNMI, in order to facilitate timely departures.

4. Required Travel Authorization Data Elements

G–CNMI VWP electronic travel authorization will collect the same information currently required on the paper CBP Form I–736 that is presented to a CBP officer at a port of entry. This is the information that the Secretary has deemed necessary to evaluate whether an individual is eligible to travel to Guam or the CNMI under the G–CNMI VWP and whether such travel poses a law enforcement or security risk. This information is already collected through the CBP Form I–736, which is presented to CBP when the traveler arrives in Guam or the CNMI. On the CBP Form I–736, travelers must provide biographical data such as name, birth date, and passport information, as well as travel information such as flight information and the address of the traveler while in Guam or the CNMI. Travelers must also answer eligibility questions regarding, for example: communicable diseases, arrests and convictions for certain crimes, and history of visa revocation or deportation. The information provided in the Form I–736 is sufficient for CBP to initially determine if the applicant is eligible to travel under the G–CNMI VWP before the individual commences travel to Guam or the CNMI. Therefore, DHS has decided to utilize the Form I–736 data elements by requiring them to be submitted in advance of travel under the G–CNMI VWP electronic travel authorization.

5. Scope of G–CNMI VWP Electronic Travel Authorization

An approved travel authorization only allows an individual to board a conveyance for travel to a U.S. port of entry in Guam or the CNMI and does not restrict, limit, or otherwise affect the authority of CBP to determine a traveler's admissibility to Guam or the CNMI during inspection at a port of entry.

6. Duration

In general, each travel authorization will be valid for a period of no more than two years. An individual may travel to Guam or the CNMI repeatedly within the validity period of the travel authorization using the same travel authorization. Travelers whose G–CNMI VWP electronic travel authorization applications are approved, but whose passports will expire in less than two years, will receive travel authorization that is valid only until the expiration date on the passport.

Pursuant to INA section 212(a)(7)(B)(i)(I) (8 U.S.C. 1182(a)(7)(B)(i)(I)) and implementing regulations at 8 CFR 214.1(a)(3)(i), the passport of an applicant for admission must be valid for a minimum of six months from the expiration date of the contemplated period of stay. This means that travelers to the United States, including to Guam or the CNMI, are required to be in possession of passports that are valid for six months beyond the period of their intended stay. Certain foreign governments have entered into agreements with the United States whereby their passports are recognized as valid for the return of the bearer to the country of the foreign-issuing authority for a period of six months beyond the expiration date specified in the passport.[39] These agreements have the effect of extending the validity period of the foreign passport an additional six months notwithstanding the expiration date indicated in the passport. Thus, citizens of the countries that have entered into such an agreement are exempt from the ''six-month rule'' and need only have a passport valid for their intended period of stay. Accordingly, the general rule provided in new 8 CFR 212.1(q)(9)(iv)(A) applies to travelers who are citizens of countries that have entered into such an agreement.[40]

For travelers from countries that have not entered into such an agreement,[41] G–CNMI electronic travel authorizations will be valid for a period of two years, as provided by the general rule. However, travel authorizations for individuals from countries that have not entered into such an agreement will not be approved beyond the six months prior to the expiration date of the traveler's passport. Travelers from these countries whose passports will expire in six months or less will not receive an approved G–CNMI VWP electronic travel authorization.[42]

The Secretary, in consultation with the Secretary of the Interior and the Secretary of State, may increase or decrease the G–CNMI VWP travel authorization validity period for a designated G–CNMI VWP country or geographic area. *See* INA sec. 212(l)(3) (8 U.S.C. 1182(l)(3)). Notice of any change to the G–CNMI VWP travel authorization validity periods will be published in the **Federal Register**. In addition, CBP will update the G–CNMI VWP website to reflect any changes to a G–CNMI VWP country or geographic area's specific G–CNMI VWP travel authorization validity period.

7. Events Requiring New Travel Authorization

A G–CNMI VWP traveler must obtain a new electronic travel authorization in advance of travel to Guam or the CNMI within the validity period of the traveler's current travel authorization if any of the following occurs:

(1) The traveler is issued a new passport;

(2) The traveler's name changes;

(3) The traveler's gender changes;

(4) The traveler's country of citizenship changes; or

(5) The circumstances underlying the traveler's previous responses to any of the G–CNMI VWP electronic travel authorization application questions requiring a ''yes'' or ''no'' response (eligibility questions) have changed.

8. Fee

At this time, payment of a fee will not be required to obtain a travel authorization. If DHS determines at a later time, however, that collection of a fee is necessary for the efficient administration of the G–CNMI VWP electronic travel authorization requirement, DHS will implement a fee through a separate rulemaking action or such other manner as is consistent with the Administrative Procedure Act and applicable statutory authorities.

B. Conforming Amendments

Additionally, this IFR makes several changes to 8 CFR 212.1(q) to account for automation of Form I–736 and the

[39] The list of countries which have entered into such an agreement is available on the Department of State website at *https://fam.state.gov/fam/09FAM/09FAM040309.html#M403_9_3_B_2* (last visited July 20, 2023).

[40] *Id.*

[41] *Id.* At this time, Brunei and Nauru are the two G–CNMI VWP countries that have not entered into such an agreement with the United States.

[42] *Id. See* INA sec. 212(a)(7)(B)(i)(I) (8 U.S.C. 1182(a)(7)(B)(i)(I)) and implementing regulations at 8 CFR 214.1(a)(3)(i).

electronic travel authorization requirement in the new paragraph (q)(9). In the list of eligibility requirements in paragraph (q)(1), paragraph (q)(1)(v) is revised to incorporate the 60-day transition period and add the requirement for travelers to have received electronic travel authorization prior to embarking on a carrier pursuant to the new 8 CFR 212.1(q)(9) beginning November 29, 2024. Similarly, in the list of requirements for transportation lines in paragraph (q)(5), paragraph (q)(5)(iv) is revised to incorporate the 60-day transition period and add the requirement that transportation lines transport travelers who have received electronic travel authorization pursuant to the new 8 CFR 212.1(q)(9) beginning November 29, 2024. Also, in paragraph (q)(5) regarding requirements for transportation lines, a cross-reference to 8 CFR 1.4 is added to the end of paragraph (q)(5)(v), requiring transportation lines to transport a traveler in possession of a completed I–94, Arrival-Departure Record (CBP Form I–94). The cross-referenced section 1.4 states that the definition of Form I–94 includes the electronic format and that the terms ''completed and signed'' ''include, but are not limited to, DHS completing its collection of information into its electronic record of admission, or arrival/departure.'' *See* 8 CFR 1.4(b).

C. Technical Corrections

This IFR also makes several technical corrections to 8 CFR 212.1(q). First, the G–CNMI VWP eligibility requirement for residents of Taiwan to possess a Taiwan National Identity Card and a valid Taiwan passport with a valid re-entry permit issued by the Taiwan Ministry of Foreign Affairs is moved from paragraph (q)(1)(xi) to the other list of eligibility requirements for those with a connection to Taiwan in paragraph (q)(2)(ii)(B). This change consolidates all the G–CNMI VWP eligibility requirements for those with a connection to Taiwan to one location. Second, in paragraph (q)(4), the heading ''Ineligibility due to admission under the Guam-CNMI Visa Waiver Program'' is added for clarification. Third, in paragraph (q)(7), the extraneous paragraph designation between the headings ''*Maintenance of status*—'' and ''*Satisfactory departure.*'' is removed so that the heading reads ''*Maintenance of status—satisfactory departure.*'' Fourth, in paragraphs (q)(7) and (q)(8)(ii)(A), the words ''his or her'' are replaced with the gender neutral ''the alien's'' or ''the officer's'' as applicable. Finally, in paragraph (q)(8)(ii)(B), the reference to ''paragraph (b)(1)'' is replaced with the correct reference to ''paragraph (q)(8)(ii)(A).''

V. Commonwealth of the Northern Mariana Islands Economic Vitality & Security Travel Authorization Program (CNMI EVS–TAP)

This IFR also creates the CNMI EVS–TAP as a restricted sub-program of the G–CNMI VWP, under the CNRA and pursuant to consultations under Section 902 of the Covenant. As noted above in Section II.B., section 702(b)(3) of the CNRA provides for the addition of countries to the G–CNMI VWP, stating that the Governor of Guam and the Governor of the CNMI may request the Secretary of the Interior and the Secretary of Homeland Security to add a particular country to the list of countries whose nationals may obtain a visa waiver under the G–CNMI VWP, and the Secretary of Homeland Security may grant such request after consultation with the Secretary of the Interior and the Secretary of State, and may promulgate regulations with respect to the inclusion of that country and any special requirements the Secretary of Homeland Security, in the Secretary's sole discretion, may impose prior to allowing nationals of that country to obtain the visa waiver under the G–CNMI VWP.[43] DHS considers these request and consultation requirements of the CNRA to have been fulfilled by the 902 Consultations process discussed above in Section II.C.4. In the Secretary's discretion, and in accordance with the applicable recommendation from the 902 Consultations, DHS is promulgating regulations with respect to the inclusion of the PRC in obtaining a visa waiver, imposing the special requirements of the CNMI EVS–TAP, a restricted sub-program of the G–CNMI VWP. The CNMI EVS–TAP will allow certain prescreened nationals of the PRC to travel without a visa to the CNMI only. To establish the CNMI EVS–TAP, a new paragraph (r) is added to 8 CFR 212.1. This rule also makes several conforming amendments to the regulations to account for the CNMI EVS–TAP.

A. CNMI EVS–TAP

1. Description

The CNRA authorizes the Secretary to allow a noncitizen to enter Guam or the CNMI as a nonimmigrant visitor for business or pleasure for a period not to exceed 45 days if the Secretary of Homeland Security, after consultation with the Secretaries of State and the Interior, and the Governors of Guam and the CNMI, determines that: (i) adequate arrival and departure control systems have been developed in Guam and the CNMI, and (ii) such a waiver does not represent a threat to the welfare, safety, or security of the United States or its territories and commonwealths. INA sec. 212(l)(1) (8 U.S.C. 1182(l)(1)). The requirements for the G–CNMI VWP are set forth in 8 CFR 212.1(q). As detailed above, the CNRA also provides for the addition of countries to the list of those whose nationals may obtain a visa waiver, with any special requirements the Secretary may impose. INA sec. 212(l)(6) (8 U.S.C. 1182(l)(6)). As discussed above in Section II.C.4., the 902 Consultations resulted in the recommendation that the CNMI EVS–TAP be created under the CNRA as a sub-program of the G–CNMI VWP. As set forth in new 8 CFR 212.1(r)(1), the CNMI EVS–TAP is a restricted travel authorization sub-program of the G–CNMI VWP that allows a nonimmigrant visitor who is a national of the PRC to be admitted to the CNMI without a visa in specified circumstances.

The regulations for CNMI EVS–TAP largely mirror the regulations for the G–CNMI VWP, including the new electronic travel authorization requirement provided by this IFR. However, as the CNMI EVS–TAP is a restricted sub-program of the G–CNMI VWP, there are some differences between the regulations for each, consistent with the 902 Consultation Recommendations[44] and the current parole policy.[45] The primary differences are that CNMI EVS–TAP travelers may visit only the CNMI and for a maximum of 14 days; whereas, the G–CNMI VWP travelers may visit both the CNMI and Guam and for a maximum of 45 days. Additionally, the CNMI EVS–TAP regulations are tailored to a discrete group consisting of PRC nationals, while the G–CNMI VWP regulations must provide for a larger and more varied group of the countries and geographic areas whose travelers are eligible for the G–CNMI VWP.

2. Eligibility

Similar to the requirements that those currently seeking admission to Guam or the CNMI under the G–CNMI VWP must meet, as established in new 8 CFR 212.1(r)(2), to be considered eligible for admission into the CNMI under the CNMI EVS–TAP, prior to embarking on a carrier for travel to the CNMI, nonimmigrant visitors must:

(i) Be a national of the PRC;

[43] INA sec. 212(l)(6) (8 U.S.C. 1182(l)(6)).

[44] As discussed in Section II.C.4 above.

[45] As discussed in Section II.C.2–3 above.

(ii) Be classifiable as a visitor for business or pleasure;

(iii) Be solely entering and staying on the CNMI for a period not to exceed 14 days;

(iv) Be in possession of a round trip ticket that is nonrefundable and nontransferable and bears a confirmed departure date not exceeding 14 days from the date of admission to the CNMI. ''Round trip ticket'' includes any return trip transportation ticket issued by a participating carrier, electronic ticket record, airline employee passes indicating return passage, individual vouchers for return passage, group vouchers for return passage for charter flights, or military travel orders which include military dependents for return to duty stations outside the United States on U.S. military flights;

(v) Receive an electronic travel authorization from CBP pursuant to new paragraph 8 CFR 212.1(r)(9);

(vi) Be in possession of a completed and signed I–94 (see § 1.4), Arrival-Departure Record (CBP Form I–94). The cross referenced § 1.4 states that the definition of I–94 includes the electronic format and that the terms ''completed and signed'' ''include, but are not limited to, DHS completing its collection of information into its electronic record of admission, or arrival/departure.'' *See* 8 CFR 1.4(b). While the Form I–94 has been automated and travelers no longer are required to physically possess the form, as CNMI EVS–TAP is a sub-program of the GCNMI VWP, the regulatory requirements should match.

(vii) Be in possession of a valid unexpired ICAO (International Civil Aviation Organization) compliant, machine readable passport issued by the PRC;

(viii) Have not previously violated the terms of any prior admissions or parole;

(ix) Waive any right to review or appeal an immigration officer's determination of admissibility at the port of entry into the CNMI; and

(x) Waive any right to contest any action for deportation or removal, other than on the basis of: an application for withholding of removal under section 241(b)(3) of the INA; withholding or deferral of removal under the regulations implementing Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; or, an application for asylum if permitted under section 208 of the INA. As in the G–CNMI VWP, section 208 of the INA (8 U.S.C. 1158) regarding asylum does not apply to the CNMI during the transition period ending December 31, 2029.[46]

3. Suspension or Discontinuation of Program

This rule, in new 8 CFR 212.1(r)(3), also incorporates the provisions in section 702(b) of the CNRA regarding the suspension of countries from and the factors for discontinuation of the G–CNMI VWP as the provisions regarding the suspension of and the factors for discontinuation of the CNMI EVS–TAP, given that the CNMI EVS–TAP is only available to nationals of the PRC. *See* INA sec. 212(l)(4)–(5) (8 U.S.C. 1182(l)(4)–(5)). Accordingly, new 8 CFR 212.1(r)(3) first provides that the Secretary may suspend the CNMI EVS–TAP for good cause including, but not limited to, the following circumstances: (A) The admissions of visitors from the PRC have resulted in an unacceptable number of visitors from the PRC remaining unlawfully in the CNMI, unlawfully obtaining entry to other parts of the United States, or seeking withholding of removal or asylum; or (B) Visitors from the PRC pose a risk to law enforcement or security interests, including the enforcement of immigration laws of the CNMI or the United States.

Second, new 8 CFR 212.1(r)(3) provides that the Secretary, in consultation with the Secretary of the Interior and the Secretary of State, may also discontinue the CNMI EVS–TAP based on the evaluation of all factors the Secretary deems relevant including, but not limited to, electronic travel authorization, procedures for reporting lost and stolen passports, repatriation of noncitizens, rates of refusal for nonimmigrant visitor visas, overstays, exit systems and information exchange.

4. Ineligibility Due to Admission Under the CNMI EVS–TAP

Paralleling the G–CNMI VWP, under new 8 CFR 212.1(r)(4), admission under the CNMI EVS–TAP renders a noncitizen ineligible for: adjustment of status to that of a temporary resident or, except as provided by section 245(i) of the Act or as an immediate relative as defined in section 201(b) of the Act, to that of a lawful permanent resident; change of nonimmigrant status; or extension of stay.

5. Requirements for Transportation Lines

New 8 CFR 212.1(r)(5) specifies the requirements for transportation lines bringing CNMI EVS–TAP travelers to the CNMI. The carrier must be prepared to establish that each individual it transports without the appropriate visa was *prima facie* eligible for the visa waiver, because the carrier is subject to fine pursuant to section 273 of the INA for transporting any noncitizen not in possession of an unexpired visa, as required, unless the requirement is waived. The carrier contract and ticket restrictions parallel the G–CNMI VWP. Thus, a transportation line bringing any traveler to the CNMI pursuant to this section must:

(1) Enter into a contract on CBP Form I–760, made by the Commissioner of U.S. Customs and Border Protection on behalf of the government;

(2) Transport an individual only if the individual is a national of the PRC and is in possession of a valid unexpired ICAO compliant, machine readable passport issued by the PRC;

(3) Transport an individual only if the individual is in possession of a round trip ticket as defined in 8 CFR 212.1(r)(2)(iv) bearing a confirmed departure date not exceeding 14 days from the date of admission to the CNMI, which the carrier will unconditionally honor when presented for return passage. This ticket must be: valid for a period of not less than one year; nonrefundable except in the country in which issued or in the country of the traveler's nationality or residence; and issued by a carrier which has entered into an agreement described in this paragraph; and

(4) Transport an individual only if the individual has received electronic travel authorization from CBP pursuant to 8 CFR 212.1(r)(9).

6. Bonding

Part of the second recommendation made in the 902 Consultations regarding the creation of CNMI EVS–TAP is that the United States will explore adding bonding requirements as discussed in the CNRA.[47] Section 702(b) of the CNRA requires that the regulations implementing the G–CNMI VWP, and thus the CNMI EVS–TAP, include any

[46] Note that INA section 208(e) (8 U.S.C. 1158(e)), has not been amended to reflect the extensions of the transition period. *See* section 6(a)(2), (7) of Public Law 94–241, 48 U.S.C. 1806(a)(2), (7); as amended by section 702(a) of the CRNA, 122 Stat. at 855–6 (ending the transition period December 31, 2014); section 10(1) of the Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113–235, 128 Stat. 2130, 2134 (Dec. 16, 2014) (extending the transition period through December 31, 2019); and section 3(a)(1)(A) of the Northern Mariana Islands U.S. Workforce Act of 2018, Public Law 115–218, 132 Stat. 1574 (July 24, 2018) (extending the transition period through December 31, 2029).

[47] *Report to the President on 902 Consultations Related to the DHS Discretionary Parole Program* (May 15, 2019), p. 10, *available at https://www.doi.gov/sites/doi.gov/files/uploads/final_902_report.pdf.*

bonding requirements for nationals of some or all of those countries who may present an increased risk of overstaying their period of authorized stay or other potential problems, *if different from such requirements otherwise provided by law for nonimmigrant visitors.*[48] Similar to as discussed below in Section V.B. regarding conforming amendments to bonding requirements under the G–CNMI VWP, at this time DHS is not imposing any bonding requirements different from such requirements otherwise provided by law for nonimmigrant visitors for travelers seeking admission into the CNMI under the CNMI EVS–TAP. If DHS determines that additional bonding requirements are necessary, DHS will amend the regulations accordingly and has reserved new 8 CFR 212.1(r)(6) to do so.

7. Maintenance of Status—Satisfactory Departure

This rule includes a provision allowing a traveler admitted to the CNMI under the CNMI EVS–TAP to seek a period of satisfactory departure, similar to the G–CNMI VWP. Under new 8 CFR 212.1(r)(7), this rule provides that if a traveler admitted under the CNMI EVS–TAP is prevented from departing within the period of the authorized stay due to an emergency, an immigration officer having jurisdiction over the place of the traveler's temporary stay may grant satisfactory departure to permit the traveler to delay departing the CNMI for a period not to exceed 15 days. Currently, this means travelers may seek satisfactory departure by contacting any local CBP Port of Entry or Deferred Inspection Site, or the U.S. Citizenship and Immigration Services Contact Center. If the traveler departs within the extended time period, the traveler will be regarded as having departed within the required time period and will not be considered as having overstayed the period of authorized stay.

8. Inadmissibility and Deportability

This rule sets forth the authority of DHS to remove noncitizens and to make determinations as to admissibility and deportability in 8 CFR 212.1(r)(8), like the authority under the G–CNMI VWP. CBP may remove a noncitizen seeking admission under the CNMI EVS–TAP upon a determination that the noncitizen is inadmissible to the CNMI under one or more of the grounds of inadmissibility (other than for lack of visa) listed under section 212 of the INA (8 U.S.C. 1182). This rule also provides that an immigration officer will refuse admission to and remove a CNMI EVS–TAP applicant who is in possession of and presents fraudulent or counterfeit travel documents. *See* INA sec. 212(a)(6)(C) (8 U.S.C. 1182(a)(6)(C)). Likewise, DHS may remove a noncitizen admitted under the CNMI EVS–TAP who has violated the noncitizen's status under one or more grounds of deportability as listed under section 237 of the INA (8 U.S.C. 1227). Accordingly, noncitizens who have been determined to be inadmissible or deportable will not be referred to an immigration judge for further inquiry, examination, or hearing. *See* INA sec. 212(l)(2) (8 U.S.C. 1182(l)(2)).

The CNRA provides that, during the transition period, currently extended through December 31, 2029, section 208 of the INA (8 U.S.C. 1158), the section that sets forth the requirements to seek asylum, does not apply to noncitizens in the CNMI.[49] Therefore, prior to January 1, 2030, a noncitizen who is physically present or arriving in the CNMI under the CNMI EVS–TAP may not apply for asylum and an immigration judge will not have jurisdiction over asylum applications filed by an noncitizen physically present or arriving in the CNMI under the CNMI EVS–TAP.[50] Noncitizens physically present or arriving in the CNMI during the transition period who express a fear of persecution or torture only may establish eligibility for withholding of removal pursuant to INA section 241(b)(3) or pursuant to the regulations implementing Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.[51]

9. Electronic Travel Authorization

a. Electronic Travel Authorization Requirement, Transition Period, and Impact on Parole

This rule requires CNMI EVS–TAP travelers to obtain electronic travel authorization to travel to the CNMI prior to embarking on such travel under 8 CFR 212.1(r)(9). This requirement parallels the new requirement for G–CNMI VWP travelers to obtain electronic travel authorization discussed in section IV.A. above. As discussed above, by requiring an electronic travel authorization, CBP will be able to screen travelers seeking to enter the CNMI under the CNMI EVS–TAP prior to their arrival in the CNMI. DHS notes that an electronic authorization to travel to the CNMI under the CNMI EVS–TAP is not a determination that the traveler ultimately is admissible to the CNMI. That determination is made by a CBP officer only after an applicant for admission is inspected by the CBP officer at a U.S. port of entry. In addition, a CNMI EVS–TAP electronic travel authorization is not a visa. The grant of a CNMI EVS–TAP electronic travel authorization is distinct from the visa application process. Travel authorization under the CNMI EVS–TAP allows a CNMI EVS–TAP participant to travel to the CNMI, and does not confer on the traveler admissibility to the CNMI. Requiring a CNMI EVS–TAP electronic travel authorization, therefore, allows DHS to identify potential grounds of ineligibility for admission before the CNMI EVS–TAP traveler embarks on a carrier destined for the CNMI.

Requiring a CNMI EVS–TAP electronic travel authorization will reduce the number of travelers who are determined to be inadmissible to the CNMI during inspection by a CBP officer at a port of entry, thereby saving, among other things, the cost of return travel to the carrier, inspection time, and delays and inconvenience for the traveler. Requiring a CNMI EVS–TAP electronic travel authorization also will enable CBP to better allocate existing resources toward screening passengers at U.S. ports of entry, thereby facilitating legitimate travel. Requiring a CNMI EVS–TAP electronic travel authorization increases the amount of information available to DHS regarding CNMI EVS–TAP travelers before such travelers arrive at U.S. ports of entry; and, by recommending that travelers submit such information a minimum of 5 days in advance of departure, provides DHS with additional time to screen CNMI EVS–TAP travelers destined for the CNMI, thus enhancing security by allowing CBP to conduct pre-vetting and cross-checking information against law enforcement databases. Furthermore, it will allow carriers to know in advance whether the traveler is approved to board the conveyance using existing messaging capabilities between CBP and the carriers.

Once CNMI–EVS–TAP is fully implemented and announced in the **Federal Register**, the current parole

[48] *See* section 702(b)(3) of the CNRA, 122 Stat. at 861 (INA sec. 212(l)(3)(B), as amended (8 U.S.C. 1182 (l)(3)(B))) (emphasis added).

[49] *See* section 702(a) of the CRNA, 122 Stat. at 855–6 (section 6(a)(2), (7) of Public Law 94–241, as amended, 48 U.S.C. 1806(a)(2), (7)). *See also* note 46, *supra,* regarding extensions of the transition period.

[50] *Id.*

[51] DHS and the Department of Justice have promulgated various regulations implementing U.S. obligations under Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. *See, e.g.,* 8 CFR 208.16(c) through (f), 208.17, and 208.18; Regulations Concerning the Convention Against Torture, 64 FR 8478 (Feb. 19, 1999), as corrected by 64 FR 13881 (Mar. 23, 1999).

policy for PRC nationals seeking to enter the CNMI will be discontinued. Until that time, the G–CNMI VWP electronic travel authorization requirement allows DHS to eliminate the requirement that nationals of the PRC complete a paper CBP Form I–736 prior to being paroled into the CNMI. However, as discussed in Section IV.A. above, although this rule is effective on September 30, 2024, CBP is incorporating in the rule a 60-day transition period to facilitate travelers adjusting to the new collection method. *See* new 8 CFR 212.1(q)(9)(i). Prior to September 30, 2024, travelers seeking to be paroled into the CNMI should continue to use the paper CBP Form I–736 or print out as they are doing today. On September 30, 2024, the 60-day transition period will begin. During this transition period travelers can choose whether to submit the Form I–736 in advance electronically and receive electronic travel authorization prior to embarking on a carrier or to submit the paper CBP Form I–736 upon arrival.

At the end of the transition period, the paper CBP Form I–736 will become obsolete and travelers must input and submit in advance their personal information and respond to the eligibility questions using the new electronic format. The travelers' information will be pre-screened or vetted against law enforcement databases. Based on the results of the pre-screening, the application will be approved or denied. The system will generate a ''board'' or ''no board'' status message to the carrier indicating a denied or approved authorization to board before the flight. The applicant also receives a message with the application status: approved, denied, canceled, or pending. An approved application is not a grant of advance parole, it is merely a determination of eligibility to board the carrier. Beginning November 29, 2024, when the 60-day transition period ends, carriers must deny boarding to travelers without an approved electronic travel authorization. All information will be saved in the newly created G–CNMI VWP database.

b. Obtaining Travel Authorization

This IFR establishes data fields by which CNMI EVS–TAP travelers must electronically submit to CBP, in advance of travel to the CNMI, including biographic and other information specified by the Secretary. The information specified by the Secretary is necessary to determine the eligibility of the individual to travel to the CNMI under the CNMI EVS–TAP, and whether such travel poses a law enforcement or security risk. This is the same information currently required on the paper CBP Form I–736, which applicants for parole from the PRC must present to a CBP officer at a port of entry, with several additional questions specific to the CNMI EVS–TAP. This IFR does not impose any new data collection requirements on air or vessel carriers. For example, this rule does not require air carriers to transmit any CNMI EVS–TAP electronic travel authorization data elements on behalf of travelers to CBP, nor does it require carriers to submit any additional data.

In determining a traveler's eligibility for a CNMI EVS–TAP electronic travel authorization, CBP will assess each application to determine whether the individual is eligible to travel to the CNMI and whether there exists any law enforcement or security risk in permitting such travel under the CNMI EVS–TAP. The information submitted by the individual in the travel authorization application will be checked by CBP against all appropriate databases, including, but not limited to, lost and stolen passport databases and appropriate watchlists. Additionally, if a traveler does not provide the information required, provides false information in the travel authorization application, or if any evidence exists indicating that an individual is ineligible to travel to the CNMI under the CNMI EVS–TAP or that permitting such travel poses a law enforcement or security risk, CBP may deny the application for a travel authorization. The Secretary, acting through CBP, retains discretion to revoke a travel authorization determination at any time and for any reason, as set forth in new 8 CFR 212.1(r)(9)(vi)(D). If a travel authorization application under the CNMI EVS–TAP is denied, the individual may still seek to obtain a visa to travel to the CNMI from the appropriate U.S. embassy or consulate. *See* INA sec. 221(a)(1)(B) (8 U.S.C. 1201(a)(1)(B)).

c. Timeline for Submitting Travel Authorization Data

Once CNMI EVS–TAP is implemented, pursuant to new 8 CFR 212.1(r)(9), each nonimmigrant visitor wishing to travel to the CNMI under the CNMI EVS–TAP must have a travel authorization prior to embarking on a carrier. DHS, however, recommends that CNMI EVS–TAP travelers obtain travel authorizations prior to the time of reservation or purchase of the ticket, or at least 5 days before departure to the CNMI, in order to facilitate timely departures.

d. Required Travel Authorization Data Elements

CNMI EVS–TAP electronic travel authorization will collect the same information currently required on the paper CBP Form I–736 that is presented by parolees from the PRC to a CBP officer at a port of entry with several additional questions specific to the CNMI EVS–TAP. This is the information that the Secretary has deemed necessary to evaluate whether an individual is eligible to travel to the CNMI under the CNMI EVS–TAP and whether such travel poses a law enforcement or security risk. This information is already collected through the CBP Form I–736, which is presented to CBP when the applicant for parole arrives in the CNMI. On the CBP Form I–736, travelers must provide biographical data such as name, birth date, and passport information, as well as travel information such as flight information and the address of the traveler in the CNMI. Travelers must also answer eligibility questions regarding, for example: communicable diseases, arrests and convictions for certain crimes, and past history of visa revocation or deportation. In addition to the Form I–736 data elements, in order for CBP to initially determine if the applicant is eligible to travel under the CNMI EVS–TAP before the individual commences travel to the CNMI, the CNMI EVS–TAP questions also include questions regarding the status of the traveler's family and finances, occupation, and previous visits to Guam and/or the CNMI.

e. Scope of CNMI EVS–TAP Electronic Travel Authorization

An approved CNMI EVS–TAP electronic travel authorization only allows a noncitizen to board a conveyance for travel to a U.S. port of entry in the CNMI and does not restrict, limit, or otherwise affect the authority of CBP to determine a traveler's admissibility to the CNMI during inspection at a port of entry.

f. Duration

Each travel authorization will be valid for a period of no more than one year. A noncitizen may travel to the CNMI repeatedly within the validity period of the travel authorization using the same travel authorization. Pursuant to INA section 212(a)(7)(B)(i)(I) (8 U.S.C. 1182(a)(7)(B)(i)(I)) and implementing regulations at 8 CFR 214.1(a)(3)(i), the passport of an applicant for admission must be valid for a minimum of six months from the expiration date of the contemplated period of stay. Travelers

whose CNMI EVS–TAP electronic travel authorization applications are approved, but whose passports will expire in less than one year but greater than six months, will receive travel authorization that is valid only until six months prior to the expiration date on the passport. Travelers whose passports will expire in six months or less will not receive a travel authorization.

The Secretary, in consultation with the Secretary of the Interior and the Secretary of State, may increase or decrease the CNMI EVS–TAP travel authorization validity period otherwise authorized. *See* INA sec. 212(l)(3) (8 U.S.C. 1182(l)(3)). Notice of any change to the CNMI EVS–TAP travel authorization validity period will be published in the **Federal Register**. The CNMI EVS–TAP website will be updated to reflect the travel authorization validity period.

g. Events Requiring New Travel Authorization

A CNMI EVS–TAP traveler must obtain a new electronic travel authorization in advance of travel to the CNMI within the validity period of the traveler's current travel authorization if any of the following occurs:

(1) The traveler is issued a new passport;

(2) The traveler's name changes;

(3) The traveler's gender changes;

(4) The traveler's country of citizenship changes; or

(5) The circumstances underlying the traveler's previous responses to any of the CNMI EVS–TAP electronic travel authorization application questions requiring a ''yes'' or ''no'' response (eligibility questions) have changed.

h. Fee

At this time, payment of a fee will not be required to obtain a travel authorization. If DHS determines at a later time, however, that collection of a fee is necessary for the efficient administration of the CNMI EVS–TAP electronic travel authorization requirement, DHS will implement a fee through a separate rulemaking action or such other manner as is consistent with the Administrative Procedure Act and applicable statutory authorities.

10. Severability

To the extent that any portion of the requirements arising from this rule is declared invalid by a court, DHS intends for all other parts of the rule that are capable of operating in the absence of the specific portion that has been invalidated to remain in effect.

11. Implementation Date

The requirements of the new 8 CFR 212.1(r) will take effect 45 days after the publication by the Secretary of notification in the **Federal Register** announcing the implementation of CNMI EVS–TAP. This delay in implementation will allow CBP to first establish automation of the Form I–736 and the G–CNMI VWP, and then integrate CNMI EVS–TAP. Note that this IFR has a delayed effective date until September 30, 2024, then the 60-day transition period begins for the electronic travel authorization requirement for the G–CNMI VWP. It will not be until sometime after 60 days after this IFR is effective that DHS will announce the implementation of CNMI EVS–TAP in the **Federal Register**.

B. Conforming Amendments and Revision of CBP Form I–760

This rule makes several conforming amendments to the regulations to account for the CNMI EVS–TAP. This rule makes two changes to 8 CFR 212.1(q) to account for CNMI EVS–TAP and the new 8 CFR 212.1(r). The first change impacts 8 CFR 212.1(q)(6) regarding bonding requirements. Part of the second recommendation made in the 902 Consultations regarding the creation of CNMI EVS–TAP is that the United States will explore adding bonding requirements as discussed in the CNRA.[52] Section 702(b) of the CNRA requires that the regulations implementing the G–CNMI VWP, and thus the CNMI EVS–TAP, include any bonding requirements for nationals of some or all of those countries who may present an increased risk of overstaying their period of authorized stay or other potential problems, *if different from such requirements otherwise provided by law for nonimmigrant visitors*.[53] The general bonding requirements provided by law for nonimmigrant visitors are found in section 214(a)(1) of the INA (8 U.S.C. 1184(a)(1)), which allows the Secretary to prescribe by regulations when the Secretary deems necessary the giving of a bond and the sum and conditions thereof for the admission of a nonimmigrant. Accordingly, 8 CFR 214.1(a)(3)(iii) sets forth who may require a bond from a nonimmigrant, the appropriate form, and the minimum sum. *See also* 8 CFR 103.6 (regarding the procedures for posting, processing, and cancellation of surety bonds in immigration cases).

DHS has not imposed any bonding requirements different from such requirements otherwise provided by law for nonimmigrant visitors for travelers seeking admission into Guam or the CNMI under the G–CNMI VWP. For clarity, DHS is removing the applicable text regarding bonding requirements from 8 CFR 212.1(q)(6). To date, DHS has not utilized 8 CFR 212.1(q)(6) to require a bond on behalf of any traveler seeking admission under the G–CNMI VWP. Similar to the discussion above in Section V.A.6. regarding bonding requirements under the CNMI EVS–TAP, at this time DHS is not imposing any bonding requirements different from such requirements otherwise provided by law for nonimmigrant visitors for travelers seeking admission into Guam or the CNMI under the G–CNMI VWP. The general bonding requirements for nonimmigrants continue to apply, although they are rarely used. If DHS determines that additional bonding requirements are necessary, DHS will amend the regulations accordingly and has reserved the applicable text of 8 CFR 212.1(q)(6) to do so.

The second change to 8 CFR 212.1(q) made by this rule to account for CNMI EVS–TAP and the new 8 CFR 212.1(r) addresses severability. This rule adds new 8 CFR 212.1(q)(10), which provides that to the extent that any portion of the requirements arising from this rule is declared invalid by a court, DHS intends for all other parts of the rule that are capable of operating in the absence of the specific portion that has been invalidated to remain in effect.

This rule also amends 8 CFR 214.1, regarding ineligibility for extensions of stay, to add a limitation regarding extensions of stay for CNMI EVS–TAP travelers. Currently, 8 CFR 214.1(c)(3)(viii) provides that nonimmigrants who are admitted into the United States as visitors for business or pleasure pursuant to the G–CNMI VWP are ineligible for an extension of stay. This amendment provides that nonimmigrants admitted pursuant to the CNMI EVS–TAP are also ineligible for an extension of stay.

This rule also amends 8 CFR 233.6 to require transportation lines bringing travelers to the CNMI under the CNMI EVS–TAP to enter into an agreement on CBP Form I–760. Currently, transportation lines transporting nonimmigrant visitors under the G–CNMI VWP into Guam or the CNMI from foreign territories must enter into a contract with CBP by executing CBP Form I–760 ''Guam-CNMI Visa Waiver

[52] *Report to the President on 902 Consultations Related to the DHS Discretionary Parole Program* (May 15, 2019), p. 10, *available at https://www.doi.gov/sites/doi.gov/files/uploads/final_902_report.pdf.*

[53] *See* section 702(b)(3) of the CNRA, 122 Stat. at 861 (INA sec. 212(l)(3)(B), as amended (8 U.S.C. 1182 (l)(3)(B))) (emphasis added).

Agreement'' (I–760). Additionally, CBP Form I–760 will be revised to reflect the automation of the G–CNMI VWP and the establishment of the CNMI EVS–TAP.

VI. Statutory and Regulatory Reviews

A. Administrative Procedure Act

Section 702(b) of CNRA directs that all regulations necessary to implement the G–CNMI VWP shall be considered a foreign affairs function for purposes of section 553(a) of the Administrative Procedure Act (APA). Even without this directive from the CNRA, for the reasons discussed below this rule involves a foreign affairs function of the United States. DHS, after consultation with the Departments of State and Interior, is adopting this rule to advance the President's foreign policy goals and this rule directly involves relationships between the United States and its noncitizen visitors. Requiring noncitizen visitors to submit their information electronically in advance of travel and receive an electronic travel authorization prior to embarking on a carrier for travel to Guam or the CNMI is an integral part of the administration of the G–CNMI VWP and its sub-program CNMI EVS–TAP, programs that involve an inherently foreign affairs function of the United States. Specifically, the G–CNMI VWP enables eligible citizens or nationals of designated countries and geographic areas to travel to Guam or the CNMI for tourism or business for stays of 45 days or less without first obtaining a visa, provided they meet certain requirements. Similarly, the CNMI EVS–TAP enables eligible nationals of the PRC to travel to the CNMI for tourism or business for stays of 14 days or less without first obtaining a visa, provided they meet certain requirements. Among other things, travelers under the G–CNMI VWP or the CNMI EVS–TAP must have valid electronic travel authorizations. As part of the screening process, CBP reviews available information regarding G–CNMI VWP and CNMI EVS–TAP applicants to determine whether they present a concern to U.S. national security or law enforcement (to include immigration enforcement) interests. Thus, any rulemaking actions undertaken to implement G–CNMI VWP and CNMI EVS–TAP are exempt from APA notice and comment requirements. Accordingly, this IFR is exempt from the notice and comment and 30-day effective date requirements of the APA. Although DHS is not required to provide prior public notice or an opportunity to comment, DHS is nevertheless providing the opportunity for public comments.

B. Executive Orders 12866 and 13563

Executive Order 12866, as amended by Executive Order 14094, and Executive Order 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. DHS has reviewed the IFR to ensure its consistency with the regulatory philosophy and principles set forth in those Executive Orders and has prepared the following economic analysis of the potential impacts of this IFR.

This IFR creates an electronic travel authorization requirement for the current G–CNMI VWP similar to the current travel authorization requirement via the Electronic System for Travel Authorization (ESTA) for the general Visa Waiver Program established by section 217 of the INA (8 U.S.C. 1187) (general VWP).[54] This IFR also creates the CNMI EVS–TAP, a restricted sub-program of the G–CNMI VWP. The IFR will be implemented in two phases, with the second phase occurring once the first phase has been successfully implemented. The first phase involves visitors from G–CNMI VWP countries and geographic areas. Travelers to Guam and the CNMI will be required to fill out an electronic Form I–736, rather than the paper CBP Form I–736, in advance of travel using the G–CNMI VWP electronic travel authorization website. The IFR requires G–CNMI VWP travelers to receive a positive determination of travel authorization from CBP to board a plane to Guam or the CNMI. The first phase also involves visitors from the PRC seeking parole. PRC travelers to the CNMI seeking parole will also be required to fill out an electronic Form I–736, rather than the paper CBP Form I–736, in advance of travel using the G–CNMI VWP electronic travel authorization website and receive a positive determination of travel authorization from CBP to board a plane to the CNMI. The second phase involves travelers from the PRC traveling to the CNMI only (not including Guam). Once CNMI EVS–TAP is implemented, the current parole policy will be discontinued, and PRC travelers could be eligible to travel to the CNMI for a maximum stay of 14 days without obtaining a visa prior to travel. Similar to the first phase of this IFR, under CNMI EVS–TAP, PRC travelers will be required to submit an electronic Form I–736, along with responses to an additional set of vetting questions, in order to receive travel authorization from CBP.

After careful review and a detailed analysis of the actions contained within this rulemaking, CBP has concluded that this IFR will result in benefits justifying the costs. For the 5-year period analyzed, the present value (PV) cost of the rulemaking is estimated at $7,018,942 (PV, discounted at 7-percent), which includes associated information technology (IT) costs with the automation of Form I–736, as well as developing the public facing CNMI EVS–TAP website. The present value benefits are $11,956,620 (PV, 7-percent), which results from improved processing times at Federal Inspection Services (FIS), a reduction in costs to both CBP and carriers associated with individuals found to be inadmissible at Guam-CNMI POEs, and savings to CBP from eliminating manual data entry and storage of the current paper CBP Form I–736. The net present value (NPV, 7-percent) is calculated at $4,937,678.

Background

Current Process

Under the current process, travelers from G–CNMI VWP participating countries and geographic areas can travel for business or pleasure purposes to Guam or the CNMI without obtaining a visa for a period not to exceed 45 days. Upon arrival, travelers provide CBP officers their paper CBP Form I–736. Travelers can access CBP Form I–736 by visiting CBP's website. The traveler can choose to fill out the form

[54] The travel authorization via ESTA requirement for the general VWP is provided in 8 CFR 217.5. There are several substantive differences between the travel authorization requirements for the general VWP and the G–CNMI VWP: (1) travel authorization via ESTA for the general VWP allows for travel to the entire United States, whereas travel authorization via electronic Form I–736 for the G–CNMI VWP allows for travel only to Guam or the CNMI; (2) travel authorization via ESTA is a requirement for general VWP travelers intending to arrive at land ports of entry in the United States, which is not applicable to the G–CNMI VWP, as Guam and the CNMI are not contiguous with any other country or geographic area; (3) section 217(h)(3)(C)(iv) of the INA (8 U.S.C. 1187(h)(3)(C)(iv)) explicitly excludes travel authorization determinations via ESTA from judicial review, but there is no such explicit provision for G–CNMI VWP travel authorization determinations; and (4) there are fees for applying for travel authorization via ESTA (*see* 8 CFR 217.5(h)), while there are not currently fees for applying for travel authorization for G–CNMI VWP travelers.

electronically, print it, and provide it to the CBP officer, or the traveler can print and fill out by hand as well. Carriers also provide a paper version of CBP Form I–736 to passengers who need it prior to arrival in Guam or the CNMI. Form I–736 has a set of vetting questions that the CBP officer reviews at the FIS and uses the information to determine admissibility to Guam or the CNMI. Travelers arriving in the CNMI from the PRC must present themselves to a CBP officer with the CBP Form I–736 filled out and then generally are paroled into the CNMI for a period not to exceed 14 days. PRC nationals are required to obtain a visa to enter Guam.

Process: Phase I and Phase II

Under this IFR, CBP is replacing the current process with a new process that adapts currently available technology. Under this IFR, the traveler information contained in Form I–736 will be submitted by travelers in advance, prior to boarding a carrier, to CBP and DHS. Travelers from G–CNMI VWP countries and geographic areas must receive from CBP a determination of travel eligibility prior to embarking on a carrier for travel to either Guam or the CNMI. Similarly, PRC nationals must also receive a determination of travel eligibility prior to boarding a carrier destined to the CNMI. PRC nationals will still be required to obtain a visa to enter Guam. CBP is implementing this rule in two phases.

In particular, this IFR involves the collection of information provided on Form I–736 from travelers arriving in either Guam or the CNMI from current G–CNMI VWP participating countries and geographic areas. This rule changes the mechanism by which traveler information is processed.[55] Under this IFR, travelers will instead respond and submit their personal and travel information responses to CBP and DHS in advance via an electronic version of Form I–736 that will be available on the DHS–CBP website. Under CNMI EVS–TAP in Phase II, the Form I–736 for PRC nationals will have an additional set of pre-vetting questions than those traveling under the G–CNMI VWP to make a determination of travel eligibility. These changes allow DHS and CBP to perform more effective vetting of travelers entering Guam and the CNMI.

Under this IFR, travelers from all countries and geographic areas that are part of the G–CNMI VWP must begin using the new automated electronic Form I–736, and use of the current paper CBP Form I–736 will be discontinued. This regulatory impact analysis studies the economic impact of automating Form I–736, and the creation of the CNMI EVS–TAP. The implementation of CNMI EVS–TAP will occur once the automation of the electronic Form I–736 is complete.

Phase I

The first phase of this rule affects travelers from G–CNMI VWP participating countries and geographic areas traveling to Guam or the CNMI, and PRC nationals seeking parole traveling to the CNMI, for business or pleasure purposes. These travelers will be required to access the electronic version of Form I–736, provide the required information, and receive an electronic travel authorization prior to boarding a carrier to Guam or the CNMI. DHS and CBP recommend that travelers obtain travel authorizations prior to the time of reservation or purchase of the ticket, or at least five days before departure to Guam or the CNMI, in order to facilitate timely departures. The recommended five days will provide DHS and CBP time to conduct the necessary pre-vetting investigation process prior to the traveler's departure. The traveler's information is reviewed against various U.S. and international law enforcement agency databases to ensure travel eligibility to the United States. Once the vetting is complete, CBP will provide the traveler with a determination of travel eligibility. This process is similar to the ESTA process for travel under the general VWP.

Soon after travelers input their information into the electronic Form I–736, travelers, in most cases, will receive a positive determination of travel eligibility, that is, an electronic travel authorization. An electronic travel authorization is required to travel to Guam or the CNMI under the G–CNMI VWP, but is not a determination that the traveler ultimately is admissible to Guam or the CNMI. A determination of admissibility to Guam or the CNMI will still be made by a CBP officer at the face-to-face interview at an FIS facility area. Under the rule, CBP will have access to the traveler's electronic Form I–736 in advance and prior to arrival at Guam or the CNMI. Having the traveler's personal and travel information in advance will help CBP identify potential grounds of ineligibility for admission before the G–CNMI VWP traveler embarks on a carrier destined for Guam or the CNMI. The process will also help travelers in shortening their time at inspection, as well as decreasing the number of travelers turned away at the port of entry because of inadmissibility. Another anticipated outcome of this IFR is that carriers are expected to experience a decrease in costs from transporting individuals who are deemed to be inadmissible to the United States. These expected outcomes are discussed in further detail below, under ''Benefits of the Rule.''

Phase II

The second phase of this rulemaking will be implemented once the automation of Form I–736 has been successfully completed. The timeframe allows for the implementation, testing, and operations of Phase I to be completed successfully before implementing Phase II.

Phase II involves the development of a sub-program to the G–CNMI VWP, known as CNMI EVS–TAP. CNMI EVS–TAP will allow PRC nationals to enter the CNMI (but not Guam) for a maximum of 14 days without requiring either a visa to the United States or receiving a grant of discretionary parole. Under this IFR, and similar to the requirements for G–CNMI VWP travelers and PRC nationals seeking parole traveling to the CNMI in Phase I, PRC nationals seeking to travel to the CNMI under the CNMI EVS–TAP will have to access the electronic Form I–736, though now with additional questions specific to the CNMI–EVS–TAP, provide the required traveler information, and receive an electronic travel authorization prior to boarding a carrier to the CNMI. The required determination of travel eligibility will be provided by the CNMI EVS–TAP system once the traveler provides the requested personal and travel information and the traveler is vetted as described above in Phase I. The CNMI EVS–TAP system builds on the G–CNMI VWP system and is thus similar to the current ESTA, a program used in the general VWP, as described above, and is also similar to the Electronic Visa Update System (EVUS), a program used by certain PRC nationals to update biographic and other information to maintain visa validity prior to travel to the United States.[56] CNMI EVS–TAP will provide a channel through which personal and travel information is collected by CBP for security vetting purposes during the prescreening investigation process. Depending on the outcome of the investigation, a travel

[55] Note that this rule does not change the length of admission and remains the same at 45 days for travelers from G–CNMI VWP participating countries.

[56] *See* 8 CFR part 215, subpart B. Pursuant to 8 CFR 215.22, DHS identified the PRC as an EVUS country in a **Federal Register** notice published on October 20, 2016. 81 FR 72600.

authorization will be provided to the individual, who must receive it in advance of travel to the CNMI.

Under the current process, when an eligible PRC passport holder arrives at the CNMI without a visa, the traveler typically receives discretionary parole from the Port Director to enter the CNMI. Under Phase I of this rulemaking, PRC nationals that intend to seek parole will have to fill out the electronic Form I–736 prior to boarding a carrier, and CBP will make a determination of travel eligibility. Under Phase II of this rulemaking, once CNMI EVS–TAP is implemented, the electronic Form I–736 for PRC nationals seeking to travel under the CNMI EVS–TAP will have an additional set of pre-vetting questions than those traveling under the G–CNMI VWP to make a determination of travel eligibility. As such, Phase II of this rulemaking involves transitioning PRC nationals from the current discretionary parole policy, and instead processing them for admission under the CNMI EVS–TAP similar to those under the G–CNMI VWP, but with a shorter admission period.

Economic Impact of the Rule

CBP anticipates that this rule will have positive net benefits, meaning that economic benefits justify the economic costs. As more fully discussed below, the net economic benefit is expected to be $6,866,537, undiscounted over a five-year period of analysis.

CBP has identified the following economic costs of this rule: (1) development of the required software to automate electronic Form I–736 to process passenger information and provide the determination of travel eligibility and required electronic travel authorizations; (2) development of the required electronic travel authorization system specific to CNMI EVS–TAP to process and update PRC-related traveler information; (3) maintenance costs associated with continuous use of the software, including occasional software updates for both G–CNMI VWP participating travelers and PRC nationals (initially those seeking parole, and then CNMI–EVS TAP participants); (4) increased time burden of two minutes for G–CNMI VWP participants to access the CBP–DHS website; and (5) increased time burden of two minutes for CNMI EVS–TAP users to access the CBP–DHS website, and an additional five minutes to answer an additional set of vetting questions, for a total additional time burden of seven minutes, per response. CBP already has a similar digital database program in place, but will need to make modifications for the implementation of program associated with this rule.

CBP has identified the following benefits from the rule: (1) decrease in administrative costs to CBP from manually entering the information contained in the paper CBP Form I–736 into a database, and subsequently storing the paper files in a storage facility; (2) decrease in the number of individuals found to be inadmissible to the United States at the POE which leads to a decrease in airline costs for transporting individuals who are found to be inadmissible to the United States; and (3) an increase in national security from a more effective vetting process of individuals seeking to harm the United States.

Baseline

The baseline used in this analysis is the current regulatory status quo, which includes the current regulations for travelers arriving to Guam and the CNMI under the current G–CNMI VWP. Against this baseline, we consider the regulatory changes provided by this rulemaking: the automation of Form I–736 for individuals traveling from participating G–CNMI VWP countries and geographic areas and the development of CNMI EVS–TAP for PRC nationals entering the CNMI. We use a five-year period of analysis, from 2022–2026.

Population Affected by Rule

CBP has historical information on yearly arrivals to both Guam and the CNMI from the participating countries and geographic areas. CBP uses this information to forecast future travel patterns from participating countries and geographic areas to anticipate the potential economic impact of the rule. CBP has information from fiscal years 2015 through 2020. However, in this analysis, CBP uses fiscal years 2015 through 2019 to provide arrival forecasts for future years. CBP does not use fiscal year 2020 because of the travel uncertainty associated with the COVID–19 global pandemic in 2020. Due to the uncertainty, this analysis provides the economic impact of the rule as if travel, the economy, and international borders were restored to patterns similar to those before the COVID–19 pandemic.

Table 1 shows the number of arrivals to both Guam and the CNMI for fiscal years 2015 to 2019 from the 12 participating G–CNMI VWP countries and geographic areas. On average, there are 1.4 million visitors per year to Guam and the CNMI. From FY 2015 to FY 2016, the majority of arrivals are passport holders from Japan, consisting of more than 50-percent for FY 2015 and 50-percent for FY 2016. Between FY 2017 to FY 2020, the majority of arrivals to the islands are passport holders from South Korea. Arrivals to Guam and the CNMI from all other G–CNMI VWP participating countries and geographic areas was less than five-percent for any given year. Travelers from the PRC are not eligible for the G–CNMI VWP, but may be paroled into the CNMI. Table 2 shows the historical data on arrivals to the CNMI only from PRC nationals seeking to be paroled between FY 2015 to FY 2019. Arrivals from the PRC steadily increased from FY 2015 to FY 2019.

TABLE 1—G–CNMI VWP ARRIVALS TO GUAM AND CNMI [57]

Country or geographic area	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	Total
Australia	698	539	440	378	369	2,424
Brunei	2	0	1	6	1	10
Hong Kong	352	970	2,344	2,699	2,479	8,844
Japan	707,421	621,534	471,393	386,033	456,321	2,642,702
Malaysia	208	235	567	426	495	1,931
Nauru	12	9	7	28	22	78
New Zealand	137	159	139	133	110	678
Papua New Guinea	205	275	73	60	55	668
South Korea	489,519	581,744	715,564	762,479	697,602	3,243,908
Singapore	151	173	142	153	127	746

[57] Source: BorderStat, ATS–P, accessed Jun. 29, 2022. Inbound arrivals to Guam and the CNMI all modes.

TABLE 1—G–CNMI VWP ARRIVALS TO GUAM AND CNMI [57]—Continued

Country or geographic area	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	Total
Taiwan	35,144	33,820	29,590	20,182	20,433	139,169
United Kingdom	689	674	945	565	534	3,407
Total	1,234,538	1,240,132	1,218,205	1,173,142	1,178,548	6,044,565

TABLE 2—PRC ARRIVALS AT THE CNMI SEEKING PAROLE

Arrivals to the CNMI	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	Total
PRC arrivals at the CNMI	108,952	136,911	184,378	213,827	164,564	808,632

Future Arrivals to Guam and CNMI

Table 3 presents future forecasts of travel to Guam and the CNMI, and is used to compare the effect of the regulation. Using the data presented in Table 1, the number of arrivals to Guam and the CNMI grew at a compound annual growth rate of −1.15 percent between fiscal years 2015 and 2019. CBP uses this rate to forecast future travel to the islands.[58]

TABLE 3—G–CNMI VWP EXPECTED ARRIVALS TO GUAM AND CNMI [59]

Country or geographic area	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Australia	365	361	357	353	349
Brunei	1	1	1	1	1
Hong Kong	2,451	2,423	2,395	2,367	2,340
Japan	451,074	445,886	440,759	435,690	430,680
Malaysia	490	484	479	473	468
Nauru	22	22	22	22	21
New Zealand	109	108	107	106	104
Papua New Guinea	55	54	54	53	52
South Korea	689,580	681,650	673,811	666,062	658,402
Singapore	126	125	123	122	120
Taiwan	20,199	19,966	19,737	19,510	19,285
United Kingdom	528	522	516	510	504
Total	1,165,000	1,151,602	1,138,361	1,125,269	1,112,326

Economic Costs of Rule [60]

CBP has identified five relatively major potential sources of costs from the rule: [61] (1) automation of electronic Form I–736; (2) development of CNMI EVS–TAP software; (3) a one-time fixed cost and continued maintenance of the automated Form I–736 and CNMI EVS–TAP; (4) increased time burden of two minutes for G–CNMI VWP participants to access the CBP–DHS website; and (5) increased time burden of two minutes for CNMI EVS–TAP users to access the CBP–DHS website, and an additional five minutes to answer an additional set of vetting questions, for a total additional time burden of seven minutes, per response. In addition, CBP has determined that the expanded transmission of traveler information between the carrier and CBP will have no additional cost. The transmitted information will contain the traveler's background and travel information, and is similar to that in the current ESTA and EVUS programs. This is not expected to increase costs because carriers already have the capabilities to transmit this information and receive information from CBP regarding a passenger's boarding status. The automated Form I–736 information and electronic travel authorization status will be another component in determining a passenger's boarding status that will be implemented in the existing messaging capabilities between CBP and the carriers.

CBP Information Technology Costs

CBP currently has a program that provides travelers with a determination of travel eligibility to the United States: ESTA, which is used to authorize travel in accordance with the general VWP. A similar electronic travel authorization system will need to be developed for the G–CNMI VWP. As previously

[58] CBP does not expect a significant change in travel to Guam or the CNMI as a result of this IFR.

[59] DHS is aware that the outbreak of COVID–19 will likely reduce the number of trips/arrivals in the short run. Consequently, using historical growth rates from FY 2015 to FY 2019 to estimate FY 2022 to FY 2026 trips/arrivals will not reflect any impacts from the COVID–19 pandemic. It is not clear what level of reductions the pandemic will have on travel to Guam and the CNMI, or how DHS would estimate such an impact with any precision given available data. Therefore, the projections in Table 3 could be overestimates, especially for the year 2022.

[60] *See* OMB Circular A–4. Please note this analysis is performed from a global perspective, and includes foreign individuals who travel to the United States. Notice that most of the costs of the rule (except for CBP costs) will be incurred by foreign travelers that are not U.S. citizens or permanent residents.

[61] CBP has also considered the following costs: It may be the case that travel agents incur costs to assist their clients in complying with this IFR; however, CBP anticipates that this additional cost to travel agents would be passed on to their clients and it would not be greater than the cost that would be incurred if the client filed the data themselves. In the case that a travel authorization is denied, travelers have the ability to obtain a visa, which would have additional costs. However, CBP does not expect many individuals who are denied a travel authorization to be able to successfully obtain a visa, so we do not include those costs in this analysis. Further, those denied travel authorizations would be likely to be denied admission by the CBP officer under the baseline, in which case they would have the option to seek the visa under the baseline as well. CBP therefore does not believe there are meaningful visa costs resulting from this rule.

mentioned, current practice requires travelers, without an approved ESTA, from a G–CNMI VWP participating country or geographic area or from the PRC seeking parole into the CNMI, to present a completed and signed paper CBP Form I–736. Travelers may fill out the digital format of CBP Form I–736, print and sign the document; print the CBP Form I–736, fill it out and sign it; or fill out and sign a provided paper CBP Form I–736. Automation of the electronic Form I–736 will require a transformation in the information technology currently used for this form. Under this IFR, a traveler will input the Form I–736 information and submit it to CBP electronically.[62] CBP will then use this information to provide a determination of travel eligibility. Similarly, once CNMI EVS–TAP is implemented, PRC nationals—along with additional specifications and requirements—will electronically provide the Form I–736 information along with answers to additional vetting questions, to receive a determination of travel eligibility. Although a similar program such as ESTA already exists within CBP, the automation of the Form I–736 is expected to be a cost to CBP and the U.S. Federal Government.

Although CBP already has a website and software programs that will be nearly identical to what is currently being implemented in this rulemaking, the development of software and program website to implement the automation of Form I–736 (Phase I) and the development of CNMI EVS–TAP (Phase II) are included and quantified in this analysis. Since the software and website will be similar to that currently used in EVUS and ESTA, the cost to CBP for developing these components is expected to be less than the original costs to develop the EVUS and ESTA programs. Because a portion of the CNMI EVS–TAP includes automation of Form I–736, the development of both the Form I–736 automation for Phase I and the additional questions and separate tab for CNMI EVS–TAP for Phase II will are interrelated and the cost is not broken down between the two phases. The website components include: (1) creation of a public facing website(s) for travelers to submit the required information, including biographical data and eligibility questions; (2) creation of at least one internal website for CBP officers to be able to view and modify an application; (3) creation of a database to store the application(s) with the ability for other applications to view or modify (approve or deny) those applications; (4) a process for accepting the application, verifying email address, auditing, adjudicating, screening and emailing the application and emailing the applicant with notification of a decision, along with the ability for the applicant to return and view the status of the application; and (5) developing and enhancing interconnectivity between CBP information systems to query and/or validate applicant information.

CBP currently has two programs (ESTA and EVUS) that have identical components to the ones just described, including external and internal website, a database to store applications, a process for accepting, screening, and emailing notifications. In 2008, DHS and CBP published an IFR, which included the implementation of the Electronic System for Travel Authorization, also known as ESTA.[63] ESTA provides an advance determination of travel authorization to citizens of 40 countries in the general VWP. Many of the functional components of the G–CNMI VWP, Automation of Form I–736, will be identical to the current ESTA program. CBP does not anticipate needing to develop a program in terms of new information technology for the G–CNMI VWP, and instead is duplicating components of the ESTA program and tailoring it to the G–CNMI VWP. The IT costs of developing the program for the G–CNMI VWP are presented in Table 4, and include both program development and annual operations and maintenance costs.

Under this IFR, the G–CNMI VWP electronic travel authorization requirement will improve the current processing of travelers at both Primary and Secondary inspections, as well as improve the determination of a traveler's admissibility to Guam or the CNMI along with the verification of information. The verification occurs with the already existing Advance Passenger Information System (APIS), Traveler Primary Arrival Client (TPAC), and Lookout Record Data and Screening Services (LRDS). Because this verification of traveler information is done automatically by computers, and CBP and carriers will continue to use existing messaging capabilities, expansion of the use of this existing infrastructure for vetting and communicating ''board'' or ''no board'' messages to carriers will not result in an increase in costs to CBP or carriers.

Under this IFR, CBP and DHS are establishing a sub-program to the G–CNMI VWP, known as CNMI EVS–TAP. The purpose of the sub-program will allow PRC nationals to be admitted to the CNMI without a visa for nonimmigrant travel. Under the current parole process, PRC nationals have been allowed to travel to the CNMI for a period not to exceed 14 days. Under CNMI EVS–TAP, PRC nationals will continue to be allowed travel to the CNMI for business or pleasure purposes for a period of 14 days.[64] Assuming all requirements are met, PRC nationals will receive a determination of travel eligibility. Although the IT is similar to a current program that already exists—EVUS—the development of CNMI EVS–TAP is expected to be a cost to CBP and the U.S. Federal Government.

Since CNMI EVS–TAP will include the automation of Form I–736, all of the components to automate Form I–736 are already included within the broader G–CNMI VWP. PRC nationals traveling to the CNMI under CNMI EVS–TAP, however, will have to answer and submit an additional set of screening questions to CBP than those traveling from participating G–CNMI VWP countries and geographic areas. CNMI EVS–TAP will be specific for PRC nationals traveling to the CNMI only, and will replace the current parole process. Under this IFR, PRC nationals will be able receive a determination of travel eligibility to the CNMI without the need to obtain a visa. Note that PRC nationals will still have the option of applying and obtaining a visa to visit the United States. PRC nationals with an approved visa must enroll in EVUS and provide or update personal and travel information in order to receive a determination of travel eligibility. In a sense, CNMI EVS–TAP will be a smaller scaled version of EVUS, and CNMI EVS–TAP will have similar functional components in terms of information technology requirements as EVUS. CBP anticipates maintenance costs associated with the automated Form I–736, as well as the CNMI EVS–TAP program for PRC nationals.

Table 4 summarizes the IT costs associated with the development and implementation of Phase I and Phase II of this rulemaking regarding G–CNMI VWP Automation and CNMI EVS–TAP (the Guam-CNMI program). Program costs are divided into two categories, with the first being development of the software and the DHS–CBP website for

[62] Please note that this process would also allow travelers to print their Form I–736 for their own records.

[63] *See* Changes to the Visa Waiver Program To Implement the Electronic System for Travel Authorization (ESTA) Program, 73 FR 32440 (June 9, 2008); *see also* 8 CFR 217.5.

[64] *Note:* please refer to the regulatory text for specifications and additional requirements.

both phases incurred in the first year, and the second as operation and maintenance costs for the subsequent four years. The program's total development is estimated at $3,169,486 incurred in the first year, with operations and maintenance starting at $646,575 undiscounted in the second year and rising to $686,151 undiscounted in the program's fifth year. The program's total implementation cost is estimated at $5,834,416 undiscounted over the next five-year period.

TABLE 4—GUAM-CNMI PROGRAM IMPLEMENTATION COSTS

[Phase I and II]

Cost category	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Development	$3,169,486	.....	.....	.....	.....	$3,169,486
Operations and Maintenance	.....	646,575	659,507	672,697	686,151	2,664,930
Total	3,169,486	646,575	696,507	672,697	686,151	5,834,416

In addition, CBP has identified that the changes in this rule will result in a net increase in traveler time. The increased traveler time will result in a cost increase. The following sections explain the process for Phase I for each group of travelers and Phase II in further detail.

Increased Traveler Times Associated With the Automation of Form I–736 for G–CNMI VWP Travelers

In order to provide an estimate of the net change in traveler times as a result of this rule (measured as the difference in minutes between the current process and the new process), it is important to understand the current inspection and admission process in Guam and the CNMI. In general, the traveler disembarks from the aircraft, enters the FIS and joins the queue. If it is the case that the traveler has neither a current ESTA, nor a valid EVUS authorization, then the traveler approaches the CBP officer and presents a valid passport and a completed and signed CBP Form I–736. If the traveler has all documents in order, then the officer compares the passport to the person and reviews CBP Form I–736. The officer then scans the passport in the TPAC and reviews any lookouts that may appear in the system. The officer questions the traveler as to the purpose and length of stay and other relevant questions. The officer either admits the traveler, refers the traveler for secondary inspection, or grants parole in the case for PRC nationals to the CNMI. Under this IFR, with the automation of Form I–736 for G–CNMI VWP countries and geographic areas in Phase I and with the implementation of CNMI EVS–TAP for PRC nationals in Phase II, both programs will result in a net increased traveler times.

Table 5 describes the three varying scenarios that can occur under the current process when a traveler from a participating G–CNMI VWP country arrives at an FIS at either Guam or the CNMI. The left-hand column, labeled (a), describes the scenario with the least amount of traveler time and represents a traveler with an approved ESTA. The traveler time in this first scenario is estimated to take approximately two minutes per traveler. The middle column, labeled (b), describes the scenario when the traveler does not have an approved ESTA, but has in hand the required current paper CBP Form I–736 completed and signed. The traveler time in this second column is approximately the same as that in the first column, however, there is a greater chance that the traveler may be found to be inadmissible. This rule will attempt to lower the likelihood of a traveler being found inadmissible for three reasons: (1) the traveler's information will be collected beforehand by CBP and DHS; (2) the collected information will have gone through a vetting process before the traveler boards the carrier; and (3) the CBP officer will have the traveler's information in digital format for a few seconds beforehand to make an assessment on admissibility with greater confidence. The right-hand column, labeled (c), is the most time consuming scenario and describes the case in which a traveler arrives at FIS without an approved ESTA, and without CBP Form I–736. It is the number of occurrences in column (c) that this rule will attempt to eliminate, as the traveler time under this third scenario can take up to an estimated seven minutes per traveler. Under this IFR, the automation of Form I–736 will result in most travelers following a scenario similar to that described in the column (a). Note that none of these scenarios includes the time it takes to complete the Form I–736 as that time burden is borne by the traveler in all scenarios in both the baseline and under the rule. The next two subsections describe both the current and proposed processes in more detail.

TABLE 5—CURRENT PROCESS FOR GENERAL VWP AND G–CNMI VWP PARTICIPANTS TRAVELING TO GUAM OR THE CNMI

[Traveler time is in parentheses]

Traveler from general VWP participating country with current (approved) ESTA enrollment (a)	Traveler from G–CNMI VWP participating country without an approved ESTA, with CBP Form I–736 completed and signed (b)	Traveler from G–CNMI VWP participating country without an approved ESTA, without CBP Form I–736 (c)
Traveler arrives at the FIS area and presents travel documents to the CBP officer.	Traveler arrives at the FIS area and presents travel documents to the CBP officer.	Traveler arrives at the FIS area and presents travel documents to the CBP officer.
CBP officer inspects travel documents to include passport and reviews for compliance. Traveler's information is stored in databases (approx. 1 min).	If traveler is in possession and compliance with all required travel documents, then, the CBP officer compares the passport to the person and reviews CBP Form I–736 (approx. 1 min).	The traveler is returned to the airline agent stationed in the primary queue area who is actively checking the passengers' forms before the passengers get to primary (approx. 5 min).

TABLE 5—CURRENT PROCESS FOR GENERAL VWP AND G–CNMI VWP PARTICIPANTS TRAVELING TO GUAM OR THE CNMI—Continued

[Traveler time is in parentheses]

Traveler from general VWP participating country with current (approved) ESTA enrollment (a)	Traveler from G–CNMI VWP participating country without an approved ESTA, with CBP Form I–736 completed and signed (b)	Traveler from G–CNMI VWP participating country without an approved ESTA, without CBP Form I–736 (c)
CBP officer interviews the traveler as to the purpose and length of intended stay and other relevant questions (approx. 1 min). CBP officer either refers the person to secondary, or grants admission to Guam or the CNMI. If traveler is admissible, then, the traveler proceeds to local CNMI Customs Service for processing.	CBP officer interviews the traveler as to the purpose and length of intended stay and other relevant questions (approx. 1 min). CBP officer either refers the person to secondary, or grants admission to Guam or the CNMI. If traveler is admissible, then, the traveler proceeds to local CNMI Customs Service for processing.	Once traveler's documents are completed and in compliance, then, the CBP officer compares the passport to the person and reviews CBP Form I–736 (approx. 1 min). CBP officer interviews the traveler as to the purpose and length of intended stay and other relevant questions (approx. 1 min). CBP officer determines traveler's admissibility into Guam or the CNMI. If traveler is admissible, then, the traveler proceeds to local CNMI Customs Service for processing.
Total time: 2 min	Total time: 2 min	Total time: 7 min.

Baseline Process for G–CNMI VWP Travelers Visiting Either Guam or the CNMI

A CBP Form I–736 is required for travel to Guam and the CNMI except in three circumstances. CBP Form I–736 is not required if a traveler holds a valid visa for travel to the United States. The processing time for these travelers is estimated to be approximately two minutes, which is the time it takes for the CBP officer to inspect the travel documents and ask questions to the traveler regarding the purpose and length of intended stay as well as other relevant questions. If a traveler is a citizen of Australia, Brunei, Japan, New Zealand, South Korea, Singapore, Taiwan, or the United Kingdom [65] and has a current ESTA enrollment, then CBP Form I–736 is also not required and the respective processing time upon arrival resembles that detailed in column (a) of Table 5. If a traveler from the PRC holds a valid visa for travel to the United States and has a valid EVUS enrollment, then CBP Form I–736 is also not required.

Citizens or nationals from one of the twelve countries or geographic areas participating in the G–CNMI VWP (Australia, Brunei, Hong Kong, Japan, Malaysia, Nauru, New Zealand, Papua New Guinea, South Korea, Singapore, Taiwan and the United Kingdom) who travel to Guam or CNMI without a current ESTA enrollment are required, with a few exceptions, to present a signed paper copy of CBP Form I–736 upon arrival. Their processing time can vary depending on whether or not the traveler has a completed and signed CBP Form I–736. If the traveler arrives without an approved ESTA, but has a completed, printed and signed CBP Form I–736, the CBP officer then reviews the information presented in CBP Form I–736, along with relevant travel and related questions, and makes a determination of admissibility to the United States. The processing time corresponding to column (b) in Table 5 is also estimated at two minutes.

If, on the other hand, the traveler from a G–CNMI VWP participating country does not have a completed, printed and signed CBP Form I–736, then the CBP officer refers the traveler to an airline agent to complete and sign CBP Form I–736. CBP estimates that the need to go to an airline agent adds five minutes to the traveler's time, not including the time it actually takes to complete the CBP Form I–736. It generally takes 19 minutes to complete CBP Form I–736, but this time is borne whether the traveler arrives at the airport with a completed form or not; all that varies is when the traveler fills out the form. The CBP officer then reviews the information contained within the form and asks relevant travel and related questions regarding the traveler's purpose and length of stay at the inspection interview and makes a determination of admissibility. CBP estimates that the third process described in column (c) in Table 5 takes seven minutes from beginning to end, not including the time it takes to complete the CBP Form I–736.

New Process for G–CNMI VWP Travelers When Visiting Either Guam or the CNMI

CBP intends to improve the arrival process by automating Form I–736 whereby the traveler does not need to print and sign a paper CBP Form I–736. Instead, CBP will automate Form I–736 by having travelers fill out the form in advance, answer the required personal and travel questions and update their information prior to their travel. CBP will then use this information to review against national and international law enforcement databases to prescreen travelers, which will improve the current vetting process, and as a result receive a determination of travel eligibility. In essence, as a result of this rule, the processes represented in columns (b) and (c) of Table 5 will be eliminated, and all travelers from G–CNMI VWP will follow a process that resembles column (a) in Table 5. The process will be similar to the current ESTA process.

[65] These countries are part of both the general Visa Waiver Program and G–CNMI VWP.

In order to quantify the economic benefits (or cost) resulting from this rule's change in traveler times, a value of time is needed. The U.S. Department of Transportation (USDOT)[66] provides estimates on the value of travel time. Since travelers from all of the countries and geographic areas selected by the U.S. Government to participate in the G–CNMI VWP, and PRC nationals granted discretionary parole into the CNMI, are typically higher income individuals,[67] they are thus more likely to have values of time similar to the USDOT's value of travel time savings estimates. Accordingly, CBP believes that this value of travel time savings reported in USDOT's memorandum is an accurate representation of the value of time savings that travelers from G–CNMI VWP participating countries and geographic areas also place on travel time and CBP uses $53.24 as the estimated hourly value of travel time for affected travelers.

Net Change in Traveler Time With Automated Form I–736

The net change in traveler times depends on the travelers' baseline behavior. Some will see an increase in time burden and others will see a decrease. On net, the overall population will not see a change in the traveler time as a result of this rule and the automation of Form I–736. As previously mentioned, the processes described in columns (b) and (c) of Table 5 are expected to be eliminated. Using travel projections from Table 3, CBP can estimate the net change in traveler time associated with the automation of Form I–736. From fiscal years 2015 to 2019, a total of approximately six million travelers from G–CNMI VWP participating countries and geographic areas arrived in Guam and the CNMI requiring a paper CBP Form I–736. CBP subject matter experts estimate that approximately 60 percent of the six million G–CNMI–VWP travelers[68] arrived with a completed CBP Form I–736 (column (b)) and 40 percent arrived without one and needed to complete and sign upon arrival (column (c)).

The total estimated processing time for a traveler that falls under column (b) of Table 5 currently is estimated at two minutes. Under this IFR, travelers will now be required to access and submit their personal and travel information into the automated version of Form I–736. CBP estimates that this new process will burden travelers by an additional two minutes, which represents the time it takes to set up an account on the new website and log in to access the automated Form I–736. Thus, the difference in time between column (b) and the new proposed process is expected to be approximately an additional two minutes. The increased time burden and monetized time costs for travelers that arrive with a completed I–736 (column (b)) are presented in Table 6.

TABLE 6—NET CHANGE IN TRAVELER TIME FROM AUTOMATION OF FORM I–736, COLUMN (B)

Time burden	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Number of travelers	699,000	690,962	683,016	675,162	667,395	3,415,535
Additional time burden (min)	2	2	2	2	2	
Burden hours	23,300	23,032	22,767	22,505	22,247	113,851
Monetized Time Cost	$1,240,492	$1,226,224	$1,212,115	$1,198,166	$1,184,430	$6,061,427

The current processing time associated with column (c) of Table 5 is seven minutes. Travelers will now have to follow the two-minute process described in column (a), but will also bear the additional two-minute time burden to set up a new account and logging into the website. On net, these travelers will experience a three-minute time savings as a result of this rule. The estimated time savings benefits from reduced processing at the G–CNMI FIS associated with column (c) of Table 5 are presented in Table 7.

TABLE 7—NET CHANGE IN TRAVELER TIME FROM AUTOMATION OF FORM I–736, COLUMN (C)

Time reduction	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Number of travelers	466,000	460,640	455,345	450,107	444,931	2,277,023
Time reduction (minutes)	3	3	3	3	3	
No. of hours reduced	23,300	23,032	22,767	22,505	22,247	113,851
Monetized Time Benefit	$1,240,492	$1,226,224	$1,212,115	$1,198,166	$1,184,430	$6,061,427

After applying this value for travel time using the all-purpose travel category, CBP estimates that the 2-minute increase for 60 percent of travelers (column b) and 3-minute decrease for 40 percent of travelers (column c) results in a net undiscounted economic benefit resulting from automation of Form I–736 is $0 over the

[66] For the monetized time costs used in this analysis to calculate the time burden imposed on travelers for the increased time burden to fill out the automated Form I–736, CBP uses the U.S. Department of Transportation's (USDOT) hourly time value of $47.10 for all-purpose, intercity air travelers. The 2015 hourly figure is then multiplied with a GDP deflator multiplier of 1.1304 to reflect a 2021 dollars wage rate of $53.24. The opportunity cost associated with column (b) of Table 5 was estimated by multiplying the hourly Value of Travel Time Savings (VVTS) figure with the change in minutes it takes to complete the automated Form I–736. Similarly, the opportunity cost associated with column (c) of Table 5 was estimated by multiplying the VTTS figure with the change in minutes it takes to complete the automated Form I–36. Source: U.S. Department of Transportation, Office of Transportation Policy. *The Value of Travel Time Savings: Departmental Guidance for Conducting Economic Evaluations Revision 2 (2015 Update).* ''Table 4 (Revision 2-corrected): Recommended Hourly Values of Travel Time Savings for All-Purpose, Intercity Air and High-Speed Rail Travel.'' April 29, 2015. *Available at https://www.transportation.gov/sites/dot.gov/files/docs/2016%20Revised%20Value%20of%20Travel%20Time%20Guidance.pdf.* Accessed Sept. 28, 2020.

[67] *See* Economic Analysis for the Interim Final Rule: Implementation of the Guam-CNMI Visa Waiver Program (Oct. 31, 2008), pp. 3–13 (CNMI) and 4–5 (Guam), *available at https://www.regulations.gov/document/USCBP-2009-0001-0002.*

[68] Some travelers are likely to be repeat travelers, which may affect estimated costs and benefits presented in this analysis, but CBP data on repeat travelers in this situation are not readily available. To the extent that some travel more than once in a two-year period, the costs and savings associated with the one-time process of completing the automated Form I–736 will be lower.

next five-year period. The resulting net change in traveler time associated with Phase I, which corresponds to the summation of Table 6 and Table 7, is presented in Table 8.

TABLE 8—TOTAL NET CHANGE IN TRAVELER TIME OF PHASE I FROM THE AUTOMATION OF FORM I–736

Economic cost	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Monetized time cost	$1,240,492	$1,226,224	$1,212,115	$1,98,116	$1,184,430	$6,061,427
Monetized time benefit	1,240,492	1,226,224	1,212,115	1,98,116	1,184,430	6,061,427
Total time cost (undiscounted)	0	0	0	0	0	0

Increased Traveler Time Associated With the Automation of Form I–736 for PRC Nationals and Increased Traveler Time Associated With the Implementation of CNMI EVS–TAP

The automation of Form I–736 for PRC nationals seeking parole in Phase I and CNMI EVS–TAP in Phase II applies to when they arrive at an FIS at the CNMI only. PRC nationals still must obtain a visa to enter Guam, and this rule does not change applicable visa requirements for travel to Guam. In order to estimate the expected net change in processing time at inspection with the proposed processes under this rule, it is important to understand the current process. The difference in processing times between the current process and the new processes is the net change in traveler time, with the net change in processing time (measured as the difference in minutes between the current process and the new process), and the economic cost measured as the value of time associated with the increase in processing time.

Table 9 explains the three varying scenarios that can result under the current process when travelers from the PRC arrive at the CNMI. The left-hand column, labeled (d), describes the scenario with the least amount of processing time and coincides with a visa traveler having a valid (approved) EVUS enrollment. The middle column, labeled (e), describes the scenario where the traveler arrives without a visa, but has in hand the required current paper version of CBP Form I–736 completed and signed, and seeks parole. The processing time in column (e) takes approximately five minutes, and takes about three minutes longer to process than in column (d). There is also a higher chance that the traveler is found to be inadmissible to the CNMI or denied parole as there has been no pre-arrival vetting in this scenario. This rule will attempt to lower the likelihood of a traveler being found inadmissible or denied parole for three reasons: (1) the traveler's information will have been collected beforehand by CBP and DHS; (2) the collected information will have gone through a vetting process before the traveler boards; and (3) the CBP officer will have the traveler's information in digital format a few seconds beforehand to make an assessment on admissibility with greater confidence. The right-hand column, labeled (f), is the most time consuming scenario and describes the case in which a traveler arrives at an FIS without a visa, and without CBP Form I–736. The processing time under column (f) is estimated to take up to nine minutes per traveler. It is the number of occurrences in columns (e) and (f) that this rule will attempt to eliminate. Under this IFR, the implementation of CNMI EVS–TAP will result in most travelers following a scenario similar to that described in column (d). The automation of Form I–736 will be included within the implementation of CNMI EVS–TAP. The next two subsections describe both the current and the proposed processes in more detail.

TABLE 9—CURRENT PROCESS FOR PRC NATIONALS TRAVELING TO THE CNMI

[Traveler time is in parentheses]

Traveler with PRC passport, valid visa, and valid (approved) EVUS enrollment (d)	Traveler with PRC passport, without visa (seeks parole), with CBP Form I–736 completed and signed (e)	Traveler with PRC passport, without visa (seeks parole), without CBP Form I–736 (f)
PRC national arrives at the FIS area and presents travel documents to the CBP officer.	PRC national arrives at the FIS area and presents travel documents to the CBP officer.	PRC national arrives at the FIS area and presents travel documents to the CBP officer.
CBP officer inspects travel documents and reviews personal and travel information stored in databases (approx. 1 min).	If traveler has all documents in order, then the officer compares the passport to the person and reviews CBP Form I–736 (approx. 1 min).	The traveler is returned to the airline agent stationed in the primary queue area who is actively checking the passengers' forms before the passengers get to primary (approx. 5 min).
CBP officer interviews the traveler as to the purpose and length of intended stay and other relevant questions (approx. 1 min).	CBP officer interviews the traveler as to the purpose and length of intended stay and other relevant questions (approx. 2 min).	Once the traveler's documents are completed and found to be in compliance, then, the CBP officer compares the passport to the person and reviews CBP Form I–736 (approx. 1 min).
CBP officer either refers the person to secondary, or grants admission to Guam or the CNMI.	CBP officer either refers the person to secondary, or authorizes parole into the CNMI.	CBP officer interviews the traveler as to the purpose and length of intended stay and other relevant questions (approx. 2 min).
If traveler is admissible, then, the traveler proceeds to local CNMI Customs Service for processing.	If a parole determination is made, the CBP officer stamps the passport with the CBP parole stamp and annotates the parole expiration date (approx. 2 min).	CBP officer either refers the person to secondary, or authorizes parole into the CNMI.

TABLE 9—CURRENT PROCESS FOR PRC NATIONALS TRAVELING TO THE CNMI—Continued

[Traveler time is in parentheses]

Traveler with PRC passport, valid visa, and valid (approved) EVUS enrollment (d)	Traveler with PRC passport, without visa (seeks parole), with CBP Form I–736 completed and signed (e)	Traveler with PRC passport, without visa (seeks parole), without CBP Form I–736 (f)
	Traveler then proceeds to local CNMI Customs Service for processing.	If the determination to grant discretionary parole is made, the CBP officer stamps the passport with the CBP parole stamp and annotates the parole expiration date (approx. 2 min). Traveler then proceeds to local CNMI Customs Service for processing.
Total time: 2 min	Total time: 5 min	Total time: 9 min.

Baseline Process for PRC Nationals When Visiting the CNMI

PRC nationals are required to obtain a visa prior to travel to visit Guam or the CNMI, or seek parole into the CNMI only. Individuals who are issued a visa by the applicable embassy or consulate containing maximum validity (10-year) B1/B2, B1, and B2 visas, are required to enroll in EVUS. These travelers may use their valid visa and EVUS enrollment and follow the process outlined in the column (d) of Table 9. CBP estimates that the total processing time for EVUS enrollees is approximately two minutes—similar to that of travelers with an approved ESTA.

PRC nationals who do not have a valid applicable visa and EVUS enrollment are required to complete CBP Form I–736 in order to be granted parole and allowed to enter into the CNMI only without having obtained a visa. Depending on whether the traveler has a completed and signed CBP Form I–736, the processing times can vary following the processes summarized in columns (e) and (f) of Table 9. The maximum length of parole into the CNMI for PRC nationals is currently set at 14 days. Under the current process, the paper CBP Form I–736s are collected, scanned, and stored by CBP.

Process for PRC Nationals Under Phase I

During Phase I, PRC nationals will submit Form I–736 in advance electronically instead of on paper and must receive electronic travel authorization prior to embarking on a carrier in order to seek parole into the CNMI until Phase II is implemented. The automation of Form I–736 for PRC nationals is included in the CNMI EVS–TAP discussion below.

Process for PRC Nationals Under Phase II: CNMI EVS–TAP

This rule introduces CNMI EVS–TAP, and once CNMI EVS–TAP is implemented, this rule eliminates the current parole process. CNMI EVS–TAP will require PRC nationals to obtain an electronic travel authorization in advance of travel to the CNMI for a period of stay up to 14 days. Since CNMI EVS–TAP will be a sub-program of the G–CNMI VWP, the automation of Form I–736 will already be included within CNMI EVS–TAP. CNMI EVS–TAP users, which includes PRC nationals, will have a tab with an additional set of questions used for screening and vetting purposes. Under CNMI EVS–TAP, PRC nationals arriving at the CNMI will follow a process identical to column (d) in Table 9, without requiring a visa and instead arrive with a positive determination of travel authorization. The CNMI EVS–TAP process will make more efficient use of time for the traveler, while also reducing CBP resources associated with the parole process, and reduce the number of travelers turned away after being denied parole into the CNMI by a CBP officer at the port of entry.

With the use of CNMI EVS–TAP, PRC nationals will instead fill out the required personal and travel information in advance of travelling, and CBP will have the information contained in Form I–736, as well as responses to the additional CNMI EVS–TAP questions, for review, screening and vetting purposes prior to arriving in the CNMI. At the inspection interview with a CBP officer, the CBP officer will make a sounder assessment regarding admissibility to the CNMI with the information stored in the CNMI EVS–TAP database. Having personal and travel information in advance also improves national security. A second result of this rule is that PRC nationals who have not obtained a visa and valid EVUS enrollment will experience processing times closer to that of EVUS.

Net Change in Traveler Time With CNMI EVS–TAP and Automated Form I–736

CNMI EVS–TAP will result in an increase in processing time for travelers. With the implementation of CNMI EVS–TAP, the time associated with columns (e) and (f) of Table 9 are essentially eliminated and instead travelers will go through the process described in column (d), and will also answer the additional vetting questions. Using the travel projections from Table 3, CBP can estimate the total increase in traveler time associated with the implementation of CNMI EVS–TAP. From fiscal years 2015 to 2019, CBP primary officers in the CNMI encountered approximately 808,632 paroled travelers with paper CBP Form I–736 to the CNMI. Historical data for PRC arrivals at the CNMI seeking parole from FY 2015 to FY 2019 are provided in Table 10. Using the data presented in Table 10, the number of arrivals to the CNMI grew at a compound annual growth rate of 10.86 percent between fiscal years 2015 and 2019. Using the expected number of future arrivals to the CNMI yields a total of 1,133,016 paper CBP Form I–736 [69] that will be avoided over the next five-year period that will no longer be received and processed by CBP at primary inspection stations as a result of this rule.

[69] CBP estimates future (PRC nationals) arrivals to the CNMI by multiplying the arrival total for FY 2019 (PRC nationals) with (1 + growth rate of 10.86%) to obtain a forecasted amount for FY 2022 164,564*(1 + (0.1086)) = 182,436, similarly for FY 2023 is 164,564*(1 + (0.1086)^2) = 202,249, FY 2024 164,564*(1+(0.1086)^3) = 224,213, FY 2025 164,564*(1+(0.1086)^4) = 248,562, FY 2026 164,564*(1+(0.1086)^5) = 275,556. Total for future years (prediction): 182,436 (FY22) + 202,249 (FY23) + 224,213 (FY24) + 248,562 (FY 25) + 275,556 FY(26) = 1,133,016.

TABLE 10—PRC ARRIVALS AT THE CNMI SEEKING PAROLE

Arrivals to the CNMI	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	Total
PRC arrivals at the CNMI	108,952	136,911	184,378	213,827	164,564	808,632

The total estimated processing time for a traveler that falls under column (d) of Table 9 is estimated at two minutes, and serves as the baseline representing the amount it takes to process PRC nationals who hold a valid visa and are traveling under the current EVUS program. Under this IFR, once CNMI EVS–TAP is implemented, PRC nationals seeking to enter the CNMI without first obtaining a visa will be required to access and submit their personal and travel information into the CNMI EVS–TAP website. The automation of Form I–736 will already be included into CNMI EVS–TAP. CBP estimates that this new process will burden travelers by an additional two minutes, which represents the time it takes to set up an account on the new website and log in to access CNMI EVS–TAP. In addition, these travelers will also be prompted to answer an additional set of security vetting questions prior to receiving travel authorization. CBP estimates that it will take five minutes to answer these vetting questions.

A traveler who currently arrives with a completed and signed CBP Form I–736, has a baseline time burden of five minutes, as shown in column (e). Under this IFR, these travelers will now follow a process that resembles that in column (d), but with an additional two-minute time burden to capture the added time associated with logging into the CNMI EVS–TAP website, and an additional five minutes to answer the new set of vetting questions. These travelers will now have a total opportunity cost of nine minutes, an increase of four minutes when compared to their baseline.

In order to monetize the time burden on travelers from the PRC under CNMI EVS–TAP, CBP used the historical information on PRC arrivals at the CNMI seeking parole from Table 10 to estimate the forecast for future arrivals to the CNMI. Using the same compound growth rate of 10.86 percent, future travel to the CNMI using CNMI EVS–TAP is presented in the first line in Table 10. CBP then used the same subject matter expert rate of 60-percent to estimate for the number of PRC travelers without a visa seeking parole that would have CBP Form I–736 completed and signed (*i.e.,* travelers under column (e) in Table 9). The number of travelers is presented in the third row of Table 11. Each traveler is then subject to a net four-minute increase in travel time when compared to the baseline from the additional vetting questions for PRC nationals. The total time burden, in hours, for all PRC travelers is presented in the fifth row in Table 11. Using the USDOT's value of travel time cost, CBP obtained a monetized estimate of the time burden to PRC travelers. The resulting increased time burden and monetized costs are presented in Table 11.

TABLE 11—NET CHANGE IN TRAVELER TIME FROM DEVELOPING CNMI EVS–TAP, COLUMN (e) [70]

Time burden	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Estimated (PRC nationals) arriving at the CNMI (forecast)	182,436	202,249	224,213	248,562	275,556	1,133,016
	0.60	0.60	0.60	0.60	0.60	
PRC Travelers in column (e), Table 8	109,462	121,349	134,528	149,137	165,334	679,810
Additional time burden (minutes)	4	4	4	4	4	
No. of hours (rounded)	7,297	8,090	8,969	9,942	11,022	45,321
Monetized Time Cost	$388,517	$430,708	$477,485	$529,337	$586,826	$2,412,873

On the other hand, a traveler who arrives without an EVUS enrollment, a valid visa, and a completed CBP Form I–736, has a baseline time burden of nine minutes, as shown in column (f). Under this IFR, these travelers will now follow a process that resembles that in column (d), but with an additional two-minute time burden to capture the added time associated with accessing the CNMI EVS–TAP website, and an additional five minutes to answer the new set of vetting questions. These travelers will now have a total opportunity cost of nine minutes, which is no net change when compared to their baseline. These travelers will incur the same time burden as under the baseline, but will be undergoing a different process. The resulting difference in traveler time when compared to the baseline for these individuals is presented in Table 12.

TABLE 12—NET CHANGE IN TRAVELER TIME FROM DEVELOPING CNMI EVS–TAP, COLUMN (f)

Time reduction	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Number of travelers	72,974	80,900	89,685	99,425	110,222	453,206
Time reduction (minutes)	0	0	0	0	0	
No. of hours reduced	0	0	0	0	0	0
Monetized Time Benefit	$0	$0	$0	$0	$0	$0

[70] CBP estimates future (PRC nationals) arrivals to the CNMI, column (e), as follows: FY 2022: 164,564 * (1+(0.1086))^1 * 0.60 = 109,462; FY 2023: 164,564 * (1+(0.1086))^2 * 0.60 = 121,349; FY 2024: 164,564 * (1+(0.1086))^3 * 0.60 = 134,528; FY 2025: 164,564 * (1+(0.1086))^4 * 0.60 = 149,137; FY 2026: 164,564 * (1+(0.1086))^5 * 0.60 = 165,334.

The resulting increase in CNMI EVS–TAP traveler times as a result of this rule is presented Table 13. Note that the increase in traveler time results from the increased time it takes to access the CNMI EVS–TAP website and the additional time it takes for travelers to answer the new set of vetting questions when compared to the baseline.

TABLE 13—TOTAL NET CHANGE IN TRAVELER TIME OF PHASE II FROM DEVELOPING CNMI EVS–TAP

Economic cost	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Monetized time cost	$388,517	$430,708	$477,485	$529,337	$586,826	$2,412,873
Monetized time benefit	0	0	0	0	0	0
Time cost (undiscounted)	388,517	430,708	477,485	529,337	586,826	2,412,873

Similar to the automation of Form I–736, CBP can quantify the economic cost associated with increased traveler times from this IFR using an estimate of the value of time. The U.S. Department of Transportation (USDOT) provides estimates on the value of travel time. CBP and DHS believe this value of travel time savings reported in this memorandum is an accurate representation of the value of time savings that arriving business and pleasure travelers from the PRC place on time. Applying this value for travel time, CBP estimates that the undiscounted monetized time cost of CNMI EVS–TAP to travelers is $2,412,873 over the next five-year period.

Table 14 presents the total cost of automating Form I–736 as well as CNMI EVS–TAP over the five-year period of analysis. The administrative costs include program development as well as operations and maintenance to be incurred by CBP. The table also presents the monetized time cost resulting from the change in which traveler information is processed under the new program. Note that there is a benefit from improved processing time, as well as an increase in the response times resulting from the added questionnaire components to be included in CNMI EVS–TAP. The net result is an increase in time costs from the implementation of both Phase I and Phase II.

TABLE 14—TOTAL COSTS PHASE I AND PHASE II (UNDISCOUNTED) OF THE RULE (2022–2026)

Total costs	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Phase I time cost	$0	$0	$0	$0	$0	$0
Phase II time cost	388,517	430,708	477,485	529,337	586,826	2,412,873
Program development	3,169,486	0	0	0	0	3,169,486
Operations and maintenance	0	646,575	659,507	672,697	686,151	2,664,930
Total Costs	3,558,003	1,077,283	1,136,992	1,202,034	1,272,977	8,247,289

CBP is removing a bond provision that is specific to the G–CNMI VWP. Since 2009, CBP has not used the bond provision and even if this regulatory change did not take place CBP would not expect to use it in the near future. As such, the removal of the bond provision from the G–CNMI VWP is expected to not increase or decrease economic costs. CBP continues to have available the general bond provisions for nonimmigrant travelers and can apply this to travelers to Guam and CNMI as needed. Once again, although CBP has the authority to impose a bond on a nonimmigrant traveler, CBP has not used or imposed a bond requirement on any traveler to Guam and CNMI in the past and does not anticipate using the bond provisions in the near future. As such, CBP does not expect any increase or decrease in the economic costs as a result of the general bond provisions in the near future.

Benefits of the Rule

CBP has identified four major benefits as a result of this IFR. These include: (1) a reduction in administrative costs to CBP associated with the automation of Form I–736, (2) a reduction in the number of inadmissibility cases, which reduces costs to both the government and air carriers, (3) an improvement to national security by obtaining traveler information prior to arrival, and (4) a likely increase in travel from PRC nationals who would benefit from the joint automation of Form I–736 and implementation of CNMI EVS–TAP. The first two benefits mentioned have been quantified, whereas the latter two are discussed qualitatively.

Administrative Cost-Savings to CBP Associated With the Automation of Form I–736

Under this IFR, CBP will no longer have to receive, scan and store the paper CBP Form I–736. CBP has estimated that the cost-savings from automating Form I–736 is approximately $0.63 per form, based on historical contract costs for managing the paper form. Using the number of estimated future G–CNMI–VWP arrivals to Guam and the CNMI of 5,692,558 travelers over the five-year period of analysis, CBP estimates that total cost-savings from automating Form I–736 for G–CNMI VWP travelers is approximately $3,586,314. Table 15 provides detail on the calculated cost-savings estimate to CBP.

TABLE 15—COST-SAVINGS TO CBP FROM AUTOMATING FORM I–736 FOR G–CNMI VWP TRAVELERS

Form I–736	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
G–CNMI VWP travelers (only)	1,165,000	1,151,602	1,138,361	1,125,269	1,112,326	5,692,558
Per form CBP cost	$0.63	$0.63	$0.63	$0.63	$0.63	.....

TABLE 15—COST-SAVINGS TO CBP FROM AUTOMATING FORM I–736 FOR G–CNMI VWP TRAVELERS—Continued

Form I–736	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Total	733,950	725,509	717,167	708,919	700,765	3,586,310

Similarly, under this IFR, CBP will no longer receive, scan and store the paper CBP Form I–736 from PRC nationals seeking parole into the CNMI. Aside from the additional vetting questions for PRC nationals under CNMI EVS–TAP, the Form I–736 that PRC nationals must complete is identical to the Form I–736 travelers from G–CNMI VWP participating countries must also complete. CBP has estimated that the cost-savings from no longer having to scan and store paper versions of the CBP Form I–736 for PRC nationals seeking parole is also $0.63 per form. Using the number of estimated future arrivals to the CNMI of 1,113,016 of PRC nationals under CNMI EVS–TAP, CBP estimates that the total cost-savings to CBP from automating Form I–736 for PRC travelers is $713,803. Table 16 provides details on the calculated cost-saving estimate to CBP with regards to PRC nationals under EVS–TAP.

TABLE 16—COST-SAVINGS TO CBP FROM AUTOMATING FORM I–736 FOR PRC TRAVELERS

Form I–736	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
PRC Travelers (only)	182,436	202,249	224,213	248,562	275,556	1,133,016
Per form CBP cost	$0.63	$0.63	$0.63	$0.63	$0.63	
Total	114,935	127,417	141,254	156,594	173,600	713,800

As a result, CBP estimates that the total cost-savings to CBP from automating Form I–736 is $4,300,117. Table 17 provides detailed calculations for both groups of travelers for this estimate.

TABLE 17—COST-SAVINGS TO CBP FROM AUTOMATING FORM I–736

Form I–736	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
G–CNMI VWP travelers	$733,950	$725,509	$717,167	$708,919	$700,765	$3,586,310
PRC travelers	114,935	127,417	141,254	156,594	173,600	713,800
Total	848,885	852,926	858,421	865,513	874,365	4,300,110

Benefit From Reduced Inadmissibility Cases

Under this IFR, CBP will be able to make a determination of travel eligibility of travelers from G–CNMI VWP countries and geographic areas, and the PRC, by assessing data in advance of travel, including an analysis of whether such travel poses a law enforcement or security risk. The rule accomplishes both goals of promoting border security and legitimate travel to the United States. By modernizing the G–CNMI VWP the automated Form I–736 is intended to both increase national security and provide for greater efficiencies in the screening of international travelers by allowing for screening of subjects of potential interest well before boarding, thereby reducing traveler delays based on potentially lengthy processes at the U.S. ports of entry.

In addition, each year a small percentage of travelers to the United States are deemed inadmissible for a variety of reasons, including obvious health problems, overstays from previous visits, criminal activity, etc. These noncitizens may be returned to their country of origin at the commercial carrier's expense, and the carrier may be fined for transporting a noncitizen not in possession of proper documentation. One of the purposes of this rule is to prevent ineligible entrants from arriving in the United States. Currently, travelers answer questions concerning admissibility and present this information to the CBP officer. Based on the answers to these questions, other information available, and personal judgement, the CBP officer makes the determination to admit the person to the United States, or refer the traveler to secondary inspection for further processing. Under this IFR, CBP and DHS will have travelers' personal and travel information to conduct pre-vetting of individuals prior to arrival in the United States at either Guam or the CNMI. As such, the number of travelers that will be sent to secondary inspection, as well as the associated costs to CBP and carriers, is expected to decrease.

In particular, automation of Form I–736 will allow for advance screening of G–CNMI VWP travelers against databases for lost and stolen passports, visa revocations, and terrorists. Based on CBP data, the current rate of travelers determined to be inadmissible on an annual basis has been calculated in Table 18 for each G–CNMI VWP participating country. As a result of this rule, CBP anticipates this rate of inadmissibility to be reduced even further, since arrivals will have gone through the pre-vetting process and been given a positive determination of travel eligibility prior to disembarking to the United States.[71]

[71] CBP uses inadmissibility rates to estimate the number of inadmissibility determinations that might be reduced by this rule's imposition of a travel eligibility determination; however, a positive determination of travel eligibility provided under this IFR permitting an individual to travel to the United States does not guarantee admissibility. As such, even with a positive determination of travel eligibility, certain travelers are found inadmissible upon arrival into the United States. An important element to determine eligibility to enter the United States is at the inspection interview between the CBP officer and the potential entrant. Accordingly, these estimates may overstate the actual reduction in inadmissibility cases. Carriers are still responsible for returning passengers to their last foreign point of departure at the carriers' expense if travelers cannot overcome the eligibility judgement of the CBP officer during secondary processing, even once this rule is in effect.

When inadmissible travelers are brought to the United States, they are referred to secondary inspection where a CBP or other law enforcement officer questions them and processes them for return to their country of origin. CBP estimates that it costs $136 [72] per individual for questioning and processing. CBP applies the inadmissibility rate of each G–CNMI VWP participating country to the anticipated forecasted number of arrivals for fiscal years 2022 to 2025 to obtain an estimate of future inadmissibility cases that will be avoided as a result of this rule. The rate is applied by country of origin to travelers from current G–CNMI VWP participating countries and geographic areas to obtain an estimate of the number of reduced inadmissibility cases in Phase I. Table 18 presents the number of inadmissibility cases, and Table 19 presents the associated costs to CBP that will be reduced as a result of this rule.

TABLE 18—G–CNMI VWP PARTICIPATING COUNTRIES—INADMISSIBLE RATE AND FORECAST

Country or geographic area	Inadmissible rate (pct.)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Australia	1.1625	5	5	5	5	5	25
Brunei	0.0000	0	0	0	0	0	0
Hong Kong	0.2904	8	8	7	7	7	37
Japan	0.0127	58	57	57	56	55	283
Malaysia	1.0563	6	6	6	5	5	28
Nauru	0.0000	0	0	0	0	0	0
New Zealand	2.1341	3	3	3	3	3	15
Papua New Guinea	0.5339	1	1	1	1	1	5
South Korea	0.0228	157	156	154	152	150	769
Singapore	1.8471	3	3	3	3	3	15
Taiwan	0.4322	88	87	86	85	84	430
United Kingdom	0.8349	5	5	5	5	5	25
Total		334	331	327	322	318	1,632

TABLE 19—SAVINGS TO CBP FROM REDUCED INADMISSIBILITY CASES, PHASE I

Economic benefit	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Inadmissibility cases (forecast)	334	331	327	322	318	1,632
Per traveler CBP cost	$136	$136	$136	$136	$136	$136
Total Reduced Cost to CBP (undiscounted)	45,424	45,016	44,472	43,792	43,248	221,952

When travelers are deemed inadmissible, the carrier is required to transport them back to their country-of-origin. CBP estimates that this costs carriers $1,880 [73] per individual, which includes the airfare and any lodging and meal expenses incurred while the individual is awaiting transportation out of the United States. The resulting savings to carriers from reduced inadmissibility cases as a result of this rule is presented in Table 20.

TABLE 20—SAVINGS TO CARRIERS FROM REDUCED INADMISSIBILITY CASES, PHASE I

Economic benefit	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Inadmissibility cases (forecast)	334	331	327	322	318	1,632
Per traveler carrier cost	$1,880	$1,880	$1,880	$1,880	$1,880	$1,880
Total Reduced Costs to Carriers (undiscounted)	627,920	622,280	614,760	605,360	597,840	3,068,160

Based on this information, CBP estimates the benefits to the agency associated with Phase I (automation of Form I–736) for avoided inadmissibility cases will total $221,952 undiscounted over the five-year period of analysis. The benefit to carriers is expected to total $3,068,160. The total benefit associated with Phase I over the five-year period of analysis is estimated at $3,290,112 undiscounted. Table 21 presents the savings to both CBP and carriers as a result of implementing Phase I.

TABLE 21—TOTAL BENEFITS OF PHASE I FROM REDUCED INADMISSIBILITY CASES

Economic benefit	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Savings to CBP	$45,424	$45,016	$44,472	$43,792	$43,248	$221,952
Savings to carriers	627,920	622,280	614,760	605,360	597,840	3,068,160

[72] CBP estimates that each inadmissible noncitizen requires two additional hours of inspection and processing time, at a cost of $136 per arrival based on the $67.92 fully loaded hourly wage rate for CBP officers. *Paperwork Reduction Act Information Collection Cost Estimates for July 2022 to July 2023.*

[73] CBP has previously estimated this cost to carriers for ESTA, a program that is similar to that being proposed in this rule. *See* CBP, Regulatory Assessment for the Final Rule: Electronic System for Travel Authorization (ESTA) (2015), *available at https://www.regulations.gov/document/USCBP-2008-0003-0028* (last visited July 20, 2023). In the ESTA Regulatory Assessment, the estimated cost to carriers to process a passenger who is deemed inadmissible is $1,500. *Id.* at 4–2. CBP adjusted this amount using the GDP deflator to reflect this figure in 2021 U.S. dollars using the corresponding multiplier amount of 1.2533 (1.2533 × $1,500 = $1,880).

TABLE 21—TOTAL BENEFITS OF PHASE I FROM REDUCED INADMISSIBILITY CASES—Continued

Economic benefit	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Phase I Total (undiscounted)	673,344	667,296	659,232	649,152	641,088	3,290,112

Similarly, CBP then uses the same rate and applies the rate to future forecasted arrivals from the PRC to obtain an estimate of future inadmissibility cases under Phase II. Once again, CBP estimates that it costs $136 per individual for questioning and processing. CBP uses the 0.3108-percent rate and applies this rate to the anticipated forecasted number of arrivals for fiscal years 2022 to 2026 to obtain an estimate of future inadmissibility cases that will be avoided as a result of this rule. The results are presented in Table 22 and the savings to CBP associated from a reduction in inadmissibility cases is presented in Table 23.

TABLE 22—PRC ONLY—INADMISSIBLE RATE AND FORECAST

Country or geographic area	Inadmissible rate (pct.)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
China	0.3108	568	629	697	773	857	3,524
Total		568	629	697	773	857	3,524

TABLE 23—SAVINGS TO CBP FROM REDUCED INADMISSIBILITY CASES, PHASE II

Economic benefit	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Inadmissibility cases (forecast)	568	629	697	773	857	3,524
Per traveler CBP cost	$136	$136	$136	$136	$136	$136
Total Reduced Cost to CBP (undiscounted)	77,248	85,544	94,792	105,128	116,552	479,264

Once again, CBP estimates that returning ineligible travelers to their country-of-origin costs carriers $1,880 per individual, which includes the airfare and any lodging and meal expenses incurred while the individual is awaiting transportation out of the United States. The resulting savings to carriers from reduced inadmissibility cases as a result of this rule are presented in Table 24.

TABLE 24—SAVINGS TO CARRIERS FROM REDUCED INADMISSIBILITY CASES, PHASE II

Economic benefit	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Inadmissibility cases (forecast)	568	629	697	773	857	3,524
Per traveler carrier cost	$1,880	$1,880	$1,880	$1,880	$1,880	$1,880
Total Reduced Cost to Carriers (undiscounted)	1,067,840	1,182,520	1,310,360	1,453,240	1,611,160	6,625,120

CBP estimates the benefits to the agency associated with Phase II (CNMI EVS–TAP) for avoided inadmissibility cases will total $479,264 undiscounted over the five-year period of analysis. The benefit to carriers is expected to total $6,625,120. The total benefit associated with Phase II over the five-year period of analysis is expected to total $7,104,384 undiscounted. The total benefit to both CBP and carriers over the five-year period of analysis is presented in Table 25.

TABLE 25—TOTAL BENEFITS OF PHASE II FROM REDUCED INADMISSIBILITY CASES

Economic benefit	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Savings to CBP	$77,248	$85,544	$94,792	$105,128	$116,552	$479,264
Savings to carriers	1,067,840	1,182,520	1,310,360	1,453,240	1,611,160	6,625,120
Phase II Total (undiscounted)	1,145,088	1,268,064	1,405,152	1,558,368	1,727,712	7,104,384

Table 26 presents the combined total benefits of Phase I and Phase II from reduced inadmissibility cases over the five-year period of analysis. The total estimated benefit of Phase I and Phase II is expected to total $10,394,496 undiscounted over the next five-year period.

TABLE 26—TOTAL BENEFITS OF PHASE I AND PHASE II FROM REDUCED INADMISSIBILITY

Total benefits	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Phase I:						
Savings to CBP	$45,424	$45,016	$44,472	$43,792	$43,248	$221,952
Savings to carriers	627,920	622,280	614,760	605,360	597,840	3,068,160

TABLE 26—TOTAL BENEFITS OF PHASE I AND PHASE II FROM REDUCED INADMISSIBILITY—Continued

Total benefits	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Phase I Total	673,344	667,296	659,232	649,152	641,088	3,290,112
Phase II:						
Savings to CBP	77,248	85,544	94,792	105,128	116,552	479,264
Savings to carriers	1,067,840	1,182,520	1,310,360	1,453,240	1,611,160	6,625,120
Phase II Total	1,145,088	1,268,064	1,405,152	1,558,368	1,727,712	7,104,384
Total Benefits	1,818,432	1,935,360	2,064,384	2,207,520	2,368,800	10,394,496

Other Non-Monetized Benefits

Another important benefit of this rule that is discussed but not quantified, is the improvement to national security. Since all participants using the automated Form I–736 or CNMI EVS–TAP as a result of this IFR will be screened prior to boarding a carrier, information about their background that could be a threat to national security will be obtained by CBP and DHS before they board a plane.

Additionally, because parole is granted on a case-by-case basis, and therefore, not all PRC nationals have to be granted parole, CBP anticipates that CNMI EVS–TAP will have a spillover effect to Chinese travelers from two groups: (1) those who, under the baseline, could seek to be paroled into the CNMI and did not have to (but could) obtain a visa to travel to the CNMI and (2) those who either could not or chose not to seek to be paroled into the CNMI and had to obtain a visa, but that will be able to travel without first obtaining a visa to the CNMI because of this IFR. Both of these groups will now be able to travel to the CNMI without paying the visa fee of $160 and spending the time it takes to obtain a visa (90 minutes).[74] CBP does not know how many individuals will increase their travel as a result of this rule, but CBP believes that this number will be relatively small and hence is discussed qualitatively in this analysis.

Results: Net Impact of Rule

For the five-year period of analysis, the present value cost of the IFR is estimated at $7,018,942 (PV, 7-percent), which includes increased traveler opportunity cost for both Phase I and Phase II, information technology costs associated with the automation of Form I–736, as well as developing CNMI EVS–TAP. The estimated costs of this rule are presented in Table 27.

TABLE 27—TOTAL COSTS OF THE RULE (2022–2026)

[2021 USD]

Costs	Undiscounted	3% Discount rate		7% Discounted rate	
		Present value	Annualized	Present value	Annualized
Time burden, program development, operations and maintenance	$8,247,289	$7,676,396	$1,676,176	$7,018,942	$1,711,855

The present value benefits are $11,956,620 (PV, 7-percent), which result from a reduction in costs to CBP resulting from the automation of Form I–736, and a reduction in costs associated with individuals found to be inadmissible at Guam-CNMI POEs. The sums of the total benefits resulting from this rule are presented in Table 28.

TABLE 28—TOTAL BENEFITS OF THE RULE (2022–2026)

[2021 USD]

Benefits	Undiscounted	3% Discount rate		7% Discounted rate	
		Present value	Annualized	Present value	Annualized
Phase I:					
Automation of Form I–746	$6,876,422	$6,302,883	$1,376,263	$5,633,886	$1,377,519
Phase II:					
CNMI EVS–TAP	7,818,184	7,117,691	1,554,180	6,322,734	1,542,055
Total	14,694,606	13,420,574	2,930,443	11,956,620	2,919,574

The net present value is calculated as the difference between present value costs and present value benefits. The net present value for this rule is calculated at $4,937,678 (PV 7-percent), and accordingly the present value benefits justify the present value costs (see Table 29).

[74] Form DS–160 time burden includes the time estimated to complete Form DS–160: Online Nonimmigrant Visa Application for the B–1, B2, or B–1/B2.—*See, e.g.,* U.S. Department of State, 60-Day Notice of Proposed Information Collection: Application for Nonimmigrant Visa, 83 FR 13807 (Mar. 30, 2018).

TABLE 29—NET PRESENT BENEFITS OF THE RULE (2022–2026)
[2021 USD]

Net benefits	Undiscounted	3% Discount rate		7% Discounted rate	
		Present value	Annualized	Present value	Annualized
Automation of Form I–736 and CNMI EVS–TAP	$6,447,317	$5,744,178	$1,254,266	$4,937,678	$1,207,719

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires agencies to assess the impact of regulations on small entities when the agency is required to publish a general notice of proposed rulemaking for a rule. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people). Because this rule is being issued as an interim final rule under the foreign affairs exception described above, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. 601–612).

D. Unfunded Mandates Reform Act

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

E. Privacy

CBP will ensure that all Privacy Act requirements and policies are adhered to in the implementation of this rule, and will issue or update any necessary Privacy Impact Assessment and/or Privacy Act System of Records notice to fully outline processes that will ensure compliance with Privacy Act protections.

F. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), an agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB. The collections of information for this rulemaking are included in an existing collection for CBP Forms I–736 (OMB control number 1651–0109).

This rule automates the collection of Form I–736 and requires that travelers under the G–CNMI VWP submit this information in advance of arrival. The rule also creates a new system, CNMI EVS–TAP, wherein travelers from the PRC to the CNMI can submit advance information to CBP so they may be vetted for a 14-day visa free admissibility period. These travelers will also need to complete an additional set of vetting questions. OMB Control number 1651–0109 will be revised to reflect the increase in burden hours as follows:

Form I–736

Estimated Number of Respondents: 1,370,000.
Estimated Number of Responses per Respondent: 1.
Estimated Number of Total Annual Responses: 1,370,000.
Estimated Time per Response: 21 minutes (0.35 hours).
Estimated Total Annual Burden Hours: 479,500.

CNMI EVS–TAP

Estimated Number of Annual Respondents: 230,000.
Estimated Number of Annual Responses per Respondent: 1.
Estimated Total Annual Responses: 230,000.
Estimated Time per Response: 26 minutes (0.433 hours).
Estimated Total Annual Burden Hours: 99,667.

List of Subjects

8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Passports and visas, Reporting and recordkeeping requirements.

8 CFR Part 214

Administrative practice and procedure, Aliens, Cultural exchange program, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

8 CFR Part 233

Air carriers, Aliens, Government contracts, Maritime carriers.

Amendments to the Regulations

For the reasons set forth above, DHS amends parts 212, 214, and 233 of title 8 of the Code of Federal Regulations (8 CFR parts 212, 214, and 233) as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

■ 1. The authority citation for part 212 is revised to read as follows:

Authority: 6 U.S.C. 111, 202(4) and 271; 8 U.S.C. 1101 and note, 1102, 1103, 1182 and note, 1184, 1187, 1223, 1225, 1226, 1227, 1255, 1359; section 7209 of Pub. L. 108–458 (8 U.S.C. 1185 note); Title VII of Pub. L. 110–229 (8 U.S.C. 1185 note); Pub. L. 115–218; 8 CFR part 2.

Section 212.1(q) and (r) also issued under section 702, Pub. L. 110–229, 122 Stat. 754, 854.

■ 2. Amend § 212.1 as follows:
■ a. Revise paragraph (q)(1)(v);
■ b. In paragraph (q)(1)(x), at the end of the text remove ''; and'' and add in its place ''.'';
■ c. Remove paragraph (q)(1)(xi);
■ d. In paragraph (q)(2)(ii)(B), add at end of the last sentence before the period, '', and must be in possession of a Taiwan National Identity Card and a valid Taiwan passport with a valid re-entry permit issued by the Taiwan Ministry of Foreign Affairs'';
■ e. In paragraph (q)(4), add the heading ''*Ineligibility due to admission under the Guam-CNMI Visa Waiver Program.*'';
■ f. Revise paragraph (q)(5)(iv);
■ g. In paragraph (q)(5)(v), add the text ''(see § 1.4)'' after the text ''(CBP Form I–94)'';
■ h. Remove and reserve paragraph (q)(6);
■ i. Revise the paragraph (q)(7) paragraph heading;
■ j. In paragraph (q)(7)(i):
■ i. Remove the designation and heading;
■ ii. Remove the words ''his or her'' and add in their place the words ''the alien's'' in the first instance and the words ''the officer's'' in the second instance;
■ k. In paragraph (q)(8)(ii)(A), in the first sentence remove the words ''his or her'' and add in their place the words ''the alien's'';

■ l. In paragraph (q)(8)(ii)(B), remove the reference to ''paragraph (b)(1)'' and add in its place ''paragraph (q)(8)(ii)(A)'';
■ m. Add paragraphs (q)(9) and (10); and
■ n. Add paragraph (r).

The revision and additions read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(q) * * *

(1) * * *

(v) On or after November 29, 2024, receive electronic travel authorization pursuant to paragraph (q)(9) of this section; prior to this date, receive electronic travel authorization pursuant to paragraph (q)(9) of this section or be in possession of a completed and signed Guam-CNMI Visa Waiver Information Form (CBP Form I–736);

* * * * *

(5) * * *

(iv) On or after November 29, 2024, transport an alien who has received electronic travel authorization pursuant to paragraph (q)(9) of this section; prior to this date, transport an alien who has received electronic travel authorization pursuant to paragraph (q)(9) of this section or an alien in possession of a completed and signed Guam-CNMI Visa Waiver Information Form (CBP Form I–736), and

* * * * *

(6) [Reserved]

(7) *Maintenance of status—satisfactory departure.* * * *

* * * * *

(9) *Electronic Travel Authorization*—(i) *Travel authorization required.* Each nonimmigrant alien intending to travel to Guam or the CNMI under the Guam-CNMI Visa Waiver Program on or after November 29, 2024, must, within the time specified in paragraph (q)(9)(ii) of this section, receive a travel authorization, which is a positive determination of eligibility to travel to the United States under the Guam-CNMI Visa Waiver Program, from CBP. In order to receive a travel authorization, each nonimmigrant alien intending to travel to Guam or the CNMI under the Guam-CNMI Visa Waiver Program must provide the data elements set forth in paragraph (q)(9)(iii) of this section to CBP, in English, in the manner specified herein. Prior to this date, travelers must either receive an electronic travel authorization pursuant to this subparagraph or provide the required information via a completed and signed paper Guam-CNMI Visa Waiver Information Form (CBP Form I–736) upon arrival.

(ii) *Time.* Each alien falling within the provisions of paragraph (q)(9)(i) of this section must receive a travel authorization prior to embarking on a carrier for travel to Guam or the CNMI.

(iii) *Required elements.* CBP will collect such information as the Secretary deems necessary to issue a travel authorization, as reflected by the electronic Guam-CNMI Visa Waiver Information Form (Form I–736).

(iv) *Duration*—(A) *General rule.* A travel authorization issued under the Guam-CNMI Visa Waiver Program will be valid for a period of two years from the date of issuance, unless the passport of the authorized alien will expire in less than two years, in which case the authorization will be valid until the date of expiration of the passport.

(B) *Exception.* For travelers from countries or geographic areas which have not entered into agreements with the United States whereby their passports are recognized as valid for the return of the bearer to the country or geographic area of the foreign-issuing authority for a period of six months beyond the expiration date specified in the passport, a travel authorization issued under the Guam-CNMI Visa Waiver Program is not valid beyond the six months prior to the expiration date of the passport. Travelers from these countries or geographic areas whose passports will expire in six months or less will not receive a travel authorization.

(C) *Changes to the validity period.* The Secretary, in consultation with the Secretary of State, may increase or decrease the Guam-CNMI Visa Waiver Program travel authorization validity period otherwise authorized by subparagraph (A) for a designated Guam-CNMI Visa Waiver Program country or geographic area. Notice of any change to the Guam-CNMI Visa Waiver Program travel authorization validity periods will be published in the **Federal Register**. The Guam-CNMI Visa Waiver Program website will be updated to reflect the specific Guam-CNMI Visa Waiver Program travel authorization validity period for each Guam-CNMI Visa Waiver Program country or geographic area.

(v) *New travel authorization required.* A new travel authorization is required if any of the following occurs:

(A) The alien is issued a new passport;

(B) The alien's name changes;

(C) The alien's gender changes;

(D) The alien's country of citizenship changes; or

(E) The circumstances underlying the alien's previous responses to any of the Guam-CNMI Visa Waiver Information Form (Form I–736) questions requiring a ''yes'' or ''no'' response (eligibility questions) have changed.

(vi) *Limitations*—(A) *Current authorization period.* A travel authorization under the Guam-CNMI Visa Waiver Program is a positive determination that an alien is eligible, and grants the alien permission, to travel to Guam or the CNMI under the Guam-CNMI Visa Waiver Program and to apply for admission under the Guam-CNMI Visa Waiver Program during the period of time the travel authorization is valid. A travel authorization under the Guam-CNMI Visa Waiver Program is not a determination that the alien is admissible to Guam, the CNMI, or the United States. A determination of admissibility is made only after an applicant for admission is inspected by a CBP officer at a U.S. port of entry in Guam or the CNMI.

(B) *Not a determination of visa eligibility.* A determination under the Guam-CNMI Visa Waiver Program that an alien is not eligible to travel to Guam or the CNMI under the Guam-CNMI Visa Waiver Program is not a determination that the alien is ineligible for a visa to travel to Guam, the CNMI, or the United States and does not preclude the alien from applying for a visa before a United States consular officer.

(C) *Revocation.* A determination under the Guam-CNMI Visa Waiver Program that an alien is eligible to travel to Guam or the CNMI to apply for admission under the Guam-CNMI Visa Waiver Program may be revoked at the discretion of the Secretary.

(10) *Severability.* The provisions of paragraphs (q) and (r) of this section are separate and severable from one another. If any provision is stayed or determined to be invalid, the remaining provisions shall continue in effect.

(r) *Aliens admissible under the Commonwealth of the Northern Mariana Islands (CNMI) Economic Vitality & Security Travel Authorization Program (EVS–TAP)*—(1) *Description.* In accordance with Public Law 110–229, the Secretary, in consultation with the Secretaries of the Departments of the Interior and State, may waive the visa requirement in the case of a nonimmigrant alien who seeks admission to Guam or the Commonwealth of the Northern Mariana Islands (CNMI). The requirements for the Guam-CNMI Visa Waiver program are set forth in paragraph (q) of this section. Also in accordance with Public Law 110–229 and the process provided therein, the Secretary may add countries to the list of those whose nationals may obtain a visa waiver, with any special

requirements the Secretary may impose. The CNMI Economic Vitality & Security Travel Authorization Program (EVS–TAP) is a restricted travel authorization sub-program of the Guam-CNMI Visa Waiver Program that allows a nonimmigrant alien who is a national of the People's Republic of China (PRC) to be admitted to the CNMI only without a visa in specified circumstances. A visa is still required for a nonimmigrant alien who is a national of the PRC seeking to be admitted to Guam.

(2) *Eligibility.* To be admissible under the CNMI EVS–TAP, prior to embarking on a carrier for travel to the CNMI, the nonimmigrant alien must:

(i) Be a national of the PRC;

(ii) Be classifiable as a visitor for business or pleasure;

(iii) Be solely entering and staying on the CNMI for a period not to exceed 14 days;

(iv) Be in possession of a round trip ticket that is nonrefundable and nontransferable and bears a confirmed departure date not exceeding 14 days from the date of admission to the CNMI. ''Round trip ticket'' includes any return trip transportation ticket issued by a participating carrier, electronic ticket record, airline employee passes indicating return passage, individual vouchers for return passage, group vouchers for return passage for charter flights, or military travel orders which include military dependents for return to duty stations outside the United States on U.S. military flights;

(v) Receive an electronic travel authorization from CBP pursuant to paragraph (r)(9) of this section;

(vi) Be in possession of a completed and signed I–94 (see § 1.4), Arrival-Departure Record (CBP Form I–94);

(vii) Be in possession of a valid unexpired ICAO compliant, machine readable passport issued by the PRC;

(viii) Have not previously violated the terms of any prior admissions or parole;

(ix) Waive any right to review or appeal an immigration officer's determination of admissibility at the port of entry into the CNMI; and

(x) Waive any right to contest any action for deportation or removal, other than on the basis of: an application for withholding of removal under section 241(b)(3) of the INA; withholding or deferral of removal under the regulations implementing Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; or, after December 31, 2029, an application for asylum if permitted under section 208 of the Act.

(3) *Suspension or Discontinuation of Program.* (i) The Secretary may suspend the CNMI EVS–TAP for good cause including, but not limited to the following circumstances: (A) The admissions of visitors from the PRC have resulted in an unacceptable number of visitors from the PRC remaining unlawfully in the CNMI, unlawfully obtaining entry to other parts of the United States, or seeking withholding of removal or asylum; or (B) Visitors from the PRC pose a risk to law enforcement or security interests, including the enforcement of immigration laws of the CNMI or the United States.

(ii) The Secretary, in consultation with the Secretary of the Interior and the Secretary of State, may also discontinue the CNMI EVS–TAP based on the evaluation of all factors the Secretary deems relevant including, but not limited to, electronic travel authorization, procedures for reporting lost and stolen passports, repatriation of aliens, rates of refusal for nonimmigrant visitor visas, overstays, exit systems, and information exchange.

(4) *Ineligibility due to admission under the CNMI EVS–TAP.* Admission under this section renders an alien ineligible for:

(i) Adjustment of status to that of a temporary resident or, except as provided by section 245(i) of the Act or as an immediate relative as defined in section 201(b) of the Act, to that of a lawful permanent resident.

(ii) Change of nonimmigrant status; or

(iii) Extension of stay.

(5) *Requirements for transportation lines.* A transportation line bringing any alien to the CNMI pursuant to this section must:

(i) Enter into a contract on CBP Form I–760, made by the Commissioner of U.S. Customs and Border Protection on behalf of the government;

(ii) Transport an alien only if the alien is a national of the PRC and is in possession of a valid unexpired ICAO compliant, machine readable passport issued by the PRC;

(iii) Transport an alien only if the alien is in possession of a round trip ticket as defined in paragraph (r)(2)(iv) of this section bearing a confirmed departure date not exceeding 14 days from the date of admission to the CNMI which the carrier will unconditionally honor when presented for return passage. This ticket must be:

(A) Valid for a period of not less than one year,

(B) Nonrefundable except in the country in which issued or in the country of the alien's nationality or residence, and

(C) Issued by a carrier which has entered into an agreement described in paragraph (r)(5) of this section.

(iv) Transport an alien only if the alien has received electronic travel authorization from CBP pursuant to paragraph (r)(9) of this section.

(6) [Reserved.]

(7) *Maintenance of status—satisfactory departure.* If an emergency prevents an alien admitted under the CNMI EVS–TAP, as set forth in this paragraph (r), from departing from the CNMI within the alien's period of authorized stay, an immigration officer having jurisdiction over the place of the alien's temporary stay may, in the officer's discretion, grant a period of satisfactory departure not to exceed 15 days. If departure is accomplished during that period, the alien is to be regarded as having satisfactorily accomplished the visit without overstaying the allotted time.

(8) *Inadmissibility and Deportability*—(i) *Determinations of inadmissibility.* (A) An alien who applies for admission under the provisions of the CNMI EVS–TAP, who is determined by an immigration officer to be inadmissible to the CNMI under one or more of the grounds of inadmissibility listed in section 212 of the Act (other than for lack of a visa), or who is in possession of and presents fraudulent or counterfeit travel documents, will be refused admission into the CNMI and removed. Such refusal and removal shall be effected without referral of the alien to an immigration judge for further inquiry, examination, or hearing. The provisions of 8 CFR subpart 208 subpart A shall not apply to an alien present or arriving in the CNMI seeking to apply for asylum prior to January 1, 2030. No application for asylum may be filed pursuant to section 208 of the Act by an alien present or arriving in the CNMI prior to January 1, 2030; however, aliens physically present in the CNMI during the transition period who express a fear of persecution or torture only may establish eligibility for withholding of removal pursuant to INA 241(b)(3) or pursuant to the regulations implementing Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

(B) The removal of an alien under this section may be deferred if the alien is paroled into the custody of a Federal, State, or local law enforcement agency for criminal prosecution or punishment. This section in no way diminishes the discretionary authority of the Secretary enumerated in section 212(d) of the Act.

(C) Refusal of admission under this paragraph shall not constitute removal for purposes of the Act.

(ii) *Determination of deportability.* (A) An alien who has been admitted to the CNMI under the provisions of this section who is determined by an immigration officer to be deportable from the CNMI under one or more of the grounds of deportability listed in section 237 of the Act, shall be removed from the CNMI to the alien's country of nationality or last residence. Such removal will be determined by DHS authority that has jurisdiction over the place where the alien is found, and will be effected without referral of the alien to an immigration judge for a determination of deportability. The provisions of 8 CFR part 208 subpart A shall not apply to an alien present or arriving in the CNMI seeking to apply for asylum prior to January 1, 2030. No application for asylum may be filed pursuant to section 208 of the INA by an alien present or arriving in the CNMI prior to January 1, 2030; however, aliens physically present or arriving in the CNMI prior to January 1, 2030, may apply for withholding of removal under section 241(b)(3) of the Act and withholding and deferral of removal under the regulations implementing Article 3 of the United Nations Convention Against Torture, Inhuman or Degrading Treatment or Punishment.

(B) Removal by DHS under paragraph (r)(8)(ii)(A) of this section is equivalent in all respects and has the same consequences as removal after proceedings conducted under section 240 of the Act.

(iii) *Removal of inadmissible aliens who arrived by air or sea.* Removal of an alien from the CNMI under this section may be effected using the return portion of the round trip passage presented by the alien at the time of entry to the CNMI. Such removal shall be on the first available means of transportation to the alien's point of embarkation to the CNMI. Nothing in this part absolves the carrier of the responsibility to remove any inadmissible or deportable alien at carrier expense, as provided in the carrier agreement.

(9) *Electronic Travel Authorization*—(i) *Travel authorization required.* Each nonimmigrant alien intending to travel to the CNMI under the CNMI EVS–TAP as described in paragraph (r)(1) of this section must, within the time specified in paragraph (r)(9)(ii) of this section, receive a travel authorization from CBP, which is a positive determination of eligibility to travel to the United States under the CNMI EVS–TAP. In order to receive a travel authorization, each nonimmigrant alien intending to travel to the CNMI under the CNMI EVS–TAP must provide the information set forth in paragraph (r)(9)(iii) of this section electronically to CBP, in English, in the manner specified herein.

(ii) *Time.* Each alien falling within the provisions of paragraph (r)(9)(i) of this section must receive a travel authorization prior to embarking on a carrier for travel to the CNMI.

(iii) *Required elements.* CBP will collect such information as the Secretary deems necessary to issue a travel authorization, as reflected by the electronic CNMI EVS–TAP application questions.

(iv) *Duration*—(A) *General rule.* A travel authorization issued under the CNMI EVS–TAP will be valid for a period of one year from the date of issuance.

(B) *Exceptions.* If the passport of the authorized alien will expire in less than one year but greater than six months, the authorization will be valid until six months prior to the expiration date of the passport. Travelers whose passports will expire in six months or less will not receive a travel authorization.

(C) *Changes to the validity period.* The Secretary, in consultation with the Secretary of State, may increase or decrease the CNMI EVS–TAP travel authorization validity period otherwise authorized by paragraph (r)(9)(iv)(A) of this section. Notice of any change to the CNMI EVS–TAP travel authorization validity period will be published in the **Federal Register**. The CNMI EVS–TAP website will be updated to reflect the travel authorization validity period.

(v) *New travel authorization required.* A new travel authorization is required if any of the following occurs:

(A) The alien is issued a new passport;

(B) The alien's name changes;

(C) The alien's gender changes;

(D) The alien's country of citizenship changes; or

(E) The circumstances underlying the alien's previous responses to any of the CNMI EVS–TAP questions requiring a ''yes'' or ''no'' response (eligibility questions) have changed.

(vi) *Limitations*—(A) *Current authorization period.* A travel authorization under the CNMI EVS–TAP is a positive determination that an alien is eligible, and grants the alien permission, to travel to the CNMI under the CNMI EVS–TAP and to apply for admission under the CNMI EVS–TAP during the period of time the travel authorization is valid. A travel authorization under the CNMI EVS–TAP is not a determination that the alien is admissible to the CNMI. A determination of admissibility is made only after an applicant for admission is inspected by a CBP officer at a U.S. port of entry in the CNMI.

(B) *Not a determination of visa eligibility.* A determination under the CNMI EVS–TAP that an alien is not eligible to travel to the CNMI under the CNMI EVS–TAP is not a determination that the alien is ineligible for a visa to travel to the CNMI and does not preclude the alien from applying for a visa before a United States consular officer.

(C) *Revocation.* A determination under the CNMI EVS–TAP that an alien is eligible to travel to the CNMI to apply for admission under the CNMI EVS–TAP may be revoked at the discretion of the Secretary.

(10) *Severability.* The provisions of paragraphs (q) and (r) of this section are separate and severable from one another. If any provision is stayed or determined to be invalid, the remaining provisions shall continue in effect.

(11) *Implementation date.* The requirements of this paragraph will take effect 45 days after the publication by the Secretary of notification in the **Federal Register** announcing the implementation of CNMI EVS–TAP.

PART 214—NONIMMIGRANT CLASSES

■ 3. The authority citation for part 214 continues to read as follows:

Authority: 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301–1305 and 1372; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Pub. L. 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 115–218.

■ 4. Section 214.1 is amended by revising paragraph (c)(3)(viii), to read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

* * * * *

(c) * * *

(3) * * *

(viii) Any nonimmigrant admitted pursuant to the Guam-CNMI Visa Waiver Program, or its sub-program, the CNMI Economic Vitality & Security Travel Authorization Program (EVS–TAP), as provided in section 212(l) of the Act.

* * * * *

PART 233—CONTRACTS WITH TRANSPORTATION LINES

■ 5. The authority citation for part 233 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1221, 1228, 1229, 8 CFR part 2.

■ 6. Section 233.6 is revised to read as follows:

§ 233.6 Aliens entering Guam or the Commonwealth of the Northern Mariana Islands pursuant to Title VII of Public Law 110–229, ''Consolidated Natural Resources Act of 2008.''

A transportation line bringing aliens to Guam or the Commonwealth of the Northern Mariana Islands under the visa waiver provisions of § 212.1(q) of this chapter or to the Commonwealth of the Northern Mariana Islands under the visa waiver provisions of § 212.1(r) of this chapter must enter into an agreement on CBP Form I–760. Such agreements must be negotiated directly by U.S. Customs and Border Protection and head offices of the transportation lines.

Alejandro N. Mayorkas,

Secretary of Homeland Security.

[FR Doc. 2024–00645 Filed 1–17–24; 8:45 am]

BILLING CODE 9111–14–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Parts 1209, 1217, and 1250

RIN 2590–AB31

Rules of Practice and Procedure; Civil Money Penalty Inflation Adjustment

AGENCY: Federal Housing Finance Agency.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Agency (FHFA) is adopting this final rule amending its Rules of Practice and Procedure and other agency regulations to adjust each civil money penalty within its jurisdiction to account for inflation, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: Effective January 18, 2024, and applicable beginning January 15, 2024.

FOR FURTHER INFORMATION CONTACT: Frank R. Wright, Assistant General Counsel, at (202) 649–3087, *Frank.Wright@fhfa.gov* (not a toll-free number); Federal Housing Finance Agency, 400 7th Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

I. Background

FHFA is an independent agency of the Federal government, and the financial safety and soundness regulator of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises), as well as the Federal Home Loan Banks (collectively, the Banks) and the Office of Finance under authority granted by the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act).[1] FHFA oversees the Enterprises and Banks (collectively, the regulated entities) and the Office of Finance to ensure that they operate in a safe and sound manner and maintain liquidity in the housing finance market in accordance with applicable laws, rules and regulations. To that end, FHFA is vested with broad supervisory discretion and specific civil administrative enforcement powers, similar to such authority granted by Congress to the Federal bank regulatory agencies.[2] Section 1376 of the Safety and Soundness Act (12 U.S.C. 4636) empowers FHFA to impose civil money penalties under specific conditions. FHFA's Rules of Practice and Procedure (12 CFR part 1209) (the Enforcement regulations) govern cease and desist proceedings, civil money penalty assessment proceedings, and other administrative adjudications.[3] FHFA's Flood Insurance regulation (12 CFR part 1250) governs flood insurance responsibilities as they pertain to the Enterprises.[4] FHFA's Implementation of the Program Fraud Civil Remedies Act of 1986 regulation (12 CFR part 1217) sets forth procedures for imposing civil penalties and assessments under the Program Fraud Civil Remedies Act (31 U.S.C. 3801 *et seq.*) on any person that makes a false claim for property, services or money from FHFA, or makes a false material statement to FHFA in connection with a claim, where the amount involved does not exceed $150,000.[5]

The Adjustment Improvements Act

The Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Adjustment Act), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Adjustment Improvements Act), requires FHFA, as well as other federal agencies with the authority to issue civil money penalties (CMPs), to adjust by regulation the maximum amount of each CMP authorized by law that the agency has jurisdiction to administer.[6] The Adjustment Improvements Act required agencies to make an initial ''catch-up'' adjustment of their CMPs upon the statute's enactment,[7] and further requires agencies to make additional adjustments on an annual basis following the initial adjustment.[8]

The Adjustment Improvements Act sets forth the formula that agencies must apply when making annual adjustments, based on the percent change between the October Consumer Price Index for All Urban Consumers (the CPI–U) preceding the date of the last adjustment and the October CPI–U for the year before that.

II. Description of the Rule

This final rule adjusts the maximum penalty amount within each of the three tiers specified in 12 U.S.C. 4636 by amending the table contained in 12 CFR 1209.80 of the Enforcement regulations to reflect the new adjusted maximum penalty amount that FHFA may impose upon a regulated entity or any entity-affiliated party within each tier. The increases in maximum penalty amounts contained in this final rule may not necessarily affect the amount of any CMP that FHFA may seek for a particular violation, which may not be the maximum that the law allows; FHFA would calculate each CMP on a case-by-case basis in light of a variety of factors.[9] This rule also adjusts the maximum penalty amounts for violations under the FHFA Flood Insurance regulation by amending the text of 12 CFR 1250.3 to reflect the new adjusted maximum penalty amount that FHFA may impose for violations under that regulation. This rule also adjusts the maximum amounts for civil money penalties under the Program Fraud Civil Remedies Act by amending the text of 12 CFR 1217.3 to reflect the new adjusted maximum penalty amount that FHFA may impose for violations under that regulation.

The Adjustment Improvements Act directs federal agencies to calculate each annual CMP adjustment as the percent change between the CPI–U for the previous October and the CPI–U for

[1] *See* Safety and Soundness Act, 12 U.S.C. 4513 and 4631–4641.

[2] *Id.*

[3] *See* 12 CFR part 1209.

[4] *See* 12 CFR part 1250.

[5] *See generally,* 31 U.S.C. 3801 *et seq.*

[6] *See* 28 U.S.C. 2461 note.

[7] FHFA promulgated its catch-up adjustment of its CMPs with an interim final rule published July 1, 2016. 81 FR 43028.

[8] FHFA promulgated its most recent annual adjustment of its CMP with a final rule published December 29, 2022. 87 FR 80023.

[9] *See, e.g.,* 12 CFR 1209.7(c); FHFA Enforcement Policy, AB 2013–03 (May 31, 2013).

October of the calendar year before.[10] The maximum CMP amounts for FHFA penalties were last adjusted in 2023.[11] Since FHFA is making this round of adjustments in calendar year 2024, and the maximum CMP amounts were last set in calendar year 2023, the inflation adjustment amount for each maximum CMP amount was calculated by comparing the CPI–U for October 2022 with the CPI–U for October 2023, resulting in an inflation factor of 1.03241. For each maximum CMP calculation, the product of this inflation adjustment and the previous maximum penalty amount was then rounded to the nearest whole dollar as required by the Adjustment Improvements Act, and was then summed with the previous maximum penalty amount to determine the new adjusted maximum penalty amount.[12] The tables below set out these items accordingly.

ENFORCEMENT REGULATIONS

U.S. Code citation	Description	Previous maximum penalty amount	Rounded inflation increase	New adjusted maximum penalty amount
12 U.S.C. 4636(b)(1)	First Tier	13,760	446	14,206
12 U.S.C. 4636(b)(2)	Second Tier	68,801	2,230	71,031
12 U.S.C. 4636(b)(4)	Third Tier (Entity-affiliated party or Regulated entity).	2,752,048	89,194	2,841,242

PROGRAM FRAUD CIVIL REMEDIES REGULATION

U.S. Code citation	Description	Previous maximum penalty amount	Rounded inflation increase	New adjusted maximum penalty amount
31 U.S.C. 3802(a)(1)	Maximum penalty per false claim	13,508	438	13,946
31 U.S.C 3802(a)(2)	Maximum penalty per false statement	13,508	438	13,946

FLOOD INSURANCE REGULATION

U.S. Code citation	Description	Previous maximum penalty amount	Rounded inflation increase	New adjusted maximum penalty amount
42 U.S.C. 4012a(f)(5)	Maximum penalty per violation	669	22	691
42 U.S.C. 4012a(f)(5)	Maximum total penalties assessed against an Enterprise in a calendar year.	192,996	6,255	199,251

III. Differences Between the Federal Home Loan Banks and the Enterprises

When promulgating any regulation that may have future effect relating to the Banks, the Director is required by section 1313(f) of the Safety and Soundness Act to consider the differences between the Banks and the Enterprises with respect to the Banks' cooperative ownership structure, mission of providing liquidity to members, affordable housing and community development mission, capital structure, and joint and several liability (12 U.S.C. 4513(f)).[13] The Director considered the differences between the Banks and the Enterprises, as they relate to the above factors, and determined that this final rule is appropriate. The inflation adjustments effected by the final rule are mandated by law, and the special features of the Banks identified in section 1313(f) of the Safety and Soundness Act can be accommodated, if appropriate, along with any other relevant factors, when determining any actual penalties.

IV. Regulatory Impact

Administrative Procedure Act

FHFA finds good cause that notice and an opportunity to comment on this final rule are unnecessary under section 553(b) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b). The Adjustment Improvements Act states that the annual civil money penalty adjustments shall be made notwithstanding the rulemaking provisions of 5 U.S.C. 553.[14] Furthermore, this rulemaking conforms with and is consistent with the statutory directive set forth in the Adjustment Improvements Act. As a result, there are no issues of policy discretion about which to seek public comment. Accordingly, FHFA is adopting these amendments as a final rule.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA),[15] an agency must prepare a regulatory flexibility analysis for all proposed and final rules that describes the impact of the rule on small entities, unless the head of an agency certifies that the rule will not have ''a significant economic impact on a substantial number of small entities.'' However, the RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to the APA.[16] As discussed above, FHFA has determined for good cause that the APA does not require a general notice of proposed rulemaking for this rule. Thus, the RFA does not apply to this final rule.

[10] 28 U.S.C. 2461 note.

[11] *See* 87 FR 80023 (December 29, 2022).

[12] 28 U.S.C. 2461 note.

[13] So in original; no paragraphs (d) and (e) were enacted. *See* 12 U.S.C.A. 4513 n 1.

[14] 28 U.S.C. 2461 note, section 4(b)(2).

[15] 5 U.S.C. 603.

[16] 5 U.S.C. 603(a), 604(a).

Congressional Review Act

The rule is not a ''major rule'' as defined by the Congressional Review Act, codified at 5 U.S.C. 801 *et seq.* The rule will not result in: (1) An annual effect on the economy of $100,000,000 or more; (2) a major increase in costs or prices; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies.[17]

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) requires that regulations involving the collection of information receive clearance from the Office of Management and Budget (OMB). This rule contains no such collection of information requiring OMB approval under the Paperwork Reduction Act. Consequently, no information has been submitted to OMB for review.

Lists of Subjects

12 CFR Part 1209

Administrative practice and procedure, Penalties.

12 CFR Part 1217

Civil remedies, Program fraud.

12 CFR Part 1250

Flood insurance, Government-sponsored enterprises, Penalties, Reporting and record keeping requirements.

Accordingly, for the reasons stated in the preamble and under the authority of 12 U.S.C. 4513b and 12 U.S.C. 4526, the Federal Housing Finance Agency hereby amends subchapters A and C of chapter XII of title 12 of the Code of Federal Regulations as follows:

Subchapter A—Organization and Operations

PART 1209—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 1209 continues to read as follows:

Authority: 5 U.S.C. 554, 556, 557, and 701 *et seq.;* 12 U.S.C. 1430c(d); 12 U.S.C. 4501, 4502, 4503, 4511, 4513, 4513b, 4517, 4526, 4566(c)(1) and (c)(7), 4581–4588, 4631–4641; and 28 U.S.C. 2461 note.

■ 2. Revise § 1209.80 to read as follows:

§ 1209.80 Inflation adjustments.

The maximum amount of each civil money penalty within FHFA's jurisdiction, as set by the Safety and Soundness Act and thereafter adjusted in accordance with the Inflation Adjustment Act, is as follows:

TABLE 1 TO § 1209.80

U.S. Code citation	Description	New adjusted maximum penalty amount
12 U.S.C. 4636(b)(1)	First Tier	$14,206
12 U.S.C. 4636(b)(2)	Second Tier	71,031
12 U.S.C. 4636(b)(4)	Third Tier (Regulated Entity or Entity-Affiliated party)	2,841,242

■ 3. Revise § 1209.81 to read as follows:

§ 1209.81 Applicability.

The inflation adjustments set out in § 1209.80 shall apply to civil money penalties assessed in accordance with the provisions of the Safety and Soundness Act, 12 U.S.C. 4636, and subparts B and C of this part, for violations occurring on or after January 15, 2024.

PART 1217—PROGRAM FRAUD CIVIL REMEDIES ACT

■ 4. The authority citation for part 1217 continues to read as follows:

Authority: 12 U.S.C. 4501; 12 U.S.C. 4526, 28 U.S.C. 2461 note; 31 U.S.C. 3801–3812.

■ 5. Amend § 1217.3 by revising paragraphs (a)(1) introductory text and (b)(1) introductory text to read as follows:

§ 1217.3 Basis for civil penalties and assessments.

(a) * * *

(1) A civil penalty of not more than $13,946 may be imposed upon a person who makes a claim to FHFA for property, services, or money where the person knows or has reason to know that the claim:

* * * * *

(b) * * *

(1) A civil penalty of up to $13,946 may be imposed upon a person who makes a written statement to FHFA with respect to a claim, contract, bid or proposal for a contract, or benefit from FHFA that:

* * * * *

Subchapter C—Enterprises

PART 1250—FLOOD INSURANCE

■ 6. The authority citation for part 1250 continues to read as follows:

Authority: 12 U.S.C. 4521(a)(4) and 4526; 28 U.S.C. 2461 note; 42 U.S.C. 4001 note; 42 U.S.C. 4012a(f)(3), (4), (5), (8), (9), and (10).

■ 7. Amend § 1250.3 by revising paragraph (c) to read as follows:

§ 1250.3 Civil money penalties.

* * * * *

(c) *Amount.* The maximum civil money penalty amount is $669 for each violation that occurs before January 15, 2024, with total penalties not to exceed $192,996. For violations that occur on or after January 15, 2024, the civil money penalty under this section may not exceed $691 for each violation, with total penalties assessed under this section against an Enterprise during any calendar year not to exceed $199,251.

* * * * *

Sandra L. Thompson,

Director, Federal Housing Finance Agency.

[FR Doc. 2024–00874 Filed 1–17–24; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2023–2424; Special Conditions No. 25–846–SC]

Special Conditions: Gulfstream Aerospace Corporation Model GVIII–G700 and GVIII–G800 Series Airplanes; Electronic System Security Protection From Unauthorized Internal Access

AGENCY: Federal Aviation Administration (FAA), DOT.

[17] 5 U.S.C. 804(2).

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Gulfstream Aerospace Corporation (Gulfstream) Model GVIII–G700 and GVIII–G800 series airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is associated with the installation of a digital system that contains a wireless and hardwired network with hosted application functionality that allows access, from sources internal to the airplane, to the airplane's internal electronic components. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Gulfstream on January 18, 2024. Send comments on or before March 4, 2024.

ADDRESSES: Send comments identified by Docket No. FAA–2023–2424 using any of the following methods:

- *Federal eRegulations Portal:* Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.
- *Docket:* Background documents or comments received may be read at *www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Thuan T. Nguyen, Avionics Software and Components Unit, AIR–626D, Technical Policy Branch, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax (206)231–3365; email *Thuan.T.Nguyen@faa.gov.*

SUPPLEMENTARY INFORMATION: The substance of these special conditions has been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. Therefore, the FAA finds, pursuant to 14 CFR 11.38(b), that new comments are unlikely, and notice and comment prior to this publication are unnecessary.

Privacy

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

Confidential Business Information

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 these special conditions contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to these special conditions, 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 the indicated comments will not be placed in the public docket of these special conditions. Send submissions containing CBI to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above. Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for these special conditions.

Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments, and will consider comments filed late if it is possible to do so without incurring delay. The FAA may change these special conditions based on the comments received.

Background

On December 31, 2019, Gulfstream applied for an amendment to Type Certificate No. T00015AT to include the new Model GVIII–G700 and GVIII–G800 series airplanes These airplanes, which are derivatives of the Model GVI currently approved under Type Certificate No. T00015AT, are twin-engine, transport-category airplanes, with a maximum seating for 19 passengers, and a maximum take-off weight of 107,600 pounds (GVIII–G700) and 105,600 pounds (GVIII–G800).

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, Gulfstream must show that the Model GVIII–G700 and GVIII–G800 series airplanes meet the applicable provisions of the regulations listed in Type Certificate No. T00015AT, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes must comply with the exhaust-emission requirements of 14 CFR part 34 and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance

with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes will incorporate the following novel or unusual design feature:

The installation of a digital system that contains a wireless and hardwired network with hosted application functionality that allows access, from sources internal to the airplane, to the airplane's internal electronic components.

Discussion

The Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes electronic system architecture and network configuration change are novel or unusual for commercial transport airplanes because they are composed of several connected wireless and hardwired networks. This proposed system and network architecture are used for a diverse set of airplane functions, including:

- Flight-safety related control and navigation systems,
- Airline business and administrative support, and
- Passenger entertainment.

The airplanes' control domains and airline information services domain of these networks perform functions required for the safe operation and maintenance of the airplane. Previously, these domains had very limited connectivity with other network sources. This network architecture creates a potential for unauthorized persons to access the airplanes' control domain from sources internal to the airplane and presents security vulnerabilities related to the introduction of computer viruses and worms, user errors, and intentional sabotage of airplane electronic assets (networks, systems, and databases) critical to the safety and maintenance of the airplane.

The existing FAA regulations did not anticipate these networked airplane-system architectures. Furthermore, these regulations and the current guidance material do not address potential security vulnerabilities, which could be exploited by unauthorized access to airplane networks, data buses, and servers. Therefore, these special conditions ensure that the security (*i.e.,* confidentiality, integrity, and availability) of airplane systems will not be compromised by unauthorized wireless or hardwired electronic connections from within the airplane. These special conditions also require the applicant to provide appropriate instruction to the operator to maintain all electronic-system safeguards that have been implemented as part of the original network design so that this feature does not allow or reintroduce security threats.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes. Should Gulfstream apply at a later date for a change to the type certificate to include another model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would apply to the other model as well.

Conclusion

This action affects only a certain novel or unusual design feature on one model on Gulfstream Model GVIII–G700 and GVIII–G800 series of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, and 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes for airplane electronic-system internal access:

1. The applicant must ensure that the design provides isolation from, or airplane electronic-system security protection against, access by unauthorized sources internal to the airplane. The design must prevent inadvertent and malicious changes to, and all adverse impacts upon, airplane equipment, systems, networks, or other assets required for safe flight and operations.

2. The applicant must establish appropriate procedures to allow the operator to ensure that continued airworthiness of the airplane is maintained, including all post-type certification modifications that may have an impact on the approved electronic-system security safeguards.

Issued in Kansas City, Missouri, on January 11, 2024.

Patrick R. Mullen,

Manager, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2024–00842 Filed 1–17–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2023–2440; Special Conditions No. 25–847–SC]

Special Conditions: Gulfstream Aerospace Corporation Model GVIII–G700 and GVIII–G800 Series Airplanes; Electronic System Security Protection From Unauthorized External Access

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

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Gulfstream Aerospace Corporation (Gulfstream) Model GVIII–G700 and GVIII–G800 series airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is associated with the installation of a digital systems architecture that will allow increased connectivity to and access from external network sources, (*e.g.,* operator networks, wireless devices, internet connectivity, service provider satellite communications, electronic flight bags, etc.) to the airplane's previously isolated electronic assets (networks, systems, and databases). The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Gulfstream on January 18, 2024. Send comments on or before March 4, 2024.

ADDRESSES: Send comments identified by Docket No. FAA–2023–2440 using any of the following methods:

- *Federal eRegulations Portal:* Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC, 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.
- *Docket:* Background documents or comments received may be read at *www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Thuan T. Nguyen, Avionics Software and Components Unit, AIR–626D, Technical Policy Branch, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax (206) 231–3365; email *Thuan.T.Nguyen@faa.gov.*

SUPPLEMENTARY INFORMATION: The substance of these special conditions has been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. Therefore, the FAA finds, pursuant to 14 CFR 11.38(b), that new comments are unlikely, and notice and comment prior to this publication are unnecessary.

Privacy

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in title 14, Code of Federal Regulations (14 CFR), § 11.35, the FAA will post all comments received without change to *www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about these special conditions.

Confidential Business Information

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 these special conditions contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to these special conditions, 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 the indicated comments will not be placed in the public docket of these special conditions. Send submissions containing CBI to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above. Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for these special conditions.

Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments, and will consider comments filed late if it is possible to do so without incurring delay. The FAA may change these special conditions based on the comments received.

Background

On December 31, 2019, Gulfstream applied for an amendment to Type Certificate No. T00015AT to include the new Model GVIII–G700 and GVIII–G800 series airplanes. The Model GVIII–G700 and GVIII–G800 series airplanes, which are derivatives of the Model GVI currently approved under Type Certificate No. T00015AT, are twin-engine, transport-category airplanes, with a maximum seating for 19 passengers, and a maximum take-off weight of 107,600 pounds (GVIII–G700) and 105,600 pounds (GVIII–G800).

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR), § 21.101, Gulfstream must show that the Model GVIII–G700 and GVIII–G800 series airplanes meet the applicable provisions of the regulations listed in Type Certificate No. T00015AT, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes must comply with the exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes will incorporate the following novel or unusual design feature:

The installation of a digital systems architecture that will allow increased connectivity to and access from external network sources, (*e.g.,* operator networks, wireless devices, internet connectivity, service provider satellite communications, electronic flight bags, etc.) to the airplane's previously isolated electronic assets (networks, systems, and databases).

Discussion

The Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes' electronic system architecture and network configuration are novel or unusual for commercial transport airplanes because it may allow increased connectivity to and access from external network sources, airline operations, and maintenance networks,

to the airplane control domain, and airline information services domain. The airplanes' control domain and airline information-services domain perform functions required for the safe operation and maintenance of the airplane. Previously, these domains had very limited connectivity with external network sources. This data network and design integration creates a potential for unauthorized persons to access the airplanes' control domain and airline information-services domain and presents security vulnerabilities related to the introduction of computer viruses and worms, user errors, and intentional sabotage of airplane electronic assets (networks, systems, and databases) critical to the safety and maintenance of the airplane.

The existing FAA regulations did not anticipate these networked airplane-system architectures. Furthermore, these regulations and the current guidance material do not address potential security vulnerabilities, which could be exploited by unauthorized access to airplane networks, data buses, and servers. Therefore, these special conditions ensure that the security (*i.e.,* confidentiality, integrity, and availability) of the airplane's systems is not compromised by unauthorized wired or wireless electronic connections. This includes ensuring that the security of the airplane's systems is not compromised during maintenance of the airplane's electronic systems. These special conditions also require the applicant to provide appropriate instructions to the operator to maintain all electronic-system safeguards that have been implemented as part of the original network design so that this feature does not allow or introduce security threats.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes. Should Gulfstream apply at a later date for a change to the type certificate to include another model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on the Gulfstream Model GVIII–G700 and GVIII–G800 series of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, and 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes for airplane electronic unauthorized external access.

1. The applicant must ensure that the airplane electronic systems are protected from access by unauthorized sources external to the airplane, including those possibly caused by maintenance activity.

2. The applicant must ensure that airplane electronic system-security threats are identified and assessed, and that effective electronic system-security protection strategies are implemented to protect the airplane from all adverse impacts on safety, functionality, and continued airworthiness.

3. The applicant must establish appropriate procedures to allow the operator to ensure that continued airworthiness of the airplane is maintained, including all post-type-certification modifications that may have an impact on the approved electronic system-security safeguards.

Issued in Kansas City, Missouri, on January 11, 2024.

Patrick R. Mullen,

Manager, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2024–00841 Filed 1–17–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–0032; Project Identifier AD–2024–00021–T; Amendment 39–22663; AD 2024–02–51]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–9 airplanes. This AD was prompted by a report of an in-flight departure of a mid cabin door plug, which resulted in a rapid decompression of the airplane. This AD prohibits further flight of affected airplanes, until the airplane is inspected and all applicable corrective actions have been performed. The FAA previously sent an emergency AD to all known U.S. owners and operators of these airplanes. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective on January 18, 2024. Emergency AD 2024–02–51, issued on January 6, 2024, which contained the requirements of this amendment, was effective with actual notice.

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

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

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

AD Docket: You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2024–0032; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Michael Linegang, Manager, Operational Safety Branch, FAA; phone: 817–222–5390; email: *OperationalSafety@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2024–0032; Project Identifier AD–2024–00021–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 Michael Linegang, Manager, Operational Safety Branch, FAA; phone: 817–222–5390; email: *OperationalSafety@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued Emergency AD 2024–02–51, dated January 6, 2024 (Emergency AD 2024–02–51), to address an unsafe condition on certain The Boeing Company Model 737–9 airplanes. The FAA sent the emergency AD to all known U.S. owners and operators of these airplanes. Emergency AD 2024–02–51 prohibits further flight until the airplane is inspected and all applicable corrective actions have been performed.

Emergency AD 2024–02–51 was prompted by a report of an in-flight departure of a mid cabin door plug, which resulted in a rapid decompression of the airplane. The FAA is issuing this AD to address the potential in-flight loss of a mid cabin door plug. This condition, if not addressed, could result in injury to passengers and crew, the door impacting the airplane, and/or loss of control of the airplane.

FAA's Determination

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

AD Requirements

This AD prohibits further flight of affected airplanes, until the airplane is inspected and all applicable corrective actions have been performed using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA.

Interim Action

The FAA considers this AD to be an interim action. If final action is later identified, the FAA might consider further rulemaking then.

FAA's Justification 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.

An unsafe condition exists that required the immediate adoption of Emergency AD 2024–02–51 issued on January 6, 2024, to all known U.S. owners and operators of these airplanes. The FAA found that the risk to the flying public justified waiving notice and comment prior to adoption of this rule because the in-flight loss of a mid cabin door plug could result in injury to passengers and crew, the door impacting the airplane, and/or loss of control of the airplane. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons. Given the significance of the risk presented by this unsafe condition, it must be immediately addressed. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B). 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.

Regulatory Flexibility Act (RFA)

The requirements of the 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 notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 144 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	Up to 8 work-hours × $85 per hour = Up to $680 ..	$0	Up to $680	Up to $12,240.

The FAA has received no definitive data on which to base the cost estimates for the corrective 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, 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.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–02–51 The Boeing Company: Amendment 39–22663; Docket No. FAA–2024–0032; Project Identifier AD–2024–00021–T.

(a) Effective Date

The FAA issued Emergency Airworthiness Directive (AD) 2024–02–51 on January 6, 2024, directly to affected owners and operators. As a result of such actual notice, the emergency AD was effective for those owners and operators on the date it was provided. This AD contains the same requirements as that emergency AD and, for those who did not receive actual notice, is effective on January 18, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–9 airplanes, certificated in any category, with a mid cabin door plug installed.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of an in-flight departure of a mid cabin door plug, which resulted in a rapid decompression of the airplane. The FAA is issuing this AD to address the potential in-flight loss of a mid cabin door plug, which could result in injury to passengers and crew, the door impacting the airplane, and/or loss of control of the airplane.

(f) Compliance

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

(g) Inspection or Other Action

As of the effective date of this AD, further flight is prohibited until the airplane is inspected and all applicable corrective actions have been performed using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA.

(h) Special Flight Permits

Special flight permits, as described in 14 CFR 21.197 and 21.199, are allowed only for unpressurized flights.

(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 certification office, send it to the attention of the person identified in paragraph (j) 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 local flight standards district office/certificate holding district office.

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

(j) Related Information

For further information about this AD, contact Michael Linegang, Manager, Operational Safety Branch, FAA; phone: 817–222–5390; email: *OperationalSafety@faa.gov*.

(k) Material Incorporated by Reference

None.

Issued on January 12, 2024.

Caitlin Locke,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2024–00993 Filed 1–16–24; 2:00 pm]

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.

Editorial Note: Rule document 2023–28849 originally published on pages 256–258 in the issue of Wednesday, January 3, 2024. In that publication, on page 256, in the second column, in the **DATES** section, on the first, second, and sixth lines, and on page 257, in the third column, in paragraph ''(a) Effective Date,'' on the second line, ''February 7, 2023'' should read ''February 7, 2024''. The rule is republished here corrected and in its entirety.

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, 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–2023–1715; 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, 2024.

(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-locationsoremailfr.inspection@nara.gov.*

Issued on December 14, 2023.

Victor Wicklund,

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

[FR Doc. R1–2023–28849 Filed 1–17–24; 8:45 am]

BILLING CODE 0099–10–D

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.

Editorial Note: Rule document 2023–28853 originally published on pages 244–246 in the issue of Wednesday, January 3, 2024. In that publication, on page 244, in the second column, in the **DATES** section, on the first, second, and sixth lines, on page 245, in the third column, in paragraph ''(a) Effective Date,'' on the second line, and on page 246, in the second column, in paragraph ''(p) Material Incorporated by Reference,'' in sub paragraph ''(3),'' ''February 7, 2023'' should read ''February 7, 2024''. The rule is republished here corrected and in its entirety.

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, 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.

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 16, 2024.

(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, 2024.

(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-locationsoremailfr.inspection@nara.gov.*

Issued on December 14, 2023.

Victor Wicklund,

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

[FR Doc. R1–2023–28853 Filed 1–17–24; 8:45 am]

BILLING CODE 0099–10–D

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1112 and 1250

[Docket No. CPSC–2017–0010]

Safety Standard Mandating ASTM F963 for Toys

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: Section 106 of the Consumer Product Safety Improvement Act (CPSIA) made ASTM F963–07ε1, *Standard Consumer Safety Specification for Toy Safety,* a mandatory consumer product safety standard. Section 106 also provides procedures for revisions to the ASTM F963 standard. In accordance with those procedures, the Consumer Product Safety Commission (CPSC or Commission) has allowed the revised standard, ASTM F963–23, to become the mandatory toy standard. This direct final rule incorporates by reference ASTM F963–23 and updates the existing notice of requirements (NOR) that provide the criteria and processes for Commission acceptance of accreditation of third-party conformity assessment bodies for testing to ASTM F963.

DATES: The rule is effective on April 20, 2024, unless CPSC receives a significant adverse comment by February 20, 2024. If CPSC receives such a significant adverse comment, it will publish a document in the **Federal Register** withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of April 20, 2024.

ADDRESSES: You can submit comments, identified by Docket No. CPSC–2017–0010, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *www.regulations.gov.* Follow the instructions for submitting comments. Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. CPSC typically does not accept comments submitted by email except as described below.

Mail/Hand Delivery/Courier/Confidential Written Submissions: CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal. You may, however, submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7479.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: *www.regulations.gov.* If you wish to

submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: *cpsc-os@cpsc.gov.*

Docket: For access to the docket to read background documents or comments received, go to: *www.regulations.gov,* and insert the docket number, CPSC–2017–0010, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Will Cusey, Small Business Ombudsman, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7945 or (888) 531–9070; email: *sbo@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 106(a) of CPSIA mandated that beginning on February 10, 2009, ASTM F963–07ε1, *Standard Consumer Safety Specifications for Toy Safety,*[1] shall be considered a mandatory consumer product safety standard issued by CPSC. 15 U.S.C. 2056b(a). Since then, there have been five revisions to the ASTM F963 standard: ASTM F963–08, ASTM F963–11, ASTM F963–16, ASTM F963–17, and ASTM F963–23. Currently, the provisions of ASTM F963–17 are considered a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act (CPSA), with an exception stated in 16 CFR 1250.2(c) that ASTM F963–17's provision for testing sound-producing toys is not incorporated. 16 CFR 1250.2; 82 FR 57119 (Dec. 4, 2017).

Under section 106(g) of the CPSIA, ASTM must notify the Commission when it revises ASTM F963. 15 U.S.C. 2056b(g). The revised standard shall be considered a consumer product safety standard issued by CPSC under section 9 of the CPSA (15 U.S.C. 2058), effective 180 days after the date on which ASTM notifies the Commission of the revision, unless, within 90 days after receiving that notice, the Commission notifies ASTM that it has determined that the proposed revision does not improve the safety of toys covered by the standard.

On October 23, 2023, ASTM notified CPSC of ASTM's approval and publication of revisions to ASTM F963–17 in a revised standard, ASTM F963–23, *Standard Consumer Safety Specification for Toy Safety.* The Commission published in the **Federal Register** a notice of availability regarding the revised voluntary standard and sought comments on the effect of the revisions on the safety of the standard for toys. 88 FR 75280 (Nov. 2, 2023). Two comments were submitted. The Consumer Federation of America and Kids in Danger submitted a joint comment stating that the revision to ASTM F963 should be accepted as the mandatory standard and urging continued efforts to address emerging hazards, including expanding materials in toys, to make the standard more protective of safety.

The Swiss company Société Générale de Surveillance (SGS) submitted a comment stating that the requirements for expanding materials in section 4.40 of ASTM F963–23 could be more stringent. While SGS's comment does not address whether the current revision in ASTM F963–23 improves safety compared to the requirements of F963–17, Commission staff continues to work with ASTM to improve the safety requirements for expanding materials in ASTM F963 for any future update to the standard. Specifically, CPSC's Fiscal Year 2024 Operating Plan [2] directs staff to develop a notice of proposed rulemaking under section 106 of the CPSIA to further improve the standard for water beads, which are ''expanding materials'' under the voluntary standard.

As discussed below, the Commission will allow the revised voluntary standard to become the mandatory standard because it improves the safety of toys.[3] Accordingly, by operation of law under section 106(g) of the CPSIA as of April 20, 2024, ASTM F963–23 will become the mandatory consumer product safety standard for toys. 15 U.S.C. 2056b(g). This direct final rule updates 16 CFR part 1250 to incorporate by reference the revised voluntary standard, ASTM F963–23. The rule also updates the existing NOR for ASTM F963 in 16 CFR part 1112.

II. Revisions in ASTM F963–23

The ASTM F963 toy standard includes performance requirements and test methods, as well as requirements for warning labels and instructional literature, to reduce or prevent death or injuries to children from mechanical, chemical, and other hazards subject to the standard.

The 2023 revisions to the voluntary standard include new performance requirements, clarifications, and corrections that will increase toy safety and reduce test burden. Additionally, the standard includes changes that do not affect safety, but instead enhance the clarity and utility of the standard or reduce the burden of performance testing. Numerous editorial changes were also made throughout the standard, including formatting and numbering changes that do not impact safety. The Commission finds the revisions to ASTM F963–23 to be an improvement to the safety of toys, or to not impact safety. Below is a brief description of the revisions and the Commission's assessment of their impact on safety.

A. Revisions That Impact Safety

1. Battery Accessibility

Section 4.25 of ASTM F963 addresses the safety of battery-operated toys. The requirements are intended to address hazards related to battery overheating, leakage, explosion, and fire, and choking or swallowing batteries. ASTM F963–17 specifically addresses the hazard of choking or swallowing batteries in sections 4.25.4 and 4.25.5. Section 4.25.4 addresses the accessibility of batteries in toys for children less than three years old; section 4.25.5 addresses the accessibility of small part batteries (batteries that fit within the small parts cylinder described in 16 CFR 1501.4, including button cell or coin batteries and AAA batteries). Both sections of ASTM F963–17 require that batteries remain inaccessible without the use of a ''coin, screwdriver, or other household tool'' before and after the use and abuse testing specified in sections 8.5–8.10.

ASTM F963–23 also incorporates changes to definitions, safety requirements, and labeling requirements that strengthen the battery accessibility requirements:

- Section 3.1.17 of the 2023 standard changes the defined term ''tool'' (previously in section 3.1.90) to ''common household tool,'' and clarifies that common household tools include straight-blade or Phillips-type screwdrivers, pliers, coins, or other objects ''commonly found in most households.''
- Section 8.6 of the standard continues to specify that ''[u]nless otherwise specified, none of the abuse testing . . . applies to toys intended for children over 96 months of age.'' New Note 22 to section 4.25.4.2, however, clarifies the test parameters used to conduct use and abuse testing (in

[1] Except for section 4.2 and Annex 4 of the voluntary standard or any provision that restates or incorporates an existing mandatory standard or ban promulgated by the Commission or by statute.

[2] Available at: *https://www.cpsc.gov/s3fs-public/FY2024OperatingPlan.pdf?VersionId=N46Kg9oFJtn_Slys4cdzuQYza29oFynS.*

[3] The Commission voted 4–0 to approve publication of this notification.

accordance with sections 8.5–8.10) on toys containing small part batteries for children over 96 months (eight years) of age. These toys are now subject to use and abuse requirements using the test parameters for children above age 36 months up to age 96 months; because previous versions of ASTM F963 did not specify test parameters for toys containing small part batteries for children over 96 months, these toys were not required to be abuse tested per the standard. Note 22 thus extends use and abuse test requirements so that they apply to all toys with small part batteries in scope of the standard, which improves the security of battery compartments.

- Section 4.25.4.3 adds a new requirement that fasteners used to secure battery compartments shall remain attached to the toy or battery compartment cover before and after use and abuse testing.
- Section 4.25.4.4 allows specialty fasteners, such as screws that use a Torx or hex drive, as an alternative to common household tools if the appropriate tool is included with the toy and instructional material conforming to section 6.9 is included (see below).
- Section 6.9 adds a new requirement that instructional literature for toys that require a manufacturer-supplied specialty or custom tool to access the battery shall direct parents to retain the tool for future use, store the tool where the child cannot access it, and state that the tool is not a toy.

The changes related to battery accessibility generally result in more secure battery compartments or streamline existing requirements in the standard without impacting safety. In particular, the addition of Note 22 means that toys with small part batteries for children over 96 months of age are now required to undergo the use and abuse testing in sections 8.5–8.10. Further, the addition of section 4.25.4.3 means that fasteners such as screws used to secure batteries are less likely to be removed or lost, meaning that fasteners are more likely to be used effectively and will likely result in fewer incidents of unintended battery access, thus improving safety.

The changes allowing for the use of ''specialty fastener[s]'' in section 4.25.4.4 of the ASTM F963–23 standard are consistent with their use for other toys (see section 4.17 of the standard), and their use provides children less opportunity to gain access to the battery compartment using a substitute common household tool. Special tools do introduce potential additional risks. The consumer must store and keep track of an additional tool; if the tool is lost or not passed along or sold with the toy for secondhand use, caregivers can no longer access the compartment as intended, which may lead to battery leakage (if never removed) or damaged or ineffective battery compartments (if the consumer attempts to access the compartment using the inappropriate tool). The new section 6.9 mitigates these possible hazards introduced by section 4.25.4.4 by requiring that instructional literature for toys that require a manufacturer-supplied specialty or custom tool to access the battery shall direct parents to retain the tool for future use and store the tool where the child cannot access it and shall state the tool is not a toy. Additionally, a battery compartment that is inaccessible due to a lost tool is a safer alternative than a battery compartment that is easily opened. Therefore, the changes allowing for specialty fasteners are, overall, an improvement to safety.

2. Expanding Materials

ASTM F963–16 added new definitions, performance requirements, a test methodology, and a test fixture to address gastrointestinal (GI) blockage from expanding materials. Expanding materials are defined in ASTM F963 as ''any material used in a toy which expands greater than 50% in any dimension from its as-received state.'' New Annex A14.6 explains the basis for the new requirements for expanding materials. Since the time of the ASTM F963–16 revision, items have been identified in the marketplace that are not small parts as received by the consumer, and therefore fall outside the scope of the original requirement but present the same GI blockage hazard. The revisions in ASTM F963–23 are intended to increase the scope of the standard to cover these products.

Below is a summary of changes made in ASTM F963–23 that may apply to expanding materials.

- Section 3.1.28 removes the time intervals for conditioning and instead refers to the test method section, where the same time intervals are already stated.
- Section 3.1.73 adds a definition of a ''removable component,'' as ''a component of a toy which is intended or likely to be removed by the child during normal use.''
- Section 4.40 adds ''removable'' to components as defined. It also removes conditions identifying the expanding materials, and instead directly references the definition and relevant test method in section 8.30.8. Section 4.40.1 increases the scope to include the following:
  - Section 4.40.1.1—components of toys which are small parts but encased in an outer shell that is not a small part and intended to be dissolved, opened, or broken to access the expanding component; and
  - Section 4.40.1.2—components sold in an expanded state, which are not small parts, but could contract to yield a re-expandable small part.

The expanded scope of the ASTM F963–23 standard represents an improvement in toy safety that should help reduce the hazard of potentially fatal intestinal blockages caused by ingestion of toys and toy components made of superabsorbent materials. The changes to the provisions for expanding materials are an improvement in safety, as noted above. However, as noted, the Commission also has directed staff to develop a notice of proposed rulemaking under section 106 of the CPSIA to further improve the safety standard for water beads.

3. Sound-Producing Toys

In 2017, the Commission incorporated ASTM F963–17 into the mandatory toy standard at 16 CFR part 1250 with one exception related to sound-producing toys, codified at 16 CFR 1250.2(c). The requirements for sound-producing toys in section 4.5 of ASTM F963 are intended to reduce the risk of hearing loss caused by exposure to sound produced by toys. When it adopted the exception, the Commission rejected one clause in the sound-producing toys test method in section 8.20.1.5 (5) of ASTM F963–17 that functionally exempted push or pull toys from an 85 dB A-weighted maximum sound pressure level (L_{AFmax}) requirement.[4] The Commission concluded that this clause, which had been added without ballot during the 2017 ASTM process, decreased safety because it exempted push or pull toys from a previously applicable sound limit. 82 FR 57119 (Dec. 4, 2017). With the Commission's rejection of the relevant clause, as stated in 16 CFR 1250.2(c), the mandatory toy standard based on ASTM F973–17 retained the same level of safety for push or pull toys as was provided by ASTM F963–16.

As explained below, ASTM F963–23 provides a new sound limit for push or pull toys that eliminates the deficiency in ASTM F963–17 and provides the same level of safety as the sound limit in ASTM F963–16. Therefore, because the incorporation of ASTM F963–23

[4] A-weighting or C-weighting is typically applied to sounds to represent more accurately the frequency response of the human ear by reducing the contribution of lower and higher frequencies in calculation of overall sound level.

maintains the same level of safety as ASTM F963–16, the exception to ASTM F963–17 that is made by § 1250.2(c) is no longer needed, and the Commission is removing that exception by deleting § 1250.2(c).

Specifically, section 4.5.1.6(1) of ASTM F963–23 adds a 94 dB A-weighted sound limit (L_{AFmax}) for push or pull toys in user-propelled modes (the child is moving the toy), where the sound is caused as a result of translational motion imparted on the toy by the user (for example, a mechanism attached to the wheel of a push toy that clicks when the wheel rotates).[5] Push or pull toys are defined in ASTM F963–23 as, ''a toy with a cord, tether, or handle attached to the toy and where the toy is intended for use on the floor or ground with the child in a standing/upright position, typically walking, while using pushing or pulling the toy.'' CPSC Age Determination Guidelines state that push toys with high upright handles or rigid rods with large, attached handles are appropriate for children starting at 12 months old, and pull toys with cords are appropriate for children starting at 19 months old because they do not provide support, so they require more advanced walking and body skills to operate.[6]

Sound level generally decreases with increasing distance from the sound source; a quieter toy used closer to a child's ear can produce the same sound exposure as a louder toy used farther from the child's ear. The previously applicable 85 dB(A) sound-limit for push or pull toys in ASTM F963–16 was based on a 25 cm sound exposure distance (assumed distance from the sound source to the child's ear) for tabletop, floor and crib toys.[7] The 94 dB(A) sound limit for push or pull toys in ASTM F963–23 is based on a sound exposure distance of 63.5 cm that more accurately reflects the distance between the sound-producing element of a push or pull toy and a standing child's ear. Based on anthropometric data, staff estimate that the fifth percentile ear height for a 19–24 month old child is 66.7 cm.[8] For a push toy with a sound source located 5 cm from the floor and 15 cm horizontally from the ear, which is an estimate for a sound source located on a rear wheel of a push toy, the estimated distance from the sound source to a fifth percentile 19–24 month old standing child's ear is 63.5 cm.

Using the standard equations for the distance-related decrease of sound level in a free field sound environment,[9] with the 63.5 cm sound exposure distance, the 50 cm measurement distance (distance from the sound source or surface of the toy to the microphone during testing), and an allowable sound exposure at the ear of 92.3 dB(A),[10] the allowable sound level at the measurement distance is 94.4 dB(A), which rounds to 94 dB(A), the sound limit in ASTM F963–23.

Table 1 shows the A-weighted sound limit, measurement distance, sound exposure distance, and sound level at the ear by toy category in ASTM F963. This table shows that the new sound limit for push or pull toys produces a similar sound level at the ear to the other toy limits in the toy standard and is below the generally applicable limit of 92.3 dB at the ear.

TABLE 1—A WEIGHTED SOUND LIMIT, MEASUREMENT DISTANCE, SOUND EXPOSURE DISTANCE, AND SOUND LEVEL AT THE EAR BY TOY CATEGORY

Toy category	A-weighted sound limit	Measurement distance (cm)	Sound exposure distance (cm)	Sound level at the ear (dBA)
Close-to-the ear toys	65 dB (LAeq)	50	2.5	91.02
Hand-held toys	85 dB (LAeq)	50	25	91.02
Tabletop, Floor, or Crib Toys in stationary or self-propelled modes	85 dB (LAeq)	50	25	91.02
Tabletop, Floor, or Crib Toys in user-propelled modes	85 dB (LAFmax)	50	25	91.02
Push or Pull Toys in stationary or self-propelled modes	85 dB (LAeq)	50	25	91.02
Push or Pull Toys in user-propelled modes	94 dBA (LAFmax)	50	63.5	91.92

Although the revised 94 dB(A) sound limit for push or pull toys is higher than the 85 dB(A) sound limit in ASTM F963–16, the change does not negatively impact safety because the sound exposure distance on which the revised limit is now based more accurately reflects the expected distance between the push or pull toy sound source and the child's ear when the child is using the toy, and because the 94 dB(A) sound limit is within the margin of safety based on the assumptions used in the sound-producing toys section of the standard. This revision in ASTM F963–23 thus resolves the issue that required the Commission to provide the exception in 16 CFR 1250.2(c). Therefore, the direct final rule removes the codified text in 16 CFR 1250.2(c) because it is no longer necessary.

B. Revisions Not Impacting Safety

ASTM F963–23 contains numerous non-substantive changes, including editorial changes such as correcting typographical errors, reformatting, renumbering, and restructuring provisions, that do not impact the safety of toys. Below is a discussion of those revisions.

1. Sound-Producing Toys

In addition to the substantive change discussed above, the revisions for sound producing toys reflected in ASTM F963–23 also include changes to sound-producing toy definitions, performance requirements, and test methods to improve clarity. Most of the changes clarify categories of toys, applicable requirements, and the relationship

[5] Push or pull toys in stationary or self-propelled modes are still subject to the 85 dB A-weighted sound limit, as in previous versions of the standard.

[6] Age Determination Guidelines 2020, p. 47. Available at *https://www.cpsc.gov/content/2020-Age-Determination-Guidelines.*

[7] See Annex A9.2 in ASTM F963–23 for more information.

[8] Based on ear to top-of-head distance and stature data from Schneider, L.W., Lehman, R.J., Pflug, M.A., & Owings, C.L. (1986). (rep.). *Size and Shape of the Head and Neck from Birth to Four Years* (p. 111). Ann Arbor, MI: University of Michigan.

[9] See Annex A14.4.2 in ASTM F963–23 for more information.

[10] This is the allowable sound exposure based on the National Institute for Occupational Safety and Health 85 dB(A) recommended exposure limit and 3 dB exchange rate for an assumed 1.5 hours of play, as described in Annex A9.2 in ASTM F963–23. Note that 92.3 dB(A) is higher than the 90 dB(A) used to calculate the 85 dB(A) sound limit but is one of the listed recommended values (Annex A9.2.1.4). More information on the recommended exposure limit and noise dose calculations can be found in Centers for Disease Control and Prevention (1998). *Occupational noise exposure; criteria for a recommended standard.* Available at Occupational noise exposure; criteria for a recommended standard (*cdc.gov*).

between the definitions in section 3, the requirements in section 4, and the test methods in section 8.

- Clarifying changes were made to improve the precision of definitions related to sound-producing toys and provide additional examples—for example in sections 3.1.14, 3.1.37, 3.1.69, and 3.1.89. Clarifying changes were also made to sections 4.5, 4.5.1, 4.5.1.1, and 4.5.1.7.
- New language based on existing section 4.5 was added to sections 4.5.1.2 (Hand-held toys), 4.5.1.3 (Rattles), 4.5.1.4 (Stationary or Self-propelled Tabletop, Floor, or Crib Toys), 4.5.1.5 (User-propelled Tabletop, Floor, or Crib Toys), and 4.5.1.6 (Push or Pull Toys).
- A new Note 13 relating to modes of tabletop, floor, or crib toys was added to section 4 of the standard.
- Both clarifying and editorial changes were made to the test methods in section 8.20, 8.20.1, 8.20.1.1, 8.20.1.2, 8.20.1.3, 8.20.1.4, 8.20.1.5, 8.20.1.6, 8.20.2.1, 8.20.2.4, 8.20.2.5, and 8.20.2.6 of the standard. Sections 8.20.2.2 (Hand-held Toys) and 8.20.2.3 (Rattles) were moved, in addition to such clarifying and editorial changes.
- Note 52, concerning use and abuse testing, was added to the test methods section.
- ASTM F963–23 also contains a new Annex A14.4 that explains the technical basis for the revision to the A-weighted sound limit for push or pull toys, and rationale for the other changes to the sound-producing toys section.

The changes to the sound-producing toy definitions, performance requirements, and test methods improve clarity but do not affect the scope of toys covered by the standard, the performance requirements for these toys, or the test methods applicable to these toys. In addition, these clarifying changes will likely increase consistency in testing of sound-producing toys between test laboratories, which could improve safety.

2. Drop Test Floor Specification

Section 8.7 of ASTM F963–23, which is unchanged from the 2017 version of the standard, describes a drop test in which a toy is dropped a certain number of times in random orientations from heights based on the ages and expected heights of certain children, onto a specified impact surface. After testing, the toy is examined for mechanical hazards such as hazardous sharp points and sharp edges, and for ingestion hazards such as small, liberated components, chips, or fragments. In ASTM F963–17 and previous versions of the standard, the impact surface was specified in a referenced federal standard SS–T–312B, *Tile, Floor: Asphalt, Rubber, Vinyl, Vinyl-Asbestos.* The SS–T–312B standard, however, has been withdrawn and replaced with ASTM F1066, *Specification for Vinyl Composition Floor Tile.* The impact medium now specified in ASTM F1066 is the same one formerly specified in SS–T–312B. Accordingly, while ASTM F963–23, section 2 Referenced Documents has been revised to replace the standard SS–T–312B with ASTM F1066, there is no change to the test method or subsequent results. Therefore, this change does not impact safety.

3. Toxicology

Section 4.3 addresses the safety of substances and materials used in toys. Below is a brief description of the non-substantive changes to the following provisions.

a. Section 4.3.5.2—Toy Substrate Materials

Section 4.3.5.2 of ASTM F963–23 addresses requirements and test methods for specified chemical substances in the substrate materials of toys, where substrate refers to the materials used in toys other than the paints and surface coatings. Changes were made to improve the text's clarity and flow and to update references to CPSC regulations. Among the clarifications is a new section, 4.3.5.2(1)(e), which indicates that paper and paperboard are not included in the scope of the requirements of section 4.3.5.2. The information in this new section was previously included in Note 5 in the F963–17 standard. Thus, the change is a non-substantive rearrangement of the existing text and is not a change in any requirements.

b. Section 4.3.8—Phthalates

Section 4.3.8 of ASTM F963–23 was retitled ''Phthalates'' from the previous ''DEHP(DOP)'' and updates the provision to be consistent with the requirements for specified phthalates contained in 16 CFR part 1307. The revised section also references the current CPSC test method and Commission determinations related to requirements for third-party testing. The changes reflect current regulation and practice. While the revisions are intended to avoid stakeholder confusion by providing an up-to-date description of CPSC's mandatory phthalates requirements, revised section 4.3.8 and the accompanying notes are restatements of existing CPSC rules. Under section 106(a) of the CPSIA, restatements of other CPSC regulations are not considered to be part of the mandatory toy standard and thus are not part of the section 106 standard-revision process.

c. Section 4.3.6.1—Most Recent Version of USP 35

Section 4.3.6.1 provides information on the bacteriological standards for water used in the manufacturing and filling of toys. This section references USP 35, which is the current version of the standard established by United States Pharmacopeial Convention (USP) General Chapter 1231 (identified in the standard as USP <1231>). ASTM F963–23 revises section 4.3.6.1 to allow for the use of the current version of the USP standard (USP 35) or the most recent version of USP <1231>), if the USP standard is updated to a version beyond USP 35. Because USP <1231>) addresses water used for pharmaceutical purposes, any future revisions should continue to provide a high level of safety for toys. Should a future update to USP <1231>) result in a reduction to toy safety, the Commission has authority under sections 106(c) and (d) of the CPSIA to address such an issue.

4. Section 5.1.2—Tracking Labels

ASTM F963–23 adds a new section 5.1.2, restating CPSC regulations for tracking labels and adding Notes 26 and 27 restating CPSC guidance regarding tracking labels. While this addition assists stakeholders in understanding the applicable policies, under section 106(a) of the CPSIA it is a restatement of existing Commission requirements and not considered to be part of the mandatory toy standard.

5. Section 8.3.2.1—Apparatus Metal Sieve

ASTM F963 calls for the use of a metal sieve consisting of stainless-steel wire mesh held in a round metal frame, as a screen tool. Section 8.3.2.1 requires the use of a 0.5 mm (500 µm) standard sieve, also known as a No. 35 sieve (U.S. Alternative). Revised section 8.3.2.1 in ASTM F963–23 corrects a typographical error regarding the nominal wire diameter and the maximum size deviation for an individual opening of a No. 35 sieve, which are both listed incorrectly in units of micrometers (µm) in ASTM F963–17. Revised section 8.3.2.1 uses millimeters (mm)—the correct unit of measurement. Because the No. 35 sleeve was specified previously and remains specified, this correction does not impact safety.

6. Section 8.14—Projectile Toys

Several changes were made to the test method for projectile toys in section 8.14 of ASTM F963–23. Section 8.14.3

reorders the conditions of the bow used for testing, placing the 70 cm pullback distance condition ahead of the 150 Newtons (N) pull force condition when stretching the bow to determine the velocity of the arrow. Section 8.14.5.4 reorders the test conditions to determine the velocity of the projectile in a more logical sequence. Sections 8.14.5.4 and 8.14.5.5 of ASTM F963–17 have been renumbered to sections 8.14.5.5 and 8.14.5.6 in ASTM F963–23. Section 8.14.6.2 also places the 70 cm pullback distance condition ahead of the 150 N pull force condition when stretching the bow to determine the velocity of the arrow. These changes do not change the substantive performance requirements or otherwise affect toy safety.

III. Incorporation by Reference

Section 1250.2 of the direct final rule incorporates by reference ASTM F963–23. The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss in the preamble to a final rule, how the material the agency incorporates by reference is reasonably available to interested parties. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR regulations, section II of this preamble summarizes the major provisions of ASTM F963–23 that the Commission incorporates by reference into 16 CFR part 1250. Until the direct final rule takes effect, a read-only copy of ASTM F963–23 is available for viewing, at no cost, on ASTM's website at: *www.astm.org/CPSC.htm.* Once the rule takes effect, a read-only copy of the standard will be available for viewing, at no cost, on the ASTM website at: *www.astm.org/READINGLIBRARY/.* Interested parties can also schedule an appointment to inspect a copy of the standard at the Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, telephone: (301) 504–7479; email: *cpsc-os@cpsc.gov.* Interested parties can purchase a copy of ASTM F963–23 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959, telephone: (610) 832–9500; website: *www.astm.org.*

IV. Certification

Section 14(a) of the CPSA (15 U.S.C. 2051–2089) requires manufacturers of products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, to certify that the products comply with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product or on a reasonable testing program, or for children's products, on tests of a sufficient number of samples by a third-party conformity assessment body accredited by CPSC to test according to the applicable requirements. As noted, rules issued under section 106 of the CPSIA are ''consumer product safety standards.'' 15 U.S.C. 2056b(f). Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because toys are children's products, a CPSC-accepted third-party conformity assessment body must test samples of the products. Products subject to part 1250 also must comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA (15 U.S.C. 1278a), the tracking label requirements in section 14(a)(5) of the CPSA (15 U.S.C. 2063(a)(5)), and the consumer registration form requirements in section 104(d) of the CPSIA (15 U.S.C. 2056a(d)). ASTM F963–23 makes no changes to ASTM F963–17 that would impact any of these existing requirements.

V. Notice of Requirements

In accordance with section 14(a)(3)(B)(vi) of the CPSA, the Commission has previously published four NORs for accreditation of third-party conformity assessment bodies for testing toys. *See* 76 FR 46598 (Aug. 3, 2011); 78 FR 15836 (Mar. 12, 2013); 82 FR 8989 (Feb. 2, 2017); 82 FR 57119 (Dec. 4, 2017). The 2013 NOR provided the criteria and process for the Commission's acceptance of accreditation of third-party conformity assessment bodies for testing toys to ASTM F963–11. The two updates published in 2017 addressed the revisions in ASTM F963–16 and ASTM F963–17. The current NOR for ASTM F963–17 is listed in the Commission's rule, ''Requirements Pertaining to Third Party Conformity Assessment Bodies.'' 16 CFR part 1112.

The previous NOR for the toy safety standard addressed testing to 37 provisions of ASTM F963. The Commission will require third party testing for the same 37 provisions. To that end, this rule revises § 1112.15(b)(32) introductory text, (b)(32)(ii) introductory text, and (c)(1)(iii) of 16 CFR part 1112 by updating the incorporations by reference to reflect the numbering in ASTM F963–23. Additionally, § 1112.15(b)(32)(ii)(C) is revised to include ''Items of Avian Feather Origin'' in the title for section 4.3.6 of the voluntary standard, which was inadvertently not included in the previous NOR in part 1112.

Some of the revised sections of ASTM F963 include changes to test methods discussed in section II of the preamble. These changes do not involve a change in scientific discipline or significant increases in complexity. Therefore, CPSC will accept testing to support product certifications for sections in ASTM F963–23 if the test laboratory is already CPSC-accepted to the corresponding provisions in ASTM F963–17. Test laboratories that conduct testing to support product certifications to ASTM F963–23 must show in their test reports ''ASTM F963–23'' and the specific section numbers in the standard to which the product was evaluated.

When test laboratories seek CPSC acceptance for one or more ASTM F963–23 sections, they will be required to update their accreditation scope. CPSC will open the application process for all sections of ASTM F963–23 when this document is published in the **Federal Register**. To be CPSC-accepted for sections in ASTM F963–23, a test laboratory's scope of accreditation must include the reference to ''ASTM F963–23'' and a specific reference to one or more of the 37 sections listed in the NOR. Test laboratories that are currently accepted to ASTM F963–17 are instructed to update their accreditation scope to include ASTM F963–23 sections as soon as possible and submit their ASTM F963–23 application for CPSC acceptance within two years. Test laboratories that were not previously CPSC-accepted to sections of ASTM F963–17 and that wish to request CPSC acceptance to ASTM F963–23 should work with their accreditation bodies to include ''ASTM F963–23'' sections in their scope of accreditation. This approach will avoid disruption to third party testing to the toy safety standard and allow for a practicable transition from ASTM F963–17 to ASTM F963–23 for testing laboratories, the toy industry, consumers, and other interested parties.

VI. Direct Final Rule Process

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551–559) generally requires agencies to provide notice of a rule and an opportunity for interested parties to comment on it, section 553 of the APA provides an exception when the agency ''for good cause finds'' that notice and comment are ''impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B).

Under the process set out in section 106(g) of the CPSIA, when ASTM revises a standard that the Commission has previously incorporated by reference under section 104(b)(1)(B) of the CPSIA, that revision becomes the new CPSC standard by operation of law, unless the Commission determines that ASTM's revision does not improve the safety of the product. The Commission is allowing ASTM F963–23 to become CPSC's new standard because its provisions improve product safety. This rule updates the Code of Federal Regulations so that it reflects the version of the standard that takes effect by statute, but under the terms of the CPSIA, ASTM F963–23 would take effect as the new CPSC standard for toys even if the Commission did not issue this rule. Thus, public comments would not alter substantive changes to the standard or the effect of the revised standard as a consumer product safety standard under section 106(g) of the CPSIA. Under these circumstances, notice and comment are unnecessary under the APA.

In Recommendation 95–4, the Administrative Conference of the United States (ACUS) endorses direct final rulemaking as an appropriate procedure to expedite rules that are noncontroversial and not expected to generate significant adverse comments. *See* 60 FR 43108 (Aug. 18, 1995). ACUS recommends that agencies use the direct final rule process when they act under the ''unnecessary'' prong of the good cause exemption in 5 U.S.C. 553(b)(B). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule, because CPSC does not expect any significant adverse comments.

Unless CPSC receives a significant adverse comment within 30 days of this notification, the rule will become effective on April 20, 2024. In accordance with ACUS's recommendation, the Commission considers a significant adverse comment to be ''one where the commenter explains why the rule would be inappropriate,'' including an assertion challenging ''the rule's underlying premise or approach'' or a claim that the rule ''would be ineffective or unacceptable without a change.'' 60 FR 43108, 43111 (Aug. 18, 1995). As noted, this rule merely updates the CFR to reflect a change that occurs by statute, and public comments should address this specific action.

If the Commission receives a significant adverse comment, the Commission will withdraw this direct final rule. Depending on the comment and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612) generally requires agencies to review proposed and final rules for their potential economic impact on small entities, including small businesses, and to prepare regulatory flexibility analyses. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. 5 U.S.C. 603, 604. As discussed in section VI of this preamble, the Commission has determined that notice and the opportunity to comment are unnecessary for this rule. Therefore, the RFA does not apply. CPSC also notes the limited nature of this document, which merely updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect by operation of CPSIA section 106.

VIII. Paperwork Reduction Act

The current mandatory standard for toys includes requirements for marking, labeling, and instructional literature that constitute a ''collection of information'' as defined in the Paperwork Reduction Act (PRA; 44 U.S.C. 3501–3521). The Office of Management and Budget (OMB) has approved the collection of information for ASTM F963–17 under OMB Control No. 3041–0159. ASTM F963–23 updates the requirement for instructional literature to add an instruction for toys that require a manufacturer-supplied specialty or custom tool to access batteries, which directs parents to retain the tool for future use, to store it where the child cannot access it, and state that the tool is not a toy. This change to the instructional literature is within the scope of the information collection approved by OMB in 2022.

IX. Effective Date

Under the procedure set forth in section 106(g) of the CPSIA, when ASTM revises ASTM F963, the revision becomes the CPSC standard within 180 days of notification to the Commission, unless the Commission determines that the revision does not improve the safety of the product. In accordance with this provision, this rule establishes an effective date that is 180 days after the Commission received notification from ASTM of revisions to the standard. As discussed in section VI of this preamble, this is a direct final rule. Unless we receive a significant adverse comment within 30 days, the rule will become effective on April 20, 2024. The effective date for the NOR is likewise April 20, 2024, the same date that the provisions of ASTM F963–23 become effective.

X. Preemption

Section 26(a) of the CPSA provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. 15 U.S.C. 2075(a). Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to CPSC for an exemption from this preemption under certain circumstances. Section 106(f) of the CPSIA deems rules issued under that provision ''consumer product safety standards.'' Therefore, once a rule issued under section 106 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

XI. Environmental Considerations

Commission rules are categorically excluded from any requirement to prepare an environmental assessment or an environmental impact statement where they ''have little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

XII. Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801–808) states that before a rule may take effect, the agency issuing the rule must submit the rule, and certain related information, to each House of Congress and the Comptroller General. 5 U.S.C. 801(a)(1). The CRA submission must indicate whether the rule is a ''major rule.'' The CRA states that the Office of Information and Regulatory Affairs determines whether a rule qualifies as a ''major rule.''

Pursuant to the CRA, OMB's Office of Information and Regulatory Affairs has determined that this rule is not a ''major rule,'' as defined in 5 U.S.C. 804(2). To comply with the CRA, CPSC will submit the required information to each House of Congress and the Comptroller General.

List of Subjects

16 CFR Part 1112

Administrative practice and procedure, Audit, Consumer protection, Incorporation by reference, Reporting and recordkeeping requirements, Third party conformity assessment body.

16 CFR Part 1250

Consumer protection, Imports, Incorporation by reference, Imports, Infants and children, Law enforcement, Safety, Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES

■ 1. Revise the authority citation for part 1112 to read as follows:

Authority: 15 U.S.C. 2063.

■ 2. Amend § 1112.15 by revising paragraphs (b)(32) introductory text, (b)(32)(ii) introductory text, (b)(32)(ii)(C), and (c)(1)(ii) to read as follows:

§ 1112.15 When can a third-party conformity assessment body apply for CPSC acceptance for a particular CPSC rule or test method?

* * * * *

(b) * * *

(32) 16 CFR part 1250, safety standard for toys. CPSC only requires certain provisions of ASTM F963–23 to be subject to third party testing; therefore, CPSC only accepts the accreditation of third-party conformity assessment bodies for testing under the following toy safety standards:

* * * * *

(ii) ASTM F963–23:

* * * * *

(C) Section 4.3.6, Cleanliness of Liquids, Pastes, Putties, Gels, and Powders, and Items of Avian Feather Origin (except for cosmetics and tests on formulations used to prevent microbial degradation).

* * * * *

(c) * * *

(1) * * *

(ii) ASTM F963–23, ''Standard Consumer Safety Specification for Toy Safety,'' August 1, 2023.

* * * * *

PART 1250—SAFETY STANDARD MANDATING ASTM F9623 FOR TOYS

■ 3. Revise the authority citation for part 1250 to read as follows:

Authority: 15 U.S.C. 2056b.

■ 4. Revise § 1250.2 to read as follows:

§ 1250.2 Requirements for toy safety.

(a) Each toy must comply with all applicable provisions of ASTM F963–23 *Standard Consumer Safety Specification for Toy Safety,* approved on August 1, 2023. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This incorporation by reference (IBR) material is available for inspection at the U.S. Consumer Product Safety Commission and at the National Archives and Records Administration (NARA). Contact the U.S. Consumer Product Safety Commission at: Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, telephone (301) 504–7479, email *cpsc-os@cpsc.gov.* For information on the availability of this material at NARA, email *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.* A read-only copy of the standard is available for viewing on the ASTM website at *https://www.astm.org/READINGLIBRARY/.* You may obtain a copy from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; telephone (610) 832–9500; *www.astm.org.*

(b) Pursuant to section 106(a) of the Consumer Product Safety Improvement Act of 2008, section 4.2 and Annex 5 or any provision of ASTM F963 that restates or incorporates an existing mandatory standard or ban promulgated by the Commission or by statute or any provision that restates or incorporates a regulation promulgated by the Food and Drug Administration or any statute administered by the Food and Drug Administration are not part of the mandatory standard incorporated in paragraph (a) of this section.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2024–00741 Filed 1–17–24; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 16

[Docket No. TTB–2024–0001; Notice No. 231]

Civil Monetary Penalty Inflation Adjustment—Alcoholic Beverage Labeling Act

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notification of civil monetary penalty adjustment.

SUMMARY: This document informs the public that the maximum penalty for violations of the Alcoholic Beverage Labeling Act (ABLA) is being adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended. Prior to the publication of this document, any person who violated the provisions of the ABLA was subject to a civil penalty of not more than $24,759, with each day constituting a separate offense. This document announces that this maximum penalty is being increased to $25,561.

DATES: The new maximum civil penalty for violations of the ABLA takes effect on January 18, 2024, and applies to penalties that are assessed after that date.

FOR FURTHER INFORMATION CONTACT: Vonzella C. Johnson, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; (202) 508–0413.

SUPPLEMENTARY INFORMATION:

Background

Statutory Authority for Federal Civil Monetary Penalty Inflation Adjustments

The Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act), Public Law 101–410, 104 Stat. 890, 28 U.S.C. 2461 note, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114–74, section 701, 129 Stat. 584, requires the regular adjustment and evaluation of civil monetary penalties to maintain their deterrent effect and helps to ensure that penalty amounts imposed by the Federal Government are properly accounted for and collected. A ''civil monetary penalty'' is defined in the Inflation Adjustment Act as any penalty, fine, or other such sanction that is: (1) For a specific monetary amount as provided by Federal law, or has a

maximum amount provided for by Federal law; (2) assessed or enforced by an agency pursuant to Federal law; and (3) assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

The Inflation Adjustment Act, as amended, requires agencies to adjust civil monetary penalties by the inflation adjustment described in section 5 of the Inflation Adjustment Act. The Act also provides that any increase in a civil monetary penalty shall apply only to civil monetary penalties, including those whose associated violation predated such an increase, which are assessed after the date the increase takes effect.

The Inflation Adjustment Act, as amended, provides that the inflation adjustment does not apply to civil monetary penalties under the Internal Revenue Code of 1986 or the Tariff Act of 1930.

Alcoholic Beverage Labeling Act

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the Federal Alcohol Administration Act (FAA Act) pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain administrative and enforcement authorities to TTB through Treasury Order 120–01.

The FAA Act contains the Alcoholic Beverage Labeling Act (ABLA) of 1988, Public Law 100–690, 27 U.S.C. 213–219a, which was enacted on November 18, 1988. Section 204 of the ABLA, codified in 27 U.S.C. 215, requires that a health warning statement appear on the labels of all containers of alcoholic beverages manufactured, imported, or bottled for sale or distribution in the United States, as well as on containers of alcoholic beverages that are manufactured, imported, bottled, or labeled for sale, distribution, or shipment to members or units of the U.S. Armed Forces, including those located outside the United States.

The health warning statement requirement applies to containers of alcoholic beverages manufactured, imported, or bottled for sale or distribution in the United States on or after November 18, 1989. The statement reads as follows:

GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.

Section 204 of the ABLA also specifies that the Secretary of the Treasury shall have the power to ensure the enforcement of the provisions of the ABLA and issue regulations to carry them out. In addition, section 207 of the ABLA, codified in 27 U.S.C. 218, provides that any person who violates the provisions of the ABLA is subject to a civil penalty of not more than $10,000, with each day constituting a separate offense.

Most of the civil monetary penalties administered by TTB are imposed by the Internal Revenue Code of 1986, and thus are not subject to the inflation adjustment mandated by the Inflation Adjustment Act. The only civil monetary penalty enforced by TTB that is subject to the inflation adjustment is the penalty imposed by the ABLA at 27 U.S.C. 218.

TTB Regulations

The TTB regulations implementing the ABLA are found in 27 CFR part 16, and the regulations implementing the Inflation Adjustment Act with respect to the ABLA penalty are found in 27 CFR 16.33. This section indicates that, in accordance with the ABLA, any person who violates the provisions of this part is subject to a civil penalty of not more than $10,000. Further, pursuant to the provisions of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, this civil penalty is subject to periodic cost-of-living adjustments. Accordingly, any person who violates the provisions of 27 CFR part 16 is subject to a civil penalty of not more than the amount listed at *https://www.ttb.gov/laws-regulations-and-public-guidance/labeling-act-penalty.* Each day constitutes a separate offense.

To adjust the penalty, § 16.33(b) indicates that TTB will provide notice in the **Federal Register** and at the website mentioned above of cost-of-living adjustments to the civil penalty for violations of 27 CFR part 16.

Penalty Adjustment

In this document, TTB is publishing its yearly adjustment to the maximum ABLA penalty, as required by the amended Inflation Adjustment Act.

As mentioned earlier, the ABLA contains a maximum civil monetary penalty. For such penalties, section 5 of the Inflation Adjustment Act indicates that the inflation adjustment is determined by increasing the maximum penalty by the cost-of-living adjustment. The cost-of-living adjustment means the percentage increase (if any) between the Consumer Price Index for all-urban consumers (CPI–U) for the October preceding the date of the adjustment and the prior year's October CPI–U.

The CPI–U in October 2022 was 298.012, and the CPI–U in October 2023 was 307.671. The rate of inflation between October 2022 and October 2023 was therefore 3.241 percent. When applied to the current ABLA penalty of $24,759, this rate of inflation yields a raw (unrounded) inflation adjustment of $802.4392. Rounded to the nearest dollar, the inflation adjustment is $802, meaning that the new maximum civil penalty for violations of the ABLA will be $25,561.

The new maximum civil penalty will apply to all penalties that are assessed after January 18, 2024. TTB has also updated its web page at *https://www.ttb.gov/laws-regulations-and-public-guidance/labeling-act-penalty* to reflect the adjusted penalty.

Dated: January 12, 2024.

Amy R. Greenberg,

Deputy Assistant Administrator, Headquarters Operations.

[FR Doc. 2024–00887 Filed 1–17–24; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 380

Collateral Acceptability and Valuation

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury is amending regulations that govern the acceptability and valuation of collateral pledged to secure deposits of public monies and other financial interests of the government under Treasury's Fiscal Service collateral programs. This final rule is a non-substantive, technical amendment that updates a website and removes outdated contact information referenced in those regulations.

DATES: Effective January 18, 2024.

ADDRESSES: This final rule is available at *https://regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Lori Santamorena (Executive Director), Kevin Hawkins (Associate Director), or John Garrison (Associate Director), Government Securities Regulations Staff, Bureau of the Fiscal Service, Department of the Treasury, at (202) 504–3632 or email us at *govsecreg@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION: The Department of the Treasury (Treasury) is amending 31 CFR part 380, which governs the determination of the

acceptable types of collateral and their assigned values that may be pledged to secure deposits of public monies and other financial interests of the government under Treasury's Fiscal Service collateral programs.

Treasury's Fiscal Service collateral programs are described in, and governed by, the regulations at 31 CFR part 202 (Depositaries and Financial Agents of the Federal Government), 31 CFR part 203 (Payment of Federal Taxes and the Treasury Tax and Loan Program), and 31 CFR part 225 (Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties). Treasury's Bureau of the Fiscal Service (Fiscal Service) administers 31 CFR part 380, which governs the acceptability and valuation of the collateral in these programs. The Federal Reserve System, acting as the fiscal agent for Treasury, monitors collateral pledged to these programs.

This rule amendment revises 31 CFR part 380 to reflect that information about the acceptability and valuation of collateral for Treasury's 31 CFR part 202 and 31 CFR part 225 programs has been moved and can now be accessed on the Fiscal Service's website located at *fiscal.treasury.gov* instead of its previous address *www.treasurydirect.gov.* This amendment also removes outdated versions of the bureau's postal mailing address and the Government Securities Regulations Staff's (GSRS's) email address.

Procedural Requirements

Executive Orders 12866 and 14094. This final rule is not a significant regulatory action pursuant to Executive Order 12866, as amended by Executive Order 14094.

Administrative Procedure Act (APA). This final rule is being issued without prior notice and the opportunity for public comment and without the 30-day delayed effective date ordinarily prescribed by the APA 5 U.S.C. 553(b) and (d). Pursuant to section 553(b)(B) of the APA, general notice and the opportunity for public comment are not required with respect to a rulemaking when an ''agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. APA prior notice procedures are unnecessary because this rule does not promulgate any substantive changes to the regulations being amended. Rather, this rule merely makes minor, technical changes, specifically, updating the website address and contact information listed in the regulations, that do not involve the exercise of agency discretion and which are unlikely to generate public comment. Accordingly, Treasury finds that good cause exists to dispense with notice and comment procedures for this rule, and to have the rule take immediate effect, under 5 U.S.C. 553(b)(B) and 553(d)(3).

Regulatory Flexibility Act. Because a notice of proposed rulemaking is not required for this rule under 5 U.S.C. 553 or any other law, the Regulatory Flexibility Act does not apply to this rule.

Paperwork Reduction Act. We ask for no collections of information in this final rule. Therefore, the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* does not apply.

List of Subjects in 31 CFR Part 380

Government securities, Securities, Surety bonds.

Text of Amendments

For the reasons set forth in the preamble, Fiscal Service amends 31 CFR part 380 as follows:

PART 380—COLLATERAL ACCEPTABILITY AND VALUATION

■ 1. The authority citation for part 380 continues to read as follows:

Authority: 12 U.S.C. 90, 265–266, 332, 391, 1452(d), 1464(k), 1767, 1789a, 2013, 2122, 3101–3102; 26 U.S.C. 6302; 31 U.S.C. 321, 323, 3301–3304, 3336, 9301, 9303.

■ 2. Revise § 380.2 to read as follows:

§ 380.2 What collateral may I pledge if I am a depositary or a financial agent of the Government under 31 CFR part 202, and what value will you assign to it?

Unless we specify otherwise, we will list the types and valuation of acceptable collateral in Treasury procedural instructions. We will also post updated information and guidance on Treasury's Bureau of the Fiscal Service website at *fiscal.treasury.gov*.

■ 3. Revise § 380.4 to read as follows:

§ 380.4 What collateral may I pledge instead of a surety bond under 31 CFR part 225, and what value will you assign to it?

Unless we specify otherwise, we will list the types and valuation of acceptable collateral in Treasury procedural instructions. We will also post updated information and guidance on Treasury's Bureau of the Fiscal Service website at *fiscal.treasury.gov*.

Subpart C [Removed]

■ 4. Remove Subpart C, consisting of § 380.5.

David A. Lebryk,

Fiscal Assistant Secretary.

[FR Doc. 2024–00927 Filed 1–17–24; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 591

Publication of Venezuela Sanctions Regulations Web General License 45A

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of Web General License.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing one general license (GL) issued pursuant to the Venezuela Sanctions Regulations: GL 45A, which was previously made available on OFAC's website.

DATES: GL 45A was issued on November 16, 2023. See **SUPPLEMENTARY INFORMATION** for additional relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Compliance, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: *https://ofac.treasury.gov.*

Background

On November 16, 2023, OFAC issued GL 45A to authorize certain transactions otherwise prohibited by the Venezuela Sanctions Regulations (VSR), 31 CFR part 591, or authorities incorporated therein. The GL was made available on OFAC's website (*https://ofac.treasury.gov*) when it was issued. GL 45A supersedes GL 45, which was issued on October 18, 2023. The text of GL 45A is provided below.

Office of Foreign Assets Control

Venezuela Sanctions Regulations 31 CFR Part 591

General License No. 45A

Authorizing Certain Transactions Involving Consorcio Venezolano de Industrias Aeronáuticas y Servicios Aéreos, S.A.

(a) Except as provided in paragraph (d) of this general license, all transactions ordinarily incident and necessary to the repatriation of Venezuelan nationals from non-U.S. jurisdictions in the Western Hemisphere to Venezuela, and which are exclusively for the purposes of such repatriation, involving Consorcio Venezolano de Industrias Aeronáuticas y Servicios Aéreos, S.A. (Conviasa), or any entity in which Conviasa owns, directly or indirectly, a 50 percent or greater interest, that are prohibited by Executive Order (E.O.) 13850, as amended by E.O. 13857, or E.O. 13884, each as incorporated into the Venezuela Sanctions Regulations, 31 CFR part 591 (the VSR), are authorized.

(b) Except as provided in paragraph (d) of this general license, all transactions ordinarily incident and necessary to the general maintenance (including repair) of the blocked aircraft listed in the Annex to this general license that are prohibited by E.O. 13850, as amended by E.O. 13857, or E.O. 13884, each as incorporated into the VSR, are authorized.

(c) Except as provided in paragraph (d) of this general license, all transactions ordinarily incident and necessary to non-commercial (*i.e.,* not-for-profit) flights between non-U.S. jurisdictions in the Western Hemisphere and Venezuela of the blocked aircraft listed in the Annex to this general license that are prohibited by E.O. 13850, as amended by E.O. 13857, or E.O. 13884, each as incorporated into the VSR, are authorized.

(d) This general license does not authorize any transactions otherwise prohibited by the VSR, including any transactions involving any person blocked pursuant to the VSR other than the blocked persons or blocked aircraft described in paragraphs (a), (b) and (c) of this general license, Government of Venezuela persons blocked solely pursuant to E.O. 13884, Banco Central de Venezuela, or Banco de Venezuela SA Banco Universal.

(e) Effective November 16, 2023, General License No. 45, dated October 18, 2023, is replaced and superseded in its entirety by this General License No. 45A.

Note to General License 45A. Nothing in this general license relieves any person from compliance with any other Federal laws or requirements of other Federal agencies, including export, reexport, and transfer (in-country) licensing requirements maintained by the Department of Commerce's Bureau of Industry and Security under the Export Administration Regulations, 15 CFR parts 730–774.

Bradley T. Smith,
Director, Office of Foreign Assets Control.
Dated: November 16, 2023.

Annex—Blocked Aircraft Described in Paragraph (b) of General License 45A

List of blocked aircraft described in paragraph (b) of General License 45A:

(a) Aircraft Type: ERJ 190; Model: ERJ 190–100 IGW; Registration: YV 2849
(b) Aircraft Type: ERJ 190; Model: ERJ 190–100 IGW; Registration: YV 2850
(c) Aircraft Type: ERJ 190; Model: ERJ 190–100 IGW; Registration: YV 2851
(d) Aircraft Type: ERJ 190; Model: ERJ 190–100 IGW; Registration: YV 2911
(e) Aircraft Type: ERJ 190; Model: ERJ 190–100 IGW; Registration: YV 2912
(f) Aircraft Type: ERJ 190; Model: ERJ 190–100 IGW; Registration: YV 2913
(g) Aircraft Type: ERJ 190; Model: ERJ 190–100 IGW; Registration: YV 2943
(h) Aircraft Type: ERJ 190; Model: ERJ 190–100 IGW; Registration: YV 2944
(i) Aircraft Type: ERJ 190; Model: ERJ 190–100 IGW; Registration: YV 2953
(j) Aircraft Type: ERJ 190; Model: ERJ 190–100 IGW; Registration: YV 2954
(k) Aircraft Type: ERJ 190; Model: ERJ 190–100 IGW; Registration: YV 2964
(l) Aircraft Type: ERJ 190; Model: ERJ 190–100 IGW; Registration: YV 2965
(m) Aircraft Type: ERJ 190; Model: ERJ 190–100 IGW; Registration: YV 2966
(n) Aircraft Type: ERJ 190; Model: ERJ 190–100 IGW; Registration: YV 3052
(o) Aircraft Type: ERJ 190; Model: ERJ 190–100 IGW; Registration: YV 3071
(p) Aircraft Type: Lineage 1000; Model: ERJ 190–100 ECJ; Registration: YV 3016

Bradley T. Smith,
Director, Office of Foreign Assets Control.

[FR Doc. 2024–00879 Filed 1–17–24; 8:45 am]
BILLING CODE 4810–AL–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 281 and 282

[EPA–R04–UST–2023–0410; FRL–11400–02–R4]

Mississippi: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The State of Mississippi (Mississippi or State) has applied to the Environmental Protection Agency (EPA) for final approval of revisions to its Underground Storage Tank Program (UST Program) under subtitle I of the Resource Conservation and Recovery Act (RCRA). Pursuant to RCRA, the EPA is taking direct final action, subject to public comment, to approve revisions to the UST Program. The EPA has reviewed Mississippi's revisions and has determined that these revisions satisfy all requirements needed for approval. In addition, this action also codifies the EPA's approval of Mississippi's revised UST Program and incorporates by reference those provisions of the State statutes and regulations that the EPA has determined meet the requirements for approval.

DATES: This rule is effective March 18, 2024, unless the EPA receives adverse comment by February 20, 2024. If the EPA receives adverse comment, it will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 18, 2024.

ADDRESSES: Submit your comments by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Email: giri.upendra@epa.gov.* Include the Docket ID No. EPA–R04–UST–2023–0410 in the subject line of the message.

Instructions: Submit your comments, identified by Docket ID No. EPA–R04–UST–2023–0410, via the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *https://www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit: *https://www.epa.gov/dockets/commenting-epa-dockets.*

The EPA encourages electronic comment submittals, but if you are unable to submit electronically or need other assistance, please contact Upendra Giri, the contact listed in the **FOR FURTHER INFORMATION CONTACT** provision below. The index to the docket for this

action and all documents that form the basis of this action and associated publicly available docket materials are available electronically in *https://www.regulations.gov.* The EPA encourages electronic reviewing of these documents, but if you are unable to review these documents electronically, please contact Upendra Giri for alternative access to docket materials.

Please also contact Upendra Giri if you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you. For further information on EPA Docket Center services please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Upendra Giri, RCRA Programs and Cleanup Branch, Land, Chemicals, and Redevelopment Division, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960; Phone number: (404) 562–8185; email address: *giri.upendra@epa.gov.* Please contact Upendra Giri by phone or email for further information.

SUPPLEMENTARY INFORMATION:

I. Approval of Revisions to Mississippi's Underground Storage Tank Program

A. Why are revisions to state UST programs necessary?

States that have received final approval from the EPA under section 9004(b) of RCRA, 42 U.S.C. 6991c(b), must maintain a UST program that is no less stringent than the Federal program. When the EPA revises the regulations that govern the UST program, states must revise their programs to comply with the updated regulations and submit these revisions to the EPA for approval. Most commonly, states must change their programs because of changes to the EPA's regulations in title 40 of the Code of Federal Regulations (CFR) part 280. States can also initiate changes on their own to their UST programs and these changes must then be approved by the EPA.

B. What decision has the EPA made in this rule?

In accordance with 40 CFR 281.51(a), Mississippi submitted a complete program revision application (State Application) seeking approval of changes to its UST Program. The State Application was submitted on July 31, 2023 and amended on August 17, 2023. The program revisions described in the State Application correspond to the EPA final rule published on July 15, 2015 (80 FR 41566), which revised the 1988 UST regulations and the 1988 state program approval (SPA) regulations (2015 Federal Revisions). As required by 40 CFR 281.20, the State Application contains the following: a transmittal letter from the Governor requesting approval; a description of the UST Program and operating procedures; a demonstration of the State's procedures to ensure adequate enforcement; a Memorandum of Agreement outlining the roles and responsibilities of the EPA and the implementing agency; an Attorney General's Statement; and copies of all relevant State statutes and regulations. The EPA has reviewed the State Application and has determined that the revisions to Mississippi's UST Program are no less stringent than the corresponding Federal requirements in subpart C of 40 CFR part 281, and that the Mississippi UST Program continues to provide adequate enforcement of compliance. Therefore, the EPA grants Mississippi final approval to operate its UST Program with the revisions described in the State Application, and as outlined below. The Mississippi Department of Environmental Quality (MDEQ) is the lead implementing agency for the UST Program in Mississippi, except in Indian country as noted below in Section I.I.

C. What is the effect of this approval on the regulated community?

Section 9004(b) of RCRA, 42 U.S.C. 6991c(b), as amended, allows the EPA to approve state UST programs to operate in lieu of the Federal program. With this approval, the changes described in the State Application will become part of the approved State UST Program, and therefore will be federally enforceable. Mississippi will continue to have primary enforcement authority and responsibility for its State UST Program. This action does not impose additional requirements on the regulated community because the regulations being approved by this rule are already in effect in the State of Mississippi, and are not changed by this action. This action merely approves the existing State regulations as being no less stringent than the 2015 Federal Revisions and rendering them federally enforceable.

D. Why is the EPA using a direct final rule?

The EPA is publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and we anticipate no adverse comment. Mississippi addressed all comments it received during its comment period when the rules and regulations being considered in this document were proposed at the State level.

E. What happens if the EPA receives comments that oppose this action?

Along with this direct final rule, the EPA is simultaneously publishing a separate document in the ''Proposed Rules'' section of this **Federal Register** that serves as the proposal to approve the State's UST Program revisions and provides an opportunity for public comment. If the EPA receives comments that oppose this approval, the EPA will withdraw this direct final rule by publishing a document in the **Federal Register** before it becomes effective. The EPA will make any further decision on approval of the State Application after considering all comments received during the comment period. The EPA will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this approval, you must do so at this time.

F. For what has Mississippi previously been approved?

On October 2, 1989, Mississippi submitted a complete State program approval application seeking approval of its UST Program under subtitle I of RCRA. Effective July 11, 1990, the EPA granted final approval for Mississippi to administer its UST Program in lieu of the Federal UST program (55 FR 23549, June 11, 1990). Effective July 22, 1997, the EPA incorporated by reference and codified the federally approved Mississippi UST Program (62 FR 28364, May 23, 1997). As a result of the EPA's approval, these provisions became subject to the EPA's corrective action, inspection, and enforcement authorities under RCRA sections 9003(h), 9005, and 9006, 42 U.S.C. 6991b(h), 6991d, and 6991e, and other applicable statutory and regulatory provisions.

G. What changes is the EPA approving with this action and what standards do we use for review?

In order to be approved, each state program revision application must meet the general requirements in 40 CFR 281.11 (General Requirements), and the specific requirements in 40 CFR part 281, subpart B (Components of a Program Application), subpart C (Criteria for No Less Stringent), and subpart D (Adequate Enforcement of Compliance).

As more fully described below, the State has made changes to its UST Program to reflect the 2015 Federal Revisions. These changes are included in Mississippi's UST Rules at 11 Miss. Admin. Code Pt. 5, Ch. 2, effective

October 5, 2018. The EPA is approving the State's changes because they are no less stringent than the Federal UST program, and because the revised Mississippi UST Program will continue to provide for adequate enforcement of compliance as required by 40 CFR 281.11(b) and part 281, subparts C and D, after this approval.

MDEQ continues to be the lead implementing agency for the UST Program in Mississippi. MDEQ has broad statutory and regulatory authority to regulate the installation, operation, maintenance, and closure of USTs, as well as UST releases, under the Mississippi Underground Storage Tank Act (the UST Act) of 1988, Miss. Code Ann. sections 49–17–401 to 49–17–435 (2022), and the Mississippi UST Rules at 11 Miss. Admin. Code Pt. 5, Ch. 2 (2018).

The following State authorities provide authority for compliance monitoring as required pursuant to 40 CFR 281.40: Miss. Code Ann. sections 49–17–31, 49–17–35, 49–17–39, 49–17–409, 49–17–413(1), 49–17–415, and 49–17–427; and 11 Miss. Admin. Code Pt. 5, Ch 2, Rule 2.3, section 280.35.

The following State authorities provide authority for enforcement response as required pursuant to 40 CFR 281.41: Miss. Code Ann. sections 49–17–27, 49–17–31, 49–17–33, 49–17–35, 49–17–37, 49–17–41, 49–17–419, 49–17–427; and 11 Miss. Admin. Code Pt. 5, Ch 2, Rule 2.3, section 280.36.

The following State authorities provide authority for enabling public participation in the State enforcement process, including citizen intervention and filing of complaints, required pursuant to 40 CFR 281.42: Rule 24(a)(2) of the Mississippi Rules of Civil Procedure; Miss. Code Ann. sections 49–17–35, 49–17–41, and 49–17–431; and 11 Miss. Admin. Code Pt. 5, Ch 2, Rule 2.6, section 280.67. Further, through a Memorandum of Agreement between MDEQ and the EPA, effective October 12, 2018, the State maintains procedures for receiving and ensuring proper consideration of information about violations submitted by the public, and MDEQ will not oppose citizen intervention when permissive intervention is allowed by statute, rule, or regulation. The following State authorities provide authority for enabling the sharing of information in the State files obtained or used in the administration of the State UST Program with the EPA as required by 40 CFR 281.43: Miss. Code Ann. sections 49–17–39 and 49–17–425. Further, through a Memorandum of Agreement between MDEQ and the EPA, effective October 12, 2018, the State agrees to furnish the EPA, upon request, any information in State files obtained or used in the administration of the State UST Program.

To qualify for final approval, revisions to a state's UST program must be no less stringent than the 2015 Federal Revisions. In the 2015 Federal Revisions, the EPA addressed UST systems deferred in the 1988 UST regulations, and added, among other things: new operation and maintenance requirements; secondary containment requirements for new and replaced tanks and piping; operator training requirements; and a requirement to ensure UST system compatibility before storing certain biofuel blends. In addition, the EPA removed past deferrals for emergency generator tanks, field constructed tanks, and airport hydrant systems. Mississippi adopted all of the required 2015 Federal Revisions at 11 Miss. Admin. Code Pt. 5, Ch. 2 (2018).

As part of the State Application, the Mississippi Attorney General has certified that the State regulations provide for adequate enforcement of compliance and meet the no less stringent criteria in 40 CFR part 281, subparts C and D. The EPA is relying on this certification, in addition to the analysis submitted by the State, in approving the State's changes.

H. Where are the revised State rules different from the Federal rules?

States may enact laws that are more stringent than their Federal counterparts. *See* RCRA section 9008, 42 U.S.C. 6991g. When an approved state program includes requirements that are considered more stringent than those required by Federal law, the more stringent requirements become part of the federally approved program in accordance with 40 CFR 281.12(a)(3)(i). The EPA has determined that some of Mississippi's regulations are considered more stringent than the Federal program, and upon approval, they will become part of the federally approved State UST Program and therefore federally enforceable.

In addition, states may enact laws which are broader in scope than their Federal counterparts in accordance with 40 CFR 281.12(a)(3)(ii). State requirements that go beyond the scope of the Federal program are not part of the federally approved program and the EPA cannot enforce them. Although these requirements are enforceable by the State in accordance with Mississippi law, they are not Federal RCRA requirements. The EPA considers the following State requirements to be broader in scope than the Federal program and therefore not part of the federally approved State UST Program:

Statutory Broader in Scope Provisions

(i) Miss. Code. Ann. section 49–17–403(b), as to the definition of ''Bonded distributor,'' insofar as it is associated with the regulation of entities other than owners and operators as these terms are defined in 40 CFR 280.12.

(ii) Miss. Code. Ann. section 49–17–403(o), as to the definition of ''Response action contractor,'' insofar as it is associated with the regulation of entities other than owners and operators as these terms are defined in 40 CFR 280.12.

(iii) Miss. Code. Ann. section 49–17–403(p), as to the definition of ''Retailer,'' insofar as it is associated with the regulation of entities other than owners and operators as these terms are defined in 40 CFR 280.12.

(iv) Miss. Code. Ann. section 49–17–403(q), as to the definition of ''Substantial compliance,'' insofar as it relates to a state fund.

(v) Miss. Code. Ann. section 49–17–405, insofar as it provides for the creation of the Mississippi Groundwater Protection Trust Fund (State Fund), promulgation of regulations regarding the State Fund, criteria for qualified expenditure of funds, and liability of owners for fund expenditures.

(vi) Miss. Code. Ann. section 49–17–407, insofar as it creates an environmental protection fee, provides limits on use of the State Fund, and addresses third party claims.

(vii) Miss. Code. Ann. section 49–17–409, all except for the first sentence, insofar as these provisions provide for the eligibility requirements of the State Fund and reimbursement of costs from owners.

(xiii) Miss. Code. Ann. section 49–17–421, insofar as it establishes an annual tank regulatory fee.

(ix) Miss. Code. Ann. section 49–17–422, insofar as it creates an Underground Storage Tank Advisory Council.

(x) Miss. Code. Ann. section 49–17–423, insofar as it pertains to the commission's administration of funds from the Leaking Underground Storage Tank Trust Fund.

(xi) Miss. Code. Ann. section 49–17–429, insofar as it requires the certification of individuals to install, alter, or remove underground storage tanks and provides for the promulgation of regulations setting forth certification requirements.

Regulatory Broader in Scope Provisions

(i) 11 Miss. Admin. Code Pt. 5, Ch. 1 (2009), insofar as these provisions

regulate Immediate Response Action Contractors, Environmental Response Action Contractors, and the State Fund.

(ii) 11 Miss. Admin. Code Pt. 5, Ch. 2, R. 2.1, section 280.12, as to the definition of ''Ancillary equipment,'' insofar as it pertains to dispensers.

(iii) 11 Miss. Admin. Code Pt. 5, Ch. 2, R. 2.1, section 280.12, as to the definition of ''Certificate of Operation,'' insofar as it requires UST systems to be permitted by MDEQ and the payment of tank regulatory fees.

(iv) 11 Miss. Admin. Code Pt. 5, Ch. 2, R. 2.1, section 280.12, as to the definition of ''Motor fuel,'' insofar as it includes 100% biodiesel or ethanol.

(v) 11 Miss. Admin. Code Pt. 5, Ch. 2, R. 2.1, section 280.12, as to the definition of ''New tank system,'' insofar as it includes dispensers as part of the new tank system.

(vi) 11 Miss. Admin. Code Pt. 5, Ch. 2, R. 2.1, section 280.12, as to the definition of ''Register,'' insofar as it requires notification for installation, replacement, or change in the operational status of a dispenser.

(vii) 11 Miss. Admin. Code Pt. 5, Ch. 2, R. 2.1, section 280.12, as to the definition of ''Replace,'' insofar as it considers replacement of a dispenser to constitute a new UST system.

(viii) 11 Miss. Admin. Code Pt. 5, Ch. 2, R. 2.2, section 280.20(j), insofar as it regulates shear valves.

(ix) 11 Miss. Admin. Code Pt. 5, Ch. 2, R. 2.2, sections 280.22(a) and (b), insofar as these provisions regulate dispensers.

(x) 11 Miss. Admin. Code Pt. 5, Ch. 2, R. 2.3, sections 280.34(g) through (i), insofar as these provisions regulate dispensers.

(xi) 11 Miss. Admin. Code Pt. 5, Ch. 2, R. 2.3, section 280.35(a)(4), insofar as it regulates dispensers.

(xii) 11 Miss. Admin. Code Pt. 5, Ch. 2, R. 2.3, section 280.35(b)(1), insofar as it regulates shear valves.

(xiii) 11 Miss. Admin. Code Pt. 5, Ch. 2, R. 2.3, section 280.38(b)(1)(iii), insofar as it regulates shear valves.

(xiv) 11 Miss. Admin. Code Pt. 5, Ch. 3, insofar as these provisions provide for the certification and regulation of persons who install, alter, test, and permanently close underground storage tanks.

I. How does this action affect Indian country (18 U.S.C. 1151) in Mississippi?

The EPA's approval of Mississippi's UST Program does not extend to Indian country as defined in 18 U.S.C. 1151. The EPA will retain responsibility under RCRA for underground storage tanks in Indian country. Therefore, this action has no effect in Indian country. *See* 40 CFR 281.12(a)(2).

II. Codification

A. What is codification?

Codification is the process of placing citations and references to a state's statutes and regulations that comprise a state's approved UST program into the CFR. The EPA codifies its approval of state programs in 40 CFR part 282 and incorporates by reference state statutes and regulations that the EPA can enforce, after the approval is final, under sections 9005 and 9006 of RCRA, and any other applicable statutory provisions. The incorporation by reference of EPA-approved state programs in the CFR should substantially enhance the public's ability to discern the status of the approved state UST programs and state requirements that can be federally enforced. This effort provides clear notice to the public of the scope of the approved program in each state.

B. What is the history of codification of Mississippi's UST Program?

In 1997, the EPA incorporated by reference and codified Mississippi's approved UST Program at 40 CFR 282.74 (62 FR 28364, May 23, 1997). Through this action, the EPA is amending 40 CFR 282.74 to incorporate by reference and codify Mississippi's revised UST Program.

C. What codification decisions is the EPA making in this rule?

In this rule, the EPA is finalizing regulatory text that incorporates by reference the federally approved Mississippi UST Program, including the revisions made to the UST Program based on the 2015 Federal Revisions. In accordance with the requirements of 1 CFR 51.5, the EPA is incorporating by reference Mississippi's statutes and regulations as described in the amendments to 40 CFR part 282 set forth below. These documents are available through *https://www.regulations.gov.* This codification reflects the State UST Program that will be in effect at the time the EPA's approval of the revisions to the Mississippi UST Program addressed in this direct final rule becomes final. If, however, the EPA receives substantive comment on the proposed rule, the EPA will withdraw this direct final rule and this codification will not take effect. The EPA will consider all comments and will make a decision on program approval and codification in a future final rule. By codifying the approved Mississippi UST Program and by amending the CFR, the public will more easily be able to discern the status of the federally-approved requirements of the Mississippi UST Program.

Specifically, in 40 CFR 282.74(d)(1)(i), the EPA is incorporating by reference the EPA-approved Mississippi UST Program. Section 282.74(d)(1)(ii) identifies the State's statutes and regulations that are part of the approved State UST Program, although not incorporated by reference for enforcement purposes, unless they impose obligations on the regulated entity. Section 282.74(d)(1)(iii) identifies the State's statutory and regulatory provisions that are broader in scope, external, or excluded for other reasons from the State's approved UST Program and therefore not incorporated by reference. Sections 282.74(d)(2) through (5) reference the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, Program Description, and Memorandum of Agreement, which are part of the State Application and part of the State UST Program under subtitle I of RCRA.

D. What is the effect of the EPA's codification of the federally approved Mississippi UST Program on enforcement?

The EPA retains the authority under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d, and 6991e, and other applicable statutory and regulatory provisions, to undertake corrective action, inspections, and enforcement actions, and to issue orders in approved States. If the EPA determines it will take such actions in Mississippi, the EPA will rely on Federal sanctions, Federal inspection authorities, and other Federal procedures rather than the State analogs. Therefore, the EPA is not incorporating by reference Mississippi's procedural and enforcement authorities, although they are listed in 40 CFR 282.74(d)(1)(ii).

E. What State provisions are not part of the codification?

As discussed in section I.H. above, some provisions of the State's UST Program are not part of the federally approved State UST Program because they are broader in scope than the Federal UST Program. Where an approved State program has provisions that are broader in scope than the Federal program, those provisions are not a part of the federally approved program. As a result, State provisions which are broader in scope than the Federal program are not incorporated by reference for purposes of enforcement in part 282. *See* 40 CFR 281.12(a)(3)(ii). In

addition, provisions that are external to the State UST program approval requirements, but included in the State Application, are also being excluded from incorporation by reference in 40 CFR part 282. In addition, some provisions are being excluded from incorporation by reference in 40 CFR part 282 for other reasons. For reference and clarity, 40 CFR 282.74(d)(1)(iii) lists the Mississippi statutory and regulatory provisions which are broader in scope than the Federal program, external to State UST program approval requirements, or being excluded for other reasons. These provisions are, therefore, not part of the approved UST Program that the EPA is codifying. Although these provisions cannot be enforced by the EPA, the State will continue to implement and enforce such provisions under State law.

III. Statutory and Executive Order (E.O.) Reviews

The EPA's actions merely approve and codify Mississippi's revised UST Program requirements pursuant to RCRA section 9004, and do not impose additional requirements other than those imposed by State law. For that reason, these actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Do not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with RCRA;
- Do not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994); and
- Do not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. The rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final action will be effective March 18, 2024.

List of Subjects in 40 CFR Parts 281 and 282

Environmental protection, Administrative practice and procedure, Hazardous substances, Incorporation by reference, Indian country, Petroleum, Reporting and recordkeeping requirements, State program approval, Underground storage tanks.

Authority: This action is issued under the authority of sections 2002(a), 7004(b), 9004, 9005, and 9006 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6974(b), 6991c, 6991d, and 6991e.

Dated: December 21, 2023.

Jeaneanne M Gettle,

Acting Regional Administrator, Region 4.

For the reasons set forth in the preamble, the EPA is amending 40 CFR part 282 as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

■ 1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

■ 2. Amend § 282.2 by revising paragraph (b)(4) as follows:

§ 282.2 Incorporation by reference.

* * * * *

(b)(4) Region 4 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee): 61 Forsyth Street SW, Atlanta, Georgia 30303–8960; Phone Number: (404) 562–9900.

* * * * *

■ 3. Revise § 282.74 to read as follows:

§ 282.74 Mississippi State-Administered Program.

(a) *History of the approval of Mississippi's program.* The State of Mississippi (Mississippi or State) is approved to administer and enforce an underground storage tank (UST) program in lieu of the Federal program under subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's Underground Storage Tank Program (UST Program), as administered by the Mississippi Department of Environmental Quality (MDEQ), was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Mississippi UST Program on June 11, 1990, and it was effective on July 11, 1990. A subsequent program revision was approved by EPA and became effective March 18, 2024.

(b) *Enforcement authority.* Mississippi has primary responsibility for administering and enforcing its federally approved UST Program. However, EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d, and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Retention of program approval.* To retain program approval, Mississippi must revise its approved UST Program to adopt new changes to the Federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Mississippi obtains approval for revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the **Federal Register**.

(d) *Final approval.* Mississippi has final approval for the following elements of its UST Program submitted

to EPA and approved effective June 11, 1990, and the program revisions approved by EPA effective on March 18, 2024:

(1) *State statutes and regulations*—(i) *Incorporation by reference.* The Mississippi materials cited in this paragraph (d)(1)(i), and listed in appendix A to this part, are incorporated by reference as part of the UST Program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* (See § 282.2 for incorporation by reference approval and inspection information.) You may obtain copies of the Mississippi statutes and regulations that are incorporated by reference in this paragraph (d)(1)(i) from the Mississippi Department of Environmental Quality, P.O. Box 2261, Jackson, MS 29335; Phone number: (601) 961–5171; website: *https://www.mdeq.ms.gov/water/groundwater-assessment-and-remediation/underground-storage-tanks/.*

(A) ''Mississippi Statutory Requirements Applicable to the Underground Storage Tank Program,'' dated September 5, 2023.

(B) ''Mississippi Regulatory Requirements Applicable to the Underground Storage Tank Program,'' dated September 5, 2023.

(ii) *Legal basis.* EPA considered the following statutes and regulations which provide the legal basis for the State's implementation of the UST Program, but do not replace Federal authorities. Further, these provisions are not being incorporated by reference, unless the provisions place requirements on regulated entities.

(A) *Mississippi Underground Storage Tank Act (the UST Act) of 1988, Miss. Code Ann. sections 49–17–401 to 49–17–435 (2022).*

(*1*) Section 49–17–409, as to the first sentence, insofar as it provides for compliance monitoring and the promulgation of regulations for the reporting of releases.

(*2*) Section 49–17–413(1), insofar as it provides for compliance monitoring, and the promulgation of regulations for the implementation of the State UST Program.

(*3*) Section 49–17–415, insofar as it provides for compliance monitoring and establishes authority to conduct inspections, tests, and obtain information from owners.

(*4*) Section 49–17–419, insofar as it establishes authority over corrective action.

(*5*) Section 49–17–425, insofar as it provides for the sharing of information with EPA.

(*6*) Section 49–17–427, insofar as it provides for enforcement response, enforcement of orders, assessment of penalties under the UST Act, proceedings before the commission, and limitations on liability.

(*7*) Section 49–17–431, insofar as it provides for appeal of any decision by the commission or the director.

(B) *Mississippi Air and Water Pollution Control Law, Miss. Code Ann. sections 49–17–27 and 49–17–31 to 49–17–41 (2020).*

(*1*) Section 49–17–27, insofar as it provides for enforcement response and injunctive relief.

(*2*) Section 49–17–31, insofar as it provides for enforcement response, notice of violations, enforcement of regulations and orders, procedures for contested cases, and assessment of penalties.

(*3*) Section 49–17–33, insofar as it provides for hearing procedures, issuance of orders, and penalties.

(*4*) Section 49–17–35, insofar as it provides for enforcement response, public participation, and citizen intervention.

(*5*) Section 49–17–37, insofar as it provides for hearing procedures and transcripts.

(*6*) Section 49–17–39, insofar as it provides for the sharing of information with EPA.

(*7*) Section 49–17–41, insofar as it provides for appeal rights for aggrieved parties.

(C) *Mississippi's Underground Storage Tank Regulations, 11 Miss. Admin. Code Pt. 5, Ch. 2 (2018).*

(*1*) R. 2.3, 280.36, insofar as it provides for delivery prohibition and enforcement of the State UST Program.

(*2*) R. 2.6, 280.67, insofar as it provides for public participation in the corrective action process.

(D) *Rule 24(a)(2) of the Mississippi Rules of Civil Procedure (1982),* insofar as it provides for citizen intervention and public participation in the State enforcement process.

(iii) *Other provisions not incorporated by reference.* The following statutory and regulatory provisions applicable to the Mississippi UST Program are broader in scope than the Federal program, external to the State UST program approval requirements, or are being excluded for other reasons as noted below. Therefore, these provisions are not part of the approved UST Program and are not incorporated by reference in this section:

(A) *Mississippi Underground Storage Tank Act (the UST Act) of 1988, Miss. Code Ann. sections 49–17–401 to 49–17–435 (2022).*

(*1*) 49–17–403(b) is broader in scope as to the definition of ''Bonded distributor,'' insofar as it is associated with the regulation of entities other than owners and operators as these terms are defined in 40 CFR 280.12.

(*2*) Section 49–17–403(o) is broader in scope as to the definition of ''Response action contractor,'' insofar as it is associated with the regulation of entities other than owners and operators as these terms are defined in 40 CFR 280.12.

(*3*) Section 49–17–403(p) is broader in scope as to the definition of ''Retailer,'' insofar as it is associated with the regulation of entities other than owners and operators as these terms are defined in 40 CFR 280.12.

(*4*) Section 49–17–403(q) is broader in scope as to the definition of ''Substantial compliance,'' insofar as it relates to a State fund.

(*5*) Section 49–17–405 is broader in scope insofar as it provides for the creation of the Mississippi Groundwater Protection Trust Fund (State Fund), promulgation of regulations regarding the State Fund, criteria for qualified expenditure of funds, and liability of owners for fund expenditures.

(*6*) Section 49–17–407 is broader in scope insofar as it creates an environmental protection fee, provides limits on use of the State Fund, and addresses third party claims.

(*7*) Section 49–17–409 is broader in scope, all except for the first sentence, insofar as it provides for the eligibility requirements of the State Fund and reimbursement of costs from owners.

(*8*) Section 49–17–421 is broader in scope insofar as it establishes an annual tank regulatory fee.

(*9*) Section 49–17–422 is broader in scope insofar as it creates an Underground Storage Tank Advisory Council.

(*10*) Section 49–17–423 is broader in scope insofar as it pertains to the commission's administration of funds from the Leaking Underground Storage Tank Trust Fund.

(*11*) Section 49–17–429 is broader in scope insofar as it requires the certification of individuals to install, alter, or remove underground storage tanks and provides for the promulgation of regulations setting forth certification requirements.

(*12*) Section 49–17–433 is external insofar as it pertains to the severability of the State UST Act.

(*13*) Section 49–17–435 is external insofar as it contains reporting obligations on the State agency, not a regulated entity.

(B) *Mississippi Air and Water Pollution Control Law, Miss. Code Ann. sections 49–17–27 and 49–17–31 to 49–17–41 (2020).*

(*1*) Section 49–17–32 is external insofar as it does not pertain to the State UST Program.

(*2*) Section 49–17–34 is external insofar as it does not pertain to the State UST Program.

(*3*) Section 49–17–36 is external insofar as it does not pertain to the State UST Program.

(C) *Mississippi's Groundwater Protection Trust Fund Regulations, 11 Miss. Admin. Code Pt. 5, Ch. 1 (2009)* is broader in scope insofar as these provisions regulate Immediate Response Action Contractors, Environmental Response Action Contractors, and the State Fund.

(D) *Mississippi's Underground Storage Tank Regulations, 11 Miss. Admin. Code Pt. 5, Ch. 2 (2018).*

(*1*) R. 2.1, 280.12 is broader in scope as to the definition of ''Ancillary equipment,'' insofar as it pertains to dispensers.

(*2*) R. 2.1, 280.12 is broader in scope as to the definition of ''Certificate of Operation,'' insofar as it requires UST systems to be permitted by MDEQ and the payment of tank regulatory fees.

(*3*) R. 2.1, 280.12 is broader in scope as to the definition of ''Motor fuel,'' insofar as it includes 100% biodiesel or ethanol.

(*4*) R. 2.1, 280.12 is broader in scope as to the definition of ''New tank system,'' insofar as it includes dispensers as part of the new tank system.

(*5*) R. 2.1, 280.12 is broader in scope as to the definition of ''Register,'' insofar as it requires notification for installation, replacement, and change in operational status of a dispenser.

(*6*) R. 2.1, 280.12 is broader in scope as to the definition of ''Replace,'' insofar as it considers replacement of a dispenser to constitute a new UST system.

(*7*) R. 2.2, 280.20(j) is broader in scope insofar as it regulates shear valves.

(*8*) R. 2.2, 280.22(a) and (b) are broader in scope insofar as these provisions regulate dispensers.

(*9*) R. 2.3, 280.34(g) through (i) are broader in scope insofar as these provisions regulate dispensers.

(*10*) R. 2.3, 280.35(a)(4) is broader in scope insofar as it regulates dispensers.

(*11*) R. 2.3, 280.35(b)(1) is broader in scope insofar as it regulates shear valves.

(*12*) R. 2.3, 280.38(b)(1)(iii) is broader in scope insofar as it regulates shear valves.

(*13*) R. 2.8, 280.91(e) and (f), are excluded for other reasons. Paragraph (e) is excluded only insofar as it includes Indian tribes as a ''local government entity,'' and paragraph (f) is excluded insofar as EPA retains responsibility for implementing the Federal UST program in Indian country.

Note 1 to paragraph (d)(1)(iii)(D)(13). MDEQ does not regulate any USTs on Indian lands and EPA retains responsibility for implementing the Federal UST program in Indian country. In a subsequent rulemaking, MDEQ will revise these provisions to remove references to the State's regulation of USTs in Indian country.

(*14*) R. 2.8, 280.92, is excluded for other reasons only insofar as the definition of ''Local government'' includes Indian tribes.

Note 2 to paragraph (d)(1)(iii)(D)(14). MDEQ does not regulate any USTs on Indian lands and the EPA retains responsibility for implementing the Federal UST program in Indian country. In a subsequent rulemaking, MDEQ will revise the definition of ''Local government'' to exclude Indian tribes.

(*15*) R. 2.8, 280.100 is external insofar as it is not applicable in a State with an approved UST program.

(E) *Mississippi's Underground Storage Tank Regulations for the Certification of Persons Who Install, Alter, and Remove Underground Storage Tanks, 11 Miss. Admin. Code Pt. 5, Ch. 3 (2018)* is broader in scope insofar as these provisions provide for the certification and regulation of persons who install, alter, test, and permanently close underground storage tanks.

(2) *Statement of legal authority.* The Attorney General's Statement, signed by the Mississippi Attorney General on July 27, 2023, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The ''Demonstration of Adequate Enforcement Procedures'' submitted in the application dated July 31, 2023, as amended on August 17, 2023, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description submitted in the application dated July 31, 2023, as amended on August 17, 2023, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 4 and the MDEQ, signed by the EPA Regional Administrator on October 12, 2018, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

■ 4. Amend appendix A to part 282 by revising the entry for Mississippi to read as follows:

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Mississippi

(a) The statutory provisions include:

Mississippi Underground Storage Tank Act (the UST Act) of 1988, Miss. Code Ann. sections 49–17–401 to 49–17–435 (2022):

49–17–401 Short Title.
49–17–403 Definitions, except (b), (o), (p), and (q).
49–17–411 Compliance with regulations.
49–17–413 Rules and regulations, except for (1).
49–17–417 Repealed.

Note to paragraph (a) of Appendix A to Part 282. Miss. Code Ann. section 49–17–413(2) is approved as part of the State UST Program to the extent that Mississippi will not grant a variance that makes its UST Program less stringent than the Federal regulations. In practice, Mississippi does not grant variances for the UST Program. Mississippi has agreed to execute a revised Memorandum of Agreement with EPA stating that Mississippi will limit the scope of its variance authority to only those situations where the Federal regulations allow the implementing agency to approve flexibilities.

(b) The regulatory provisions include:

Mississippi's Underground Storage Tank Regulations, 11 Miss. Admin. Code Pt. 5, Ch. 2 (2018):

Rule 2.1 Program Scope and Interim Prohibition
280.10 Applicability.
280.11 Installation requirements for partially excluded UST systems.
280.12 Definitions, except for ''dispensers'' in the definition of ''Ancillary equipment;'' the definition of ''Certificate of Operation;'' ''including 100% biodiesel or ethanol'' from the definition of ''Motor fuel;'' ''dispensers'' and (c) from the definition of ''New tank system;'' ''dispensers'' from the definition of ''Register;'' ''dispensers'' and (c) from the definition of ''Replace.''
280.13 Industry codes and recommended practices.
Rule 2.2 UST Systems: Design, Construction, Installation and Notification
280.20 Performance Standards for new UST systems, except for (j).
280.21 Upgrading of existing UST systems.
280.22 Notification requirements, except as applied to ''dispensers'' in (a) and (b).
Rule 2.3 General Operating Requirements
280.30 Operation and maintenance of spill and overfill prevention.
280.31 Operation and maintenance of secondary containment.
280.32 Operation and maintenance of corrosion protection.

280.33 Compatibility.
280.34 Repairs and replacements, except as applied to ''dispenser(s)'' in (g), (h), and (i).
280.35 Reporting recordkeeping, except as applied to ''dispensers'' in (a)(4); and except as applied to ''shear valves'' in (b)(1).
280.37 Operator training.
280.38 Operation and maintenance walkthrough inspections, except for (b)(1)(iii).
Rule 2.4 Leak Detection
280.40 General requirements for all UST systems.
280.41 Requirements for petroleum UST systems.
280.42 Requirements for hazardous substance UST systems.
280.43 Methods of leak detection for tanks.
280.44 Methods of leak detection for piping.
280.45 Leak detection recordkeeping.
Rule 2.5 Leak Reporting, Release Reporting, Investigation, and Confirmation
280.50 Reporting of leaks and suspected releases.
280.51 Investigation due to off-site impacts.
280.52 Release investigation and confirmation steps.
280.53 Reporting and cleanup of spills and overfills.
Rule 2.6 Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances
280.60 General.
280.61 Initial response.
280.62 Initial abatement measures and site check.
280.63 Initial site characterization.
280.64 Free product removal.
280.65 Investigations for soil and groundwater cleanup.
280.66 Corrective action plan.
Rule 2.7 Out-of-Service UST Systems and Closure
280.70 Temporary closure.
280.71 Permanent closure and changes-in-service.
280.72 Assessing the site at closure or change-in-service.
280.73 Applicability to previously closed UST systems.
280.74 Closure records.
Rule 2.8 Financial Responsibility
280.90 Applicability.
280.91 Compliance dates, except for ''including Indian tribes'' in (e), and (f).
280.92 Definition of terms, except for ''and includes Indian tribes'' from the definition of ''Local government.''
280.93 Amount and scope of required financial responsibility.
280.94 Allowable mechanisms and combinations of mechanisms.
280.95 Financial test of self-insurance.
280.96 Guarantee.
280.97 Insurance and risk retention group coverage.
280.98 Surety bond.
280.99 Letter of credit.
280.101 State fund or other State assurance.
280.102 Trust fund.
280.103 Standby trust fund.
280.104 Local government bond rating test.
280.105 Local government financial test.
280.106 Local government guarantee.
280.107 Local government fund.
280.108 Substitution of financial assurance mechanisms by owner or operator.
280.109 Cancellation or nonrenewal by a provider of financial assurance.
280.110 Reporting by owner or operator.
280.111 Recordkeeping.
280.112 Drawing on financial assurance mechanisms.
280.113 Release from the requirements.
280.114 Bankruptcy or other incapacity of owner or operator or provider of financial assurance.
280.115 Replenishment of guarantees, letters of credit, or surety bonds.
280.116 Suspension of enforcement. [Reserved]
Rule 2.9 Lender Liability
280.120 Definitions.
280.121 Participation in management.
280.122 Ownership of an underground storage tank or underground storage tank system or facility or property on which an underground storage tank or underground storage tank system is located.
280.123 Operating an underground storage tank or underground storage tank system.
Rule 2.10 UST Systems with Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems.
280.130 Definitions.
280.131 General requirements.
280.132 Additions, exceptions, and alternatives for UST systems with field-constructed tanks and airport hydrant systems.

Note to paragraph (b) of Appendix A to Part 282. 11 Miss. Admin. Code Pt. 5, Ch. 2, 280.42(b)(5) is approved as part of the UST Program only to the extent that Mississippi will not allow alternate release detection methods for hazardous substance UST systems installed on or after October 13, 2015. Sections 40 CFR 281.33(e) and 280.42(e) of the Federal regulations only allow alternate release detection methods for hazardous substance UST systems installed prior to October 13, 2015. Mississippi's section 280.42(b)(5) does not contain an analogous limitation on the use of alternative release detection methods. In practice, MDEQ does not allow alternative release detection methods for hazardous substance tanks installed after October 1, 2008. In a subsequent rulemaking, MDEQ will revise 11 Miss. Admin. Code Pt. 5, Ch. 2, R. 2.4, section 280.42(b)(5) to clarify this point.

(C) Copies of the Mississippi statutes and regulations that are incorporated by reference are available from the Mississippi Department of Environmental Quality, P.O. Box 2261, Jackson, MS 29335; Phone number: (601) 961–5171; *website: https://www.mdeq.ms.gov/water/groundwater-assessment-and-remediation/underground-storage-tanks/.*

[FR Doc. 2024–00171 Filed 1–17–24; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 220919–0193; RTID 0648–XD628]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; General Category January Through March Quota Transfer

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS is transferring 20.5 metric tons (mt) of Atlantic bluefin tuna (BFT) quota from the General category December 2024 subquota to the January through March 2024 subquota period. The adjusted General category January through March 2024 subquota is 58.2 mt. This action provides further opportunities for General category fishermen to participate in the January through March General category fishery, based on consideration of the regulatory determination criteria regarding inseason adjustments. This action would affect Atlantic Tunas General category (commercial) permitted vessels and Atlantic Highly Migratory Species (HMS) Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

DATES: Effective January 12, 2024, through March 31, 2024.

FOR FURTHER INFORMATION CONTACT: Ann Williamson, *ann.williamson@noaa.gov,* or Larry Redd, Jr., *larry.redd@noaa.gov,* at 301–427–8503.

SUPPLEMENTARY INFORMATION: BFT 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. Section 635.27 divides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and as implemented by the United States among the various domestic fishing categories, per the allocations established in the 2006 Consolidated HMS FMP and its amendments. NMFS is required under the Magnuson-Stevens

Act to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

As described in § 635.27(a), the current baseline U.S. BFT quota is 1,316.14 mt (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). The baseline quota for the General category is 710.7 mt. The General category baseline quota is suballocated to different time periods. Relevant to this action, the baseline subquotas for the January through March time-period and for the December time-period are 37.7 mt and 37.0 mt, respectively.

Transfer From the December 2024 Subquota to the January Through March 2024 Subquota

Under § 635.27(a)(1)(ii), NMFS has the authority to transfer subquota from one time period to another time period through inseason action after considering determination criteria provided under § 635.27(a)(7). This section focuses on the calculations involved in transferring quota available from the 2024 General category December time period subquota to the 2024 General category January through March time period subquota; the consideration of the determination criteria can be found below after this section.

As stated above, the baseline subquotas for the January through March time-period and for the December time-period are 37.7 mt and 37.0 mt, respectively. Transferring 20.5 mt from the General category December time period to the General category January through March time period, results in an adjusted January through March time period subquota of 58.2 mt (37.7 mt + 20.5 mt = 58.2 mt), and an adjusted December time period subquota of 16.5 mt (37 mt − 20.5 mt = 16.5 mt). The General category quota is available for use by Atlantic Tunas General category (commercial) permitted vessels and HMS Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

In summary, this transfer results in an adjusted January through March 2024 time period subquota of 58.2 mt and an adjusted December 2024 subquota of 16.5 mt. The General category fishery will remain open until March 31, 2024, or until the adjusted General category quota is reached, whichever comes first.

Consideration of the Relevant Determination Criteria

NMFS has considered all of the relevant determination criteria and their applicability to this inseason quota transfer. These considerations include, but are not limited to, the following:

Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(7)(i)), biological samples collected from BFT landed by General category fishermen and provided by tuna dealers provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT in the General category would support the continued collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS also considered General category catches in the December and January through March time periods over the last several years and the likelihood of closure of the January through March segment of the fishery if no adjustment is made (§ 635.27(a)(7)(ii) and (ix)). Without a quota transfer at this time, based on recent catch rates in comparison to the current available quota (37.7 mt), NMFS would likely need to close the General category fishery shortly. Once the fishery is closed, participants would have to stop BFT fishing activities while commercial-sized BFT remain available in the areas where General category permitted vessels operate. A quota transfer at this time provides limited additional opportunities to harvest the U.S. BFT quota while avoiding exceeding it.

Regarding the projected ability of the vessels fishing under the General category quota to harvest the additional amount of BFT quota transferred before the end of the fishing year (§ 635.27(a)(7)(iii)), NMFS considered General category landings over the last several years and landings to date this year. Landings are highly variable and depend on access to commercial-sized BFT and fishing conditions, among other factors. NMFS may adjust each time period's subquota based on overharvest or underharvest in the prior time period and may transfer subquota from one time period to another time period. By allowing for the current quota adjustment and transfer, NMFS anticipates that the General category quota would be used before the end of the fishing year. This quota transfer would allow fishermen to take advantage of the availability of BFT that are currently on the fishing grounds and provide a reasonable opportunity to harvest the available U.S. BFT quota.

NMFS also considered the estimated amounts by which quotas for other gear categories of the BFT fishery might be exceeded (§ 635.27(a)(7)(iv)) and the ability to account for all 2024 landings and dead discards. In the past few years, total U.S. BFT landings have been below the available U.S. quota such that the United States has carried forward the underharvest as allowed by ICCAT from one year to the next. NMFS will need to account for 2024 landings and dead discards within the adjusted U.S. quota, consistent with ICCAT recommendations, and anticipates having sufficient quota to do that.

NMFS also considered the effects of the transfer on the BFT stock and on accomplishing the objectives of the 2006 Consolidated HMS FMP (§ 635.27(a)(7)(v) and (vi)). This transfer would be with established quotas and subquotas, which are implemented consistent with ICCAT Recommendation 22–10, ATCA, and the objectives of the 2006 Consolidated HMS FMP and amendments. In establishing these quotas and subquotas and associated management measures, ICCAT and NMFS considered the best scientific information available, objectives for stock management and status, and effects on the stock. This quota transfer is in line with the established management measures and stock status determinations. Another principal consideration is the objective of providing opportunities to harvest the available General category quota without exceeding the annual quota, based on the objectives of the 2006 Consolidated HMS FMP and its amendments, including to achieve optimum yield on a continuing basis and to allow all permit categories a reasonable opportunity to harvest available BFT quota allocations (related to § 635.27(a)(7)(x)). Specific to the General category, this includes providing opportunities equitably across all time periods.

Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS' ability to timely implement actions such as quota and retention limit adjustments, as well as closures, and may result in enforcement actions. Additionally, and separate from the dealer reporting requirement, General category and HMS Charter/Headboat vessel owners are required to report the

catch of all BFT retained or discarded dead within 24 hours of the landing(s) or the end of each trip, by accessing *https://www.hmspermits.noaa.gov* or by using the HMS Catch Reporting app or calling 888–872–8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustments are necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act and regulations at 50 CFR part 635 and is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS (AA) finds that pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and opportunity to provide comment on this action, as notice and comment would be impracticable and contrary to the public interest for the following reasons. Specifically, the regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Providing for prior notice and opportunity to comment is impracticable and contrary to the public interest as this fishery is currently underway and, based on current landings information, the available time period subquota is projected to be reached shortly. Delaying this action could result in BFT landings exceeding the January through March time period subquota. Taking this action does not raise conservation and management concerns. NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the U.S. BFT quota and the inseason adjustment criteria.

For all of the above reasons, the AA finds that pursuant to 5 U.S.C. 553(d), there is good cause to waive the 30-day delay in effective date.

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

Dated: January 11, 2024.

Everett Wayne Baxter,

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

[FR Doc. 2024–00809 Filed 1–12–24; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 89, No. 12
Thursday, January 18, 2024

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2023–2437; Notice No. 25–24–01–SC]

Special Conditions: Gulfstream Aerospace Corporation Model GVIII–G700 and GVIII–G800 Series Airplanes; Flight Envelope Protection: Takeoff Stall Protection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: These special conditions are issued for the Gulfstream Aerospace Corporation (Gulfstream) Model GVIII–G700 and GVIII–G800 series airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is an envelope protection function to protect the airplane from over- and rapid-rotation on takeoff. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send comments on or before February 7, 2024.

ADDRESSES: Send comments identified by Docket No. FAA–2023–2437 using any of the following methods:

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

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

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

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

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

FOR FURTHER INFORMATION CONTACT: Troy Brown, Performance and Environment Unit, AIR–621A, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service, Federal Aviation Administration, 1801 S Airport Rd, Wichita, KS 67209–2190; telephone and fax 405–666–1050; email *troy.a.brown@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the proposed special conditions, explain the reason for any recommended change, and include supporting data.

On December 31, 2019, Gulfstream applied for an amendment to Type Certificate No. T00015AT to include the new Model GVIII–G700 and GVIII–G800 series airplanes. While the comment period provided by the FAA for proposed special conditions has typically been thirty days, the FAA is providing twenty days in this instance, due to the relative similarity of these conditions with the terms of previously issued special conditions, and due to the pendency of the anticipated delivery date for the affected airplane models, per the criteria in 14 CFR 11.38. The FAA will consider all comments received by the closing date for comments and will consider comments filed late if it is possible to do so without incurring delay. The FAA may change these special conditions based on the comments received.

Privacy

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

Confidential Business Information

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 these special conditions contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to these special conditions, 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 the indicated comments will not be placed in the public docket of these special conditions. Send submissions containing CBI to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above. Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for these special conditions.

Background

As noted above, on December 31, 2019, Gulfstream applied for an amendment to Type Certificate No. T00015AT to include the new Model GVIII–G700 and GVIII–G800 series airplanes. These airplanes, which will be derivatives of the Model GVI currently approved under Type Certificate No. T00015AT, are twin-engine, transport-category airplanes, with seating for 19 passengers, and a maximum take-off weight of 107,600

pounds (GVIII–G700) and 105,600 pounds (GVIII–G800).

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, Gulfstream must show that the Model GVIII–G700 and GVIII–G800 series airplanes meet the applicable provisions of the regulations listed in Type Certificate No. T00015AT, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes must comply with the exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with 14 CFR 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Gulfstream Model GVIII–G700 and GVIII–G800 airplanes will incorporate the following novel or unusual design feature:

An envelope protection function within the electronic flight control system (EFCS) to protect the airplane from over- and rapid-rotation on takeoff.

Discussion

The Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes are equipped with an envelope protection function within the EFCS that is designed to provide enhanced takeoff stall protection (TSP). This feature protects against excessive pitch rate and pitch attitude during takeoff using a limitation in the electronic flight controls. It is designed to provide conventional behavior using a normal takeoff technique, including ''performance'' takeoffs. The on-ground mode is a pitch rate command with a pitch attitude limit. The functionality in on-ground mode is that pitch rate command is proportional to stick input. The limit to pitch attitude will indirectly limit the angle of attack.

The TSP involves a control law update in the on-ground control mode only. The Model GVIII–G700 and GVIII–G800 series airplane's pitch control behavior, with regard to rotation rates and attitudes for normal takeoffs, will be similar to other Gulfstream airplanes equipped with side sticks; however, takeoffs with rapid rotation rates and over-rotation will be influenced by the TSP.

The current regulations in Subpart B of 14 CFR part 25 do not address envelope protections for electronic flight control systems as this technology is novel or unusual for transport category airplanes. These special conditions are specific to the GVIII–G700 and GVIII–G800 series airplanes. These conditions are necessary to ensure a smooth transition from normal flight to the TSP mode and adequate maneuver capability. These conditions also ensure that the structural limits of the airplane are not exceeded. Furthermore, failure of the TSP function must not create hazardous flight conditions.

The proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes. Should Gulfstream apply at a later date for a change to the type certificate to include another model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would apply to the other model as well.

Conclusion

This action affects only a certain novel or unusual design feature on Gulfstream Model GVIII–G700 and GVIII–G800 series of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, and 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are proposed as part of the type certification basis for the Gulfstream Model GVIII–G700 and GVIII–G800 series airplanes.

For airplanes that employ a takeoff stall protection function:

(a) The takeoff stall protection function must not unduly limit the maneuvering capability of the airplane nor interfere with its ability to perform maneuvers required for normal and emergency operations.

(b) Onset characteristics of the takeoff stall protection function must be appropriate to the phase of flight and type of maneuver and must not conflict with the ability of the pilot to satisfactorily control the airplane flight path, speed, or attitude.

(c) Excursions of a limited flight parameter beyond its nominal design limit value due to dynamic maneuvering, airframe and system tolerances, and non-steady atmospheric conditions must not result in unsafe flight characteristics or conditions.

(d) Operation of the takeoff stall protection function must not adversely affect aircraft control during expected levels of atmospheric disturbances, nor impede the application of recovery procedures in case of windshear.

(e) Activation of the takeoff stall protection function must not result in adverse coupling or adverse priority.

(f) In case of abnormal attitude or excursion of any flight parameters outside the protected boundaries, operation of the takeoff stall protection functions must not hinder airplane recovery.

Issued in Kansas City, Missouri, on January 11, 2024.

Patrick R. Mullen,

Manager, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service.

[FR Doc. 2024–00810 Filed 1–17–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0834]

RIN 1625–AA00

Safety Zone; Storms With High Winds; Sector Maryland-National Capital Region Captain of the Port Zone

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a safety zone for the navigable waters of the Sector Maryland-National Capital Region Captain of the Port (COTP) Zone, to be enforced whenever hurricanes, tropical storms, and other storms with high winds are expected. This action is taken to ensure the safety of these waters. It would establish actions to be completed by industry and vessels within the Zone, both in anticipation of hurricanes, tropical storms, and other severe high wind weather events threatening the State of Maryland, and after landfall.

DATES: Comments and related material must be received by the Coast Guard on or before February 20, 2024.

ADDRESSES: You may submit comments identified by docket number USCG–2023–0834 using the Federal Decision-Making Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call, or email LCDR Kate Newkirk, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard; telephone 410–365–8141, email *Kate.M.Newkirk@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

Maryland has the potential to be affected by hurricanes and tropical storms on a yearly basis, especially between the months of June and November. Additionally, severe storms generating high winds and rough seas are also common in the winter months. The Sector Maryland-National Capital Region COTP proposes establishing a safety zone to protect mariners, port infrastructure, and the environment during and after these severe weather events. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The Coast Guard proposes to establish a safety zone on the navigable waters of the Sector Maryland-National Capital Region COTP Zone during hurricanes, tropical storms, and other storms with high winds. This safety zone would establish actions to be completed by local industry and vessels in the COTP zone both prior to landfall of hurricanes, tropical storms, and other storms with high winds threatening the Maryland-National Capital Region COTP Zone, and in the aftermath of landfall. Port Conditions (WHISKEY, X–RAY, YANKEE, ZULU, and RECOVERY) are standardized terms for states of operation instituted by the COTP, which are clearly communicated to port facilities, vessels, and members of the Marine Transportation System (MTS).

Actions to be taken by vessels is provided in the language of the proposed rule. In addition, ports and waterfront facilities are encouraged to act when specific Port Conditions are declared. Under Port Condition WHISKEY, ports and waterfront facilities shall remove all debris and secure potential flying hazards. Upon a declaration that Port Condition X–RAY is in effect, port facilities shall ensure that potential flying debris and hazardous materials are removed, and that loose cargo and cargo equipment is secured. Upon a declaration of Port Condition YANKEE, terminal operators should terminate all cargo operations not associated with storm preparations. All facilities shall continue to operate in accordance with approved Facility Security Plans (as defined in 33 CFR 101.105), and as further described in 33 CFR 105.400 to 105.415), and to comply with all applicable requirements of the Maritime Transportation Security Act of 2002 (46 U.S.C. Chapter 701).

Under the proposed rule, the COTP would retain flexibility in controlling and reconstituting vessel traffic, during periods of heavy weather, and it would allow for the expedited resumption of the MTS following such events. The proposed safety zone would consist of all waters within the territorial seas within the Sector Maryland-National Capital Region COTP Zone, as defined in 33 CFR 3.25–15. Portions of the safety zone might be activated at different times, as conditions dictated. Notice of Port Conditions and their requirements would be given via Marine Safety Information Bulletins (MSIBs) and Broadcast Notice to Mariners (BNMs). The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the necessity to protect life, port infrastructure, and the environment during hurricanes, tropical storms, and other storms with high winds. The scope of the regulation is narrow and will only apply when a hurricane, tropical storm, or other storm with high winds impacts the navigable waters of the Maryland-National Capital Region COTP Zone. These events are infrequent and of short duration. Regulatory restrictions will be lifted as soon as practicable.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety

zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone that would prohibit entry in certain waters of the Sector Maryland-National Capital Region COTP Zone for the duration needed to ensure safe transit of vessels and industry before and after a hurricane, tropical storm, or other storm with high winds. Normally, such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

(a) Submitting Comments: We encourage you to submit comments through the Federal Decision-Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2023–0834 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

(b) Viewing Material in Docket: To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. Also, if you click on the Dockets tab and then the proposed rule, you should see a ''Subscribe'' option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

(c) Personal Information: We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.521 to read as follows:

§ 165.521 Safety Zone[s] Hurricanes, Tropical Storms, and other Storms with High Winds; Captain of the Port Zone Maryland-National Capital Region.

(a) *Regulated Areas:* The following area is a safety zone: All navigable waters, as defined in 33 CFR 2.36 within the Captain of the Port Zone (COTP) Maryland-National Capital Region, as described in 33 CFR 3.25–15, or some portion of those waters, during specified conditions. Port conditions and safety zone activation may vary for different portions of the regulated area at different times, based on storm conditions and its projected track.

(b) *Definitions:*

Captain of the Port means Commander, Coast Guard Sector Maryland National Capital Region.

Port Condition RECOVERY means a condition set by the COTP when NWS weather advisories indicate that sustained gale force winds (39–54 mph/34–47 knots) are no longer predicted for the regulated area. This port condition remains in effect until the regulated areas are deemed safe and are reopened to normal operations.

Port Condition WHISKEY means a condition set by the COTP when National Weather Service (NWS) weather advisories indicate sustained gale force winds (39–54 mph/34–47 knots) are predicted to reach the COTP zone within 72 hours.

Port Condition X-RAY means a condition set by the COTP when NWS weather advisories indicate sustained gale force winds (39–54 mph/34–47 knots) are predicted to reach the COTP zone within 48 hours.

Port Condition YANKEE means a condition set by the COTP when NWS weather advisories indicate that sustained gale force winds (39–54 mph/34–47 knots) are predicted to reach the COTP zone within 24 hours.

Port Condition ZULU means a condition set by the COTP when NWS weather advisories indicate that sustained gale force winds (39–54 mph/34–47 knots) are predicted to reach the COTP zone within 12 hours.

Representative means any Coast Guard commissioned, warrant, or petty officer or civilian employee who has been authorized to act on the behalf of the Captain of the Port.

(c) *Regulations*—(1) *Port Condition WHISKEY.* All vessels must exercise due diligence in preparation for potential storm impacts. All oceangoing tank barges and their supporting tugs and all self-propelled oceangoing vessels over 500 gross tons (GT) must make plans to depart no later than setting of Port Condition Yankee unless authorized by the COTP. Also, vessels must maintain a continuous listening watch on VHF Channel 16. The COTP may modify the geographic boundaries of the regulated area and actions to be taken under Port Condition WHISKEY, based on the trajectory and forecasted storm conditions.

(2) *Port Condition X-RAY.* Vessels at facilities must carefully monitor their moorings and cargo operations. Additional anchor(s) must be made ready to let go, and preparations must be made to have a continuous anchor watch during the storm. Engine(s) must be made immediately available for maneuvering. All oceangoing tank barges and their supporting tugs and all self-propelled oceangoing vessels over 500 GT must prepare to depart the port and anchorages within the affected regulated area. These vessels shall depart immediately upon the setting of Port Condition YANKEE. During this condition, slow-moving vessels may be ordered to depart to ensure safe avoidance of the incoming storm. All oceangoing tank barges and their supporting tugs and all self-propelled oceangoing vessels over 500 GT that are unable to depart or desire to remain in port must contact the COTP to receive permission to remain in port. Vessels with COTP's permission to remain in port must implement their pre-approved mooring arrangement. The COTP may require additional precautions to ensure the safety of the ports and waterways. The COTP may modify the geographic boundaries of the regulated area and actions to be taken under Port Condition X-RAY based on the trajectory and forecasted storm conditions.

(3) *Port Condition YANKEE.* Affected ports and waterways are closed to all inbound vessel traffic. All oceangoing tank barges and their supporting tugs and all self-propelled oceangoing vessels over 500 GT must have departed the regulated area or received permission to remain in port. The COTP may require additional precautions to ensure the safety of the ports and waterways. The COTP may modify the geographic boundaries of the regulated area and actions to be taken under Port Condition YANKEE based on the trajectory and forecasted storm conditions.

(4) *Port Condition ZULU.* Cargo operations are suspended, except final preparations that are expressly permitted by the COTP as necessary to ensure the safety of the ports and facilities. Other than vessels designated by the COTP, no vessels may enter, transit, move, or anchor within the regulated area. The COTP may modify the geographic boundaries of the regulated area and actions to be taken under Port Condition ZULU based on the trajectory and forecasted storm conditions.

(5) *Port Condition RECOVERY.* Designated areas are closed to all vessels. Based on assessments of channel conditions, navigability concerns, and hazards to navigation, the COTP may permit vessel movements with restrictions. Restrictions may include, but are not limited to, preventing, or delaying vessel movements, imposing draft, speed, size, horsepower, daylight restrictions, or directing the use of specific routes. Vessels permitted to transit the regulated area shall comply with the lawful orders or directions given by the COTP or representative.

(6) *Notification.* The Coast Guard will provide notice of where, within the regulated area, a declared Port Condition is to be in effect via Broadcast Notice to Mariners, Marine Safety Information Bulletins, or by on-scene representatives.

(7) *Exception.* This regulation does not apply to authorized law enforcement agencies operating within the regulated area.

Dated: January 11, 2024.

David E. O'Connell,

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

[FR Doc. 2024–00875 Filed 1–17–24; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 281 and 282

[EPA–R04–UST–2023–0410; FRL–11400–01–R4]

Mississippi: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The State of Mississippi (Mississippi or State) has applied to the Environmental Protection Agency (EPA) for final approval of revisions to its Underground Storage Tank Program (UST Program) under subtitle I of the Resource Conservation and Recovery Act (RCRA). Pursuant to RCRA, the EPA is proposing to approve revisions to the Mississippi UST Program. This action is based on the EPA's determination that the State's revisions satisfy all requirements for UST program approval. This action also proposes to codify Mississippi's revised UST Program and to incorporate by reference the State statutes and regulations that we have determined meet the requirements for approval.

DATES: Comments on this proposed rule must be received on or before February 20, 2024.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R04–UST–2023–0410, by either of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Email: giri.upendra@epa.gov.* Include the Docket ID No. EPA–R04–UST–2023–0410 in the subject line of the message.

Instructions: Submit your comments, identified by Docket ID No. EPA–R04–UST–2023–0410, via the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *https://www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit: *https://www.epa.gov/dockets/commenting-epa-dockets.*

The EPA encourages electronic submittals and lists all publicly available docket materials electronically at *https://www.regulations.gov.* If you are unable to make electronic submittals or require alternative access to docket materials, please contact Upendra Giri, the contact listed in the **FOR FURTHER INFORMATION CONTACT** provision below. The index of the docket and all publicly available docket materials for this action are available for review at *https://www.regulations.gov.*

Please also contact Upendra Giri if you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you. For further information on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Upendra Giri, RCRA Programs and Cleanup Branch, Land, Chemicals, and Redevelopment Division, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960; Phone number: (404) 562–8185, email address: *giri.upendra@epa.gov.* Please contact Upendra Giri by phone or email for further information.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

List of Subjects in 40 CFR Parts 281 and 282

Environmental protection, Administrative practice and procedure, Hazardous substances, Incorporation by reference, Indian country, Petroleum, Reporting and recordkeeping requirements, State program approval, Underground storage tanks.

Authority: This document is issued under the authority of sections 2002(a), 9004, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

Dated: December 21, 2023.

Jeaneanne M. Gettle,

Acting Regional Administrator, Region 4.

[FR Doc. 2024–00170 Filed 1–17–24; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 89, No. 12
Thursday, January 18, 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.

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Tennessee Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a meeting of the Tennessee Advisory Committee to the Commission will convene by Zoom on Wednesday, January 17, 2024, at 3:30 p.m. (CT). The purpose of the meeting is to discuss their draft report on Voting Rights in the state.

DATES: The meeting will take place on Wednesday, January 17, 2024, at 3:30 p.m. (CST).

ADDRESSES: *Registration Link (Audio/Visual): https://www.zoomgov.com/j/1617770843?pwd=bWRMWGEvbFl1MW5ERWlxbnNGQkZsdz09.*

Telephone (Audio Only): Dial (833) 568–8864 USA Toll Free; Access Code: 161 777 0843.

FOR FURTHER INFORMATION CONTACT: Victoria Moreno at *vmoreno@usccr.gov* or by phone at 434–515–0204.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the Zoom link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the call-in number found through registering at the web link provided above for the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the respective meeting. Written comments may be emailed to Victoria Moreno at *vmoreno@usccr.gov.* All written comments received will be available to the public.

Persons who desire additional information may contact the Regional Programs Unit at (202) 809–9618. Records and documents discussed during the meeting will be available for public viewing as they become available at the *www.facadatabase.gov.* Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Regional Programs Unit at the above phone number or email address.

Agenda

Wednesday, January 17, 2024, at 1:30 p.m. (CT)

1. Welcome & Roll Call
2. Chair's Comments
3. Discussion on Report
4. Next Steps
5. Public Comment
6. Adjourn

Dated: January 12, 2024.

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given fewer than 15 calendar days prior to the meeting because of the exceptional circumstances of report completion timeline.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–00910 Filed 1–17–24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the California Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of virtual business meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the California Advisory Committee (Committee) to the U.S. Commission on Civil Rights will convene by ZoomGov on Friday, February 16, 2024. The purpose of the meeting is to discuss their current project on AB5 and hearing updates from the working group.

DATES: Friday, February 16, 2024, from 1:30 p.m.–3:00 p.m. PT. Link to Join: *https://www.zoomgov.com/webinar/register/WN_t9kiqTcJTYSY9NJOqPhQBw.*

FOR FURTHER INFORMATION CONTACT: Brooke Peery, Designated Federal Officer (DFO) at *bpeery@usccr.gov* or by phone at (202) 701–1376.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the registration link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Angelica Trevino, Support Services Specialist at *atrevino@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be emailed to Brooke Peery (DFO) at *bpeery@usccr.gov*.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via *www.facadatabase.gov* under the Commission on Civil Rights, California Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's

website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at *atrevino@usccr.gov.*

Agenda

I. Welcome & Roll Call
II. Committee Discussion
III. Public Comment
IV. Adjournment

Dated: January 12, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–00907 Filed 1–17–24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Maine Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: Commission on Civil Rights.

ACTION: Notice of public meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Maine Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold virtual monthly meetings on the following Thursdays at 12:00 p.m. ET: February 8, 2024, to review a draft addendum to the committee's report in Indigent Legal Services in Maine, and Thursday, March 14, 2024, to vote on the aforementioned addendum.

DATES: Thursday, February 8, 2024, and March 14, 2024; both convening at 12:00 p.m. (ET)

ADDRESSES: The meetings will be held via Zoom.

Zoom Link (Audio/Visual): https://tinyurl.com/5yr4dspy; password: USCCR–ME

Join by Phone (Audio Only): 1–833–435–1820 USA toll-free; Meeting ID: 161 655 9331#

FOR FURTHER INFORMATION CONTACT: Mallory Trachtenberg, Designated Federal Officer at *mtrachtenberg@usccr.gov* or via phone at 202–809–9618.

SUPPLEMENTARY INFORMATION: These committee meetings are available to the public through the registration link above. Any interested member of the public may listen to the meetings. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of meetings will include a list of persons who are present at meetings. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available. To request additional accommodations, please email *ebohor@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Mallory Trachtenberg at *mtrachtenberg@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at 1–312–353–8311.

Records generated from these meetings may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Maine Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at *ebohor@usccr.gov.*

Agenda

I. Welcome & Roll Call
II. February 8: Review draft addendum on the Committee's report on Indigent Legal Services in Maine/ March 14: Vote on aforementioned addendum
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: January 12, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–00901 Filed 1–17–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Office of the Secretary

[Docket No.: 231107–0263]

Public Availability of Department of Commerce FY 2021 Service Contract Inventory Data

AGENCY: Office of the Secretary, Department of Commerce.

ACTION: Notice of public availability.

SUMMARY: In accordance with section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), the Department of Commerce (DOC) is publishing this notice to advise the public of the availability of the Fiscal Year (FY) 2021 Service Contract Inventory data, a report that analyzes DOC's FY 2021 Service Contract Inventory and a plan for the analysis of FY 2022 Service Contract Inventory.

ADDRESSES: The Department of Commerce's FY 2021 Service Contract Inventory is included in the government-wide inventory available at: *https://www.acquisition.gov/service-contract-inventory,* which can be filtered to display the FY 2021 inventory for each agency. In addition to the link to access DOC's FY 2021 service contract inventory, the FY 2021 Analysis Report and Plan for analyzing the FY 2022 data is on the Office of Acquisition Management homepage at the following link: *https://www.commerce.gov/oam/resources/service-contract-inventory.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Virna Winters, Executive Director, Acquisition Policy, Oversight and Workforce at 202–482–4248 or *vwinters@doc.gov.*

SUPPLEMENTARY INFORMATION: The service contract inventory provides information on service contract actions over $150,000 made in FY 2021. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance on service contract inventories issued on November 5, 2010, by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP) and FAR 4.17.

Olivia J. Bradley,

Senior Procurement Executive and Director for Acquisition Management.

[FR Doc. 2024–00889 Filed 1–17–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

[Docket No. 240111–0005]

RIN 0691–XC143

BE–11: Annual Survey of U.S. Direct Investment Abroad

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Bureau of Economic Analysis (BEA), Department

of Commerce, is informing the public that it is conducting the mandatory survey titled Annual Survey of U.S. Direct Investment Abroad (BE–11). The data collected on the BE–11 survey are needed to measure the size and economic significance of U.S. direct investment abroad and its impact on the U.S. and foreign economies. This survey is authorized by the International Investment and Trade in Services Survey Act.

FOR FURTHER INFORMATION CONTACT: Kirsten Brew, Chief, Multinational Operations Branch (BE–49), via phone at (301) 278–9152 or via email at *Kirsten.Brew@bea.gov.*

SUPPLEMENTARY INFORMATION: Through this Notice, BEA publishes the reporting requirements for the BE–11 survey form. As noted below, all U.S. persons required to respond to this mandatory survey will be contacted by BEA. A completed report covering the U.S. person's fiscal year ending during the previous calendar year is due by May 31. This Notice is being issued in conformance with the rule BEA issued on April 24, 2012 (77 FR 24373), establishing guidelines for collecting data on international trade in services and direct investment through notices, rather than through rulemaking. Additional information about BEA's collection of data on international trade in services and direct investment can be found in the 2012 rule, the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 *et seq.*), and 15 CFR part 801. Survey data on international trade in services and direct investment that are not collected pursuant to the 2012 rule are described separately in 15 CFR part 801. The BE–11 survey forms and instructions are available at *www.bea.gov/dia.*

Reporting

Notice of specific reporting requirements, including who is to report, the information to be reported, the manner of reporting, and the time and place of filing reports, will be mailed to those required to complete this survey.

Who Must Report: (a) Reports are required from each U.S. person that has a direct and/or indirect ownership interest of at least 10 percent of the voting stock in an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise, and that meets the additional conditions detailed in Form BE–11.

(b) U.S. persons required to report will be contacted individually by BEA. U.S. persons not contacted by BEA have no reporting responsibilities.

What To Report: The survey collects information on the operations of U.S. parent companies and their foreign affiliates.

How To Report: Reports can be filed using BEA's electronic reporting system at *www.bea.gov/efile.* Copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, can be downloaded from *www.bea.gov/dia* and submitted through mail or fax. Form BE–11 inquiries can be made by phone to BEA at (301) 278–9418 or by sending an email to *be10/11@bea.gov.*

When To Report: A completed report covering a U.S. person's fiscal year ending during the previous calendar year is due by May 31.

Paperwork Reduction Act Notice

This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 0608–0053. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. A complete response includes one BE–11A form (with an estimated average reporting burden of 7 hours) for reporting domestic operations and one or more BE–11B (12 hours), BE–11C (2 hours), or BE–10D (1 hour) forms for reporting foreign operations. Public reporting burden for this collection of information is estimated to average a total of 90.5 hours per complete response. Additional information regarding this burden estimate may be viewed at *www.reginfo.gov;* under the Information Collection Review tab, click on ''Search'' and use the above OMB control number to search for the current survey instrument. Send comments regarding this burden estimate to Kirsten Brew, Chief, Multinational Operations Branch (BE–49), via email at *Kirsten.Brew@bea.gov;* and to the Office of Management and Budget, Paperwork Reduction Project 0608–0053, via email at *OIRA_Submission@omb.eop.gov.*

Authority: 22 U.S.C. 3101–3108.

Paul W. Farello,

Associate Director for International Economics, Bureau of Economic Analysis.

[FR Doc. 2024–00871 Filed 1–17–24; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

[Docket No. 240111–0007]

RIN 0691–XC145

BE–29: Annual Survey of Foreign Ocean Carriers' Expenses in the United States

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Bureau of Economic Analysis (BEA), Department of Commerce, is informing the public that it is conducting the mandatory survey titled Annual Survey of Foreign Ocean Carriers' Expenses in the United States (BE–29). The data collected on the BE–29 survey are needed to measure U.S. trade in transport services and to analyze the impact of U.S. trade on the U.S. and foreign economies. This survey is authorized by the International Investment and Trade in Services Survey Act.

FOR FURTHER INFORMATION CONTACT: Christopher Stein, Chief, Services Surveys Branch, Balance of Payments Division, via phone at (301) 278–9189 or via email at *Christopher.Stein@bea.gov.*

SUPPLEMENTARY INFORMATION: Through this Notice, BEA publishes the reporting requirements for the BE–29 survey form. As noted below, all U.S. persons required to respond to this mandatory survey will be contacted by BEA. U.S. persons must submit the completed survey forms within 45 days after the end of each calendar year. This Notice is being issued in conformance with the rule BEA issued on April 24, 2012 (77 FR 24373), establishing guidelines for collecting data on international trade in services and direct investment through notices, rather than through rulemaking. Additional information about BEA's collection of data on international trade in services and direct investment can be found in the 2012 rule, the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 *et seq.*), and 15 CFR part 801. Survey data on international trade in services and direct investment that are not collected pursuant to the 2012 rule are described separately in 15 CFR part 801. The BE–29 survey form and instructions are available at *www.bea.gov/ssb.*

Reporting

Notice of specific reporting requirements, including who is to report, the information to be reported, the manner of reporting, and the time

and place of filing reports, will be mailed to those required to complete this survey.

Who Must Report: (a) Reports are required from U.S. agents of foreign carriers who handled 40 or more foreign ocean carrier port calls in the reporting period, or had covered expenses of $250,000 or more in the reporting period for all foreign ocean vessels handled by the U.S. Agent. See BE–29 survey form for more details.

(b) U.S. persons required to report will be contacted individually by BEA. U.S. persons not contacted by BEA have no reporting responsibilities.

What To Report: The survey collects information on foreign ocean carriers' expenses in the United States.

How To Report: Reports can be filed using BEA's electronic reporting system at *www.bea.gov/efile.* Copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, can be downloaded from *www.bea.gov/ssb* and submitted through mail or fax. Form BE–29 inquiries can be made by phone to BEA at (301) 278–9303 or by sending an email to *be-29help@bea.gov.*

When To Report: Reports are due to BEA 45 days after the end of each calendar year.

Paperwork Reduction Act Notice

This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 0608–0012. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. Public reporting burden for this collection of information is estimated to average 3 hours per response. Additional information regarding this burden estimate may be viewed at *www.reginfo.gov;* under the Information Collection Review tab, click on ''Search'' and use the above OMB control number to search for the current survey instrument. Send comments regarding this burden estimate to Christopher Stein, Chief, Services Surveys Branch, Balance of Payments Division, via email at *Christopher.Stein@bea.gov;* and to the Office of Management and Budget, Paperwork Reduction Project 0608–0012, via email at OIRA_*Submission@omb.eop.gov.*

Authority: 22 U.S.C. 3101–3108.

Paul W. Farello,

Associate Director for International Economics, Bureau of Economic Analysis.

[FR Doc. 2024–00861 Filed 1–17–24; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

[Docket No. 240111–0014]

RIN 0691–XC152

BE–605: Quarterly Survey of Foreign Direct Investment in the United States—Transactions of U.S. Affiliate With Foreign Parent

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Bureau of Economic Analysis (BEA), Department of Commerce, is informing the public that it is conducting the mandatory survey titled Quarterly Survey of Foreign Direct Investment in the United States—Transactions of U.S. Affiliate with Foreign Parent (BE–605). The data collected on the BE–605 survey are needed to measure the size and economic significance of foreign direct investment in the United States and its impact on the U.S. economy. This survey is authorized by the International Investment and Trade in Services Survey Act.

FOR FURTHER INFORMATION CONTACT: Jessica Hanson, Chief, Direct Investment Division (BE–49), via phone (301) 278–9595 or via email at *Jessica.Hanson@bea.gov.*

SUPPLEMENTARY INFORMATION: Through this Notice, BEA publishes the reporting requirements for the BE–605 survey form. As noted below, all entities required to respond to this mandatory survey will be contacted by BEA. Entities must submit the completed survey forms within 30 days after the end of each calendar or fiscal quarter, or within 45 days if the report is for the final quarter of the financial reporting year. This Notice is being issued in conformance with the rule BEA issued on April 24, 2012 (77 FR 24373), establishing guidelines for collecting data on international trade in services and direct investment through notices, rather than through rulemaking. Additional information about BEA's collection of data on international trade in services and direct investment can be found in the 2012 rule, the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 *et seq.*), and 15 CFR part 801. Survey data on international trade in services and direct investment that are not collected pursuant to the 2012 rule are described separately in 15 CFR part 801. The BE–605 survey forms and instructions are available at *www.bea.gov/fdi.*

Reporting

Notice of specific reporting requirements, including who is to report, the information to be reported, the manner of reporting, and the time and place of filing reports, will be mailed to those required to complete this survey.

Who Must Report: (a) Reports are required from each U.S. business enterprise in which a foreign person has a direct and/or indirect ownership interest of at least 10 percent of the voting stock in an incorporated business enterprise, or an equivalent interest in an unincorporated business enterprise, and that meets the additional conditions detailed in Form BE–605.

(b) Entities required to report will be contacted individually by BEA. Entities not contacted by BEA have no reporting responsibilities.

What To Report: The survey collects information on transactions between parent companies and their affiliates and on direct investment positions (stocks).

How To Report: Reports can be filed using BEA's electronic reporting system at *www.bea.gov/efile.* Copies of the survey form and instructions, which contain complete information on reporting procedures and definitions, can be downloaded from *www.bea.gov/fdi* and submitted through mail or fax. Form BE–605 inquiries can be made by phone to BEA at (301) 278–9422 or by sending an email to *be605@bea.gov.*

When To Report: Reports are due to BEA 30 days after the close of each calendar or fiscal quarter, or 45 days if the report is for the final quarter of the financial reporting year.

Paperwork Reduction Act Notice

This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 0608–0009. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. Public reporting burden for this collection of information is estimated to average 1 hour per response. Additional information regarding this burden estimate may be

viewed at *www.reginfo.gov;* under the Information Collection Review tab, click on ''Search'' and use the above OMB control number to search for the current survey instrument. Send comments regarding this burden estimate to Jessica Hanson, Chief, Direct Investment Division (BE–49), via email at *Jessica.Hanson@bea.gov;* and to the Office of Management and Budget, Paperwork Reduction Project 0608–0009, via email at *OIRA_Submission@omb.eop.gov.*

Authority: 22 U.S.C. 3101–3108.

Paul W. Farello,

Associate Director for International Economics, Bureau of Economic Analysis.

[FR Doc. 2024–00864 Filed 1–17–24; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

[Docket No. 240111–0012]

RIN 0691–XC150

BE–185: Quarterly Survey of Financial Services Transactions Between U.S. Financial Services Providers and Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Bureau of Economic Analysis (BEA), Department of Commerce, is informing the public that it is conducting the mandatory survey titled Quarterly Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons (BE–185). The data collected on the BE–185 survey are needed to measure U.S. trade in financial services and to analyze the impact of U.S. trade on the U.S. and foreign economies. This survey is authorized by the International Investment and Trade in Services Survey Act and by Section 5408 of the Omnibus Trade and Competitiveness Act of 1988.

FOR FURTHER INFORMATION CONTACT: Christopher Stein, Chief, Services Surveys Branch, Balance of Payments Division, via phone at (301) 278–9189 or via email at *Christopher.Stein@bea.gov.*

SUPPLEMENTARY INFORMATION: Through this Notice, BEA publishes the reporting requirements for the BE–185 survey form. As noted below, all U.S. persons required to respond to this mandatory survey will be contacted by BEA. U.S. persons must submit the completed survey forms within 30 days after the end of each fiscal quarter, except for the final quarter of the entity's fiscal year when reports must be filed within 45 days. This Notice is being issued in conformance with the rule BEA issued on April 24, 2012 (77 FR 24373), establishing guidelines for collecting data on international trade in services and direct investment through notices, rather than through rulemaking. Additional information about BEA's collection of data on international trade in services and direct investment can be found in the 2012 rule, the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 *et seq.*), and 15 CFR part 801, and by section 5408 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418, 15 U.S.C. 4908(b)). Survey data on international trade in services and direct investment that are not collected pursuant to the 2012 rule are described separately in 15 CFR part 801. The BE–185 survey form and instructions are available at *www.bea.gov/ssb.*

Reporting

Notice of specific reporting requirements, including who is to report, the information to be reported, the manner of reporting, and the time and place of filing reports, will be mailed to those required to complete this survey.

Who Must Report: (a) Reports are required from each U.S. person who had combined reportable sales of financial services to foreign persons that exceeded $20 million during the previous fiscal year, or are expected to exceed that amount during the current fiscal year; or had combined reportable purchases of financial services from foreign persons that exceeded $15 million during the previous fiscal year, or are expected to exceed that amount during the current fiscal year. Because the thresholds are applied separately to sales and purchases, the reporting requirements may apply only to sales, only to purchases, or to both. See BE–185 survey form for more details.

(b) U.S. persons required to report will be contacted individually by BEA. U.S. persons not contacted by BEA have no reporting responsibilities.

What To Report: The survey collects information on transactions in financial services between U.S. financial services providers and foreign persons.

How To Report: Reports can be filed using BEA's electronic reporting system at *www.bea.gov/efile.* Copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, can be downloaded from *www.bea.gov/ssb* and submitted through mail or fax. Form BE–185 inquiries can be made by phone to BEA at (301) 278–9303 or by sending an email to *be-185help@bea.gov.*

When To Report: Reports are due to BEA 30 days after the end of each fiscal quarter, except for the final quarter of the entity's fiscal year when reports must be filed within 45 days.

Paperwork Reduction Act Notice

This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 0608–0065. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. Public reporting burden for this collection of information is estimated to average 10 hours per response. Additional information regarding this burden estimate may be viewed at *www.reginfo.gov;* under the Information Collection Review tab, click on ''Search'' and use the above OMB control number to search for the current survey instrument. Send comments regarding this burden estimate to Christopher Stein, Chief, Services Surveys Branch, Balance of Payments Division, via email at *Christopher.Stein@bea.gov;* and to the Office of Management and Budget, Paperwork Reduction Project 0608–0065, via email at *OIRA_Submission@omb.eop.gov*

Authority: 22 U.S.C. 3101–3108 and 15 U.S.C. 4908(b).

Paul W. Farello,

Associate Director for International Economics, Bureau of Economic Analysis.

[FR Doc. 2024–00863 Filed 1–17–24; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

[Docket No. 240111–0011]

RIN 0691–XC149

BE–125: Quarterly Survey of Transactions in Selected Services and Intellectual Property With Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Bureau of Economic Analysis (BEA), Department

of Commerce, is informing the public that it is conducting the mandatory survey titled Quarterly Survey of Transactions in Selected Services and Intellectual Property with Foreign Persons (BE–125). The data collected on the BE–125 survey are needed to measure U.S. trade in services and to analyze the impact of U.S. trade on the U.S. and foreign economies. This survey is authorized by the International Investment and Trade in Services Survey Act.

FOR FURTHER INFORMATION CONTACT: Christopher Stein, Chief, Services Surveys Branch, Balance of Payments Division, via phone at (301) 278–9189 or via email at *Christopher.Stein@bea.gov*.

SUPPLEMENTARY INFORMATION: Through this Notice, BEA publishes the reporting requirements for the BE–125 survey form. As noted below, all U.S. persons required to respond to this mandatory survey will be contacted by BEA. U.S. persons must submit the completed survey forms within 30 days after the end of each fiscal quarter, except for the final quarter of the entity's fiscal year when reports must be filed within 45 days. This Notice is being issued in conformance with the rule BEA issued on April 24, 2012 (77 FR 24373), establishing guidelines for collecting data on international trade in services and direct investment through notices, rather than through rulemaking. Additional information about BEA's collection of data on international trade in services and direct investment can be found in the 2012 rule, the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 *et seq.*), and 15 CFR part 801. Survey data on international trade in services and direct investment that are not collected pursuant to the 2012 rule are described separately in 15 CFR part 801. The BE–125 survey form and instructions are available at *www.bea.gov/ssb.*

Reporting

Notice of specific reporting requirements, including who is to report, the information to be reported, the manner of reporting, and the time and place of filing reports, will be mailed to those required to complete this survey.

Who Must Report: (a) Reports are required from each U.S. person who had combined reportable sales of services or intellectual property to foreign persons that exceeded $6 million during the previous fiscal year, or are expected to exceed that amount during the current fiscal year; or had combined reportable purchases of services or intellectual property from foreign persons that exceeded $4 million during the previous fiscal year, or are expected to exceed that amount during the current fiscal year. Because the thresholds are applied separately to sales and purchases, the reporting requirements may apply only to sales, only to purchases, or to both. See BE–125 survey form for more details.

(b) U.S. persons required to report will be contacted individually by BEA. U.S. persons not contacted by BEA have no reporting responsibilities.

What To Report: The survey collects information on U.S. international trade in selected services and intellectual property.

How To Report: Reports can be filed using BEA's electronic reporting system at *www.bea.gov/efile.* Copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, can be downloaded from *www.bea.gov/ssb* and submitted through mail or fax. Form BE–125 inquiries can be made by phone to BEA at (301) 278–9303 or by sending an email to *be-125help@bea.gov.*

When To Report: Reports are due to BEA 30 days after the end of each fiscal quarter, except for the final quarter of the entity's fiscal year when reports must be filed within 45 days.

Paperwork Reduction Act Notice

This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 0608–0067. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. Public reporting burden for this collection of information is estimated to average 21 hours per response. Additional information regarding this burden estimate may be viewed at *www.reginfo.gov;* under the Information Collection Review tab, click on ''Search'' and use the above OMB control number to search for the current survey instrument. Send comments regarding this burden estimate to Christopher Stein, Chief, Services Surveys Branch, Balance of Payments Division, via email at *Christopher.Stein@bea.gov;* and to the Office of Management and Budget, Paperwork Reduction Project 0608–0067, via email at OIRA_*Submission@omb.eop.gov*.

Authority: 22 U.S.C. 3101–3108.

Paul W. Farello,

Associate Director for International Economics, Bureau of Economic Analysis.

[FR Doc. 2024–00869 Filed 1–17–24; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

[Docket No. 240111–0010]

RIN 0691–XC148

BE–45: Quarterly Survey of Insurance Transactions by U.S. Insurance Companies With Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Bureau of Economic Analysis (BEA), Department of Commerce, is informing the public that it is conducting the mandatory survey titled Quarterly Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons (BE–45). The data collected on the BE–45 survey are needed to measure U.S. trade in insurance services and to analyze the impact of U.S. trade on the U.S. and foreign economies. This survey is authorized by the International Investment and Trade in Services Survey Act.

FOR FURTHER INFORMATION CONTACT: Christopher Stein, Chief, Services Surveys Branch, Balance of Payments Division, via phone at (301) 278–9189 or via email at *Christopher.Stein@bea.gov*.

SUPPLEMENTARY INFORMATION: Through this Notice, BEA publishes the reporting requirements for the BE–45 survey form. As noted below, all U.S. persons required to respond to this mandatory survey will be contacted by BEA. U.S. persons must submit the completed survey forms within 30 days after the end of each calendar quarter, except for the final quarter of the calendar year when reports must be filed within 45 days. This Notice is being issued in conformance with the rule BEA issued on April 24, 2012 (77 FR 24373), establishing guidelines for collecting data on international trade in services and direct investment through notices, rather than through rulemaking. Additional information about BEA's collection of data on international trade in services and direct investment can be found in the 2012 rule, the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 *et seq.*), and

15 CFR part 801. Survey data on international trade in services and direct investment that are not collected pursuant to the 2012 rule are described separately in 15 CFR part 801. The BE–45 survey form and instructions are available at *www.bea.gov/ssb.*

Reporting

Notice of specific reporting requirements, including who is to report, the information to be reported, the manner of reporting, and the time and place of filing reports, will be mailed to those required to complete this survey.

Who Must Report: (a) Reports are required from U.S. persons whose combined reportable insurance transactions with foreign persons exceeded $8 million (based on absolute value) during the previous calendar year, or are expected to exceed that amount during the current calendar year. See BE–45 survey form for more details.

(b) U.S. persons required to report will be contacted individually by BEA. U.S. persons not contacted by BEA have no reporting responsibilities.

What To Report: The survey collects information on cross-border insurance transactions between U.S. insurance companies and foreign persons.

How To Report: Reports can be filed using BEA's electronic reporting system at *www.bea.gov/efile.* Copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, can be downloaded from *www.bea.gov/ssb* and submitted through mail or fax. Form BE–45 inquiries can be made by phone to BEA at (301) 278–9303 or by sending an email to *be-45help@bea.gov.*

When To Report: Reports are due to BEA 30 days after the end of each calendar quarter, except for the final quarter of the calendar year when reports must be filed within 45 days.

Paperwork Reduction Act Notice

This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 0608–0066. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. Public reporting burden for this collection of information is estimated to average 9 hours per response. Additional information regarding this burden estimate may be viewed at *www.reginfo.gov;* under the Information Collection Review tab, click on ''Search'' and use the above OMB control number to search for the current survey instrument. Send comments regarding this burden estimate to Christopher Stein, Chief, Services Surveys Branch, Balance of Payments Division, via email at *Christopher.Stein@bea.gov;* and to the Office of Management and Budget, Paperwork Reduction Project 0608–0066, via email at OIRA_*Submission@mb.eop.gov.*

Authority: 22 U.S.C. 3101–3108.

Paul W. Farello,

Associate Director for International Economics, Bureau of Economic Analysis.

[FR Doc. 2024–00862 Filed 1–17–24; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

[Docket No. 240111–0004]

RIN 0691–XC142

BE–9: Quarterly Survey of Foreign Airline Operators' Revenues and Expenses in the United States

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Bureau of Economic Analysis (BEA), Department of Commerce, is informing the public that it is conducting the mandatory survey titled Quarterly Survey of Foreign Airline Operators' Revenues and Expenses in the United States (BE–9). The data collected on the BE–9 survey are needed to measure U.S. trade in transport services and to analyze the impact of U.S. trade on the U.S. and foreign economies. This survey is authorized by the International Investment and Trade in Services Survey Act.

FOR FURTHER INFORMATION CONTACT: Christopher Stein, Chief, Services Surveys Branch, Balance of Payments Division, via phone at (301) 278–9189 or via email at *Christopher.Stein@bea.gov.*

SUPPLEMENTARY INFORMATION: Through this Notice, BEA publishes the reporting requirements for the BE–9 survey form. As noted below, all U.S. persons required to respond to this mandatory survey will be contacted by BEA. U.S. persons must submit the completed survey forms within 30 days after the end of each quarter. This Notice is being issued in conformance with the rule BEA issued on April 24, 2012 (77 FR 24373), establishing guidelines for collecting data on international trade in services and direct investment through notices, rather than through rulemaking. Additional information about BEA's collection of data on international trade in services and direct investment can be found in the 2012 rule, the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 *et seq.*), and 15 CFR part 801. Survey data on international trade in services and direct investment that are not collected pursuant to the 2012 rule are described separately in 15 CFR part 801. The BE–9 survey form and instructions are available at *www.bea.gov/ssb.*

Reporting

Notice of specific reporting requirements, including who is to report, the information to be reported, the manner of reporting, and the time and place of filing reports, will be mailed to those required to complete this survey.

Who Must Report: (a) Reports are required from U.S. offices, agents, or other representatives of foreign airline operators that transport passengers or freight and express to or from the United States, whose total covered revenues or total covered expenses were $5 million or more during the previous year, or are expected to meet or exceed that amount during the current year. See BE–9 survey form for more details.

(b) U.S. persons required to report will be contacted individually by BEA. U.S. persons not contacted by BEA have no reporting responsibilities.

What To Report: The survey collects information on foreign airline operators' revenues and expenses in the United States, and count of passengers transported to, or from, the United States.

How To Report: Reports can be filed using BEA's electronic reporting system at *www.bea.gov/efile.* Copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, can be downloaded from *www.bea.gov/ssb* and submitted through mail or fax. Form BE–9 inquiries can be made by phone to BEA at (301) 278–9303 or by sending an email to *be-9help@bea.gov.*

When To Report: Reports are due to BEA 30 days after the end of each quarter.

Paperwork Reduction Act Notice

This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 0608–0068. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it

displays a valid control number assigned by OMB. Public reporting burden for this collection of information is estimated to average 6 hours per response. Additional information regarding this burden estimate may be viewed at *www.reginfo.gov;* under the Information Collection Review tab, click on ''Search'' and use the above OMB control number to search for the current survey instrument. Send comments regarding this burden estimate to Christopher Stein, Chief, Services Surveys Branch, Balance of Payments Division, via email at *Christopher.Stein@bea.gov;* and to the Office of Management and Budget, Paperwork Reduction Project 0608–0068, via email at *OIRA_Submission@omb.eop.gov*

Authority: 22 U.S.C. 3101–3108.

Paul W. Farello,

Associate Director for International Economics, Bureau of Economic Analysis.

[FR Doc. 2024–00865 Filed 1–17–24; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

[Docket No. 240111–0008]

RIN 0691–XC146

BE–30: Quarterly Survey of Ocean Freight Revenues and Foreign Expenses of U.S. Carriers

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Bureau of Economic Analysis (BEA), Department of Commerce, is informing the public that it is conducting the mandatory survey titled Quarterly Survey of Ocean Freight Revenues and Foreign Expenses of U.S. Carriers (BE–30). The data collected on the BE–30 survey are needed to measure U.S. trade in transport services and to analyze the impact of U.S. trade on the U.S. and foreign economies. This survey is authorized by the International Investment and Trade in Services Survey Act.

FOR FURTHER INFORMATION CONTACT: Christopher Stein, Chief, Services Surveys Branch, Balance of Payments Division, via phone at (301) 278–9189 or via email at *Christopher.Stein@bea.gov.*

SUPPLEMENTARY INFORMATION: Through this Notice, BEA publishes the reporting requirements for the BE–30 survey form. As noted below, all U.S. persons required to respond to this mandatory survey will be contacted by BEA. U.S. persons must submit the completed survey forms within 30 days after the end of each quarter. This Notice is being issued in conformance with the rule BEA issued on April 24, 2012 (77 FR 24373), establishing guidelines for collecting data on international trade in services and direct investment through notices, rather than through rulemaking. Additional information about BEA's collection of data on international trade in services and direct investment can be found in the 2012 rule, the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 *et seq.*), and 15 CFR part 801. Survey data on international trade in services and direct investment that are not collected pursuant to the 2012 rule are described separately in 15 CFR part 801. The BE–30 survey form and instructions are available at *www.bea.gov/ssb.*

Reporting

Notice of specific reporting requirements, including who is to report, the information to be reported, the manner of reporting, and the time and place of filing reports, will be mailed to those required to complete this survey.

Who Must Report: (a) Reports are required from U.S. ocean carriers that had total reportable revenues or total reportable expenses that were $500,000 or more during the previous year, or are expected to be $500,000 or more during the current year. See BE–30 survey form for more details.

(b) U.S. persons required to report will be contacted individually by BEA. U.S. persons not contacted by BEA have no reporting responsibilities.

What To Report: The survey collects information on U.S. ocean freight carriers' foreign revenues and expenses.

How To Report: Reports can be filed using BEA's electronic reporting system at *www.bea.gov/efile.* Copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, can be downloaded from *www.bea.gov/ssb* and submitted through mail or fax. Form BE–30 inquiries can be made by phone to BEA at (301) 278–9303 or by sending an email to *be-30help@bea.gov.*

When To Report: Reports are due to BEA 30 days after the end of each quarter.

Paperwork Reduction Act Notice

This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 0608–0011. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. Public reporting burden for this collection of information is estimated to average 4 hours per response. Additional information regarding this burden estimate may be viewed at *www.reginfo.gov;* under the Information Collection Review tab, click on ''Search'' and use the above OMB control number to search for the current survey instrument. Send comments regarding this burden estimate to Christopher Stein, Chief, Services Surveys Branch (BE–50), Balance of Payments Division, via email at *Christopher.Stein@bea.gov;* and to the Office of Management and Budget, Paperwork Reduction Project 0608–0011, via email at *OIRA_Submission@omb.eop.gov.*

Authority: 22 U.S.C. 3101–3108.

Paul W. Farello,

Associate Director for International Economics, Bureau of Economic Analysis.

[FR Doc. 2024–00867 Filed 1–17–24; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

[Docket No. 240111–0013]

RIN 0691–XC151

BE–577: Quarterly Survey of U.S. Direct Investment Abroad—Transactions of U.S. Reporter With Foreign Affiliate

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Bureau of Economic Analysis (BEA), Department of Commerce, is informing the public that it is conducting the mandatory survey titled Quarterly Survey of U.S. Direct Investment Abroad—Transactions of U.S. Reporter with Foreign Affiliate (BE–577). The data collected on the BE–577 survey are needed to measure the size and economic significance of U.S. direct investment abroad and its impact on the U.S. and foreign economies. This survey is authorized by the International Investment and Trade in Services Survey Act.

FOR FURTHER INFORMATION CONTACT: Jessica Hanson, Chief, Direct Investment Division (BE–49), via phone at (301) 278–9595 or via email at *Jessica.Hanson@bea.gov.*

SUPPLEMENTARY INFORMATION: Through this Notice, BEA publishes the reporting requirements for the BE–577 survey form. As noted below, all entities required to respond to this mandatory survey will be contacted by BEA. Entities must submit the completed survey forms within 30 days after the end of each calendar or fiscal quarter, or within 45 days if the report is for the final quarter of the financial reporting year. This Notice is being issued in conformance with the rule BEA issued on April 24, 2012 (77 FR 24373), establishing guidelines for collecting data on international trade in services and direct investment through notices, rather than through rulemaking. Additional information about BEA's collection of data on international trade in services and direct investment can be found in the 2012 rule, the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 *et seq.*), and 15 CFR part 801. Survey data on international trade in services and direct investment that are not collected pursuant to the 2012 rule are described separately in 15 CFR part 801. The BE–577 survey forms and instructions are available at *www.bea.gov/dia.*

Reporting

Notice of specific reporting requirements, including who is to report, the information to be reported, the manner of reporting, and the time and place of filing reports, will be mailed to those required to complete this survey.

Who Must Report: (a) Reports are required from each U.S. person that has a direct and/or indirect ownership interest of at least 10 percent of the voting stock in an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise, and that meets the additional conditions detailed in Form BE–577.

(b) Entities required to report will be contacted individually by BEA. Entities not contacted by BEA have no reporting responsibilities.

What To Report: The survey collects information on transactions between parent companies and their affiliates and on direct investment positions (stocks).

How To Report: Reports can be filed using BEA's electronic reporting system at *www.bea.gov/efile.* Copies of the survey form and instructions, which contain complete information on reporting procedures and definitions, can be downloaded from *www.bea.gov/dia* and submitted through mail or fax. Form BE–577 inquiries can be made by phone to BEA at (301) 278–9261 or by sending an email to *be577@bea.gov.*

When To Report: Reports are due to BEA 30 days after the close of each calendar or fiscal quarter, or 45 days if the report is for the final quarter of the financial reporting year.

Paperwork Reduction Act Notice

This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 0608–0004. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. Public reporting burden for this collection of information is estimated to average 1 hour per response. Additional information regarding this burden estimate may be viewed at *www.reginfo.gov;* under the Information Collection Review tab, click on ''Search'' and use the above OMB control number to search for the current survey instrument. Send comments regarding this burden estimate to Jessica Hanson, Chief, Direct Investment Division (BE–49), via email at *Jessica.Hanson@bea.gov;* and to the Office of Management and Budget, Paperwork Reduction Project 0608–0004, via email at *OIRA_Submission@omb.eop.gov.*

Authority: 22 U.S.C. 3101–3108.

Paul W. Farello,

Associate Director for International Economics, Bureau of Economic Analysis.

[FR Doc. 2024–00870 Filed 1–17–24; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

[Docket No. 240111–0009]

RIN 0691–XC147

BE–37: Quarterly Survey of U.S. Airline Operators' Foreign Revenues and Expenses

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Bureau of Economic Analysis (BEA), Department of Commerce, is informing the public that it is conducting the mandatory survey titled Quarterly Survey of U.S. Airline Operators' Foreign Revenues and Expenses (BE–37). The data collected on the BE–37 survey are needed to measure U.S. trade in transport services and to analyze the impact of U.S. trade on the U.S. and foreign economies. This survey is authorized by the International Investment and Trade in Services Survey Act.

FOR FURTHER INFORMATION CONTACT: Christopher Stein, Chief, Services Surveys Branch, Balance of Payments Division, via phone at (301) 278–9189 or via email at *Christopher.Stein@bea.gov.*

SUPPLEMENTARY INFORMATION: Through this Notice, BEA publishes the reporting requirements for the BE–37 survey form. As noted below, all U.S. persons required to respond to this mandatory survey will be contacted by BEA. U.S. persons must submit the completed survey forms within 30 days after the end of each quarter. This Notice is being issued in conformance with the rule BEA issued on April 24, 2012 (77 FR 24373), establishing guidelines for collecting data on international trade in services and direct investment through notices, rather than through rulemaking. Additional information about BEA's collection of data on international trade in services and direct investment can be found in the 2012 rule, the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 *et seq.*), and 15 CFR part 801. Survey data on international trade in services and direct investment that are not collected pursuant to the 2012 rule are described separately in 15 CFR part 801. The BE–37 survey form and instructions are available at *www.bea.gov/ssb.*

Reporting

Notice of specific reporting requirements, including who is to report, the information to be reported, the manner of reporting, and the time and place of filing reports, will be mailed to those required to complete this survey.

Who Must Report: (a) Reports are required from U.S. airline operators engaged in the international transportation of passengers, or of U.S. export freight, or the transportation of freight or passengers between two foreign ports, if total covered revenues or total covered expenses were $500,000 or more in the previous year, or are expected to be $500,000 or more during the current year. See BE–37 survey form for more details.

(b) U.S. persons required to report will be contacted individually by BEA. U.S. persons not contacted by BEA have no reporting responsibilities.

What To Report: The survey collects information on U.S. airline operators' foreign revenues and expenses, and count of passengers transported to, or from, the United States.

How To Report: Reports can be filed using BEA's electronic reporting system at *www.bea.gov/efile.* Copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, can be downloaded from *www.bea.gov/ssb* and submitted through mail or fax. Form BE–37 inquiries can be made by phone to BEA at (301) 278–9303 or by sending an email to *be-37help@bea.gov.*

When To Report: Reports are due to BEA 30 days after the end of each quarter.

Paperwork Reduction Act Notice

This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 0608–0011. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. Public reporting burden for this collection of information is estimated to average 5 hours per response. Additional information regarding this burden estimate may be viewed at *www.reginfo.gov;* under the Information Collection Review tab, click on ''Search'' and use the above OMB control number to search for the current survey instrument. Send comments regarding this burden estimate to Christopher Stein, Chief, Services Surveys Branch, Balance of Payments Division, via email at *Christopher.Stein@bea.gov;* and to the Office of Management and Budget, Paperwork Reduction Project 0608–0011, via email at *OIRA_Submission@omb.eop.gov*.

Authority: 22 U.S.C. 3101–3108.

Paul W. Farello,

Associate Director for International Economics, Bureau of Economic Analysis.

[FR Doc. 2024–00868 Filed 1–17–24; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

[Docket No. 240111–0006]

RIN 0691–XC144

BE–15: Annual Survey of Foreign Direct Investment in the United States

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Bureau of Economic Analysis (BEA), Department of Commerce, is informing the public that it is conducting the mandatory survey titled Annual Survey of Foreign Direct Investment in the United States (BE–15). The data collected on the BE–15 survey are needed to measure the size and economic significance of foreign direct investment in the United States and its impact on the U.S. economy. This survey is authorized by the International Investment and Trade in Services Survey Act.

FOR FURTHER INFORMATION CONTACT: Kirsten Brew, Chief, Multinational Operations Branch (BE–49), via phone at (301) 278–9152 or via email at *Kirsten.Brew@bea.gov*.

SUPPLEMENTARY INFORMATION: Through this Notice, BEA publishes the reporting requirements for the BE–15 survey form. As noted below, all entities required to respond to this mandatory survey will be contacted by BEA. A completed report covering the entity's fiscal year ending during the previous calendar year is due by May 31 (or by June 30 for reporting companies that use BEA's eFile system). This Notice is being issued in conformance with the rule BEA issued on April 24, 2012 (77 FR 24373), establishing guidelines for collecting data on international trade in services and direct investment through notices, rather than through rulemaking. Additional information about BEA's collection of data on international trade in services and direct investment can be found in the 2012 rule, the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 *et seq.*), and 15 CFR part 801. Survey data on international trade in services and direct investment that are not collected pursuant to the 2012 rule are described separately in 15 CFR part 801. The BE–15 survey forms and instructions are available at *www.bea.gov/fdi.*

Reporting

Notice of specific reporting requirements, including who is to report, the information to be reported, the manner of reporting, and the time and place of filing reports, will be mailed to those required to complete this survey.

Who Must Report: (a) Reports are required from each U.S. business enterprise in which a foreign person has a direct and/or indirect ownership interest of at least 10 percent of the voting stock in an incorporated U.S. business enterprise, or an equivalent interest in an unincorporated U.S. business enterprise, and that meets the additional conditions detailed in Form BE–15.

(b) Entities required to report will be contacted individually by BEA. Entities not contacted by BEA have no reporting responsibilities.

What To Report: The survey collects information on the operations of U.S. affiliates of foreign companies.

How To Report: Reports can be filed using BEA's electronic reporting system at *www.bea.gov/efile.* Copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, can be downloaded from *www.bea.gov/fdi* and submitted through mail or fax. Form BE–15 inquiries can be made by phone to BEA at (301) 278–9247 or by sending an email to *be12/15@bea.gov.*

When To Report: A completed report covering an entity's fiscal year ending during the previous calendar year is due by May 31 (or by June 30 for reporting companies that use BEA's eFile system).

Paperwork Reduction Act Notice

This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 0608–0034. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. Public reporting burden for this collection of information is estimated to average 24.3 hours per response. Additional information regarding this burden estimate may be viewed at *www.reginfo.gov;* under the Information Collection Review tab, click on ''Search'' and use the above OMB control number to search for the current survey instrument. Send comments regarding this burden estimate to Kirsten Brew, Chief, Multinational Operations Branch (BE–49), via email at *Kirsten.Brew@bea.gov;* and to the Office of Management and Budget, Paperwork Reduction Project 0608–0034, via email at *OIRA_Submission@omb.eop.gov.*

Authority: 22 U.S.C. 3101–3108.

Paul W. Farello,

Associate Director for International Economics, Bureau of Economic Analysis.

[FR Doc. 2024–00866 Filed 1–17–24; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–863]

Large Diameter Welded Pipe From Canada: Amended Final Results of Antidumping Duty Administrative Review; 2021–2022

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

SUMMARY: The U.S. Department of Commerce (Commerce) is amending the final results of the administrative review of the antidumping duty order on large diameter welded pipe (welded pipe) from Canada to correct a ministerial error. Based on the amended final results, we find that welded pipe from Canada was not sold in the United States at less than normal value (NV), during the period of review (POR), May 1, 2021, through April 30, 2022.

DATES: Applicable January 18, 2024.

FOR FURTHER INFORMATION CONTACT: Faris Montgomery, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1537.

SUPPLEMENTARY INFORMATION:

Background

On December 5, 2023, Commerce disclosed its calculations to interested parties and provided interested parties with the opportunity to submit ministerial error comments.[1] On December 11, 2023, Evraz [2] submitted an allegation of a ministerial error in the *Final Results*.[3] No other party made a ministerial error allegation or provided rebuttal comments in response to Evraz's ministerial error allegation. On December 13, 2023, Commerce published its final results of administrative review.[4]

Legal Framework

Section 751(h) of the Tariff Act of 1930, as amended (the Act), defines a ''ministerial error'' as including ''errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other unintentional error which the administering authority considers ministerial.'' With respect to final results of administrative reviews, 19 CFR 351.224(e) provides that Commerce ''will analyze any comments received and, if appropriate, correct any ministerial error by amending . . . the final results of review . . .''

Ministerial Error

Commerce has determined that it made a ministerial error in the *Final Results* within the meaning of section 751(h) of the Act and 19 CFR 351.224(f). In the *Final Results,* we made certain revisions to the preliminary results based on minor corrections found at verification to the cost of coating revenue for certain home market sales.[5] In its ministerial error allegation, Evraz stated that in revising the coating revenue for certain home market sales based on minor corrections, Commerce did not apply the corrected values properly to certain applicable fields in Evraz's home market sales data, and the correction was consequently not accounted for in Evraz's final margin calculations.[6]

Commerce determines that it made a ministerial error in the *Final Results* pursuant to section 751(h) of the Act and 19 CFR 351.224(f) and has amended its calculations with regard to the coating revenue revised as a result of verification.

For a complete discussion of the ministerial error allegation, as well as Commerce's analysis, *see* the accompanying Ministerial Error Memorandum.[7] The Ministerial Error 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.*

Pursuant to 19 CFR 351.224(e), Commerce is amending the *Final Results* to reflect the correction of this ministerial error in the calculation of the weighted-average dumping margin assigned to Evraz in the *Final Results,* which changes from 9.17 percent to 0.00 percent.

Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a weighted-average dumping margin to be determined for companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when determining the weighted-average dumping margin 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 rates that are zero, *de minimis* or determined entirely on the basis of facts available.

As discussed in these amended final results of review, we calculated a weighted-average dumping margin that is zero for Evraz, the sole mandatory respondent in this administrative review. Because this is the only weighted-average dumping margin determined in this review for an individually examined respondent, we are applying this rate to the non-examined companies under review consistent with section 735(c)(5)(B) of the Act. Accordingly, we are amending the rate applied to the 36 non-examined companies under review [8] in the *Final Results,* from 9.17 percent to 0.00 percent.

Amended Final Results

As a result of correcting the ministerial error, Commerce determines that the following estimated weighted-average dumping margins exists for the period May 1, 2021, through April 30, 2022:

[1] *See* Memorandum, ''Deadline for Ministerial Error Comments for the Final Results,'' dated December 6, 2023.

[2] In the underlying investigation, Commerce treated Evraz Inc. NA, Evraz Inc. NA Canada, and the Canadian National Steel Corporation (collectively, Evraz) as a single entity. *See Large Diameter Welded Pipe from Canada: Final Affirmative Determination of Sales at Less Than Fair Value,* 84 FR 6378 (February 27, 2019). There is no information on this record of this review that warrants reconsideration of this single entity determination.

[3] *See Large Diameter Welded Pipe from Canada: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2021–2022,* 88 FR 86316 (December 13, 2023) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM). *See also* Evraz's Letter, ''Ministerial Error Comments for the Final Results,'' dated December 11, 2023 (Ministerial Error Allegation).

[4] *See Final Results* IDM.

[5] *Id.* at 3.

[6] *See* Ministerial Error Allegation at 2–3.

[7] *See* Memorandum, ''Ministerial Error Allegation in the Final Results,'' dated concurrently with this notice (Ministerial Error Memorandum).

[8] *See* Appendix.

Exporter or producer	Weighted-average dumping margin (percent)
Evraz Inc. NA, Evraz Inc. NA Canada, and the Canadian National Steel Corporation	0.00
Companies Not Selected for Individual Examination	0.00

Disclosure

We intend to disclose to parties in this proceeding, under administrative protective order, the margin calculations performed for these amended final results within five days after publication of these amended final results in the **Federal Register**, in accordance with 19 CFR 351.224(b).

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 of subject merchandise in accordance with these amended final results of review. Commerce intends to issue assessment instructions to CBP no earlier than 41 days after the date of publication of the amended final results of this review in the **Federal Register**, in accordance with 19 CFR 356.8(a).

Because the weighted-average dumping margin for Evraz is zero percent, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[9]

Commerce's ''automatic assessment'' practice will apply to entries of subject merchandise during the POR produced by Evraz for which the company did not know that the merchandise it sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[10]

Because the weighted-average dumping margin assigned to the companies which were not selected for individual examination is zero percent, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Cash Deposit Requirements

The following 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 above will be equal to the weighted-average dumping margin that is established in the amended final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated or reviewed companies not subject to this review, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of the proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers and exporters will continue to be 12.32 percent *ad valorem,* the all-others rate established in the LTFV investigation.[11]

These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(h) and 777(i)(1) of the Act, and 19 CFR 351.224(e).

Dated: January 9, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

Review-Specific Rate Applicable to Companies Not Selected for Individual Examination

1. Acier Profile SBB Inc
2. Aciers Lague Steels Inc
3. Amdor Inc
4. BPC Services Group
5. Bri-Steel Manufacturing
6. Canada Culvert
7. Cappco Tubular Products Canada Inc.
8. CFI Metal Inc
9. Dominion Pipe & Piling
10. Enduro Canada Pipeline Services
11. Fi Oilfield Services Canada
12. Gchem Ltd.
13. Graham Construction
14. Groupe Fordia Inc
15. Grupo Fordia Inc
16. Hodgson Custom Rolling
17. Interpipe Inc
18. K K Recycling Services
19. Kobelt Manufacturing Co
20. Labrie Environment
21. Les Aciers Sofatec
22. Lorenz Conveying P
23. Lorenz Conveying Products
24. Matrix Manufacturing
25. MBI Produits De Forge
26. Nor Arc
27. Peak Drilling Ltd
28. Pipe & Piling Sply Ltd
29. Pipe & Piling Supplies
30. Prudental
31. Prudential

[9] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8102 (February 14, 2012).

[10] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[11] *See Large Diameter Welded Pipe from Canada: Antidumping Duty Order,* 84 FR 18775 (May 2, 2019).

32. Shaw Pipe Protecction
33. Shaw Pipe Protection
34. Tenaris Algoma Tubes Facility
35. Tenaris Prudential
36. Welded Tube of Can Ltd

[FR Doc. 2024–00904 Filed 1–17–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Announcement of U.S. Company Recruitment for the March 11–12, 2024 Presidential Trade and Investment Mission to the Philippines

AGENCY: International Trade Administration (ITA), Department of Commerce (DOC).

ACTION: Notice.

SUMMARY: The U.S. Department of Commerce is assisting the White House in recruitment of U.S. companies to participate in a Presidential Trade and Investment Mission to the Philippines.

FOR FURTHER INFORMATION CONTACT: Elliott Brewer, Philippines Desk Officer, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–430–8025; email: *elliott.brewer@trade.gov.*

SUPPLEMENTARY INFORMATION: The United States seeks to send a Presidential Trade and Investment Mission (PTIM) to the Philippines from March 11–12, 2024. The intent to dispatch the PTIM was announced by President Joseph R. Biden, Jr. on May 1, 2023, during the visit of Philippine President Ferdinand R. Marcos, Jr. to Washington, DC. As described in the White House's fact sheet on ''Investing in the Special Friendship and Alliance Between the United States and the Philippines,'' the purpose of the PTIM is to enhance U.S. companies' investment in the Philippines' innovation economy, its clean energy transition and critical minerals sector, and the food security of its people. The mission will feature the highest caliber of U.S. business leaders dedicated to strengthening U.S.-Philippine trade and investment ties in these areas. Trade mission delegates will meet with Government of Philippines officials in Manila to learn more about business development incentives and to discuss regulatory reforms. These discussions will help identify policy actions that support mutually beneficial economic and commercial outcomes. Trade mission delegates will also be able to join networking events with relevant local firms and business organizations to foster business-to-business trade and investment promotion opportunities.

The U.S. Department of Commerce is assisting the White House in recruitment of U.S. companies to participate in the PTIM and welcomes statements of interest in participation in the PTIM from U.S.-headquartered companies that can help the United States and Philippines achieve the goals described above. Priority will be given to companies that are (1) willing to participate in the PTIM at the Chief Executive Officer, President, or other senior executive level, (2) conducting or developing plans to conduct business in both countries, and (3) engaged in work related to the clean energy transition, critical minerals sector, food security, or that promotes the Philippines' innovation economy, including its digital transformation, and/or greater supply chain resilience. This list of business areas is not intended to be exhaustive. Each company that is selected will be permitted to have one primary representative at the Chief Executive Officer, President, or other senior executive level join the PTIM, along with one additional supporting representative. Company representatives must be able to travel to the Philippines and to locations in the United States to attend PTIM meetings, as well as PTIM preparatory meetings. Travel and in-person activities are contingent upon the safety and health conditions in the United States and the Philippines. Should safety or health conditions not be appropriate for travel and/or in-person activities, one or more meetings may be postponed or scheduled virtually instead. It is also possible that the entire mission would be postponed or cancelled in response to changes in safety or health conditions.

No fees will be collected from trade mission delegates. Trade mission delegates and their sponsoring companies will be responsible for covering all travel, lodging, meals, and incidental expenses associated with the PTIM.

Interested companies should submit the following information to the U.S. Department of Commerce at *PTIM@trade.gov* by Tuesday, January 30, 2024:

- Company Name;
- Name of Chief Executive Officer or President;
- U.S. State of Incorporation;
- Corporate Headquarters;
- Principal Place of Business;
- Main Address (Street Address, City, State, and Zip Code);
- List of Subsidiary or Affiliate Offices in Asia (including in the Philippines);
- Industry Area(s);
- Main Products and Services;
- A brief (up to one page) Statement of Interest explaining:
  - Your company's goals and qualifications for the mission.
  - How your company's participation in the mission will strengthen U.S.-Philippines trade and investment ties.
  - How your company's work can support the clean energy transition, critical minerals sector, food security, or innovation economy—including efforts to advance digital transformation and/or greater supply chain resilience in the Philippines.
- Name, title, work email, phone number, and biography of your Chief Executive Officer, President, or other senior executive who would represent the company on the PTIM.
- Name, title, work email, and phone number of the main working-level point of contact that will facilitate the senior executive's participation in the mission.
- Name, title, work email, phone number, and biography of one optional accompanying staff person (if applicable).

The selection of companies for the PTIM will be evaluated on a comparative basis by: (1) the level of executive representation; (2) consistency of the applicant's goals and objectives with the stated scope of the mission; (3) suitability of the applicant's products or services to the Philippines market; and (4) the applicant's potential for developing trade and investment opportunities in the Philippines market.

Statements of interest received after January 30 will be considered only if space and scheduling constraints permit. Please direct any questions or requests for more information about the PTIM to Mr. Elliott Brewer at 202–430–8025 or *elliott.brewer@trade.gov.*

David Nufrio,

Deputy Director of the Office of Southeast Asia.

[FR Doc. 2024–00913 Filed 1–17–24; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–819]

Certain Pasta From Italy: Final Results of Countervailing Duty Administrative Review; 2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies were provided to certain producers and exporters of

certain pasta (pasta) from Italy during the period of review (POR) January 1, 2021, through December 31, 2021.

DATES: Applicable January 18, 2024.

FOR FURTHER INFORMATION CONTACT: Nicholas Czajkowski, 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) 482–1395.

SUPPLEMENTARY INFORMATION:

Background

On July 18, 2023, Commerce published the *Preliminary Results* of this administrative review in the **Federal Register**.[1] This review covers one mandatory respondent, Pastificio Gentile S.r.l. (Gentile) and one non-selected company, Sgambaro SpA. (Sgambaro).

From October 19 through October 24, 2023, we conducted verification of Gentile and the Government of Italy's questionnaire responses. On November 2, 2023, we released the verification reports,[2] and, on November 6, 2023, we invited parties to comment on the *Preliminary Results*.[3] For a complete description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[4]

Scope of the Order [5]

The product covered by this *Order* is pasta from Italy. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised by the interested parties in case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of topics discussed in the Issues and Decision Memorandum is provided in 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 CVD 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 comments received from interested parties and issues originating from verification, we are applying total adverse facts available (AFA) to Gentile for the final results of this review. For a discussion of the issues, *see* the Issues and Decision Memorandum.

Methodology

Commerce conducted this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[6] For a full description of the methodology underlying all of Commerce's conclusions, including our reliance, on facts otherwise available, including AFA, pursuant to sections 776(a) and (b) of the Act, *see* the Issues and Decision Memorandum.

Final Results of the Administrative Review

As a result of this review, we determine that the following estimated countervailable subsidy rates exist for the period January 1, 2021, through December 31, 2021:

Company	Subsidy rate (percent *ad valorem*)
Pastificio Gentile S.R.L	88.67
Sgambaro SpA	1.18

Final Rate for Non-Selected Company Under Review

There is one company, Sgambaro, for which a review was requested and not rescinded, and which was not selected as a mandatory respondent or found to be cross-owned with the mandatory respondent. The statute and Commerce's regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, Commerce normally determines the rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides the basis for calculating all-others rate in an investigation.

Section 705(c)(5)(A)(i) of the Act instructs Commerce, as a general rule, to calculate an all-others rate equal to the weighted average of the countervailable subsidy rates established for exporters and/or producers individually examined, excluding any rates that are zero, de minimis, or based entirely on facts available. In this review, the final rate for Gentile, the sole mandatory respondent, was based entirely on facts available. Accordingly, under ''any reasonable method,'' we have selected the rate calculated in the most recently completed administrative review as the rate to be applied for Sgambaro, *see* the Issues and Decision Memorandum at Comment 3.

Cash Deposit Requirements

In accordance with section 751(a)(1) of the Act, Commerce intends to instruct U.S. Customs and Border Protection (CBP) to collect cash deposits of estimated countervailing duties in the amounts shown above for the above-listed companies with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results of review. These cash deposit requirements, effective upon publication of these final results, shall remain in effect until further notice.

Assessment Rates

In accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce shall determine, and CBP shall assess, countervailing duties at the applicable *ad valorem* rates on all appropriate entries covered by this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after 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).

Disclosure

Commerce intends to disclose our AFA calculations performed for the

[1] *See Certain Pasta from Italy: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review; 2021,* 88 FR 45886 (July 18, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Verification of the Questionnaire Responses of Pastificio Gentile S.r.l.,'' dated November 2, 2023, and Memorandum, ''Verification of the Questionnaire Responses of the Government of Italy,'' dated November 2, 2023.

[3] *See* Commerce's Letter, ''Briefing Schedule,'' dated November 6, 2023.

[4] *See* Memorandum, ''Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review of Certain Pasta from Italy; 2021,'' concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[5] *See Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta from Italy,* 61 FR 38544 (July 24, 1996) (*Order*).

[6] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

final results of review within five days after the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

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

Notification to Interested Parties

The final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: January 11, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2024–00915 Filed 1–17–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Marine and Coastal Area-Based Management Advisory Committee Meeting

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open public meeting.

SUMMARY: This notice sets forth the proposed schedule and agenda of a forthcoming meeting of the Marine and Coastal Area-based Management Advisory Committee (MCAM). The members will discuss and provide advice on issues outlined under **SUPPLEMENTARY INFORMATION** below.

DATES: The meeting will be February 1 and 2, 2024 from 9 a.m. to 5 p.m. eastern time.

ADDRESSES: The meeting will be held in the Spring Room at the Silver Spring Civic Building, 1 Veterans Place, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Lauren Wenzel, Director, NOAA's National Marine Protected Areas Center, *Lauren.Wenzel@noaa.gov,* (240) 533–0652; or Heather Sagar, Senior Policy Advisor, NOAA Fisheries, *Heather.Sagar@noaa.gov,* (301) 427–8019.

SUPPLEMENTARY INFORMATION: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app, notice is hereby given of a meeting of MCAM. The MCAM was established in 2022 to advise the Under Secretary of Commerce for Oceans and Atmosphere on science-based approaches to area-based protection, conservation, restoration, and management in coastal and marine areas, including the Great Lakes. The charter is located online at *https://oceanservice.noaa.gov/ocean/marine-coastal-fac/*.

I. Matters To Be Considered

The meeting time and agenda are subject to change. The meeting is convened to discuss the following topics: area-based management in the U.S.; the use of NOAA's science and knowledge to guide area-based management; NOAA's restoration programs and tools; how NOAA may best leverage area-based management tools, investments, and authorities; how NOAA may foster healthy coastal communities through partnerships, jobs, and support; the Biden-Harris Administration's America the Beautiful initiative, as well as various administrative and organizational matters. The times and the agenda topics described here are subject to change.

II. Public Comment Instructions

The meeting will be open to public participation (check agenda on *website* to confirm time). Written comments should be received by the Designated Federal Official by January 26, 2024, to provide sufficient time for Committee review. Written comments received after January 26, 2024, will be distributed to the Committee, but may not be reviewed prior to the meeting date. To submit written comments, please email Ellie Roberts, *ellie.roberts@noaa.gov.*

III. Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ellie Roberts at *ellie.roberts@noaa.gov,* at least 5 days prior to the meeting date.

IV. Exceptional Circumstances

Pursuant to *41 CFR 102–3.150,* the notice for this meeting is given fewer than 15 calendar days prior to the meeting due to exceptional circumstances. It is imperative that the inaugural meeting of the MCAM proceed as scheduled, as Committee members have made business plans to attend the meeting, there is no other meeting date in a reasonable time frame that would accommodate schedules without causing undue financial burden, and there is an immediate business and mission need for the FAC to convene to establish its workflows and anticipated products.

John Armor,

Designated Federal Official, Marine and Coastal Area-based Management Advisory Committee, Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2024–00912 Filed 1–17–24; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2023–HQ–0014]

Submission for OMB Review; Comment Request

AGENCY: U.S. Army Corps of Engineers (USACE), Department of the Army, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by February 20, 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: Lane Purvis, (571) 372–0460, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Managed Aquifer Recharge Planning and Guidance Study; OMB Control Number 0710–MARP.

Type of Request: New.

Number of Respondents: 1,600.

Responses per Respondent: 1.

Annual Responses: 1,600.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 400.

Needs and Uses: The survey will inform the development of a screening tool and other resources for USACE Districts to identify optimal sites for Managed Aquifer Recharge (MAR), which uses captured surface water to replenish groundwater. The Water Resources Development Act (WRDA) of 2016 provides authority for water supply conservation projects for drought resilience and water supply availability studies for water resources development (Sections 1116 and 1118, respectively). The WRDA of 2016 further requires USACE to consider natural and nature-based features, such as MAR, as potential solutions to address various challenges along with other measures. However, USACE has not developed a strategic framework for incorporating MAR into its operations. Furthermore, the Institute for Water Research concluded that Districts only engage with aquifer recharge in an ''ad hoc'' manner and recommended that USACE ''upgrade its internal capacity in MAR.'' (IWR 2020). The WRDA of 2022 instructs USACE to ''conduct a study at Federal expense to determine the feasibility of carrying out managed aquifer recharge projects to address drought, water resiliency, and aquifer depletion.'' Following these recommendations, the proposed work contributes to the development of guidance on MAR. This aligns with Civil Works strategies for flood risk management, restoration of aquatic ecosystems in floodplains, and developing environmentally sustainable technical services that enhance public safety and require collaborative partnerships.

The U.S. Army Corps of Engineers—Engineer Research and Development Center has partnered with Arizona State University (ASU) through the Cooperative Ecosystems Studies Units (CESU) Network to complete the ''Managed Aquifer Recharge Planning and Guidance Study'' and meet the above goals and directives. The design of an effective screening tool and other resources for implementing MAR requires information held by key stakeholders and decision-makers to understand the challenges and needs associated with implementing MAR in regions around the nation. Developing the screening tool and other resources will further require identifying practitioners and stakeholders interested in participating in pilot projects.

The ASU Principal Investigator and research team will deploy a survey to inform the development of a MAR screening tool by gathering information about the knowledge, perceptions, and attitudes of stakeholders and decision-makers about MAR. The survey will target a purposively developed sample of key water and floodplain stakeholders and decision-makers from across the continental United States.

Affected Public: Individuals or households; not-for-profit Institutions; State, local or Tribal government.

Frequency: One time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Matthew Oreska.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Lane Purvis.

Requests for copies of the information collection proposal should be sent to Mr. Purvis at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 10, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–00903 Filed 1–17–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2023–OS–0084]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by February 20, 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: Lane Purvis, (571) 372–0460, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Community Noise Mitigation Program Grant Proposals; OMB Control Number: 0704–CNMP.

Type of Request: New.

Number of Respondents: 50.

Responses per Respondent: 1.

Annual Responses: 50.

Average Burden per Response: 40 hours.

Annual Burden Hours: 2,000.

Needs and Uses: Section 8120 of the Consolidated Appropriations Act, 2022 (Pub. L. 117–103) provided $75 million to the Office of Local Defense Community Cooperation (OLDCC) of the DoD to ''make grants to communities impacted by military aviation noise for the purpose of installing noise mitigating insulation at covered facilities.'' These funds expire if they are not obligated prior to September 30, 2025.

To implement this congressional direction, OLDCC may award grants to local governments under the competitive Community Noise Mitigation Program (CNMP) for the purpose of reducing the impact of fixed

wing military aviation noise on ''covered'' facilities. Covered facilities include hospitals, daycare facilities, schools, facilities serving senior citizens, and private residences. Covered facilities that are considered potentially eligible are located either within one (1) mile of a military installation boundary or within an area experiencing day-night average sound level of 65 decibels or greater due to military fixed-wing aviation noise. Information collection from the public is necessary to facilitate the awarding of grants under CNMP. Respondents will be states, territories, counties, municipalities, other political subdivisions of a state, special purpose units of a state or local government, other instrumentalities of a state or local government, and tribal nations supporting a military installation. The collection instrument is a grant proposal package prepared in accordance with the CNMP Notice of Funding Opportunity Announcement posted on the *Grants.gov* website (*https://www.grants.gov/web/grants/view-opportunity.html?oppId=349858*). The Notice of Funding Opportunity Forecast details the elements that will be required for a proposal to be considered complete.

Affected Public: State, local, or Tribal government.

Frequency: Once.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Lane Purvis.

Requests for copies of the information collection proposal should be sent to Mr. Purvis at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 10, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–00898 Filed 1–17–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Research and Engineering, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Science Board (DSB) will take place.

DATES: Open to the public Thursday, January 18, 2024, from 3 p.m. to 3:45 p.m.

ADDRESSES: The DSB meeting will take place virtually.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth J. Kowalski, Designated Federal Officer (DFO): (703) 571–0081 (Voice), (703) 697–1860 (Facsimile), *elizabeth.j.kowalski.civ@mail.mil,* (Email). Mailing address is Defense Science Board, 3140 Defense Pentagon, Washington, DC 20301–3140. Website: *http://www.acq.osd.mil/dsb/.*

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of chapter 10 of title 5, United States Code (U.S.C.) commonly known as the ''Federal Advisory Committee Act'' or ''FACA''), 5 U.S.C. 552b (commonly known as the ''Government in the Sunshine Act''), and §§ 102–3.140 and 102–3.150 of title 41, Code of Federal Regulations (CFR).

Due to circumstances beyond the control of the Designated Federal Officer, the Defense Science Board was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its January 18, 2024 meeting. Accordingly, the Advisory Committee Management Officer for the DoD, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Purpose of the Meeting: The mission of the DSB is to provide independent advice and recommendations on matters relating to the DoD's scientific and technical enterprise. The objective of the meeting is to deliberate and vote on DSB Task Force findings and recommendations.

Agenda: The meeting will begin on Thursday, January 18, 2024 at 3 p.m. Ms. Betsy Kowalski, DFO and Dr. Eric Evans, Chair of the DSB will provide opening remarks. Next, DSB members will deliberate and vote on an unclassified, minority opinion addendum to the DSB Task Force on Test and Evaluation's findings and recommendations. Dr. Eric Evans will provide closing remarks. The meeting will adjourn at 3:45 p.m.

Meeting Accessibility: In accordance with 5 U.S.C. 1009(d) and 41 CFR 102–3.155, this meeting is open to the public. Any interested person may attend the virtual meeting and view the addendum by visiting *https://events.sa-meetings.com/tandevote/.*

Written Statements: In accordance with 5 U.S.C. 1009(a)(3) and 41 CFR 102–3.105(j) and 102–3.140, interested persons may submit a written statement for consideration by the DSB at any time regarding its mission or in response to the stated agenda of a planned meeting. Individuals submitting a written statement must submit their statement to the DSB DFO at the email address provided in the **FOR FURTHER INFORMATION CONTACT** section at any point; however, if a written statement is not received at least three calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the DSB until a later date.

Dated: January 11, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–00857 Filed 1–17–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2024–OS–0007]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Deputy Assistant Secretary of Defense (Force Education & Training) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by March 18, 2024.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Boris Kun, OASD Readiness (Force Education & Training), 4000 Defense Pentagon Room 1E537, Washington DC 20301–4000. Borris Kun, (619) 908–9581.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Climate Literacy Pulse Check; OMB Control Number: 0704–CLPC.

Needs and Uses: Climate change is one of many threat multipliers to National Security, which adds complexity to the decisions made by the DoD. It is a priority of the DoD to ensure that support to the department's missions takes climate considerations into account, especially how the adverse impacts of a changing climate can complicate and impede DoD missions. This pulse check is intended for DoD personnel who provide various aspects of support to the warfighter—whether in OSD, Defense Agencies, the Joint Staff, combatant commands, and the Services—to understand how climate change affects their work and what education, training, and resources they require to continue executing their mission in the context of a changing climate.

Affected Public: Individuals or households.

Annual Burden Hours: 1,417.

Number of Respondents: 8,500.

Responses per Respondent: 1.

Annual Responses: 8,500.

Average Burden per Response: 10 minutes.

Frequency: Annually.

Dated: January 10, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–00905 Filed 1–17–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2023–OS–0072]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by February 20, 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: Lane Purvis, (571) 372–0460, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Memorandum of Agreement Between Military Service and School District to Establish and Operate a Junior Reserve Officers' Training Corps Unit; DD Form 3202; OMB Control Number: 0704–JRPF.

Type of request: New.

Number of Respondents: 6,694.

Responses per Respondent: 1.

Annual Responses: 1.

Average Burden per Response: 10 minutes.

Annual Burden Hours: 1,116.

Needs and Uses: This information is needed to confirm that school districts understand and acknowledge their responsibilities in hosting a Junior Reserve Officers' Training Corps (JROTC) program and understand DoD's expectations for the performance of their duties and conduct in the execution thereof.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Lane Purvis.

Requests for copies of the information collection proposal should be sent to Mr. Purvis at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 10, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–00902 Filed 1–17–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Fulbright-Hays Group Projects Abroad Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications

for fiscal year (FY) 2024 for the Fulbright-Hays Group Projects Abroad (GPA) Program, Assistance Listing Numbers 84.021A and 84.021B. This notice relates to the approved information collection under OMB control number 1840–0792.

DATES:

Applications Available: January 18, 2024.

Deadline for Transmittal of Applications: March 18, 2024.

Pre-Application Webinar Information: The Department will hold a pre-application webinar for prospective applicants. Detailed information regarding this webinar will be provided on the GPA website at *www2.ed.gov/programs/iegpsgpa/index.html.* Additionally, for prospective applicants that have never received a grant from the Department and those that are interested in learning more about the process, please review the grant funding basics resource at *www2.ed.gov/documents/funding-101/funding-101-basics.pdf.*

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.* Please note that these Common Instructions supersede the version published on December 27, 2021.

FOR FURTHER INFORMATION CONTACT: Cory Neal, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 704–3437. Email: *GPA@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 purpose of the Fulbright-Hays GPA Program is to promote, improve, and develop the study of modern foreign languages and area studies in the United States. The program provides opportunities for faculty, teachers, and undergraduate and graduate students to conduct group projects overseas. Projects may include either (1) short-term seminars, curriculum development, or group research or study, or (2) long-term advanced intensive language programs.

This competition invites applicants to submit an application to request support for either a Fulbright-Hays GPA short-term project (GPA short-term project 84.021A) or a Fulbright-Hays GPA long-term project (GPA long-term project 84.021B). Applicants must clearly indicate on the SF 424, the Application for Federal Assistance cover sheet, whether they are applying for a GPA short-term project (84.021A) or a GPA long-term project (84.021B). Additional submission requirements are included in the application package.

There are three types of GPA short-term projects: (1) short-term seminar projects of 4 to 6 weeks in length designed by the applicant to help participants integrate international studies into the curriculum at an institution of higher education (IHE) or a school system when they return to the United States, by focusing on a particular aspect of area studies, such as the culture of an area or country of study (34 CFR 664.11); (2) curriculum development projects of 4 to 8 weeks in length that provide participants the opportunity to acquire resource materials for curriculum development in modern foreign language and area studies for use and dissemination in the United States (34 CFR 664.12); and (3) group research or study projects of 3 to 12 months in duration designed to give participants the opportunity to undertake research or study in a foreign country (34 CFR 664.13).

GPA long-term projects are advanced overseas intensive language programs designed by the applicant that may be carried out during a full year, an academic year, a semester, a trimester, a quarter, or a summer. GPA long-term projects provide participants an opportunity to use and strengthen their advanced language training while experiencing the culture in the foreign country. Participants should have successfully completed at least 2 academic years of training in the language to be studied to be eligible to participate in a GPA intensive advanced language training program. In addition, the language to be studied must be indigenous to the host country and maximum use must be made of local institutions and personnel (34 CFR 664.14).

Priorities: This notice contains one absolute priority and five competitive preference priorities. In accordance with 34 CFR 75.105(b)(2)(ii), the absolute priority is from the regulations for this program (34 CFR 664.32). Competitive Preference Priorities 1 and 2 are from the notice of final priorities and definitions published in the **Federal Register** on June 16, 2016 (81 FR 39196) (the 2016 NFP); Competitive Preference Priority 3 is from the regulations for this program (34 CFR 664.32); Competitive Preference Priority 4 is from the notice of final priorities published in the **Federal Register** on September 24, 2010 (75 FR 59050) (the 2010 NFP); and Competitive Preference Priority 5 is from the regulations for this program (34 CFR 664.32).

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: Specific Geographic Regions of the World.

A group project that focuses on one or more of the following geographic regions of the world: Africa, East Asia, South Asia, Southeast Asia and the Pacific, the Western Hemisphere (Central and South America, Mexico, and the Caribbean), Eastern and Central Europe and Eurasia, and the Near East.

Competitive Preference Priorities: For FY 2024, there are five competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award 3 additional points to an application that meets Competitive Preference Priority 1; 2 additional points to an application that meets Competitive Preference Priority 2; 2 additional points for short-term projects or 4 additional points for long-term projects to an application that meets Competitive Preference Priority 3; 2 additional points to an application that meets Competitive Preference Priority 4; and 2 additional points to an application that meets Competitive Preference Priority 5. Applicants for GPA short-term projects may address Competitive Preference Priorities 1, 3, 4, and 5. Applicants for GPA long-term projects may address Competitive Preference Priorities 2 and 3. In the application narrative, an applicant must indicate the priority or priorities being addressed, provide a substantive description of how the proposed activities support the applicant's selected priority or priorities, and provide documentation supporting such claims.

These priorities are: Competitive Preference Priority 1—Applications for GPA Short-Term Projects from Selected Institutions and Organizations (3 Points).

Applications for GPA short-term projects from the following types of institutions and organizations:

- Minority-Serving Institutions (MSIs) (as defined in this notice);

• Community colleges (as defined in this notice);
• New applicants (as defined in this notice); or
• State educational agencies (SEAs) (as defined in this notice).

Competitive Preference Priority 2—Applications for GPA Long-Term Projects from MSIs (2 Points).

Applications for GPA long-term advanced overseas intensive language training projects from MSIs.

Competitive Preference Priority 3—Substantive Training and Thematic Focus on Less Commonly Taught Languages (2 Points for short-term projects or 4 Points for long-term projects).

Applications that propose GPA short-term projects (2 points) or GPA long-term projects (4 points) that provide substantive training and thematic focus on any modern foreign language except French, German, or Spanish.

Competitive Preference Priority 4—Inclusion of K–12 Educators (2 Points).

Applications that propose short-term projects abroad that develop and improve foreign language studies, area studies, or both at elementary and secondary schools by including K–12 teachers or K–12 administrators as at least 50 percent of the project participants.

Competitive Preference Priority 5—Thematic Focus on Academic Fields (2 Points).

Applications that propose short-term projects abroad in modern foreign languages and area studies with an academic focus on any of the following academic fields: science, technology, engineering, mathematics, computer science, education (comparative or international), international development, political science, public health, or economics.

Definitions: The following definitions are from the 2016 NFP and apply to this competition.

Community college means an institution that meets the definition in section 312(f) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1058(f)); or an IHE (as defined in section 101 of the HEA (20 U.S.C. 1001)) that awards degrees and certificates, more than 50 percent of which are not bachelor's degrees (or an equivalent).

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 HEA.

New applicant means any applicant that has not received a discretionary grant from the Department of Education under the Fulbright-Hays Act prior to the deadline date for applications under this program.

State educational agency (SEA) means the State board of education or other agency or officer primarily responsible for the supervision of public elementary and secondary schools in a State. In the absence of this officer or agency, it is an officer or agency designated by the Governor or State law.

Program Authority: 22 U.S.C. 2452(b)(6).

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, 81, 82, and 86. (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 664. (e) The 2010 NFP. (f) The 2016 NFP.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $10,311,000 for awards for the Fulbright-Hays Overseas program for FY 2024, of which we intend to use an estimated $5,159,494 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 future fiscal years from the list of unfunded applications from this competition.

Estimated Available Funds: $5,159,494.

Estimated Range of Awards:

GPA short-term projects: $50,000–$180,000.

GPA long-term projects: $50,000–$300,000.

Estimated Average Size of Awards:

GPA short-term projects: $132,474.

GPA long-term projects: $250,663.

Maximum Award: We will not make a GPA short-term award exceeding $180,000 for a single project period of 18 months. We will not make a GPA long-term project award exceeding $300,000 for a single budget period of 24 months.

Estimated Number of Awards: 30.

GPA short-term projects: 20.

GPA long-term projects: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period:

GPA short-term projects: Up to 18 months.

GPA long-term projects: Up to 24 months.

III. Eligibility Information

1. *Eligible Applicants:* (1) IHEs, (2) SEAs, (3) private nonprofit educational organizations, and (4) consortia of these entities.

Eligible Participants: Citizens, nationals, or permanent residents of the United States, who are (1) faculty members who teach modern foreign languages or area studies at an IHE, (2) teachers in elementary or secondary schools, (3) experienced education administrators responsible for planning, conducting, or supervising programs in modern foreign language or area studies at the elementary, secondary, or postsecondary levels, or (4) graduate students, or juniors or seniors in an IHE, who plan teaching careers in modern foreign languages or area studies.

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. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* A grantee under this competition may not award subgrants to

entities to directly carry out project activities described in its application.

4. *Build America, Buy America Act:* This program is not subject to the Build America, Buy America Act (Pub. L. 117–58) domestic sourcing requirements.

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/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. Please note that these Common Instructions supersede the version published on December 27, 2021.

2. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

3. *Funding Restrictions:* We specify unallowable costs in 34 CFR 664.33. We reference additional 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 40 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, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch).
- 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 or budget section, including the narrative budget justification; the assurance and certifications; or the one-page abstract, the resumes, the biography, or letters of support. However, the recommended page limit does apply to all of the application narrative.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 664.31 and are as follows:

(a) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information to determine the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(b) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information to determine the quality of key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2)(i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training in fields related to the objectives of the project as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) The Secretary looks for information that shows that the methods of evaluation are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows that the facilities, equipment, and supplies that the applicant plans to use are adequate.

(f) *Specific program criteria.* (35 points)

(1) In addition to the general selection criteria contained in this section, the Secretary reviews each application for information that shows that the project meets the specific program criteria.

(2) The Secretary looks for information that shows—

(i) The potential impact of the project on the development of the study of modern foreign languages and area studies in American education. (15 points)

(ii) The project's relevance to the applicant's educational goals and its relationship to its program development in modern foreign languages and area studies. (10 points)

(iii) The extent to which direct experience abroad is necessary to achieve the project's objectives and the effectiveness with which relevant host country resources will be utilized. (10 points)

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).

For FY 2024, proposed GPA short-term projects will be reviewed by peer review panels with expertise in the world area that is the focus of the application. All proposed GPA long-term projects will be reviewed by one peer review panel. The International and Foreign Language Education office will prepare separate rank order slates for GPA short-term projects and GPA long-term projects recommended for new awards in FY 2024. Each slate will include the peer reviewers' scores for all applications evaluated, from the highest score to the lowest score. In cases where several applications have the same final numerical score in the rank order listing, and there are insufficient funds to support all the applications, the scores under selection criterion (f)(2)(iii) will be used as a tiebreaker. If the scores remain tied, then the scores under selection criterion (f)(2)(i) will be used to break the tie.

3. *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.

4. *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 (SAM). 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.

5. *In General:* In accordance with Uniform 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 or subgrantee 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 purposes of Department reporting under 34 CFR 75.110, the following measure will be used by the Department to evaluate the success of the GPA short-term program: the percentage of GPA short-term project participants who disseminated information about or materials from their group project abroad through more than one outreach activity within 6 months of returning to their home institution. The following measure will be used by the Department to evaluate the success of the GPA long-term program: the percentage of GPA long-term project participants who increased their reading, writing, and/or listening/speaking foreign language scores by one proficiency level. The efficiency of the GPA long-term program will be measured by considering the cost per GPA participant who increased his/her foreign language score in

reading, writing, and/or listening/speaking by at least one proficiency level.

The information provided by grantees in their performance reports submitted via the International Resource Information System (IRIS) will be the source of data for this measure. Reporting screens for institutions can be viewed at: *http://iris.ed.gov/iris/pdfs/gpa_director.pdf* and *http://iris.ed.gov/iris/pdfs/gpa_participant.pdf*.

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.

Nasser H. Paydar,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2024–00151 Filed 1–17–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0013]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; National Assessment of Educational Progress (NAEP) 2024 Amendment #4

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before February 20, 2024.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carrie Clarady, (202) 245–6347.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: National Assessment of Educational Progress (NAEP) 2024 Amendment #4.

OMB Control Number: 1850–0928.

Type of Review: Revision of a currently approved ICR.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 860,132.

Total Estimated Number of Annual Burden Hours: 474,255.

Abstract: The National Assessment of Educational Progress (NAEP), conducted by the National Center for Education Statistics (NCES), is a federally authorized survey of student achievement at grades 4, 8, and 12 in various subject areas, such as mathematics, reading, writing, science, U.S. history, civics, geography, economics, technology and engineering literacy (TEL), and the arts. The National Assessment of Educational Progress Authorization Act (Pub. L. 107–279, title III, section 303) requires the assessment to collect data on specified student groups and characteristics, including information organized by race/ethnicity, gender, socio-economic status, disability, and limited English proficiency. It requires fair and accurate presentation of achievement data and permits the collection of background, noncognitive, or descriptive information that is related to academic achievement and aids in fair reporting of results. The intent of the law is to provide representative sample data on student achievement for the nation, the states, and subpopulations of students and to monitor progress over time. NAEP consists of two assessment programs: the NAEP long-term trend (LTT) assessment and the main NAEP assessment. The LTT assessments are given at the national level only and are administered to students at ages 9, 13, and 17 in a manner that is very different from that used for the main NAEP assessments. LTT reports mathematics and reading results that present trend data since the 1970s. In addition to the operational assessments, NAEP uses two other kinds of assessment activities: pilot assessments and special studies. Pilot assessments test items and procedures for future administrations of NAEP, while special studies (including the National Indian Education Study (NIES), the Middle School Transcript Study (MSTS), and the High School Transcript Study (HSTS)) are opportunities for NAEP to investigate particular aspects of the assessment without impacting the reporting of the NAEP results.

The initial request for clearance of NAEP 2024 received OMB approval in April 2023 (OMB #1850–0928 v.28). Amendment #1 to the NAEP 2024 clearance package received OMB approval in June 2023 (OMB #1850–0928 v.29), Amendment #2 was approved in August 2023, and Amendment #3 was approved in November 2023. Since November 2023, NCES made the decision to make adjustments to the school-based equipment survey and increased the estimated burden from 5 minutes to 10

minutes. A technology roles survey was also added that will be completed by the school or district technology coordinator and will require 10 minutes of burden time. These changes required increases to the total estimated burden between Amendment #3 (470,250 hours) and Amendment #4 (474,255 hours).

This revision provides minor updates Part A to detail these changes in the the burden table, as well as other small changes to bring Part A up to date. It also adds a revised draft of the school-based equipment survey, adds a brief survey for the school or district technology coordinator, and adds Spanish versions of both of those surveys. There is no change in the projected costs to the federal government.

Dated: January 12, 2024.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2024–00884 Filed 1–17–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–835–000]

Black Walnut Energy Storage, 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 Black Walnut Energy Storage, 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 31, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

The Commission'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: January 11, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00882 Filed 1–17–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–832–000]

RWE Trading Americas Inc.; 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 RWE Trading Americas Inc.'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 31, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal**

Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

The Commission'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: January 11, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00883 Filed 1–17–24; 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: RP24–310–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: § 4(d) Rate Filing: Revised PS/GHG Surcharges for Powerserve to be effective 2/1/2024.

Filed Date: 1/10/24.

Accession Number: 20240110–5129.

Comment Date: 5 p.m. ET 1/22/24.

Docket Numbers: RP24–311–000.

Applicants: LA Storage, LLC.

Description: § 4(d) Rate Filing: LA Storage Implementation of Approved Tariff Language to be effective 2/11/2024.

Filed Date: 1/10/24.

Accession Number: 20240110–5168.

Comment Date: 5 p.m. ET 1/22/24.

Docket Numbers: RP24–312–000.

Applicants: Guardian Pipeline, L.L.C.

Description: § 4(d) Rate Filing: Negotied Rate PAL to be effective 1/11/2024.

Filed Date: 1/11/24.

Accession Number: 20240111–5027.

Comment Date: 5 p.m. ET 1/23/24.

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 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: January 11, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00881 Filed 1–17–24; 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: EC24–37–000.

Applicants: Deriva Energy Parent, LLC on behalf of its Public Utility Subsidiaries.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Deriva Energy Parent, LLC.

Filed Date: 1/10/24.

Accession Number: 20240110–5201.

Comment Date: 5 p.m. ET 1/31/24.

Docket Numbers: EC24–38–000.

Applicants: Nestlewood Solar I LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Nestlewood Solar I LLC.

Filed Date: 1/10/24.

Accession Number: 20240110–5202.

Comment Date: 5 p.m. ET 1/31/24.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG24–75–000.

Applicants: RB Inyokern Solar WDAT 1203 LLC.

Description: RB Inyokern Solar WDAT 1203 LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 1/11/24.

Accession Number: 20240111–5037.

Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: EG24–76–000.

Applicants: RB Inyokern Solar WDAT 1281 LLC.

Description: RB Inyokern Solar WDAT 1281 LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 1/11/24.

Accession Number: 20240111–5038

Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: EG24–77–000.

Applicants: Kupono Solar, LLC.

Description: Kupono Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 1/11/24.

Accession Number: 20240111–5085.

Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: EG24–78–000.

Applicants: Sunlight Road Solar, L.L.C.

Description: Sunlight Road Solar, L.L.C. submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 1/11/24.
Accession Number: 20240111–5156.
Comment Date: 5 p.m. ET 2/1/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24–110–001.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.17(b): Satilla Source Energy LGIA Deficiency Response to be effective 10/1/2023.
Filed Date: 1/11/24.
Accession Number: 20240111–5104.
Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–705–001.
Applicants: Bazinga, LLC.
Description: Tariff Amendment: Amendment to 1 to be effective 12/20/2023.
Filed Date: 1/11/24.
Accession Number: 20240111–5076.
Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–847–000.
Applicants: Sunlight Road Solar, L.L.C.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authority to be effective 3/12/2024.
Filed Date: 1/11/24.
Accession Number: 20240111–5036.
Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–848–000.
Applicants: Sunlight Road Solar, L.L.C.
Description: Initial rate filing: Filing of Shared Facilities Agreement and Request for Waivers to be effective 3/12/2024.
Filed Date: 1/11/24.
Accession Number: 20240111–5040.
Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–849–000.
Applicants: Iris Solar, LLC.
Description: Initial rate filing: Filing of Shared Facilities Agreement and Request for Waivers to be effective 3/12/2024.
Filed Date: 1/11/24.
Accession Number: 20240111–5041.
Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–850–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: RS 325 1st Amendment to Amended and Restated LGIA to be effective 12/22/2023.
Filed Date: 1/11/24.
Accession Number: 20240111–5049.
Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–851–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: Amendments to MBR Tariff to Facilitate Western Resource Adequacy Program to be effective 3/12/2024.
Filed Date: 1/11/24.
Accession Number: 20240111–5078.
Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–852–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Cancellation of WMPA, SA No. 6318; Queue No. AG2–395 to be effective 3/12/2024.
Filed Date: 1/11/24.
Accession Number: 20240111–5082.
Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–853–000.
Applicants: Duke Energy Ohio, Inc., Duke Energy Kentucky, Inc., Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Duke Energy Ohio, Inc. submits tariff filing per 35.13(a)(2)(iii: DEOK submits revisions to OATT Att. H–22A Depreciation Rates to be effective 10/15/2023.
Filed Date: 1/11/24.
Accession Number: 20240111–5086.
Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–854–000.
Applicants: Midcontinent Independent System Operator, Inc., American Transmission Company LLC.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2024–01–11_SA 4224 ATC–WPSC PCA (Winnebago) to be effective 3/12/2024.
Filed Date: 1/11/24.
Accession Number: 20240111–5095.
Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–855–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original NSA, SA No. 7154; Queue No. AE2–054 to be effective 3/12/2024.
Filed Date: 1/11/24.
Accession Number: 20240111–5099.
Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–856–000.
Applicants: Nevada Power Company.
Description: § 205(d) Rate Filing: NPC MBR Amendments to Facilitate WRAP to be effective 3/12/2024.
Filed Date: 1/11/24.
Accession Number: 20240111–5101.
Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–857–000.
Applicants: Sierra Pacific Power Company.
Description: § 205(d) Rate Filing: SPPC MBR Amendment to Facilitate WRAP to be effective 1/12/2024.
Filed Date: 1/11/24.
Accession Number: 20240111–5103.
Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–858–000.
Applicants: PacifiCorp.
Description: Tariff Amendment: Termination of UAMPS Const Agmt St. George POTT to be effective 3/13/2024.
Filed Date: 1/11/24.
Accession Number: 20240111–5105.
Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–859–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA, SA No. 5561; Queue No. AC1–043/AD1–115 (amend) to be effective 3/12/2024.
Filed Date: 1/11/24.
Accession Number: 20240111–5117.
Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–860–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Cancellation of WMPA, Service Agreement No. 6322; Queue No. AG2–394 to be effective 3/12/2024.
Filed Date: 1/11/24.
Accession Number: 20240111–5135.
Comment Date: 5 p.m. ET 2/1/24.

Docket Numbers: ER24–861–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA, SA No. 4827; Queue No. AC1–010 to be effective 3/12/2024.
Filed Date: 1/11/24.
Accession Number: 20240111–5152.
Comment Date: 5 p.m. ET 2/1/24.

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: January 11, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00880 Filed 1–17–24; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2024–0012; FRL–11664–01–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with the Clean Air Act, as amended (CAA or the Act), notice is given of a proposed consent decree to address lawsuits filed by the South Coast Air Quality Management District, East Yard Communities for Environmental Justice, People's Collective for Environmental Justice, and Sierra Club (collectively, ''Plaintiffs'') in the United States District Court for the Central District of California: *South Coast Air Quality Management District, East Yard Communities for Environmental Justice, People's Collective for Environmental Justice, and Sierra Club* v. *U.S. EPA and Michael Regan, in his official capacity,* No. 2:23–cv–02646–JLS–PD (C.D. Cal.) and consolidated case (No. 2:23–cv–03545–JLS–PD). Plaintiffs filed complaints alleging that the Environmental Protection Agency (EPA) failed to perform certain non-discretionary duties in accordance with the Act to take final action on a state implementation plan (SIP) revision submitted by the State of California. EPA is providing notice of this proposed consent decree, which would resolve all claims in the case by establishing a deadline for EPA to take final action as specified in the decree.

DATES: Written comments on the proposed consent decree must be received by February 20, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2024–0012, online at *https://www.regulations.gov* (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Additional Information about Commenting on the Proposed Consent Decree'' heading under the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Abi Vijayan, Air and Radiation Law Office, Office of General Counsel, U.S. Environmental Protection Agency; telephone (202) 564–3178; email address *Vijayan.Abi@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Consent Decree

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2024–0012) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the OEI Docket is (202) 566–1752.

The electronic version of the public docket for this action contains a copy of the proposed consent decree and is available through *https://www.regulations.gov.* You may use *https://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.''

II. Additional Information About the Proposed Consent Decree

The proposed consent decree would establish a deadline for EPA to take action pursuant to CAA section 110(k) on a SIP revision submitted by the State of California on December 31, 2019. This SIP revision was submitted to address the contingency measure requirements of CAA section 182(e)(5) for the 1997 ozone national ambient air quality standards in the Los Angeles-South Coast Air Basin, California, ozone nonattainment area. The proposed consent decree would require EPA to sign a notice of final rulemaking by July 1, 2024, and, within 15 business days of signature, to send the required signed notice of final rulemaking to the Office of the Federal Register for review and publication.

In accordance with section 113(g) of the CAA, for a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed consent decree. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

III. Additional Information About Commenting on the Proposed Consent Decree

Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2024–0012, via *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from this docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, EPA recommends that you include your

name, mailing address, and an email address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *https://www.regulations.gov* website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

Gautam Srinivasan,

Associate General Counsel.

[FR Doc. 2024–00827 Filed 1–17–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2023–0061; FRL–10581–12–OCSPP]

Certain New Chemicals; Receipt and Status Information for December 2023

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to make information publicly available and to publish information in the **Federal Register** pertaining to submissions under TSCA section 5, including notice of receipt of a Premanufacture notice (PMN), Significant New Use Notice (SNUN) or Microbial Commercial Activity Notice (MCAN), including an amended notice or test information; an exemption application (Biotech exemption); an application for a test marketing exemption (TME), both pending and/or concluded; a notice of commencement (NOC) of manufacture (including import) for new chemical substances; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review. This document covers the period from 12/01/2023 to 12/31/2023.

DATES: Comments identified by the specific case number provided in this document must be received on or before February 20, 2024.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2023–0061, through the *Federal eRulemaking Portal* at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Jim Rahai, Project Management and Operations Division (MC 7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. What action is the Agency taking?

This document provides the receipt and status reports for the period from 12/01/2023 to 12/31/2023. The Agency is providing notice of receipt of PMNs, SNUNs, and MCANs (including amended notices and test information); an exemption application under 40 CFR part 725 (Biotech exemption); TMEs, both pending and/or concluded; NOCs to manufacture a new chemical substance; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review.

EPA is also providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

B. What is the Agency's authority for taking this action?

Under the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.,* a chemical substance may be either an ''existing'' chemical substance or a ''new'' chemical substance. Any chemical substance that is not on EPA's TSCA Inventory of Chemical Substances (TSCA Inventory) is classified as a ''new chemical substance,'' while a chemical substance that is listed on the TSCA Inventory is classified as an ''existing chemical substance.'' (See TSCA section 3(11).) For more information about the TSCA Inventory please go to: *https://www.epa.gov/tsca-inventory.*

Any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose, or to manufacture or process a chemical substance in a non-exempt manner for a use that EPA has determined is a significant new use, is required by TSCA section 5 to provide EPA with a PMN, MCAN, or SNUN, as appropriate, before initiating the activity. EPA will review the notice, make a risk determination on the chemical substance or significant new use, and take appropriate action as described in TSCA section 5(a)(3).

TSCA section 5(h)(1) authorizes EPA to allow persons, upon application and under appropriate restrictions, to manufacture or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a)(2), for ''test marketing'' purposes, upon a showing that the manufacture, processing, distribution in commerce, use, and disposal of the chemical will not present an unreasonable risk of injury to health or the environment. This is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *https://www.epa.gov/chemicals-under-tsca.*

Under TSCA sections 5 and 8 and EPA regulations, EPA is required to publish in the **Federal Register** certain information, including notice of receipt of a PMN/SNUN/MCAN (including amended notices and test information);

an exemption application under 40 CFR part 725 (biotech exemption); an application for a TME, both pending and concluded; NOCs to manufacture a new chemical substance; and a periodic status report on the new chemical substances that are currently under EPA review or have recently concluded review.

C. Does this action apply to me?

This action provides information that is directed to the public in general.

D. Does this action have any incremental economic impacts or paperwork burdens?

No.

E. What should I consider as I prepare my comments for EPA?

1. *Submitting confidential business information (CBI).* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. Status Reports

In the past, EPA has published individual notices reflecting the status of TSCA section 5 filings received, pending or concluded. In 1995, the Agency modified its approach and streamlined the information published in the **Federal Register** after providing notice of such changes to the public and an opportunity to comment (see the **Federal Register** of May 12, 1995 (60 FR 25798) (FRL–4942–7)). Since the passage of the Lautenberg amendments to TSCA in 2016, public interest in information on the status of section 5 cases under EPA review and, in particular, the final determination of such cases, has increased. In an effort to be responsive to the regulated community, the users of this information, and the general public, to comply with the requirements of TSCA, to conserve EPA resources and to streamline the process and make it more timely, EPA is providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

III. Receipt Reports

For the PMN/SNUN/MCANs that have passed an initial screening by EPA during this period, Table I provides the following information (to the extent that such information is not subject to a CBI claim) on the notices screened by EPA during this period: The EPA case number assigned to the notice that indicates whether the submission is an initial submission, or an amendment, a notation of which version was received, the date the notice was received by EPA, the submitting manufacturer (*i.e.,* domestic producer or importer), the potential uses identified by the manufacturer in the notice, and the chemical substance identity.

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that this information in the table is generic information because the specific information provided by the submitter was claimed as CBI. Submissions which are initial submissions will not have a letter following the case number. Submissions which are amendments to previous submissions will have a case number followed by the letter ''A'' (*e.g.,* P–18–1234A). The version column designates submissions in sequence as ''1'', ''2'', ''3'', etc. Note that in some cases, an initial submission is not numbered as version 1; this is because earlier version(s) were rejected as incomplete or invalid submissions. Note also that future versions of the following tables may adjust slightly as the Agency works to automate population of the data in the tables.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 12/01/2023 TO 12/31/2023

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
J–24–0001	1	12/13/2023	CBI	(G) Chemical production	(G) Chromosomally-modified Saccharomyces cerevisiae.
J–24–0002	1	12/13/2023	CBI	(G) Chemical production	(G) Chromosomally-modified Saccharomyces cerevisiae.
P–16–0404A	7	12/01/2023	CBI	(G) A colorant for dyeing various synthetic fibers and fabrics. Open, non-dispersive use.	(G) Alkyl ester, 2-({4-[2-(trisubstituted phenyl)azo]-5-acetamido-2-substitutedphenyl} (substituted alkoxy)amino).
P–20–0092A	9	12/01/2023	CBI	(G) Coloration of fabric	(G) Napthalenesulfonic acid, amino-hydroxy-bis [sulfo-[(sulfooxy)ethyl]sulfonyl]phenyl]diazinyl]-,potassium sodium salt.
P–22–0002A	5	12/06/2023	Materion Advanced Chemicals.	(G) This product is used for the manufacturing of electronic devices.	(G) Metal Oxide Chloride.
P–22–0011A	6	12/20/2023	CBI	(G) Functionalized rubber in resin side of two component epoxy modified acrylic adhesive.	(G) Alkadiene, homopolymer, hydroxy-terminated, bis[N-[2-[(1-oxo-2-propen-1-yl)oxylethyl]carbamates].
P–22–0113A	6	12/12/2023	Solugen, Inc.	(G) Chemical intermediate, Additive.	(S) D-Glucaric acid.
P–23–0148	1	06/22/2023	CBI	(G) Inert component in Pesticides	(G) Amylopectin, 2-hydroxypropyl ether, modified.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 12/01/2023 TO 12/31/2023—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–23–0172A	3	12/18/2023	CBI	(G) Photolithography	(G) Sulfonium, tricarbocyclic-, alkylcarbomonocyclic-polyfluoro-heteropolycyclic-alkyl sulfonate (1:1), polymer with alkylaryl and carbomonocyclic alkyl alkanoate, di-Me 2,2′-(1,2-diazenediyl)bis[2-alkylalkanoate]-initiated.
P–24–0006	2	12/19/2023	CBI	(S) Oilfield Production Scale Inhibitor.	(G) Polymeric salt of Propenoic acid, Acrylamido-methylpropane sulfonic acid sodium salt, Hydroxyethyl methacrylate, Methyl methacrylate, Propenoic acid, methyl-, phosphinicobis(oxy-ethanediyl) ester, Sodium Metabisulfite.
P–24–0016	3	11/29/2023	Huntsman International, LLC.	(S) Catalyst in 2-part polyurethane spray foam insulation application.	(S) 2-Propanamine, N ,N′-(oxydi-2,1-ethanediyl)bis[N-methyl-.
P–24–0034	1	11/27/2023	Barentz North America, LLC.	(S) Elcosol DM has widespread use as a non-reactive processing aid (no inclusion into or onto article), the substance is not included in the final article as it evaporates. There is no intended consumer use for this application. (S) In cleaning products, Elcosol DM has widespread use as a non-reactive processing aid (no inclusion into or onto article). The substance is not included in the final article it is recycled or recuperated for treatment/appropriate disposal; waters are treated through a biological sewage treatment process (STP). In consumer products the NCS is used as a solvent or cosolvent. (S) For use in laboratories, Elcosol DM is not included in the final article: it is recycled or recuperated for treatment/appropriate disposal, waters are treated through a biological sewage treatment process (STP). There is no consumer use of this NCS for this application. (S) Elcosol DM is used in consumer cleaning products as a solvent or cosolvent. The use of the substance by consumers is expected to fall under do-it yourself (DIY) cleaning products such as glue removers, paint strippers, hard stain removers.	(S) 2,5,7,10-Tetraoxaundecane, 4,8-dimethyl-.
P–24–0036	3	12/18/2023	CBI	(G) Intermediate	(G) Poly(oxy-alkylene), alpha-alkenyl-omega-hydroxy-,.
P–24–0040	2	12/15/2023	Sudoc, LLC.	(G) Additive for commercial applications. Additive for non-spray commercial and consumer applications.	(G) Metal, aqua[(alkylnitrocarbocyclepolyheteropoly heterocyclopolyalkane-ketone)-polyoxidato]-, metal.
P–24–0042	1	12/15/2023	CBI	(G) An ingredient used in the manufacture of photoresist.	(G) Sulfonium, bis(dihalocarbomonocycle)carbomonocycle-, salt with (dihalo-sulfoalkyl) (halo-substituted carbomonocycle) carbopolycycle.
P–24–0043	1	12/19/2023	Clariant Corporation.	(S) Catalyst for use in petrochemical operations.	(S) Iron potassium oxide (FeKO2).
P–24–0044	1	12/21/2023	CBI	(G) Component in polyurethane and other thermoset resins.	(G) Oxirane, 2-methyl-, polymer with oxirane, ether with N-[4-[[4-[bis(2-hydroxyethyl)amino]phenyl](2-substitutedphenyl)methylene]-2,5-cyclohexadien-1-ylidene]-2-hydroxy-N-(2-hydroxyethyl)ethanaminium inner salt (4:1).
P–24–0045	1	12/21/2023	CBI	(G) Coating and Adhesives	(G) Cashew, nutshell liq., polymer with epichlorohydrin and glycol.
SN–22–0007A	6	12/29/2023	Braven Environmental, LLC.	(G) Product of Pyrolysis manufacturing.	(S) Waste plastics, pyrolyzed, C5–12 fraction.
SN–22–0008A	6	12/29/2023	Braven Environmental, LLC.	(G) Product of Pyrolysis Manufacturing.	(S) Waste plastics, pyrolyzed, C20–55 fraction.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 12/01/2023 TO 12/31/2023—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
SN–22–0009A	6	12/29/2023	Braven Environmental, LLC.	(G) Product of Pyrolysis Manufacturing.	(S) Waste plastics, pyrolyzed, C9–20 fraction.

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs that have passed an initial screening by EPA during this period: The EPA case number assigned to the NOC including whether the submission was an initial or amended submission, the date the NOC was received by EPA, the date of commencement provided by the submitter in the NOC, a notation of the type of amendment (*e.g.,* amendment to generic name, specific name, technical contact information, etc.) and chemical substance identity.

TABLE II—NOCS APPROVED * FROM 12/01/2023 TO 12/31/2023

Case No.	Received date	Commencement date	If amendment, type of amendment	Chemical substance
P–21–0168	12/28/2023	12/04/2023	N	(G) Metal, [heteropolycyclic]-, [[[(hydroxyalkyl)amino]sulfonyl]alkyl]sulfonyl(sulfoalkyl) sulfonyl derivs., ammonium sodium salts,.
P–22–0054	12/19/2023	10/17/2023	N	(G) Graphene nanoplatelets.
P–22–0127	12/14/2023	12/01/2023	N	(S) Urea, n,n′-bis[3-[[(4-methylphenyl)sulfonyl]oxy]phenyl]-.

In Table III of this unit, EPA provides the following information (to the extent such information is not subject to a CBI claim) on the test information that has been received during this time period: The EPA case number assigned to the test information; the date the test information was received by EPA, the type of test information submitted, and chemical substance identity.

TABLE III—TEST INFORMATION RECEIVED FROM 12/01/2023 TO 12/31/2023

Case No.	Received date	Type of test information	Chemical substance
P–17–0339	12/19/2023	Simulation Test—Aerobic Sewage Treatment—A: Activated Sludge Units (OECD Test Guideline 303A).	(S) Poly(oxy-1,2-ethanedlyl)-alpha-(2-butyl (1-octyl ^{14}C))-omega-hydroxy alcohol.
P–19–0166	12/06/2023	Partition Coefficient (n-octanol/water), Shake Flask Method (OECD Test Guideline 107); Partition Coefficient (n-octanol/water), Estimation by Liquid Chromatography (OECD Test Guideline 117).	(G) Triarylsulfonium alkylestersulfonate,.
P–23–0165	12/15/2023	Combined Repeated Dose Toxicity with the Reproduction/Development Toxicity Screening Test (OECD Test Guideline 422).	(G) 2,3,3,3-tetrafluoro-2-[(polyfluoroalken-1-yl)oxy]-propanoic acid homopolymer.
P–10–0470	12/19/2023	Analytical Information	(G) Fluoro modified, polyether modified and alkyl modified polymethylsiloxane.
P–10–0471	12/19/2023	Analytical Information	(G) Fluoro modified, polyether modified polyacrylate.
P–10–0472	12/19/2023	Analytical Information	(G) Fluoro modified, polyether modified polyacrylate.
P–20–0042, P–18–0016	12/4/2023	Direct Photolysis Study Report	(G) Sulfonium, trisaryl-, 7,7-dialkyl-2-heteropolycyclic-1-alkanesulfonate (1:1); (G) Aromatic sulfonium tricyclo fluoroalkyl sulfonic acid salt.
P–18–0304, P–18–0316, P–18–0338, P–19–0076, P–19–0115, P–19–0142, P–20–0120, P–21–0027.	12/12/2023	PAG 2 Direct Photolysis Study Report	(G) Sulfonium, bis(dihalocarbomonocycle) carbomonocycle, salt with substituted heteropolycycle dihalo sulfoalkanoate (1:1). (G) Heteropolycycle, alkylaromatic-, salt with dihalo-substituted alkyl carbopolycycle carboxylate. (G) Sulfonium, triaryl-, salt with polyhalo-4-sulfoalkyl polycarbocyclic alkane-1-carboxylate (1:1). (G) Sulfonium, bis(dihalocarbomonocycle) carbomonocycle, salt with dihalo substituted alkyl carbopolycyclic carboxylate (1:1). (G) Sulfonium, bis(dihalocarbomonocycle) carbomonocycle, substituted carbomonocyclic ester. (G) Heteropolycycle, aromatic-, salt with dihalo-substituted alkyl carbopolycycle carboxylate (1:1). (G) Carbomonocyclic sulfonium, salt with trihalo-sulfoalkyl hydroxycarbopolycyclic carboxylate. (G) Heteropolycyclic, trihaloalkyl carbomonocycle-, hydroxy carbomonocyclic salt.

If you are interested in information that is not included in these tables, you may contact EPA's technical information contact or general information contact as described under **FOR FURTHER INFORMATION CONTACT** to access additional non-CBI information that may be available.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: January 11, 2024.

Pamela Myrick,

Director, Project Management and Operations Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2024–00891 Filed 1–17–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0180; FR ID 196737]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before March 18, 2024. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0180.

Title: Section 73.1610, Equipment Tests.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents and Responses: 500 respondents; 500 responses.

Estimated Hours per Response: 0.5 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 250 hours.

Total Annual Cost: No cost.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 154(i) of the Communications Act of 1934, as amended.

Needs and Uses: The information collection requirements contained in 47 CFR 73.1610 require the permittee of a new broadcast station to notify the FCC of its plans to conduct equipment tests for the purpose of making adjustments and measurements as may be necessary to assure compliance with the terms of the construction permit and applicable engineering standards. FCC staff use the data to assure compliance with the terms of the construction permit and applicable engineering standards.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–00885 Filed 1–17–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

[NOTICE 2024–02]

Filing Dates for the California Special Election in the 20th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: California has scheduled a Special General Election on March 19, 2024, to fill the U.S. House of Representatives seat in the 20th Congressional District vacated by Representative Kevin McCarthy. Under California law, a majority winner in a special election is declared elected. Should no candidate achieve a majority vote, a Special Runoff Election will be held on May 21, 2024, between the top two vote-getters. Political committees participating in the California special elections are required to file pre- and post-election reports. Filing deadlines for these reports are affected by whether one or two elections are held.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 1050 First Street NE, Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the California Special General and Special Runoff Elections shall file a 12-day Pre-General Report on March 7, 2024; a 12-day Pre-Runoff Report on May 9, 2024; and a 30-day Post-Runoff Report on June 20, 2024. (See charts below for the closing date for each report.)

If both elections are held, all principal campaign committees of candidates who participate only in the California Special General Election shall file a 12-day Pre-General Report on March 7, 2024. (See charts below for the closing date for each report.)

If only one election is held, all principal campaign committees of candidates in the Special General Election shall file a 12-day Pre-General Report on March 7, 2024; and a 30-day Post-General Report on April 18, 2024. (See charts below for the closing date for each report.)

Note that these reports are in addition to the campaign committee's regular quarterly filings. (See charts below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees not filing monthly are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the California Special General and/or Special Runoff Election by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the California Special General or Special Runoff Elections will continue to file according to the monthly reporting schedule.

Additional disclosure information for the California special elections may be found on the FEC website at *https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of the lobbyist bundling threshold during the special election reporting periods. (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b), 110.17(e)(2), (f).

The lobbyist bundling disclosure threshold for calendar year 2023 was $21,800. This threshold amount may change in 2024 based upon the annual cost of living adjustment (COLA). As soon as the adjusted threshold amount is available, the Commission will publish it in the **Federal Register** and post it on its website. 11 CFR 104.22(g) and 110.17(e)(2).

CALENDAR OF REPORTING DATES FOR CALIFORNIA SPECIAL ELECTIONS

Report	Close of books [1]	Reg./cert. & overnight mailing deadline	Filing deadline
If *Only* the Special General (3/19/2024) Is Held, Political Committees Involved Must File			
Pre-General	02/28/2024	03/04/2024	03/07/2024
April Quarterly		—WAIVED—	
Post-General	04/08/2024	04/18/2024	04/18/2024
July Quarterly	06/30/2024	07/15/2024	07/15/2024
If Two Elections Are Held, Political Committees Involved in *Only* the Special General (03/19/2024) Must File			
Pre-General	02/28/2024	03/04/2024	03/07/2024
April Quarterly	03/31/2024	04/15/2024	04/15/2024
Political Committees Involved in Both the Special General (03/19/2024) and the Special Runoff (05/21/2024) Must File			
Pre-General	02/28/2024	03/04/2024	03/07/2024
April Quarterly	03/31/2024	04/15/2024	04/15/2024
Pre-Runoff	05/01/2024	05/06/2024	05/09/2024
Post-Runoff	06/10/2024	06/20/2024	06/20/2024
July Quarterly	06/30/2024	07/15/2024	07/15/2024
Political Committees Involved in *Only* the Special Runoff (05/21/2024) Must File			
Pre-Runoff	05/01/2024	05/06/2024	05/09/2024
Post-Runoff	06/10/2024	06/20/2024	06/20/2024
July Quarterly	06/30/2024	07/15/2024	07/15/2024

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

Dated: January 12, 2024.

On behalf of the Commission.

Sean J. Cooksey,

Chairman, Federal Election Commission.

[FR Doc. 2024–00908 Filed 1–17–24; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Tuesday, January 23, 2024 at 1:00 p.m. and its continuation at the conclusion of the open meeting on January 25, 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.

Matters relating to internal personnel decisions, or internal rules and practices.

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. 2024–01032 Filed 1–16–24; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, 800 North Capitol Street, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**, and the Commission requests that comments be submitted within 7 days on agreements that request expedited review. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov*.

Agreement No.: 201415.

Agreement Name: Turkon/Hapag-Lloyd/Arkas Vessel Sharing Agreement.

Parties: Arkas Konteyner Tasimacilik A.S.; Hapag-Lloyd AG; and Turkon Konteyner Tasimacilik ve Denizcilik A.S. d/b/a Turkon Container Transportation & Shipping Inc.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The Agreement would authorize the parties to operate a service by sharing vessels in the trade between the U.S. East Coast on the one hand and ports in Spain, Turkey, Egypt, and Morocco on the other hand.

Proposed Effective Date: 2/25/2024.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/85542.

Dated: January 12, 2024.

Carl Savoy,

Federal Register Alternate Liaison Officer.

[FR Doc. 2024–00892 Filed 1–17–24; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on whether the proposed transaction complies with the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than February 20, 2024.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414], Comments can also be sent electronically to *Comments.applications@chi.frb.org:*

1. *Forward Mutual Holding Company and Forward Financial, Inc., both of Marshfield, Wisconsin;* to acquire Lake City Federal Bank, Lake City, Minnesota.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–00918 Filed 1–17–24; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors (Board). This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than February 2, 2024.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414. Comments can also be sent electronically to *Comments.applications@chi.frb.org:*

1. *Beth E. Brotherton, Taylorville, Illinois; and Thomas Matthew Beavers, Mount Zion, Illinois;* to acquire additional voting shares of First Bancorp of Taylorville, Inc. (Bancorp), Taylorville, Illinois, and thereby indirectly acquire additional voting shares of First National Bank in Taylorville, Taylorville, Illinois, and First Security Bank, Mackinaw, Illinois. In addition, together with the Revocable Trust Agreement No. 060134, James O. Beavers, trustee, both of Taylorville, Illinois, to form the Beavers Family Control Group, as a group acting in concert to control voting shares of Bancorp.

B. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001. Comments can also be sent electronically to *KCApplicationComments@kc.frb.org:*

1. *The Stitt Dynasty Trust dated December 31, 2021, Tulsa, Oklahoma, James Redman, as trustee;* to join the Stitt Family Group, a group acting in concert, to acquire voting shares of Gateway First Bancorp, Inc., and and thereby indirectly acquire voting shares of Gateway First Bank, both of Jenks, Oklahoma. James Redman, individually, was previously permitted to control voting shares of Gateway First Bancorp, Inc., and as a member of the Stitt Family Group.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–00917 Filed 1–17–24; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Savings and Loan Holding Company

The notificants listed below have applied under the Change in Bank Control Act (''Act'') (12 U.S.C. 1817(j)) and of the Board's Regulation LL (12 CFR 238.31) to acquire shares of a savings and loan holding company. The factors that are considered in acting on

the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than February 2, 2024.

A. Federal Reserve Bank of Minneapolis (Stephanie Weber, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291. Comments can also be sent electronically to: *MA@mpls.frb.org.*

1. *The Estate of Noman C. Skalicky (Estate), Maple Grove, Minnesota, and the Norman C. Skalicky Revocable Trust Agreement dated December 23, 2019 (Trust), Minneapolis, Minnesota, Joshua C. Hillger, Minneapolis, Minnesota, special administrator to both Estate and Trust;* to form the Hillger Control Group, a group acting in concert, to retain voting shares of Stearns Financial Services, Inc., Saint Cloud, Minnesota, and thereby indirectly retain voting shares of Stearns Bank National Association, Saint Cloud, Minnesota; Stearns Bank of Upsala, National Association, Upsala, Minnesota; and Stearns Bank of Holdingford, National Association, Holdingford, Minnesota.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–00916 Filed 1–17–24; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

[File No. 212 3038]

X-Mode Social, Inc.; Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before February 20, 2024.

ADDRESSES: Interested parties may file comments online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Please write ''X-Mode Social, Inc.; File No. 212 3038'' on your comment and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, please mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex X), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Bhavna Changrani (202–326–2363), Attorney, Division of Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave. NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule § 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of 30 days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before February 20, 2024. Write ''X-Mode Social, Inc., File No. 212 3038'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Because of heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the *https://www.regulations.gov* website. If you prefer to file your comment on paper, write ''X-Mode Social, Inc., File No. 212 3038'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex X), Washington, DC 20580.

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 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 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)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule § 4.9©. In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule § 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the *https://www.regulations.gov* website—as legally required by FTC Rule § 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule § 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this document and the news release describing the proposed settlement. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments it receives on or before February 20, 2024. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a consent order from X-Mode Social, Inc. and Outlogic, LLC (collectively ''X-Mode''). The proposed consent order (''Proposed Order'') has been placed on the public record for 30 days for receipt of public comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement, along with the comments received, and will decide whether it should make final the Proposed Order or withdraw from the agreement and take appropriate action.

Respondent X-Mode is a Delaware corporation with its headquarters in Virginia. Respondent Outlogic is a Virginia limited liability company and is the successor-in-interest to Respondent X-Mode. X-Mode is a data broker that collects or purchases precise geolocation data about consumers' mobile devices.

X-Mode occupies multiple roles in the location data marketplace. X-Mode created a Software Development Kit (''SDK'') for use in third-party apps, obtained location data from other aggregators, and previously published its own apps ''Drunk Mode'' and ''Walk Against Humanity.'' X-Mode ingests billions of location signals daily from its various sources. X-Mode sells this location data to marketers, retailers, research organizations, private government contractors for national security, and other data brokers.

X-Mode creates and sells two primary data products: (1) Data-as-a-Service (''DaaS'') product, which is raw location data without any additional analysis, consisting of, among other information, a unique persistent identifier for the mobile device called a Mobile Advertiser ID (''MAID'') and timestamped latitude and longitude coordinates; and (2) ''Audience Segments,'' which are groupings of MAIDs that purportedly share similar traits based on the locations or events the mobile devices and MAIDs have visited.

The Commission's proposed seven-count complaint alleges that Respondents violated section 5(a) of the FTC Act by (1) unfairly selling sensitive data, (2) unfairly failing to honor consumers' privacy choices, (3) unfairly collecting and using consumer location data, (4) unfairly collecting and using consumer location data without consent verification, (5) unfairly categorizing consumers based on sensitive characteristics for marketing purposes, (6) deceptively failing to disclose use of location data, and (7) providing the means and instrumentalities to engage in deceptive acts or practices.

With respect to the first count, the proposed complaint alleges that Respondents sold location data associated with MAIDs that could be used to track consumers to sensitive locations, such as medical facilities, places of religious worship, places that may be used to infer an LGBTQ+ identification, domestic abuse shelters, and welfare and homeless shelters. For example, by plotting the latitude and longitude coordinates included in the X-Mode data stream using publicly available map programs, it is possible to identify which consumers' mobile devices visited medical facilities and when.

With respect to the second count, the proposed complaint alleges that X-Mode failed, between June 2018 and July 2020, to honor the privacy choices of some consumers who had enabled the ''Opt out of Ads Personalization'' control on their Android mobile phones. X-Mode's consumers were unaware that their privacy choices were not being honored by X-Mode and the company failed to employ the necessary technical safeguards and oversight to ensure that consumers' privacy choices were honored. The proposed complaint alleges that this failure caused or was likely to cause substantial injury by failing to honor the privacy decisions made by the consumers.

With respect to the third count, the proposed complaint alleges that X-Mode failed to fully disclose to users of its own apps (Drunk Mode and Walk Against Humanity) the purposes for which their location data would be used. As a result, the proposed complaint alleges that X-Mode caused or was likely to cause consumers substantial injury by collecting and selling the consumers' sensitive data without consumers' consent.

With respect to the fourth count, the proposed complaint alleges that X-Mode failed to verify that third-party apps incorporating its SDK obtain informed consent from consumers to have the consumers' location data collected, used, and sold. X-Mode's primary mechanism for ensuring that consumers have provided appropriate consent is through contractual requirements with its suppliers. However, contractual provisions, without additional safeguards, are insufficient to protect consumers' privacy.

With respect to the fifth count, the proposed complaint alleges that it was an unfair practice for X-Mode to categorize consumers based on sensitive characteristics. X-Mode entered into an agreement with a privately held clinical research company to trace consumers in Ohio within a 200-meter radius of Cardiologist offices, Gastroenterologist offices, Endocrinologist offices, Pharmacies, and Drugstores. X-Mode licensed these segments for advertising or marketing purposes.

With respect to the sixth count, the proposed complaint alleges that X-Mode failed to disclose to users of the X-Mode apps that their data would be provided to government contractors for national security purposes. Such a failure to disclose is material to consumers and is likely to mislead consumers who have no way of determining the truth. As a result, this conduct is deceptive under section 5.

With respect to the seventh count, the proposed complaint alleges that X-Mode has furnished third party app publishers with language for consumer disclosures that mislead consumers about the purposes for which their location may be used, such as by failing to disclose that consumer's location would be provided to government contractors for national security purposes. Furnishing such materials provided the means and instrumentalities by which the app publishers could mislead consumers and is therefore deceptive under section 5 of the FTC Act.

The proposed complaint alleges that Respondents could have addressed each of these failures by implementing certain safeguards at a reasonable cost and expenditure of resources. The proposed complaint alleges that X-Mode's practices caused, or are likely to cause, substantial injury to consumers that are not outweighed by countervailing benefits to consumers or competition and are not reasonably avoidable by consumers themselves. Such practices constitute unfair acts or practices under section 5 of the FTC Act.

Summary of Proposed Order With Respondent

The Proposed Order contains injunctive relief designed to prevent Respondents from engaging in the same or similar acts or practices in the future.

Part I prohibits Respondents from misrepresenting the extent to which (1) it collects, maintains, uses, discloses, deletes any covered information, and (2) the location data that Respondents collect, use, maintain, or disclose is deidentified.

Part II prohibits Respondents from selling, licensing, transferring, sharing, disclosing, or using sensitive location data in any products or services. Sensitive locations are defined as those locations in the United States associated with (1) medical facilities (*e.g.,* family planning centers, general medical and surgical hospitals, offices of physicians, offices of mental health physicians and practitioners, residential mental health and substance abuse facilities, outpatient mental health and substance abuse centers, outpatient care centers, psychiatric and substance abuse hospitals, and specialty hospitals); (2) religious organizations; (3) correctional facilities; (4) labor union offices; (5) locations of entities held out to the public as predominantly providing education or childcare services to minors; (6) associations held out to the public as predominantly providing services based on racial or ethnic origin; or (7) locations held out to the public as providing temporary shelter or social services to homeless people, survivors of domestic violence, refugees, or immigrants.

Part III requires that Respondents implement and maintain a sensitive location data Program to develop a comprehensive list of sensitive locations and to prevent the use, sale, license, transfer, or disclosure of sensitive location data.

Part IV requires that Respondents establish and implement policies, procedures, and technical measures designed to prevent recipients of Respondents' location data from associating consumers with locations providing services to LGBTQ+ individuals, locations of public gatherings of individuals during social demonstrations, marches, or protests, or using location data to determine the identity or location of an individual's home.

Part V requires Respondents to notify the Commission any time it determines that a third party shared Respondents' Location Data, in violation of a contractual requirement between Respondents and the third party.

Part VI requires that Respondents must not collect, use, maintain, and disclose location data (1) when consumers have opted-out, or otherwise declined targeted advertising, (2) without a record documenting the consumer's consent obtained prior to the collection of location data, and (3) in connection with Respondents' apps unless consumers receive a clear and conspicuous quarterly reminder about location data being collected.

Part VII requires that Respondents implement a supplier assessment program designed to ensure that consumers have provided consent for the collection and use of location data obtained by Respondents. Under this program, Respondents must conduct initial assessments of all their data suppliers within 30 days of entering into a data sharing agreement, or within 30 days of the initial date of data collection. The program also requires that Respondents confirm that consumers provide consent and create and maintain records of suppliers' assessment responses. Finally, Respondents must cease from using, selling, or disclosing location data for which consumers have not provided consent.

Part VIII requires that Respondents provide a clear and conspicuous means for consumers to request the identity of any entity, business, or individual to whom their location data has been sold, transferred, licensed, or otherwise disclosed or a method to delete the consumers' location data from the databases of Respondents' customers. Respondents must also provide written confirmation to consumers that the deletion requests have been sent to Respondents' customers.

Part IX requires that Respondents provide a simple, easily-located means for consumers to withdraw any consent provided and Part X requires that Respondents cease collecting location data within 15 days after Respondents receive notice that the consumer withdraws their consent.

Part XI also requires that Respondents provide a simple, easily-located means for consumers to request that Respondents delete location data that Respondents previously collected and to delete the location data within 30 days of receipt of such request unless a shorter period for deletion is required by law.

Part XII requires that Respondents (1) document and adhere to a retention schedule for the covered information it collects from consumers, including the purposes for which it collects such information, the specific business needs, and an established timeframe for its deletion, and (2) prior to collecting or using new type of information related to consumers that was not previously collected, and is not described in its retention schedule, Respondents must update its retention schedule.

Part XIII requires that Respondents delete or destroy all historic location data and all data products. Respondents have the option to retain historic location data if it has obtained affirmative express consent or it ensures that the historic location data is deidentified or rendered non-sensitive. Respondents must inform all customers that received location data from Respondents within 3 years prior to the issuance date of this Order, of the Commission's position that such data should be deleted, deidentified, or rendered non-sensitive.

Part XIV requires Respondents to establish and implement, and thereafter maintain, a comprehensive privacy program that protects the privacy of consumers' personal information.

Parts XV–XVIII are reporting and compliance provisions, which include recordkeeping requirements and provisions requiring Respondent to provide information or documents necessary for the Commission to monitor compliance.

Part XIX states that the Proposed Order will remain in effect for 20 years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the Proposed Order, and it is not intended to constitute an official interpretation of the complaint or Proposed Order, or to modify the Proposed Order's terms in any way.

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2024–00928 Filed 1–17–24; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to 5 U.S.C. 1009(d), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. The grant applications and the

discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–IP–24–045, Network of Community Cohorts for Monitoring Changes in Respiratory Virus Epidemiology (Pandemic Preparedness Cohorts).

Dates: April 25–26, 2024.

Times: 10 a.m.–5 p.m., EDT.

Place: Videoconference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Gregory Anderson, MS, M.P.H, Scientific Review Officer, National Center for HIV, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop H24–6, Atlanta, Georgia 30329–4027. Telephone: (404) 718–8833; Email: *GAnderson@cdc.gov.*

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2024–00826 Filed 1–17–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10346]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by February 20, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Quality Bonus Payment Appeals; *Use:* Section 1853(o) of the Act requires CMS to make QBPs to MA organizations that achieve performance rating scores of at least 4 stars under a five-star rating system. While CMS has applied a Star Rating system to MA organizations for a number of years, prior to the QBP program these Star Ratings were used only to provide additional information for beneficiaries to consider in making their Part C and D plan elections. Beginning in 2012, the Star Ratings CMS assigns for purposes of QBPs directly affected the monthly payment amount MA organizations receive from CMS under their contracts. Additionally, section 1854(b)(1)(C)(v) of the Act, as added by the Affordable Care Act, also requires CMS to change the share of savings that MA organizations must provide to enrollees as the beneficiary rebate specified at § 422.266(a) based on the level of a sponsor's Star Rating for quality performance.

The information collected on the Request for Reconsideration form from MA organizations is considered by the reconsideration official and potentially the hearing officer to review CMS's determination of the organization's eligibility for a QBP. The form asks MA organizations to select the Star Ratings measure(s) they believe was miscalculated or used incorrect data and describe what they believe is the issue. Under § 422.260(c)(3)(ii) these are the only bases for appeals. In conducting the reconsideration, the reconsideration official will review the QBP determination, the evidence and findings upon which it was based, and any other written evidence submitted by the organization with their Request for Reconsideration or by CMS before the reconsideration determination is made. *Form Number:* CMS–10346 (OMB Control Number 0938–1129; *Frequency:* Yearly; *Affected Public:* Private Sector; *Number of Respondents:* 20; *Total Annual Responses:* 20; *Total Annual Hours:* 160. (For policy questions regarding this collection contact, Sarah Gaillot at 410–786–4637.)

Dated: January 12, 2024.

William N. Parham, III

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–00897 Filed 1–17–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Runaway and Homeless Youth—Homeless Management Information System (RHY–HMIS; Office of Management and Budget #0970–0573)

AGENCY: Family and Youth Services Bureau, Administration for Children and Families, Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Family and Youth Services Bureau's Runaway and Homeless Youth (RHY) Program is requesting a 3-year extension of the Runaway and Homeless Youth—Homeless Management Information System (RHY–HMIS) data collection efforts (OMB #0970–0573, expiration 07/31/2024). There are no changes requested to the data elements.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: You can obtain copies of the proposed collection of information and submit comments by emailing *infocollection@acf.hhs.gov.* Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The RHY Program has a requirement to collect information from all youth who receive shelter and supportive services with RHY funding. In April 2015, the Administration on Children, Youth and Families, through a formal Memorandum of Understanding, integrated the RHY data collection with the U.S. Department of Housing and Urban Development's (HUD) HMIS and HUD's data standards along with other federal partners. HUD has OMB approval for HUD's data standards and ACF has approval under a separate OMB number for the RHY data elements. The data collection effort includes universal data elements that are collected by all federal partners and RHY program specific elements, which are tailored to the RHY Program using HUD's HMIS.

Respondents: Youth who receive emergency and longer-term shelter and supportive services under RHY funding.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
RHY–HMIS: Basic Center Program (Intake)	123,000	1	0.38	46,740	15,580
RHY–HMIS: Basic Center Program (Exit)	123,000	1	0.33	40,590	13,530
RHY–HMIS: Transitional Living Program (including Maternity Group Home program and TLP Demonstration Programs; Intake)	24,000	1	0.38	9,120	3,040
RHY–HMIS: Transitional Living Program (including Maternity Group Home program and TLP Demonstration Programs; Exit)	24,000	1	0.33	7,920	2,640
RHY–HMIS: Street Outreach Program (Contact)	108,000	1	0.5	54,000	18,000
RHY–HMIS: Street Outreach Program (Engagement)	30,000	1	0.28	8,400	2,800
RHY Funded Grantees (data entry)	308,225	2	0.36	221,922	73,974
RHY Funded Grantees (data submission)—FY24	675	2	0.16	216	72
RHY Funded Grantees (data submission)—FY25 & FY26	675	8	0.16	864	288
Estimated Total Annual Burden Hours					129,924

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Reconnecting Homeless Youth Act of 2008 (Public Law 110–378) through Fiscal Year (FY) 2013 and reauthorized by the Juvenile Justice Reform Act through FY 2019.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2024–00924 Filed 1–17–24; 8:45 am]

BILLING CODE 4184–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–2727]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Institutional Review Board Waiver or Alteration of Informed Consent for Minimal Risk Clinical Investigations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing that a collection of information entitled ''Institutional

Review Board Waiver or Alteration of Informed Consent for Minimal Risk Clinical Investigations'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On November 27, 2023, the Agency submitted a proposed collection of information entitled ''Institutional Review Board Waiver or Alteration of Informed Consent for Minimal Risk Clinical Investigations'' to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0130. The approval expires on December 31, 2026. A copy of the supporting statement for this information collection is available on the internet at *https://www.reginfo.gov/public/do/PRAMain.*

Dated: January 12, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–00886 Filed 1–17–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: National Survey of Organ Donation Attitudes and Practices, OMB No. 0915–0290—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than March 18, 2024.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N39, 5600 Fishers Lane, Rockville, Maryland, 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Joella Roland, the HRSA Information Collection Clearance Officer, at (301) 443–3983.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: National Survey of Organ Donation Attitudes and Practices (NSODAP) OMB No. 0915–0290—Revision with changes.

Abstract: The overall purpose of this study is to conduct an independent multi-mode (web and telephone) survey of public opinion regarding various issues related to organ donation. The survey will measure public opinion on issues such as willingness to become an organ donor, financial incentives for donation, living donation, impediments to donation, and level of public knowledge about donation. Previous NSODAPs were conducted during 1993, 2005, 2012, and 2019. Similar to the 2019 survey, the goal is to complete 10,000 interviews with adults (18 years of age or older) nationwide. Specifically, this will include 1,000 equal-probability of selection method computer-assisted telephone interviewing (CATI) interviews, 1,000 ethnic oversamples CATI interviews, and a supplemental web panel of 8,000 respondents. The final sample will include 1,000 interviews each with Black/African Americans, Asians, Hispanics, and Native Americans, and a statistically sufficient sample for meaningful comparisons across demographic levels of age group, education, and income groups. A total sample of 10,000 is necessary to achieve sufficiently large subgroups for statistical analysis across demographic groups.

Need and Proposed Use of the Information: The Division of Transplantation, within the Health Systems Bureau of HRSA at the Department of Health and Human Services, is the primary federal entity responsible for oversight of the solid organ and blood stem cell transplant systems in the United States and for initiatives to increase organ donor registration and donation. Sponsorship of a national survey on the American public's donation attitudes and practices is one of the services that the Division of Transplantation provides for the larger donation community, consistent with its legal authority to establish a public education and awareness program (section 377A of the Public Health Service Act, 42 U.S.C. 274f–1).

Patients in need of organ transplantation in the United States face a longstanding critical shortage of organs. Approximately 103,000 Americans were on the waiting list for transplantation by the end of 2022, but only 42,000 transplants were performed, only meeting two-fifths of the national need. While this represents an increase in the number of transplants performed in 2021, the organ shortage remains in the United States. Understanding public attitudes about organ donation and how the attitudes change over time is critical to addressing organ shortage through public awareness and education efforts.

The information from this survey will facilitate appropriate tailoring and targeting of donation outreach messages and strategies and provide an overall assessment of the impact of previous outreach messages and strategies. The data will also inform the development of policies related to organ donation and transplantation.

Likely Respondents: A nationally representative sample of adults over the age of 18 with a higher number of responses from populations of interest such as racial-ethnic minorities, including African American, Asian, Native American, and Hispanic respondents, as well as respondents of all age groups and education levels.

Burden Statement: The modes of data collection are web surveys and CATI interviews and include both landline and cell phones. Respondent burden is minimized by having automatic data entry either electronically by the respondent answering the online survey or by a trained CATI interviewer for a telephone survey that includes no additional requirements for respondents. The survey will capture only the minimum necessary information for analysis and will take only about 22 minutes of the respondent's time for the CATI survey and 16 minutes for the web survey. The questions are the same in both the CATI and web surveys, but prior research experience by the contractor has found web surveys take 25 percent less time to complete than the same survey conducted via phone, because

respondents can read and click faster than a phone interviewer can read survey questions.

Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
The National Survey of Organ Donation Attitudes and Practices (NSODAP)—Telephone (English and Spanish versions)	2,000	1	2,000	0.37	740
The National Survey of Organ Donation Attitudes and Practices (NSODAP)—Web (English and Spanish versions)	8,000	1	8,000	0.27	2,160
Total	10,000		10,000		2,900

HRSA specifically requests comments on: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2024–00819 Filed 1–17–24; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; T90/R90 Interdisciplinary Training Awards in Clinical Pain Research (RFA–NS–24–015).

Date: February 12, 2024.

Time: 9:30 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Steven G. Britt, Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Blvd., Rockville, MD 20852, 301–480–1953, *steve.britt@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Initial Translation Efforts for Non-addictive Analgesic Therapeutics Development (HEAL U19).

Date: February 13–14, 2024.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Abhignya Subedi, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Blvd., Rockville, MD 20852, 301–496–9223, *abhi.subedi@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; HEAL Initiative: Planning Studies for Initial Analgesic Development [Small Molecules and Biologics] (R61 Clinical Trial Not Allowed).

Date: February 16, 2024.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Bo-Shiun Chen, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Blvd., Rockville, MD 20852, 301–496–9223, *bo-shiun.chen@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; R25 Review.

Date: February 22, 2024.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Lataisia Cherie Jones, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, 6001 Executive Blvd., Rockville, MD 20852, 301–496–9223, *lataisia.jones@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Research Opportunities in the Human Brain (ROH) U01/R61.

Date: February 26–27, 2024.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Canopy by Hilton, 940 Rose Avenue, North Bethesda, MD 20852.

Contact Person: Tatiana Pasternak, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NSC, 6001 Executive Blvd., NINDS/NIH, Rockville, MD 20852, 301–496–9223, *tatiana.pasternak@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS.)

Dated: January 12, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00896 Filed 1–17–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Special Emphasis Panel; Implementation Science Coordinating Center for HIV-affected Adolescents.

Date: March 26, 2024.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver, National Institute of Child Health and Human Development, 6710B Rockledge Drive, Bethesda, MD 20817, (Virtual Meeting).

Contact Person: Magnus A. Azuine, Ph.D., Scientific Review Branch, Eunice Kennedy Shriver, National Institute of Child Health & Human Development, NIH, 6710B Rockledge Drive, Room 2125C, Bethesda, MD 20817, (301) 480–4645, *magnus.azuine@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: January 12, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00900 Filed 1–17–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Special Emphasis Panel; Member Conflict: Function, and Rehabilitation Sciences Study Section.

Date: March 5, 2024.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver, National Institute of Child Health and Human Development, 6710B Rockledge Drive, Bethesda, MD 20817, (Virtual Meeting).

Contact Person: Magnus A. Azuine, Ph.D., Scientific Review Branch, Eunice Kennedy Shriver, National Institute of Child Health & Human Development, NIH, 6710B Rockledge Drive, Room 2125C, Bethesda, MD 20817, (301) 480–4645, *magnus.azuine@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: January 12, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00899 Filed 1–17–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R6–ES–2023–0203; FXES11130600000–223–FF06E00000]

Endangered and Threatened Wildlife and Plants; Establishment of an Experimental Population of the Grizzly Bear in the Bitterroot Ecosystem of the States of Idaho and Montana; Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of intent, announcement of public meetings, and request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), intend to prepare an environmental impact statement (EIS) under the National Environmental Policy Act of 1969, as amended, to evaluate the potential environmental impacts of restoring the grizzly bear (*Ursus arctos horribilis*) to the Bitterroot Ecosystem (BE), a portion of the species' historical range, in Montana and Idaho. We previously issued a final EIS, record of decision, and final rule under section 10(j) of the Endangered Species Act of 1973, as amended, to reintroduce grizzly bears to the BE as a nonessential experimental population. However, conditions have changed, so we intend to reevaluate a range of options to restore the grizzly bear to the BE during the development of a new EIS. We invite input from other Federal and State agencies, Tribes, nongovernmental organizations, private-sector businesses, and members of the public on the scope of the EIS, alternatives to our proposed approaches for assisting in the restoration of the grizzly bear in the BE, and the pertinent issues that we should address in the EIS. We also invite the public and interested parties to attend virtual public scoping meetings.

DATES:

Comment submission: We will accept comments received or postmarked on or before March 18, 2024. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date.

Public scoping meetings: We will host at least two virtual public scoping meetings to share information regarding the development of the draft EIS and allow the public to ask questions regarding the scope of issues and the proposed alternatives. We will announce the dates, times, and details of these virtual public scoping meetings

through local and regional media, press releases, emails, social media, and on our website at *https://www.fws.gov/bitterrooteis.*

ADDRESSES:

Comment submission: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter FWS–R6–ES–2023–0203, which is the docket number for this action. Then, click on the Search button. You may submit a comment by clicking on ''Comment.''

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R6–ES–2023–0203, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *https://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Availability of supporting materials: Supporting materials, such as the previous final EIS (Service 2000a, entire), the previous record of decision (ROD) (Service 2000b, entire), and the species status assessment report (Service 2023, entire), are available on the Service's website at *https://www.fws.gov/bitterrooteis* and at *https://www.regulations.gov* at Docket No. FWS–R6–ES–2023–0203.

Public scoping meetings: We will host at least two virtual public scoping meetings to share information regarding the development of the draft EIS and allow the public to ask questions regarding the scope of issues and the proposed alternatives. Although we will not solicit oral comments at these virtual public meetings, written comments may be submitted at any time during the scoping process. See *Comment submission,* above, for information on how to submit comments. We will announce the details regarding how to participate in these virtual public scoping meetings through local and regional media, press releases, emails, social media, and on our website at *https://www.fws.gov/bitterrooteis.*

FOR FURTHER INFORMATION CONTACT: Hilary Cooley, Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, Grizzly Bear Recovery Office, University Hall, Room #309, University of Montana, Missoula, MT 59812; telephone 406–243–4903. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of contact in the United States.

SUPPLEMENTARY INFORMATION: We announce our intent to prepare an environmental impact statement (EIS) to evaluate a range of alternatives to restore the grizzly bear to the Bitterroot Ecosystem (BE) in Montana and Idaho. Alternatives that may be considered include implementing the existing nonessential experimental population (NEP) regulations in title 50 of the Code of Federal Regulations (CFR) at 50 CFR 17.84(l) (see 65 FR 69624, November 17, 2000), removing the BE NEP regulations from the CFR with or without additional management to aid natural recolonization, or designating a new experimental population for the BE under section 10(j) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). This notification of intent initiates the scoping process, which informs the development of the EIS.

Information Requested

In accordance with the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4321 *et seq.*), we are conducting a public scoping process to invite input on the range of alternatives and issues to be addressed during the preparation of the EIS. Scoping is an early and open process for determining the scope of issues to be addressed and identifying issues that should be considered in selecting an alternative for implementation. Therefore, we request comments or information from other government agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this action. We particularly seek comments concerning:

(1) The alternatives that we should consider for restoring grizzly bears to the BE;

(2) Other possible action alternatives that we should consider that meet our purpose and need and are technically and economically feasible;

(3) Potential effects that the preliminary action alternatives could have on other aspects of the human environment, including ecological, aesthetic, historic, cultural, economic, social, environmental justice, or health effects;

(4) Approaches for managing grizzly bears in the BE, particularly regarding potential conflicts with human activities;

(5) Considerations for grizzly bear connectivity to the BE; and

(6) Other information relevant to grizzly bear restoration in the BE and its impacts on the human environment.

We will consider the comments that we receive during the development of the draft EIS. Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include. Submissions merely stating support for, or opposition to, the action under consideration without providing supporting information do not provide substantial information necessary to support a determination. You may submit your comments and materials by one of the methods listed in **ADDRESSES**, above. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via *https://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *https://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation, will be available for public inspection on *https://www.regulations.gov.*

Background

The grizzly bear is currently listed as a threatened species in the lower-48 States under the ESA. The BE is one of six recovery zones identified in the 1993 Grizzly Bear Recovery Plan (USFWS 1993, entire). A recovery zone is an area large enough and of sufficient habitat quality to support a recovered grizzly bear population. The goal of the recovery plan is to reduce threats to the grizzly bear in each ecosystem so that the species can be considered for delisting due to recovery (USFWS 1993, p. 33). The grizzly bear is functionally extirpated in the BE, although there have been recent instances of individual grizzly bears dispersing into the ecosystem. Restoring a viable grizzly bear population to the BE would support the overall recovery of the grizzly bear in the lower-48 States.

Grizzly bears once ranged throughout most of the Western United States.

However, grizzly bear abundance and distribution were greatly diminished by excessive human-caused mortality and loss of habitat. Since 1975, grizzly bear populations have increased, and the species' range has expanded, in the Northern Continental Divide, Greater Yellowstone, Cabinet-Yaak, and Selkirk ecosystems. Expansion of the abundance and distribution of the species increases the redundancy, representation, and resiliency of grizzly bears within the lower-48 States and furthers conservation of the species. Our species status assessment provides a full account of the life history, ecology, range, and historical and current distribution of grizzly bears in the lower-48 States (Service 2023, entire).

The BE is one of the largest contiguous blocks of federally managed land in the lower-48 States. The BE contains multiple wilderness areas, which make up the largest block of wilderness habitat in the Rocky Mountains south of Canada. Grizzly bear recovery requires large blocks of relatively undisturbed land and remote areas away from human disturbance. Due to its large wilderness areas, the BE offers favorable conditions to restore a healthy population of grizzly bears and to improve the long-term survival and recovery of grizzly bears in the lower-48 States.

In November 2000, we released a final EIS (Service 2000a, entire), a record of decision (ROD) (Service 2000b, entire), and a final rule under section 10(j) of the ESA (65 FR 69624, November 17, 2000) to reintroduce grizzly bears into the BE as an NEP. The ROD described that grizzly bears would be restored to the BE and that their management would be guided by recommendations from a citizen management committee (Service 2000b, entire). In 2001, we published a notice of intent proposing to reevaluate our ROD and select the ''no action'' alternative as the preferred alternative (66 FR 33623, June 22, 2001) and a proposed rule to remove the section 10(j) designation for the BE and the accompanying regulations in 50 CFR 17.84(l) (66 FR 33620, June 22, 2001). However, we never finalized these proposals, and the NEP designation for the BE and the associated regulations remain in place. Additionally, we did not take any action to implement the ROD associated with the NEP designation; specifically, we did not reintroduce grizzly bears to the BE, and we did not establish a citizen management committee.

In November 2021, the Alliance for the Wild Rockies and Native Ecosystems Council filed a lawsuit alleging that we failed to comply with our 2000 final rule and ROD to designate an NEP in the BE and unreasonably delayed completing our 2001 proposed rulemaking to rescind the experimental population designation, in violation of NEPA and the Administrative Procedure Act (APA; 5 U.S.C. 551 *et seq.*). *AWR et al.* v. *Cooley et al.,* No. 9:21–cv–00136–DWM (D. Mont.). On March 15, 2023, the district court ruled that the Service unreasonably delayed implementing nondiscretionary actions in our ROD (Service 2000b, entire), in violation of NEPA and the APA. The court ordered the Service to prepare a supplemental EIS and, if warranted, a new ROD and final rule under section 10(j) of the ESA. On April 26, 2023, the court issued an order approving the Service's proposal to complete a new final EIS and ROD within 43 months from the court's order (November 26, 2026).

Given the change in circumstances since our 2000 ROD (*i.e.,* more observations of grizzly bears naturally dispersing into the BE), and in response to the court's order, we are now taking a fresh look at a strategy for supporting restoration of grizzly bears in the BE.

NEPA Analysis of Section 10 Actions

NEPA requires Federal agencies to undertake an assessment of environmental effects of any proposed action prior to making a final decision and implementing the decision. NEPA also established the Council on Environmental Quality (CEQ), which issued regulations implementing the procedural provisions of NEPA (40 CFR parts 1500–1508). The Service has regulatory authority under the ESA to manage the conservation and recovery of federally listed species, including creating rules and regulations and permitting legitimate activities that would otherwise be prohibited by the ESA. Development of a section 10(j) rule under the ESA is a Federal action requiring review under NEPA.

Consistent with CEQ guidance for implementing NEPA, we intend to complete an EIS to consider approaches to restore the grizzly bear to the BE. The EIS will address the potential environmental impacts of a range of reasonable alternatives (including rulemaking actions) under section 10 of the ESA. The potential environmental impacts assessed in the EIS could include the effects on grizzly bears from management measures; effects on other environmental resources such as other federally listed species and cultural and Tribal resources; potential socioeconomic effects, including impacts on economic activities such as tourism and agriculture; and effects on a range of other resources identified through internal and external scoping. We will address our compliance with other applicable authorities in our NEPA review.

Purpose and Need for Agency Action

The purpose of our action is to restore a grizzly bear population to the BE that: is demographically viable; is well distributed throughout the BE; can increase and sustain itself at a recovered level; is protected by regulations, policies, or guidelines that (a) ensure grizzly bears and their habitats maintain long-term viability and connectivity and (b) provide management flexibilities to foster human social tolerance; and contributes to rangewide recovery of grizzly bears in the lower-48 States.

This action is needed to comply with the April 26, 2023, order in *AWR et al.* v. *Cooley et al.,* No. 9:21–cv–00136–DWM (D. Mont.). This action is also needed because the BE, one of six ecosystems identified for the recovery of the grizzly bear in the lower-48 States (USFWS 1993, entire), is functionally extirpated. Although we previously decided to reintroduce grizzly bears into the BE (Service 2000b, entire), we have not implemented that decision. Since designating the NEP in 2000, we have observed individual bears from other ecosystems dispersing through the BE and adjacent areas with greater regularity, particularly in the past several years. We now anticipate that a population of grizzly bears (defined as two or more breeding females or one female with two consecutive litters) may become established in the BE through natural recolonization in the next 15 to 20 years.

Preliminary Alternatives

During the development of the draft EIS, we will consider a range of reasonable alternatives, including a no action, a proposed action, and preliminary alternatives. Our proposed action is to restore grizzly bears in the BE. Potential preliminary alternatives will include the following approaches: active reintroduction with or without designating a new experimental population in the BE, actions to support natural recolonization, actions to facilitate connectivity, or repealing or revising the existing NEP designation. These approaches may be considered separately or in any combination in the EIS.

Under our preliminary no action alternative, the status quo of current grizzly bear management would continue as currently implemented. We would not pursue reintroduction or changes to current management practices.

Summary of Potential Expected Impacts

We expect that the alternatives could potentially restore a grizzly bear population to the BE with varying success and in varying timeframes. Potential impacts from implementing the alternatives may include environmental impacts on fish and wildlife (including grizzly bears), wilderness areas, visitor use and recreational experience, public and employee safety, socioeconomics, and Tribal cultural and related resources. We intend to explore these and other potential expected impacts during the development of the draft EIS.

Anticipated Permits and Authorizations

We will comply with the ESA to evaluate potential impacts to threatened and endangered species. We will fulfill the public involvement requirements under the National Historic Preservation Act (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3). Information about historic and cultural resources within the area potentially affected by the alternatives will assist us in identifying and evaluating impacts to such resources and consulting with affected Indian Tribes and the State Historic Preservation Officer(s) on the potential for adverse effects.

Anticipated Schedule for the EIS

We expect to make the draft EIS available for public review and comment before the end of 2025. After public review and comment of the draft, we expect to make the final EIS available to the public in the fall of 2026. We then expect to issue a ROD by November 2026, pursuant to a court-ordered timeline, and if applicable, would issue a subsequent rulemaking under section 10(j) of the ESA soon after.

Responsibilities to Tribes

The Service has unique responsibilities to Tribes, including under the National Historic Preservation Act (16 U.S.C. 470 *et seq.*), American Indian Religious Freedom Act (42 U.S.C. 1996), Native American Graves Protection and Repatriation Act (25 U.S.C. 3001), and Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb *et seq.*); Executive Order 13007, Indian Sacred Sites (61 FR 26771, May 29, 1996); Joint Secretarial Order 3403, Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters (November 15, 2021) and Secretarial Order 3206, American Indian Tribal Rights, Federal Tribal Trust Responsibilities, and the ESA (June 5, 1997); Director's Order 227, Fulfilling the Trust Responsibility to Tribes and the Native Hawaiian Community, and Other Obligations to Alaska Native Corporations and Alaska Native Organizations, in the Stewardship of Federal Lands and Waters; and the Service's Native American Policy (510 FW 1).

We apply the term ''Tribal'' or ''Tribe(s)'' generally to federally recognized Tribes and Alaska Native Tribal entities. The Service will separately consult with Tribes on the proposals set forth in this document. We will also ensure that those Tribes wishing to engage directly in the NEPA process will have the opportunity to do so. As part of this process, we will protect the confidential nature of any consultations and other communications we have with Tribes, to the extent permitted by the Freedom of Information Act and other laws.

References

A list of the references cited in this document is available at *https://www.regulations.gov* in Docket No. FWS–R6–ES–2023–0203.

Authors

The primary authors of this document are the staff members of the Grizzly Bear Recovery Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authorities for this action are the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Anna Muñoz,

Deputy Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 2024–00873 Filed 1–17–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[24XD4523WS DS64900000 DWSN00000.000000 DP.64916; OMB Control Number 1093–0011]

Agency Information Collection Activities; DOI Talent Registration

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of the Secretary are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before March 18, 2024.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to Jeffrey Parrillo, 1849 C Street NW, Washington, DC 20240; or by email to *DOI-PRA@ios.doi.gov.* Please reference OMB Control Number 1093–0011 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Jeffrey Parrillo by email at *DOI-PRA@ios.doi.gov,* or by telephone at 202–208–7072. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 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 invite 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. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you 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: DOI Talent is the Department of the Interior's (DOI) shared services system to maintain and validate training records, manage class rosters and transcripts for course administrators and the student or learner, meet Federal mandatory training and statistical reporting requirements, and manage other programmatic functions related to training and educational programs.

DOI collects personal information from students in order to communicate training opportunities, manage course registration and delivery, validate training records necessary for certification or granting of college credit, process billing information for training classes, and to meet Federal training reporting requirements. Information may also be collected to comply with the Americans with Disabilities Act requirements to address facilities accommodations. Training and learning records are maintained in DOI's web-based learning management system, and bureau and office systems and locations where training programs are managed. DOI bureaus offer training programs which extend to external customers; such as universities, State governments, local governments, not-for-profit organizations, and in some cases, private citizens.

Each year approximately 3,000 external users request to register for training offered by DOI bureau's and offices through DOI Talent. Each registration will require approximately 5 minutes. DOI Talent:

- Creates an authoritative system of record for all training completions;
- Offers a more flexible approach for external training requests and documentation;
- Creates a learning environment that encourages engagement on multiple levels;
- Enhances training delivery options; and
- Creates opportunities to offer world-class instruction and to engage directly with learners through discussion forums and communities of practice.

Title of Collection: DOI Talent Registration.

OMB Control Number: 1093–0011.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Contractors, students, volunteers, partners, State and local employees, and Federal employees from agencies outside DOI.

Total Estimated Number of Annual Respondents: 3,800.

Total Estimated Number of Annual Responses: 3,800.

Estimated Completion Time per Response: 5 minutes per response.

Total Estimated Number of Annual Burden Hours: 317 hours.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: One time.

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.*).

Jeffrey M. Parrillo,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024–00878 Filed 1–17–24; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_WY_FRN_M04500177492]

Filing of Plats of Survey, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The Bureau of Land Management (BLM) is scheduled to file plats of survey 30 calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming. These surveys, which were executed at the request of the U.S. Forest Service, the Bureau of Reclamation and the BLM are necessary for the management of these lands.

DATES: Protests must be received by the BLM prior to the scheduled date of official filing by February 20, 2024.

ADDRESSES: You may submit written protests to the Wyoming State Director at WY926, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Sonja Sparks, BLM Wyoming Chief Cadastral Surveyor, by telephone at 307–775–6225 or by email at *s75spark@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1–800–877–8339 to contact this office during normal business hours. The Service is available 24 hours a day, 7 days a week, to leave a message or question with this office. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plats of survey of the following described lands are scheduled to be officially filed in the BLM Wyoming State Office, Cheyenne, Wyoming.

Sixth Principal Meridian, Wyoming

T. 50 N, R. 67 W., Group No. WY1053, corrective dependent resurvey, accepted May 8, 2023;
T. 50 N., R. 66 W., Group No. WY1054, dependent resurvey, accepted May 10, 2023;
T. 54 N., R. 71 W., Group No. WY1063, survey, accepted June 14, 2023;
T. 13 N., R. 60 W., Group No. WY1076, corrective dependent resurvey, accepted September 29, 2023;
T. 36 N., R. 74 W., Group No. WY1089, corrective dependent resurvey, accepted September 29, 2023;
T. 43 N., R. 109 W., Group No. WY1052, dependent resurvey and survey, accepted October 24, 2023;
T. 14 N., R. 83 W., Group No. WY1056, dependent resurvey, accepted November 28, 2023;
T. 22 N., R. 110 W., Group No. WY1091, dependent resurvey, survey, and metes-and bounds survey, accepted November 29, 2023;
T. 51 N., R. 67 W., Group No. WY1067, remonumentation and dependent resurvey, accepted December 13, 2023.
T. 18 N., R. 80 W., Group No. WY1057, dependent resurvey and survey accepted January 9, 2024
T. 24 N., R. 113 W., Group No. WY1086, dependent resurvey and survey, accepted January 11, 2024

A person or party who wishes to protest one or more plats of survey identified in this notice must file a written notice of protest within 30 calendar days from the date of this publication with the Wyoming State Director at the above address. Any notice of protest received after the scheduled date of official filing will be untimely and will not be considered. A written statement of reasons in support of a protest, if not filed with the notice

of protest, must be filed with the State Director within 30 calendar days after the notice of protest is filed. If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Copies of the preceding described plat and field notes are available to the public at a cost of $4.20 per plat and $0.15 per page of field notes. Requests can be made to *blm_wy_survey_records@blm.gov* or by telephone at 307–775–6222.

(Authority: 43 U.S.C., chapter 3)

Dated: January 11, 2024.

Sonja S. Sparks,

Chief Cadastral Surveyor of Wyoming.

[FR Doc. 2024–00815 Filed 1–17–24; 8:45 am]

BILLING CODE 4331–26–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_AZ_FRN_MO#4500176838]

Notice of BLM Arizona Resource Advisory Council Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976, as amended, and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Arizona Resource Advisory Council (Council) will meet as follows.

DATES: The Council will meet February 28–29 and April 24–25, 2024. Each meeting day will begin at 8 a.m. and conclude at 4:30 p.m. mountain time.

ADDRESSES: Meetings will be held in-person at the BLM Arizona State Office, One North Central Avenue, Suite 800, Phoenix, AZ 85004–4427, and a virtual participation option will be available. Virtual participation instructions, and final agendas will be confirmed for the public via a BLM news release, social media, on the Council's web page at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/arizona,* and through personal contact at least 2 weeks prior to the meeting.

Written comments for the Council may be sent electronically in advance of the scheduled meeting to Dolores Garcia, Public Affairs Specialist, at *dagarcia@blm.gov,* or in writing to BLM Arizona State Office/AZ–912, One North Central Avenue, Suite 800, Phoenix, Arizona, 85004–4427. All comments will be provided to the Council.

FOR FURTHER INFORMATION CONTACT: Dolores Garcia, Public Affairs Specialist, BLM Arizona State Office, telephone: (602) 417–9241, email: *dagarcia@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services to contact Ms. Garcia. 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. Please request sign language interpreter services, assistive listening devices, or other reasonable accommodations early. We ask that you contact the person listed above at least 7 days before the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests will be managed on a case-by-case basis.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Arizona.

Agenda items for the February meeting include orientation for newly appointed members; updates on BLM project work in compliance with Department of the Interior priorities; resource management updates, including the latest initiatives; District updates; mandatory ethics training; Federal Land Recreation Enhancement Act Training; and a discussion on upcoming fee proposals.

Agenda items for the April meeting include updates on BLM project work in compliance with Department of the Interior priorities; resource management updates, including the latest initiatives; District updates; and a presentation and recommendations on recreation business plan updates and fee amendment proposals from the U.S. Forest Service (Arizona Forests).

Public comment periods will be offered each day. Specific times will be noted on the agenda. 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.

Detailed minutes for Council meetings will be maintained in the BLM Arizona State Office. Minutes will also be posted to the Council's web page at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/arizona.*

(Authority: 43 CFR 1784.4–2)

Raymond Suazo,

Arizona State Director.

[FR Doc. 2024–00811 Filed 1–17–24; 8:45 am]

BILLING CODE 4331–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_UT_FRN_MO4500176714]

Notice of Public Meeting, Grand Staircase-Escalante National Monument Advisory Committee, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976, as amended, the Federal Advisory Committee Act of 1972, and the Federal Lands Recreation Enhancement Act, the U.S. Department of the Interior, Bureau of Land Management's (BLM's) Grand Staircase-Escalante National Monument Advisory Committee will meet as indicated below.

DATES: The Grand Staircase-Escalante National Monument Advisory Committee will hold a virtual meeting on February 29, 2024. The meeting will be held from 9 a.m. to 12:15 p.m. Mountain Time (MT) and is open to the public. A public comment period will be held from 10:45 a.m. to 11:30 a.m. MT, or until all public comments have concluded, whichever comes first.

ADDRESSES: The agenda and meeting access information (including how to log in and participate in virtual

meetings) will be announced on the Grand Staircase-Escalante National Monument Advisory Committee web page 30 days before the meeting at *https://bit.ly/3QGqaqJ.*

FOR FURTHER INFORMATION CONTACT: David Hercher, Paria River District Public Affairs Specialist, 669 S. Highway 89A, Kanab, UT 84741, via email with the subject line ''GSENM MAC'' to *dhercher@blm.gov* or by calling the Grand Staircase-Escalante National Monument Office at (435) 644–1200. 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. Please request sign language interpreter services, assistive listening devices, or other reasonable accommodations early. Please contact the person listed above at least 7 days before the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests will be managed on a case-by-case basis.

SUPPLEMENTARY INFORMATION: Presidential Proclamations 6920 and 10286 established the Grand Staircase-Escalante National Monument Advisory Committee to provide advice and information to the Secretary of the Interior (through the Director of the BLM) to consider the management of Grand Staircase-Escalante National Monument. The 15-member committee represents a wide range of interests, including Tribal, local, and State governments; the educational community; the conservation community; an outfitter and guide operating within the monument; a livestock grazing permittee operating within the monument; a dispersed recreation representative; and members with expertise in paleontology, archaeology, geology, botany or wildlife, history or social science, and systems ecology.

Planned agenda items for the February meeting include:

- Administrative business
- A status update on the monument resource management plan
- A public comment period
- Election of the advisory committee chairperson

The BLM welcomes comments from all interested parties and the meeting will include a public comment period from 10:45 a.m. to 11:30 a.m. MT or until all public comments have concluded, whichever comes first. Written comments may also be sent to the Grand Staircase-Escalante National Monument at the address listed in this notice's **FOR FURTHER INFORMATION CONTACT** section. All comments received before the meeting will be provided to the Grand Staircase-Escalante National Monument Advisory Committee.

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 we will be able to do so.

Detailed meeting notes for the Grand Staircase-Escalante National Monument Advisory Committee meeting will be maintained in the Paria River District Office and available for public inspection and reproduction during regular business hours within 90 days following the meeting. Minutes will also be posted to the Grand Staircase-Escalante National Monument Advisory Committee web page.

(Authority: 43 CFR 1784.4–2)

Gregory Sheehan,

State Director.

[FR Doc. 2024–00906 Filed 1–17–24; 8:45 am]

BILLING CODE 4331–25–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037265; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Peabody Museum of Archaeology and Ethnology, Harvard University (PMAE) has completed an inventory of human remains and has determined that there is no cultural affiliation between the human remains and any Indian Tribe. The human remains were removed from Suffolk County, NY.

DATES: Disposition of the human remains in this notice may occur on or after February 20, 2024.

ADDRESSES: Patricia Capone, Peabody Museum of Archaeology and Ethnology, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496–3702, email *pcapone@fas.harvard.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the PMAE. 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 PMAE.

Description

Human remains representing, at minimum, three individuals were removed from Suffolk County, NY. William Wallace Tooker collected these individuals, each represented by cranium, at an unknown date and sold them to the Brooklyn Museum in 1901. The Brooklyn Museum transferred these individuals to the PMAE as part of a permanent loan in 1938; the loan was converted to a gift in 1964. No associated funerary objects are present.

An inventory of the objects and human remains purchased from Tooker by the Brooklyn Museum indicates that Tooker collected three human crania from Long Island in three discrete locations: a grave in Sag Harbor, a grave in East Hampton in a Meeting House lot, and a grave in Nissequogue. All three localities are within Suffolk County on Long Island. The inventory indicates that the individual found in Sag Harbor was collected with a broken ceramic vessel from a ''grave near Otter Pond Shell Heap.'' The presence of a ceramic vessel dates the burial to the Woodland Period (post 1000 BC) or later. This vessel is not located at the PMAE and its location is unknown. The inventory also indicates that the individual from East Hampton was buried in 1662 and was excavated along with a glass bottle; the bottle is also not located at the PMAE and its location is unknown. The presence of a glass bottle indicates a post-Contact (post A.D. 1600) burial date for the East Hampton individual. No geographical, temporal, or associated object information is provided for the individual from Nissequogue. No funerary objects were transferred to the PMAE with the individual from Nissequogue.

Insufficient evidence is present to reassociate these three individuals with Tooker's original provenience information; consequently, their burial locations cannot be identified beyond

Suffolk County, NY, and no temporal information for their interments can be established.

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: authoritative documents.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, the PMAE has determined that:

- The human remains described in this notice represent the physical remains of three 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 Shinnecock Indian 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 20, 2024. If competing requests for disposition are received, the PMAE 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 PMAE 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: January 11, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–00833 Filed 1–17–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037263; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: North Carolina Office of State Archaeology, Raleigh, NC

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the North Carolina Office of State Archaeology 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 Burke County, NC.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 20, 2024.

ADDRESSES: Emily McDowell, Office of State Archaeology, 215 West Lane Street, Raleigh, NC 27616, telephone (919) 715–5599, email *emily.mcdowell@dncr.nc.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 North Carolina Office of State Archaeology. 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 North Carolina Office of State Archaeology.

Description

Human remains representing, at minimum, three individuals were removed from Burke County, NC. Burials were excavated from the Berry Site/Joara/Fort San Juan in 1986 by Dr. David Moore of Warren Wilson College. The site itself is both an American Indian Mississippian village and Historic 16th-century Spanish settlement known as Joara and Fort San Juan, respectively. Joara is known as one of the largest Mississippian settlements in North Carolina. It is unclear when this collection came into the possession of the Office of State Archaeology in Raleigh, NC. The three individuals were removed from two burials and can be identified as follows: Burial 1, one adult male aged 23–30; Burial 2, two adult females aged less than 26 years (Individual A) and 18–22 years (Individual B). The 57 associated funerary objects are two feather rachis, one iron knife, eight chipped stone projectile points, one clay pipe, one quartz cobble, two ground stone, 10 flakes, one bag turtle carapace fragments, two copper discs, three charcoal fragments, seven pieces of organic fibers, two rocks, 10 washings/soil samples from Burial 1, four copper fragments, one charcoal fragment, and two soil samples from Burial 2.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological information, geographical information, historical information, and expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the North Carolina Office of State Archaeology has determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- The 57 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 Catawba Indian 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 20, 2024. If competing requests for repatriation are received, the North Carolina Office of State Archaeology 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 North Carolina Office of State Archaeology 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: January 11, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–00831 Filed 1–17–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–AKR–ANIA–CAKR–KOVA–LACL–WRST–36917; PPAKAKROR4, PPMPRLE1Y.LS0000]

Request for Nominations for the National Park Service Alaska Region Subsistence Resource Commission Program

AGENCY: National Park Service, Interior.

ACTION: Request for nominations.

SUMMARY: The National Park Service (NPS) is seeking nominations for individuals to represent subsistence users on the following Subsistence Resource Commissions (SRC): the Aniakchak National Monument SRC, the Cape Krusenstern National Monument SRC, the Kobuk Valley National Park SRC, the Lake Clark National Park SRC, and the Wrangell-St. Elias National Park SRC.

DATES: Nominations must be postmarked by April 17, 2024.

ADDRESSES: Nominations should be sent to: Eva Patton, Regional Subsistence Program Manager, National Park Service Alaska Regional Office, 240 W 5th Avenue, Anchorage, AK 99501, or *eva_patton@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Eva Patton via telephone at (907) 644–3601. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The NPS SRC program is authorized under section 808 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3118). The SRCs hold meetings to develop NPS subsistence program recommendations and advise on related regulatory proposals and resource management issues.

Each SRC is composed of nine members: (a) three members appointed by the Secretary of the Interior; (b) three members appointed by the Governor of the State of Alaska; and (c) three members appointed by a Regional Advisory Council (RAC), established pursuant to 16 U.S.C. 3115, which has jurisdiction within the area in which the park is located. Each of the three members appointed by the RAC must be a member of either the RAC or a local advisory committee within the region who also engages in subsistence uses within the park or national monument.

We are now seeking nominations for those members of each of the SRCs listed above. These members are to be appointed by the Secretary of the Interior.

Members will be appointed for a term of three years. Members of the SRC serve without compensation. However, while away from their homes or regular places of business in the performance of services for the SRC, and as approved by the Designated Federal Officer (DFO), members may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed such expenses under Section 5703 of Title 5 of the United States Code.

SRC meetings will take place at such times as designated by the DFO. Members are expected to make every effort to attend all meetings. Members may not appoint deputies or alternates.

All those interested in serving as members, including current members whose terms are expiring, must follow the same nomination process. Nominations should be typed and should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the SRC, and to permit the Department to contact a potential member.

Authority: 5 U.S.C. ch. 10.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2024–00823 Filed 1–17–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037264; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Pioneer Museum, Blue Licks Battlefield State Resort, Kentucky Department of Parks, Carlisle, KY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Pioneer Museum, Blue Licks Battlefield State Resort Park, Kentucky Department of Parks 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 Mason, KY.

DATES: Repatriation of the cultural items in this notice may occur on or after February 20, 2024.

ADDRESSES: Jennifer Spence, Parks Museum Curator, Kentucky Department of Parks, 500 Mero Street, 5th Floor, Frankfort, KY 40601, telephone (502) 892–3339, email *Jennifer.spence@ky.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 Kentucky

Department of Parks. 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 the Kentucky Department of Parks.

Description

The 274 cultural items were removed from Mason County, KY. These cultural items were collected in the 1920s thru the 1940s. The Pioneer Museum's founder, William Curtis, was a collector of these objects and took part in excavations at Fox Field (Fox Farm Fort Ancient culture archeological site), Mason County, Kentucky, and possibly at other sites in Kentucky. Curtis worked with other collectors in the field to acquire objects for the museum from surrounding counties in the state, but most items with a known provenience trace back to Fox Field. Most of these items are displayed and stored in the museum.

The 274 unassociated funerary objects are two adzes, six awls, eight game balls, five deer knuckle beads, two copper bracelets, two celts, one chisel, 12 discoidals, four drills, eight effigies, one effigy bead, five pottery figurines, one fishhook, 11 shell gorgets, one limestone gorget, one slate gorget, one grooved bone hairpin, one knapping hammer, three hoes, one grooved bone body ornament, nine flint knives, three necklaces of shell and bone beads, one necklace of animal bones, two bone sewing needles, 15 stone pendants, two shell pendants, four conch shell wheel pendants, four cannel coal pendants, three bear tooth pendants, two animal bone pendants, two ceramic disk pendants, two stone pestles, 10 pipes, 27 projectile points, one hide scraper, 61 pottery sherds, two bone whistles, one whetstone, one atlatl weight, 19 pottery vessels, four uniface knives, two mussel shell spoons, one strand of nine bone, clay, and shell beads, one strand of bear and canine teeth and a hawks claw, seven bear teeth fragments, one strand of 10 canine teeth, one strand of 13 marine shells, one strand of 12 beads, one string of seven beads, one string of 12 shell beads, one string of 18 shell beads, one strand of nine shell beads, one strand of seven conical shaped shell beads, one strand of 12 animal teeth, one strand of small shell beads, one strand of nine stone beads, and one animal tooth bead.

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: archeological information, geographical information, historical information, other relevant information, or expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Kentucky Department of Parks has determined that:

- The 274 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 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 and the Absentee-Shawnee Tribe of Indians of Oklahoma; Eastern Shawnee Tribe of Oklahoma; and the Shawnee Tribe.

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 20, 2024. If competing requests for repatriation are received, the Kentucky Department of Parks 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 Kentucky Department of Parks 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, and 10.14.

Dated: January 11, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–00832 Filed 1–17–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–37233; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before January 6, 2024, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by February 2, 2024.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email, you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, *sherry_frear@nps.gov,* 202–913–3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before January 6,2024. Pursuant to section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

Key: State, County, Property Name, Multiple Name (if applicable), Address/Boundary, City, Vicinity, Reference Number.

COLORADO

Park County

Victor Williams Homestead-Sprague Sand Creek Ranch, 25700 Count Road 77, Lake George vicinity, SG100009925

MARYLAND

Frederick County

Hayland, 15849 Mechanicstown Road, Emmitsburg, SG100009924

MISSISSIPPI

Pike County

Burglund Heights, 220 Maddock, 222 Maddock, 302 Maddock, 304 Maddock, 118 West Alley, 112 West Alley, 211 St. Augustine, 213 St. Augustine, 303 St. Augustine, 305 St. Augustine, 111 East Alley, and 117 East Alley, Macomb, SG100009940

NEW YORK

Kings County

Talmud Torah Atereth Israel, 85 Fountain Avenue, Brooklyn, SG100009929

William Ulmer Brewery Complex, 71–83 Beaver Street, 31–47 Belvidere Street, 26–28 Locust Street, Brooklyn, SG100009930

Monroe County

Mount Hope-Highland Historic District (Boundary Increase), Portions of Mt. Hope, Highland, South, Reservoir, and Mt. Vernon Avenues; Castle Park, Bellevue Drive, Alpine Street, and Furman Crescent, Rochester, BC100009931

New York County

Building at 287 Broadway, 287 Broadway, New York, SG100009933

Central Harlem North Historic District, Generally West 135th Street—West 144th Street, Adam Clayton Powell Jr. Boulevard, Lenox Avenue, New York, SG100009934

Rensselaer County

Corliss Park Historic District, 7th and 8th Avenues, north of Northern Drive, Troy, SG100009935

Griswold Heights Historic District, Madison Avenue, Project Street, Project Road, and Campbell Avenue, Troy, SG100009936

OHIO

Montgomery County

Dayton Country Club, 555 Kramer Road, Dayton, SG100009927

Muskingum County

Downtown Zanesville Historic District, Roughly bounded by 3rd, Market, 7th, and South Streets, Zanesville, SG100009926

WISCONSIN

Iowa County

Spring Green Restaurant, 5607 County Highway C, Wyoming, SG100009939

A request to move has been received for the following resource(s):

ARIZONA

Maricopa County

Elizabeth Seargeant-Emery Oldaker House, (Roosevelt Neighborhood MRA), 649 N 3rd Ave., Phoenix, MV83003472

Additional documentation has been received for the following resource(s):

ILLINOIS

Kane County

Elgin Downtown Commercial District (Additional Documentation), Roughly bound by Division, Villa Center, Fulton & Grove, Elgin, AD14001067

NEW YORK

Monroe County

Mount. Hope-Highland Historic District (Additional Documentation), Bounded roughly by the Clarissa St. Bridge, Genesee River, Grove and Mt. Hope Aves., plus, Rochester, AD74001261

Authority: Section 60.13 of 36 CFR part 60.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2024–00876 Filed 1–17–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037266; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Office of the State Archaeologist Bioarchaeology Program, University of Iowa, Iowa City, IA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Office of the State Archaeologist Bioarchaeology Program (OSA–BP) 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 Clayton and Jasper Counties, IA, possibly Plymouth County, IA, and unknown locations in Iowa.

DATES: Disposition of the human remains in this notice may occur on or after February 20, 2024.

ADDRESSES: Dr. Lara Noldner, Office of the State Archaeologist Bioarchaeology Program, University of Iowa, 700 S Clinton Street, Iowa City, IA 52242, telephone (319) 384–0740, email *lara-noldner@uiowa.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 OSA–BP. 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 OSA–BP.

Description

At an unknown date, human remains representing a minimum of one individual were removed from an unknown location. Dr. R. Summa donated the human cranium to the University of Iowa College of Dentistry in 1918. The cranium became part of the Dental Museum collections (catalog #116), and was described in museum records as a ''Mound builder's skull.'' At an unknown date, a large part of the museum collection was placed in storage. The collection was rediscovered in 2000, and the Native American human remains were transferred to the OSA–BP. A 30- to 50-year-old adult is represented (Burial Project 1445). No associated funerary objects are present.

At an unknown date, human remains representing a minimum of one individual were removed from an unknown location. A human metacarpal was found in the Paul Sagers Collection reposed at the OSA. The collection primarily includes materials from prehistoric archeological sites in Jones and Jackson counties in Iowa, but the exact provenience of the metacarpal is unknown. An adult or older juvenile of indeterminate sex is represented by the human remains (Burial Project 2519). No associated funerary objects are present.

In 1916, human remains representing at minimum one individual were removed from an unknown location in a pasture 12 miles northwest of Sioux City, IA. In 2023, the Sanford Museum in Cherokee, IA received the isolated femur representing an adult female of unknown age from a local resident and transferred the human remains to the OSA–BP (BP 3594). A label on the bone indicates the limited provenience

information. No associated funerary objects are present.

At an unknown time, human remains representing, at minimum, eight individuals were removed from an unknown location, likely in Iowa. The individuals were likely excavated from a mound context. One middle-aged adult female, a middle-aged adult male, three adults of unknown sex and age, an infant, a juvenile 6–8 years old, and a juvenile of unknown age are represented (BP3623). No associated funerary objects are present.

At an unknown time, possibly around the 1930s and 40s, human remains representing, at minimum, five individuals were removed from an unknown location. The individuals were acquired by a private citizen through unknown means. Upon his death, the family donated the human remains as well as his artifact collection from known mound sites in Iowa to the Iowa State Historical Society; the human remains were transferred to the OSA–BP. Two adult males, one adult of unknown age and sex, one juvenile aged 3–8 years, and one juvenile aged 12–16 years are represented (BP 3758). No associated funerary objects are present.

In 2023, human remains representing, at minimum, one individual were removed from 13CY82 in Clayton County, IA. A partial cranium was found on a sand bar in the Little Sioux River in Clay County, IA by kayakers. The Clay County Sheriff's Department documented the find spot (now designated site number 13CY82), and transferred the human remains to the Iowa State Medical Examiner's Office (IOSME). The human remains representing and adult female of unknown age were determined to be ancient and not of medicolegal significance and were transferred to the OSA–BP (BP3818). Their original burial location is unknown. No associated funerary objects are present.

In 2023, human remains representing, at minimum, one individual were removed from 13JP261 in Jasper County, IA. A partial cranium was found on a sand bar in Indian Creek north of Mingo, IA by a local resident. The Jasper County Sheriff transferred the human remains to the IOSME. The human remains representing and adult male of unknown age were determined to be ancient and not of medicolegal significance and were transferred to the OSA–BP (BP3835). The find spot was designated site number 13JP261. The individual's original burial location is unknown. 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 or the United States Court of Claims, treaties, oral history, and consultation with 26 signatory Tribes to the *Process for Reburial of Culturally Unidentifiable Native American Human Remains and Associated Funerary Objects originating from Iowa.*

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, the OSA–BP has determined that:

- The human remains described in this notice represent the physical remains of 18 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 and associated funerary objects described in this notice were removed from the aboriginal land of the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Citizen Potawatomi Nation, Oklahoma; Flandreau Santee Sioux Tribe of South Dakota; Ho-Chunk Nation of Wisconsin; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Lower Sioux Indian Community in the State of Minnesota; Miami Tribe of Oklahoma; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Pawnee Nation of Oklahoma; Peoria Tribe of Indians of Oklahoma; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Prairie Band Potawatomi Nation; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Santee Sioux Nation, Nebraska; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota; The Osage Nation; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Upper Sioux Community, Minnesota; Winnebago Tribe of Nebraska; and the Yankton Sioux Tribe of South Dakota.

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 20, 2024. If competing requests for disposition are received, the OSA–BP 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 OSA–BP 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: January 11, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–00834 Filed 1–17–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–AKRO–ANIA–DENA–CAKR–LACL–KOVA–WRST–GAAR–37034; PPAKAKROR4; PPMPRLE1Y.LS0000]

Public Meetings of the National Park Service Alaska Region Subsistence Resource Commission Program

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: The National Park Service (NPS) is hereby giving notice that the Aniakchak National Monument Subsistence Resource Commission (SRC), the Denali National Park SRC, the Cape Krusenstern National Monument SRC, the Lake Clark National Park SRC, the Kobuk Valley National Park SRC, the Wrangell-St. Elias National Park SRC, and the Gates of the Arctic National Park SRC will meet as indicated below.

DATES: The Aniakchak National Monument SRC will meet in-person and via teleconference from 1 p.m. to 5 p.m. or until business is completed on Thursday, February 29, 2024. The

alternate meeting date is Friday, March 1, 2024, from 1 p.m. to 5 p.m. or until business is completed at the same location and via teleconference.

The Denali National Park SRC will meet via teleconference from 10 a.m. to 5 p.m. or until business is completed on Tuesday, February 13, 2024. The alternate meeting date is Tuesday, February 20, 2024, from 10 a.m. to 5 p.m. or until business is completed only via teleconference.

The Cape Krusenstern National Monument SRC will meet in-person and via teleconference from 1 p.m. to 5 p.m. on Monday, March 18, 2024, and from 9 a.m. to 12 p.m. or until business is completed on Tuesday, March 19, 2024. The alternate meeting dates are Tuesday, March 26, 2024, from 1 p.m. to 5 p.m., and Wednesday, March 27, 2024, from 9 a.m. to 12 p.m. or until business is completed at the same location in-person and via teleconference. If an in-person meeting is not feasible or advisable, the meeting will be held solely by teleconference.

The Lake Clark National Park SRC will meet in-person and via teleconference, from 1 p.m. to 4 p.m. or until business is completed on Saturday, April 13, 2024. The alternate meeting date is Saturday, April 20, 2024, from 1 p.m. to 4 p.m. or until business is completed at the same location and via teleconference. If an in-person meeting is not feasible or advisable, the meeting will be held solely by teleconference.

The Kobuk Valley National Park SRC will meet in-person and via teleconference from 1 p.m. to 5 p.m. on Thursday, March 21, 2024, and from 9 a.m. to 12 p.m. on Friday, March 22, 2024, or until business is completed. If business is completed on Thursday, March 21, 2024, the meeting will adjourn, and no meeting will take place on Friday, March 22, 2024. The alternate meeting dates are Thursday, March 28, 2024, from 1 p.m. to 5 p.m., and Friday, March 29, 2024, from 9 a.m. to 12 p.m. or until business is completed at the same location and via teleconference. If an in-person meeting is not feasible or advisable, the meeting will be held solely by teleconference.

The Wrangell-St. Elias National Park SRC will meet in-person and via teleconference from 9 a.m. to 5 p.m. or until business is completed on both Thursday, February 29, 2024, and Friday, March 1, 2024. If business is completed on Thursday, February 29, 2024, the meeting will adjourn, and no meeting will take place on Thursday March 1, 2024. The alternate meeting dates are Thursday, March 14, 2024, and Friday, March 15, 2024, from 9 a.m. to 5 p.m., or until business is completed at the same location and via teleconference. If an in-person meeting is not feasible or advisable, the meeting will be held solely by teleconference.

The Gates of the Arctic National Park SRC will meet in-person and via teleconference from 9 a.m. to 5 p.m. or until business is completed on both Wednesday, April 24, 2024, and Thursday, April 25, 2024. The alternate meeting dates are Wednesday, May 1, 2024, from 9 a.m. to 5 p.m., and Thursday, May 2, 2024, from 9 a.m. to 5 p.m. or until business is completed at the same location and via teleconference. If an in-person meeting is not feasible or advisable, the meeting will be held solely by teleconference.

ADDRESSES: The Aniakchak National Monument SRC will meet in-person at the Katmai National Park Office, 1001 Silver Street, King Salmon AK 99613 and via teleconference. Teleconference participants must call the NPS office at (907) 246–2121 prior to the meeting to receive teleconference passcode information. For more detailed information regarding these meetings, or if you are interested in applying for SRC membership, contact Designated Federal Officer Mark Sturm, Superintendent, at (907) 246–2120 or via email at *mark_sturm@nps.gov,* or Troy Hamon, Subsistence Coordinator, at (907) 246–2121 or via email at *troy_hamon@nps.gov,* or Eva Patton, Federal Advisory Committee Group Federal Officer, at (907) 644–3601 or via email at *eva_patton@nps.gov.*

The Denali National Park SRC will meet via teleconference. Teleconference participants must call the NPS office at (907) 644–3604 prior to the meeting to receive teleconference passcode information. For more detailed information regarding these meetings, or if you are interested in applying for SRC membership, contact Designated Federal Officer Brooke Merrell, Superintendent, at (907) 683–9627 or via email at *brooke_merrell@nps.gov,* or Amy Craver, Subsistence Coordinator, at (907) 644–3604 or via email at *amy_craver@nps.gov,* or Eva Patton, Federal Advisory Committee Group Federal Officer, at (907) 644–3601 or via email at *eva_patton@nps.gov.*

The Cape Krusenstern National Monument SRC will meet in-person at the Northwest Arctic Heritage Center, 171 3rd Avenue, Kotzebue, AK 99752 and via teleconference. Teleconference participants must call the NPS office at (907) 442–8342 prior to the meeting to receive teleconference passcode information. For more detailed information regarding this meeting or if you are interested in applying for SRC membership, contact Designated Federal Officer Ray McPadden, Superintendent, at (907) 442–3890 or via email at *raymond_mcpadden@nps.gov,* or Emily Creek, Subsistence Coordinator, at (907) 442–8342 or via email at *emily_creek@nps.gov,* or Eva Patton, Federal Advisory Committee Group Federal Officer, at (907) 644–3601 or via email at *eva_patton@nps.gov.*

The Lake Clark National Park SRC will meet in-person at the Iliamna Community Center, conference room, Quarter Mile Safety Hill, Iliamna, AK 99606 and via teleconference. Teleconference participants must call the NPS office at (907) 644–3648 prior to the meeting to receive teleconference passcode information. For more detailed information regarding this meeting or if you are interested in applying for SRC membership, contact Designated Federal Officer Susanne Green, Superintendent, at (907) 644–3627 or via email at *susanne_green@nps.gov,* or Liza Rupp, Subsistence Manager, at (907) 644–3648 or via email at *elizabeth_rupp@nps.gov,* or Eva Patton, Federal Advisory Committee Group Federal Officer, at (907) 644–3601 or via email at *eva_patton@nps.gov.*

The Kobuk Valley National Park SRC will meet in-person at the Northwest Arctic Heritage Center, 171 3rd Avenue, Kotzebue, AK 99752 and via teleconference. Teleconference participants must call the NPS office at (907) 442–8342 prior to the meeting to receive teleconference passcode information. For more detailed information regarding this meeting or if you are interested in applying for SRC membership, contact Designated Federal Officer Ray McPadden, Superintendent, at (907) 442–3890 or via email at *raymond_mcpadden@nps.gov,* or Emily Creek, Subsistence Coordinator, at (907) 442–8342 or via email at *emily_creek@nps.gov,* or Eva Patton, Federal Advisory Committee Group Federal Officer, at (907) 644–3601 or via email at *eva_patton@nps.gov.*

The Wrangell-St. Elias National Park SRC will meet in-person at the Buster Gene Memorial Facility, Mile 4.8, Tok Cutoff, Gakona, AK 99586 and via teleconference. Teleconference participants must contact Subsistence Coordinator, Barbara Cellarius, at (907) 822–7236 or *wrst_subsistence@nps.gov* prior to the meeting to receive teleconference passcode information. For more detailed information regarding these meetings, or if you are interested in applying for SRC membership, contact Designated Federal Officer Ben Bobowski, Superintendent, at (907) 822–5234 or via email at *ben_bobowski@nps.gov,* or Barbara Cellarius, Subsistence Coordinator, at (907) 822–7236 or via email at *barbara_cellarius@nps.gov,* or Eva Patton, Federal Advisory Committee Group Federal Officer, at (907) 644–3601 or via email at *eva_patton@nps.gov.*

The Gates of the Arctic National Park SRC will meet in-person at the Anaktuvuk Pass Community Center, 3031 Main Street, Anaktuvuk Pass, AK 99721 and via teleconference. Teleconference participants must call the NPS office at (907) 455–0639 prior to the meeting to receive teleconference passcode information. For more detailed information regarding this meeting or if you are interested in applying for SRC membership, contact Designated Federal Officer Mark Dowdle, Superintendent, at (907) 455–0614 or via email at *mark_dowdle@nps.gov,* or Marcy Okada, Subsistence Coordinator, at (907) 455–0639 or via email at *marcy_okada@nps.gov,* or Eva Patton, Federal Advisory Committee Group Federal Officer, at (907) 644–3601 or via email at *eva_patton@nps.gov.*

SUPPLEMENTARY INFORMATION: The NPS is holding meetings pursuant to the Federal Advisory Committee Act (5 U.S.C. ch. 10). The NPS SRC program is authorized under title VIII, section 808 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3118).

SRC meetings are open to the public and will have time allocated for public comment. The public is welcome to present written or oral comments to the SRC. SRC meetings will be recorded and the meeting minutes will be available upon request from the Superintendent for public inspection approximately 90 days after the meeting.

Meeting Accessibility/Special Accommodations: Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed in the (see **ADDRESSES**) section of this notice at least seven (7) business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis. 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.

Purpose of the Meeting: The agenda may change to accommodate SRC business. The proposed meeting agenda for each meeting includes the following:

1. Call to Order—Confirm Quorum
2. Welcome and Introduction
3. Review and Adoption of Agenda
4. Approval of Minutes
5. Superintendent's Welcome and Review of the SRC Purpose
6. SRC Membership Status
7. SRC Chair and Members' Reports
8. Superintendent's Report
9. Old Business
10. New Business
11. Federal Subsistence Board Update
12. Alaska Boards of Fish and Game Update
13. National Park Service Staff Reports
    a. Superintendent/Ranger Reports
    b. Resource Manager's Report
    c. Subsistence Manager's Report
14. Public and Other Agency Comments
15. Work Session
16. Set Tentative Date and Location for Next SRC Meeting
17. Adjourn Meeting.

SRC meeting location and date may change based on inclement weather or exceptional circumstances, including public health advisories or mandates. If the meeting date and location are changed, the Superintendent will issue a press release and use local newspapers and/or radio stations to announce the rescheduled meeting.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. ch. 10.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2024–00824 Filed 1–17–24; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–690–691 and 731–TA–1619–1627 (Final)]

Paper Shopping Bags From Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–690–691 and 731–TA–1619–1627 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of paper shopping bags from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam, provided for in subheadings 4819.30.00 and 4819.40.00 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') sold at less-than-fair-value and subsidized by the Governments of China and India.

DATES: January 3, 2024.

FOR FURTHER INFORMATION CONTACT: Andres Andrade ((202) 205–2078), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of these investigations, Commerce has defined the subject merchandise as ''paper shopping bags with handles of ny 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.''

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by Commerce that certain benefits which constitute subsidies within the meaning of § 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China and India, and that such products from Cambodia, China, Colombia, India, Malaysia, Portugal, Taiwan, Turkey, and Vietnam are being sold in the United States at less than fair value within the meaning of § 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on May 31, 2023, by the Coalition for Fair Trade in Shopping Bags, a coalition whose members include Novolex Holdings, LLC (''Novolex''), Charlotte, North Carolina, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (''United Steelworkers''), Pittsburgh, Pennsylvania.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on March 1, 2024, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Thursday, March 14, 2024. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before Friday, March 8, 2024. Any requests to appear as a witness via videoconference must be included with your request to appear. Requests to appear via videoconference must include a statement explaining why the witness cannot appear in person; the Chairman, or other person designated to conduct the investigation, may in their discretion for good cause shown, grant such a request. Requests to appear as remote witness due to illness or a positive COVID–19 test result may be submitted by 3:00 p.m. the business day prior to the hearing. Further information about participation in the hearing will be posted on the Commission's website at *https://www.usitc.gov/calendarpad/calendar.html.*

A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference, if deemed necessary, to be held at 9:30 a.m. on Tuesday, March 12, 2024. Parties shall file and serve written testimony and presentation slides in connection with their presentation at the hearing by no later than 4 p.m. on March 13, 2024. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony i*n camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is March 8, 2024. Parties shall also file written testimony in connection with their presentation at the hearing, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 21, 2024. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before March 21, 2024. On April 9, 2024, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 11, 2024, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to § 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: January 12, 2024.

Sharon Bellamy,

Supervisory Hearings and Information Officer.

[FR Doc. 2024–00894 Filed 1–17–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–590 and 731–TA–1397 (Review)]

Sodium Gluconate, Gluconic Acid, and Derivative Products From China; Scheduling of Expedited Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty and countervailing duty orders on sodium gluconate, gluconic acid, and derivative products from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: January 5, 2024.

FOR FURTHER INFORMATION CONTACT: Tyler Berard (202–205–3354), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On January 5, 2024, the Commission determined that the domestic interested party group response to its notice of institution (88 FR 67807, October 2, 2023) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the reviews has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for these reviews on February 15, 2024. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the reviews may file written comments with the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before February 22, 2024 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by February 22, 2024. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

[2] The Commission has found the response submitted on behalf of PMP Fermentation Products Inc. to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determinations.—The Commission has determined these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Act; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: January 11, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–00835 Filed 1–17–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1203 (Second Review)]

Xanthan Gum From China; Scheduling of an Expedited Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty order on xanthan gum from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: January 5, 2024.

FOR FURTHER INFORMATION CONTACT: (Alec Resch 202–708–1448), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On January 5, 2024, the Commission determined that the domestic interested party group response to its notice of institution (88 FR 67809, October 2, 2023) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the review has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for this review on February 29, 2024. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before 5:15 p.m. on March 7, 2024 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by March 7, 2024. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined this review is extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Act; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: January 12, 2024.

Sharon Bellamy,

Supervisory Hearings and Information Officer.

[FR Doc. 2024–00893 Filed 1–17–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1387]

Certain Electronic Computing Devices, and Components and Modules Thereof, Notice of Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 12, 2023, under section 337 of the Tariff Act of 1930, as amended, on behalf of Telefonaktiebolaget LM Ericsson of Sweden. A supplement was filed on January 2, 2024. The complaint, as supplemented, alleges violations of

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

[2] The Commission has found the responses submitted on behalf of CP Kelco U.S., Inc. and Gum Products International, Inc. to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic computing devices, and components and modules thereof by reason of the infringement of certain claims of U.S. Patent No. 9,641,841 (''the '841 patent''); U.S. Patent No. 10,142,659 (''the '659 patent''); U.S. Patent No. 10,708,618 (''the '618 patent''); and U.S. Patent No. 10,708,613 (''the '613 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2023).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on January 10, 2024, *Ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1–3, 5–7, 9–11, 14, 15 and 16 of the '841 Patent; claims 1- 7, and 10–16 of the '659 patent; claims 1–19 of the '618 patent; and claims 1–9 of the '613 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''laptop, desktop and chromebook computers'';

(3) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. 1337(d)(1), (f)(1), (g)(1);

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Telefonaktiebolaget LM Ericsson, Torshamnsgatan 21, Kista, Stockholm, Sweden

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Lenovo (United States) Inc., 8001 Development Drive, Morrisville, North Carolina 27560

Lenovo Group Limited, 6 Chuang ye Road, Haidian District, Beijing 100085, China

Lenovo (Shanghai) Electronics Technology Co., Ltd., Part 304–305, Building 4, No. 222, Meiyue Road, Pilot Free Trade Zone, Pudong, New District, Shang Hai Shi, 200131 Shanghai, China

Lenovo Beijing Co., Limited, 6 Chuang ye Road, Haidian District, Beijing 100085, China

Lenovo PC HK Limited, 23/F., Lincoln House, Taikoo Place, 979 King's Road, Hong Kong

Lenovo Information Products (Shenzhen) Co. Ltd., Fuitan Trade Zone, ISH2 Building, No. 3, Guanglan Road, 518038 Shenzhen, China

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: January 11, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–00829 Filed 1–17–24; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Under Attack: Assaults on Our Nation's Law Enforcement

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Federal Bureau of Investigation, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously

published in the **Federal Register** on November 27, 2023 allowing a 60-day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until February 20, 2024.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Kevin Harris/FBI CJIS, 1000 Custer Hollow Road, Clarksburg, WV 26306, (304) 625–2000, *OSAT@fbi.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and/or
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and enter the title of the information collection.This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* New Collection.
2. *Title of the Form/Collection: Under Attack:* Assaults on Our Nation's Law Enforcement.
3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Officer Protocol Questionnaire or Offender Protocol Questionnaire/FBI CJIS Division.
4. *Affected public who will be asked or required to respond, as well as a brief abstract: Affected Public:* State, Local and Tribal governments, individual or households.

Abstract: Serious assaults on law enforcement in the United States are a growing problem, with both assaults with injury and felonious killings of law enforcement officers trending upward (FBI, 2022). While the Law Enforcement Officers Killed and Assaulted (LEOKA) data collection answers many questions related to these assaults and deaths, such as the who, what, when, where, and how, the data does not answer why these assaults are happening. Without knowing and understanding why these assaults are happening, we cannot begin to prevent them. Outside of the previous studies conducted by the FBI, there is a lack of research into this question of why offenders assault police officers. In particular, there is a lack of research that looks at both the officer and the offender in such incidents, and how the relationship between the two impacts the assault. The purposes of this qualitative study are to examine the possibility of predicting assaults on officers and to use this information to prevent future assaults. To date, very few studies outside of the FBI's Officer Safety Awareness Training (OSAT) research projects, have looked at these assaults from the perspectives of both the officer and the offender. By interviewing officers and offenders, this study seeks to gain a more thorough understanding of why these incidents take place, and the context surrounding them. Based on the recent trends and the modicum of previous research, it is expected the current study would make a large contribution to what is currently known about these attacks, and would play a substantial role in the preparedness, prevention, and mitigation of these incidents by informing those who develop training and operational practices. This mixed method research effort will use the Perpetrator-Motive Research Design (PMRD). PMRD is a 12-step methodological design that focuses on gaining a thorough understanding of the motivations of offenders. Interviewing incarcerated offenders allows for increased accessibility, increased sample size, interviewer security, and avoidance of ethical or potential legal entanglements which interviewers might be exposed to while questioning offenders still at large or whose cases have not yet exhausted the criminal legal process. Because PMRD is suited to identify and understand offender motives, the findings can be used in the development of training interventions for law enforcement officials which could improve officer safety. As part of the study, researchers will also seek to examine the incident reports associated with the assaults and the FBI criminal history record information of offenders. Researchers will also seek to obtain, examine, and use any body-worn camera or dashboard camera recordings associated with the assaults for research and training purposes.

5. *Obligation to Respond:* Voluntary.
6. *Total Estimated Number of Respondents:* 120.
7. *Estimated Time per Respondent:* 2 hours.
8. *Frequency:* This is a one-time collection.
9. *Total Estimated Annual Time Burden:* 240.
10. *Total Estimated Annual Other Costs Burden:* $0.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W–218 Washington, DC 20530.

Dated: January 12, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–00926 Filed 1–17–24; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0314]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection; Firearm Inquiry Statistics (FIST) Program

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Bureau of Justice Statistics, Department of Justice (DOJ) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until March 18, 2024.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Elizabeth J. Davis, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531 (email: *Elizabeth.Davis@usdoj.gov*; telephone: 202–307–0765).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Abstract: Through the Firearm Inquiry Statistics (FIST) Program, BJS obtains annual information from State and local checking agencies responsible for maintaining records on the number of background checks for firearm transfers or permits that were issued, processed, tracked, or conducted during the calendar year. Specifically, State and local checking agencies are asked to provide information on the number of applications and denials for firearm transfers received or tracked by the agency and reasons why applications were denied. BJS combines these data with the Federal Bureau of Investigation's (FBI) National Instant Criminal Background Check System (NICS) transaction data to produce comprehensive national statistics on firearm applications and denials resulting from the Brady Handgun Violence Prevention Act of 1993 and similar State laws governing background checks and firearm transfers. BJS will also collect information from the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) on denials screened and referred to ATF field offices for investigation and possible prosecution. BJS publishes FIST data on the BJS website in statistical tables and uses the information to respond to inquiries from Congress, Federal, State, and local government officials, researchers, students, the media, and other members of the general public interested in criminal justice statistics.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a previously approved collection.

2. *Title of the Form/Collection:* 2023–2026 Firearm Inquiry Statistics (FIST) Program.

3. *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is FIST–1. The applicable component within the Department of Justice is the Bureau of Justice Statistics (BJS), in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected public are State and local government. The obligation to respond is voluntary.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The annual estimated number of respondents for the FIST data collection is 1,009. The estimated time per response is 25 minutes to complete the FIST survey form.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The total annual burden for this collection is 420 hours, for a total of 1,680 hours for the 2023–2026 FIST program.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* $0.

TOTAL ANNUAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response (min)	Total annual burden (hours)
2023 Survey	1,009	1	1,009	25	420
Unduplicated Totals	1,009		1,009		420
2024 Survey	1,009	1	1,009	25	420
Unduplicated Totals	1,009		1,009		420
2025 Survey	1,009	1	1,009	25	420
Unduplicated Totals	1,009		1,009		420
2026 Survey	1,009	1	1,009	25	420
Unduplicated Totals	1,009		1,009		420
Unduplicated Total 2023–2026	1,009				1,680

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: January 11, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–00822 Filed 1–17–24; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0072]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Address Verification/Change Request Form (1–797)

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Federal Bureau of Investigation, Criminal Justice Information Services Division, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until March 18, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Brian A. Cain, Management and Program Analyst, FBI, CJIS, Criminal History Information and Policy Unit, BTC–3, 1000 Custer Hollow Road, Clarksburg, WV 26306; phone: 304–625–5590 or email *fbi-iii@fbi.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Abstract: U.S. Department of Justice Order (DO) 556–73 established rules and regulations for an individual to obtain a copy of their Identity History Summary for review or challenge, or as proof that one does not exist. The Address Verification/Change Request Form (1–797) is necessary to assure information is appropriately collected and/or updated in accordance to DO 556–73.

Overview of this information collection:

1. *Type of Information Collection:* Revision of a previously approved collection.

2. *The Title of the Form/Collection:* Address Verification/Change Request.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* 1110–0072, Form 1–797, CJIS Division, FBI, DOJ.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Individuals or households. The obligation to respond is voluntary, but required to obtain a copy of their Identity History Summary when a change in address occurs.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The total number of respondents is estimated to be 75. The estimated time per response is five minutes to complete.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The total annual burden hours for this collection is 6.25 hours.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* Respondents will not incur any costs other than their time to respond. Respondents will not incur any capital, start up, or system maintenance costs associated with this information collection.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response (min.)	Total annual burden (hours)
Ex: Survey (individuals or households)	75	1/annually	375	5	6.25
Unduplicated Totals	75		375		6.25

If additional information is required contact: John R. Carlson, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: January 12, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–00925 Filed 1–17–24; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Evaluating Registered Apprenticeship Initiative Study

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Chief Evaluation Office (CEO)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before February 20, 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.

Comments are invited on: (1) whether the collection of information is

necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: DOL requests clearance from OMB for a new collection associated with the Evaluating Registered Apprenticeship Initiative. The Chief Evaluation Office of the U.S. DOL commissioned the Evaluating Registered Apprenticeship Initiative study to design and conduct analyses that add to the evidence base on apprenticeship strategies and models through an evaluation of the Apprenticeship Building America (ABA) grants. ABA awarded grants in four categories: state apprenticeship building and modernization (category 1), youth apprenticeships (category 2), pre-apprenticeships (category 3), and registered apprenticeship hubs (category 4). For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 4, 2022 (88 FR 28614).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–CEO.

Title of Collection: Evaluating Registered Apprenticeship Initiative Study.

OMB Control Number: 1290–0NEW.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 2,104.

Total Estimated Number of Responses: 2,104.

Total Estimated Annual Time Burden: 1,236 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Certifying Officer.

[FR Doc. 2024–00840 Filed 1–17–24; 8:45 am]

BILLING CODE 4510–HX–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''*Local Area Unemployment Statistics (LAUS) Program*''. A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before March 18, 2024.

ADDRESSES: Send comments to Carol Rowan, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room G225, 2 Massachusetts Avenue NE, Washington, DC 20212. Written comments also may be transmitted by email to *BLS_PRA_Public@bls.gov.*

FOR FURTHER INFORMATION CONTACT: Carol Rowan, BLS Clearance Officer, at 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The BLS has been charged by Congress (29 U.S.C. 1 and 2) with the responsibility of collecting and publishing monthly information on employment, the average wage received, and the hours worked by area and industry. The process for developing residency-based employment and unemployment estimates is a cooperative Federal-State program which uses employment and unemployment inputs available in State Workforce Agencies.

The labor force estimates developed and issued in this program are used for economic analysis and as a tool in the implementation of Federal economic policy in such areas as employment and economic development under the Workforce Innovation and Opportunity Act of 2014 (that supplanted the Workforce Investment Act of 1998) and the Public Works and Economic Development Act, among others.

The estimates are also used in economic analysis by public agencies and private industry, and for State and area funding allocations and eligibility determinations according to legal and administrative requirements. Implementation of current policy and legislative authorities could not be accomplished without collection of the data.

The reports and manual covered by this request are integral parts of the LAUS program insofar as they ensure and measure the timeliness, quality, consistency, and adherence to program directions of the LAUS estimates and related research.

II. Current Action

Office of Management and Budget clearance is being sought for an extension of the information collection request that makes up the LAUS program. All aspects of the information collection are conducted electronically. All data are entered directly into BLS-provided systems.

The BLS, as part of its responsibility to develop concepts and methods by which States prepare estimates under the LAUS program, developed a manual for use by the States. The manual explains the conceptual framework for the State and area estimates of employment and unemployment, specifies the procedures to be used, provides input information, and discusses the theoretical and empirical

basis for each procedure. This manual is updated on a regular schedule.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information continues to have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Title of Collection: Local Area Unemployment Statistics (LAUS) Program.

OMB Number: 1220–0017.

Type of Review: Extension of a currently approved collection.

Affected Public: State governments.

	Number of respondents	Frequency	Total responses	Average time per response (hours)	Estimated total burden (hours)
LAUS 8	52	11	572	1	572
LAUS 15	6	1	6	2	12
LAUS 16	52	1	52	1	52
LAUS 3040	52 respondents (with 7,608 reporting units)	13	98,904	1.5	148,356
Totals			99,543		148,992

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, on January 10, 2024.

Eric Molina,

Chief, Division of Management Systems, Branch of Policy Analysis.

[FR Doc. 2024–00839 Filed 1–17–24; 8:45 am]

BILLING CODE 4510–24–P

EXECUTIVE OFFICE OF THE PRESIDENT

Office of National Drug Control Policy

Privacy Act of 1974; System of Records

AGENCY: Office of National Drug Control Policy.

ACTION: Notice of a new system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, the Office of National Drug Control Policy (ONDCP), proposes to establish a new system of records entitled ''Correspondence Management systems (CMS) for the Office of National Drug Control Policy (ONDCP)'', ONDCP/001. The system will include correspondence referred to, received by or sent by the ONDCP along with other materials such as log sheets and tracking datasets associated with the ONDCP correspondence processes.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records notice is effective upon publication, with the exception of the routine uses that are subject to a 30-day period in which to comment, described below. Therefore, please submit any comments by February 20, 2024.

ADDRESSES: Address all comments in writing within 30 days to Anthony Jones, Deputy General Counsel. Email is the most reliable means of communication. Mr. Jones may be contacted by email at *OGC@ondcp.eop.gov.* Mailing address is: Executive Office of the President, Office of National Drug Control Policy, Joint Base Anacostia-Bolling (JBAB) Bldg./410 Door 23, 250 Murray Lane SW, Washington, DC 20509.

FOR FURTHER INFORMATION CONTACT: Anthony Jones, Deputy General Counsel, Office of National Drug Control Policy, Joint Base Anacostia-Bolling (JBAB) Bldg./410 Door 23, 250 Murray Lane SW, Washington, DC 20509, or by telephone at (202) 395–3493.

SUPPLEMENTARY INFORMATION: ONDCP leads and coordinates the nation's drug policy so that it improves the health and lives of the American people. ONDCP is responsible for the development and implementation of the National Drug Control Strategy and Budget. ONDCP coordinates across 19 Federal agencies as part of a whole-of-government approach to addressing addiction and the overdose epidemic.

The system of records covered by this notice is necessary for the ONDCP to communicate with its partners and stakeholders in the performance of its mission essential functions.

In accordance with 5 U.S.C.552a(r), the Commission has provided a report to OMB and the Congress on the new system of records

SYSTEM NAME AND NUMBER:

Correspondence Management systems (CMS) for the Office of National Drug Control Policy (ONDCP), ONDCP/001.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Offices of the Office of National Drug Control Policy, Joint Base Anacostia-Bolling (JBAB) Bldg./410 Door 23, 250 Murray Lane SW, Washington, DC 20509 and Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

SYSTEM MANAGER(S):

Anthony Jones, Deputy General Counsel, Office of National Drug Control Policy, Joint Base Anacostia-Bolling (JBAB) Bldg./410 Door 23, 250 Murray Lane SW, Washington, DC 20509. Telephone: (202) 395–3493. Email *OGC@ondcp.eop.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 44 U.S.C. 3101.

PURPOSE(S) OF THE SYSTEM:

The System controls and tracks correspondence received or originated by the ONDCP or referred to the ONDCP, and action taken by the ONDCP in response to correspondence received, as well as some internal memoranda, action items, email correspondence, and logs/notes of official telephone calls. It also serves as a reference source for inquiries and response thereto.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals originating, receiving, or named in correspondence (including attachments) to or from the ONDCP or whose correspondence is referred to the ONDCP, or persons communicating electronically or by telephone with the ONDCP regarding official business of the ONDCP, including Members of Congress, other government officials, individuals, and their representatives; individuals originating, receiving, or named in internal memoranda (including attachments) within the ONDCP, including employees, contractors, and individuals relating policy decisions or administrative matters of significance to the ONDCP; in some instances, ONDCP personnel assigned to handle such correspondence and other matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence identification (*e.g.,* correspondence's name, address, title, organization, control number, date of correspondence, date received, subject); status of response within the ONDCP; may include original correspondence, ONDCP's response, office or staff member assigned to handle the matter, referral letters, name and identification of person referring the correspondence, copies of any enclosures, and related materials. Records may include reports or other goods on a given subject or individual. Correspondence identification and tracking information, as well as some substantive information on these matters may be maintained in automated database in electronic format and/or paper files.

RECORD SOURCE CATEGORIES:

Sources of information contained in these systems include individuals, state, local, tribal, and foreign government agencies as appropriate, the executive and legislative branches of the Federal Government, the Judiciary, and interested third parties. The source of the information on the control records contained in these systems is derived from incoming and outgoing correspondence.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records contained in this system of records may be disclosed as a routine use pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purposes for which the:

a. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government, when necessary to accomplish an ONDCP function related to this system of records;

b. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record;

c. Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law;

d. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the ONDCP determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding;

e. To a former employee of the ONDCP for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the ONDCP requires information and/or consultation from the former employee regarding a matter within that person's former area of responsibility;

f. To the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906;

g. To appropriate agencies, entities, and persons when (1) the ONDCP suspects or has confirmed that there has been a breach of the system of records; (2) the ONDCP has determined that as a result of the suspected or confirmed breach there is a risk of harm to the individuals, the ONDCP (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the ONDCP's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

h. To another Federal agency or Federal entity, when the ONDCP determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach;

i. To such recipients and under such circumstances and procedures as are mandated by federal statute or treaty.information was collected.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic form and on paper.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information can be retrieved by correspondence control number; name of individual; subject matter of topic; or in some cases, by other identifying search term employed.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with the ONDCP record schedules approved by the National Archives and Records Administration, and/or pursuant to General Records Schedules 4.1, item 10, 4.2, or 14.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records are under security safeguards at both the ONDCP's office and the National Records Center. Such safeguards include storage in a central location within a limited access building and a further limited access suite. Accordingly, access is limited to ONDCP and Record Center employees and contractors with appropriate security clearances. The electronic records are safeguarded by the EOP Office of Administration's Chief Information Officer, Information Assurance Directorate security procedures. Access to the ONDCP's data requires a multi-factor authentication and is limited to ONDCP employees and contractors with appropriate security clearances.

RECORD ACCESS PROCEDURES:

The ONDCP's record access procedures are set forth in 21 CFR

1401.21. That section provides that (a) You can make a Privacy Act request for records about yourself. You also can make a request on behalf of another individual as the parent or legal guardian of a minor, or as the legal guardian of someone determined by a court to be incompetent. (b) To make a request for access to a record, you should write directly to our Office of General Counsel. Heightened security delays mail delivery. To avoid mail delivery delays, we strongly suggest that you email your request to *FOIA@ondcp.eop.gov.* Our mailing address is: SSDMD/RDS; ONDCP Office of General Counsel; Joint Base Anacostia-Bolling (JBAB); Bldg. 410/Door 123; 250 Murray Lane SW, Washington, DC 20509. To make sure that the Office of General Counsel receives your request without delay, you should include the notation ''Privacy Act Request'' in the subject line of your email or on the front of your envelope and also at the beginning of your request. (c) You must describe the record that you seek in enough detail to enable ONDCP to locate the system of records containing the record with a reasonable amount of effort. Include specific information about each record sought, such as the time period in which you believe it was compiled, the name or identifying number of each system of records in which you believe it is kept, and the date, title or name, author, recipient, or subject matter of the record. As a general rule, the more specific you are about the record that you seek, the more likely we will be able to locate it in response to your request. (d) When making a Privacy Act request, you must verify your identity in accordance with these procedures to protect your privacy or the privacy of the individual on whose behalf you are acting. If you make a Privacy Act request and you do not follow these identity verification procedures, ONDCP cannot process your request. (1) You must include in your request your full name, citizenship status, current address, and date and place of birth. We may request additional information to verify your identity. To verify your own identity, you must provide an unsworn declaration under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury. To fulfill this requirement, you must include the following statement just before the signature on your request: ''I declare under penalty of perjury that the foregoing is true and correct. Executed on [date].'' (2) If you make a request as the parent or legal guardian of a minor, or as the legal guardian of someone determined by a court to be incompetent, for access to records or information about that individual, you must establish: (i) The identity of the individual who is the subject of the record, by stating the individual's name, citizenship status, current address, and date and place of birth; (ii) Your own identity, as required in paragraph (f)(1) of this section; (iii) That you are the parent or legal guardian of the individual, which you may prove by providing a copy of the individual's birth certificate showing your parentage or a court order establishing your guardianship; and (iv) That you are acting on behalf of the individual in making the request.

CONTESTING RECORD PROCEDURES:

If you are requesting an amendment of an ONDCP record, you must identify each particular record in question and the system of records in which the record is located, describe the amendment that you seek, and state why you believe that the record is not accurate, relevant, timely or complete. You may submit any documentation that you think would be helpful, including an annotated copy of the record.

NOTIFICATION PROCEDURES:

Address inquiries to System Manager named above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Dated: January 11, 2024.

Anthony Jones,

Deputy General Counsel.

[FR Doc. 2024–00820 Filed 1–17–24; 8:45 am]

BILLING CODE 3280–F5–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board's (NSB) NSB–NSF Commission on Merit Review hereby gives notice of the scheduling of a videoconference meeting for the transaction of National Science Board business pursuant to the National Science Foundation Act and the Government in the Sunshine Act.

TIME AND DATE: Thursday, January 18, 2024, from 4–6 p.m. Eastern.

PLACE: This meeting will be held by videoconference through the National Science Foundation.

STATUS: Open.

MATTERS TO BE CONSIDERED: The agenda of the meeting is: Commission Chair's opening remarks; Discussion assessing and prioritizing topics for potential preliminary policy recommendations; Commission Chair's closing remarks, outline of next meeting topics.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: (Chris Blair, *cblair@nsf.gov*), 703/292–7000. Members of the public can observe this meeting through a YouTube livestream. The YouTube link will be available from the NSB web page.

Ann E. Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2024–00959 Filed 1–16–24; 11:15 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255; NRC–2024–0024]

Holtec Decommissioning International, LLC, and Holtec Palisades, LLC; Palisades Nuclear Plant; License Amendment Application; Withdrawal by Applicant

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has granted the request of Holtec Decommissioning International, LLC (HDI), one of the licensees of the Palisades Nuclear Plant, an indirect wholly owned subsidiary of Holtec International (Holtec), and Holtec Palisades, LLC, to withdraw its application dated September 14, 2022, for a proposed amendment to the Renewed Facility Operating License No. DPR–20. The proposed amendment would have removed the Cyber Security Plan requirements contained in License Condition 2.E.

DATES: January 18, 2024.

ADDRESSES: Please refer to Docket ID NRC–2024–0024 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2024–0024. 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, 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 NRC has granted the request of Holtec Decommissioning International, LLC and Holtec Palisades, LLC (hereafter collectively referred to as the licensee), to withdraw its September 14, 2022, application (ADAMS Accession No. ML22257A097) for proposed amendment to the Renewed Facility Operating License (RFOL) No. DPR–20 for the Palisades Nuclear Plant (Palisades), located in Covert Township, Van Buren County, Michigan.

The proposed license amendment would have revised the Palisades RFOL to remove the Cyber Security Plan (CSP) requirements contained in License Condition 2.E. This change was requested to support the decommissioning of Palisades. The license amendment proposed to revise the Palisades RFOL to remove the CSP requirements contained in License Condition 2.E. once Palisades spent fuel underwent a sufficient cooling period that would mitigate the risk of heat-up to clad ignition temperature within 10 hours.

The Commission had previously issued a proposed finding that the amendment involves no significant hazards consideration, which was published in the **Federal Register** on November 29, 2022 (87 FR 73339), and there were no public comments on that finding or hearing requests with respect to the action. However, by letter dated December 12, 2023 (ADAMS Accession No. ML23346A083), the licensee withdrew the proposed amendment.

Dated: January 11, 2024.

For the Nuclear Regulatory Commission.

Amy M. Snyder,

Acting Chief, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2024–00821 Filed 1–17–24; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Privacy Act of 1974; Systems of Records

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of modified systems of records; notice of a new system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, the Pension Benefit Guaranty Corporation (PBGC), at the direction of the Office of Information and Regulatory Affairs, is merging all pertinent General Routine Uses from the Prefatory Statement of General Routine Uses into the Routine Uses sections of the following system of records notices (SORN): PBGC–17, Office of Inspector General Investigative File System, and PBGC–28, Physical Security and Facility Access. Additionally, PBGC is making administrative updates to the official addresses to reflect PBGC's new headquarters location and to pertinent system locations, updating the citation to the Contesting Records Procedures section, and updating the citation to the Privacy Act of 1974 to the following SORNs: PBGC–17 and PBGC–28. Moreover, PBGC is adding one routine use to PBGC–17, adding two routine uses to PBGC–28, and, lastly, establishing PBGC–30: Surveys and Complaints—PBGC.

DATES: Comments must be received on or before February 20, 2024 to be assured of consideration. The new systems of records described herein will become effective February 20, 2024, without further notice, unless comments result in a contrary determination and a notice is published to that effect.

ADDRESSES: You may submit written comments to PBGC by any of the following methods:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the website instructions for submitting comments.

• *Email: reg.comments@pbgc.gov.* Refer to SORN in the subject line.

• *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024–2101.

Commenters are strongly encouraged to submit comments electronically. Commenters who submit comments on paper by mail should allow sufficient time for mailed comments to be received before the close of the comment period.

All submissions must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and reference this notice. Comments received will be posted without change to PBGC's website, *http://www.pbgc.gov,* including any personal information provided. Do not submit comments that include any personally identifiable information or confidential business information. Copies of comments may also be obtained by writing to the Disclosure Division, (*disclosure@pbgc.gov*), Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024–2101; or calling 202–229–4040 during normal business hours. If you are deaf or hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

FOR FURTHER INFORMATION CONTACT: Shawn Hartley, Chief Privacy Officer, Pension Benefit Guaranty Corporation, Office of the General Counsel, 445 12th Street SW, Washington, DC 20024–2101, 202–229–6321. For access to any of PBGC's systems of records, write to the Disclosure Division, (*disclosure@pbgc.gov*), Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024–2101, or by calling 202–229–4040 during normal business hours, or go to *https://www.pbgc.gov/about/policies/pg/privacy-at-pbgc/system-of-records-notices.*

SUPPLEMENTARY INFORMATION:

(1) At the direction of the Office of Information and Regulatory Affairs, PBGC is merging all pertinent General Routine Uses from the Prefatory Statement of General Routine Uses into the Routine Uses sections of SORNs 17 and 28.

At the direction of the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA), PBGC is proposing to merge all pertinent General Routine Uses from the Prefatory Statement of General Routine Uses, last published at 83 FR 6247 (Feb. 13, 2018), into the routine uses sections

of the system of records notices (SORNs) 17 and 28. PBGC will merge General Routine Uses G1, G2, G4, G5, G7, and G9 through G14 (see Prefatory Statement of General Routine Uses at 83 FR 6247 (Feb. 13, 2018)) into the routine uses section of PBGC–17, Office of Inspector General Investigative File System, thereby adding them as routine uses. PBGC will merge General Routine Uses G1 through G5 and G7 through G12 (See Prefatory Statement of General Routine Uses at 83 FR 6247 (Feb. 13, 2018)) into the routine uses section of PBGC–28, Physical Security and Facility Access.

Additionally, as it merges General Routine Uses 4 and 5 into the SORNs, PBGC is incorporating OIRA's suggested language to clarify that any disclosures must be relevant and necessary to litigation. As it merges General Routine Use 14 into the SORNs, PBGC is rewriting the language to conform to OMB Memorandum A–130. All additional revisions will be incorporated into the merger of routine uses and renumbered accordingly.

(2) PBGC is proposing, in all SORNs, to update the citations to the Contesting Records Procedures section and to the Privacy Act of 1974, and to update SORNs 17 and 28, to remove the citation to the Prefatory Statement of General Routine Uses and to update the Official Addresses and system locations.

When PBGC reviewed and revised its SORNs in 2018, it omitted the citation to its regulations explaining the process to contest information contained in records maintained by PBGC. PBGC is adding the citation to 29 CFR 4902.5 to the Contesting Records Procedures section of all its SORNs. Additionally, upon review, it was noticed that the Routine Uses section of all SORNs contained a citation error. PBGC is amending the Privacy Act citation in the Routine Uses section of all its SORNs, changing it from 5 U.S.C. 522a(b) to 5 U.S.C. 552a(b). Additionally, PBGC is removing all citations to PBGC's Prefatory Statement of General Routine Uses in SORNs 17 and 28 to reflect that General Routine Uses were merged at the direction of OIRA. Lastly, PBGC is updating the Official Addresses of SORNs 17 and 28 to reflect PBGC's new Headquarters location and/or system locations where applicable.

(3) PBGC is proposing to add one routine use to PBGC–17, Office of Inspector General Investigative File System.

PBGC is proposing the addition of one routine use to PBGC–17 for disclosure to compare records maintained by the Office of Inspector General (OIG) against other records maintained in another Federal system of records or with non-Federal records. Pursuant to the Inspector General Empowerment Act of 2016, an Inspector General or an agency, in coordination with an Inspector General, may conduct a computerized comparison of two or more automated system of records or a comparison of a Federal system of records with other records or non-Federal records without it creating a matching program as defined by the Computer Matching and Privacy Protection Act, as amended. This routine use is necessary to allow the OIG to investigate fraud and other matters under its jurisdiction more efficiently. New Routine Use 27 will read, ''A record to compare such records in other Federal agencies' systems of records or to non-Federal records.''

(4) PBGC is proposing to add two routine uses to PBGC–28, Physical Security and Facility Access.

PBGC is also proposing to add to PBGC–28, a Routine Use 12 to read: ''12. Records from this system may be disclosed to a third party for purposes of providing access to facilities leased by PBGC or on PBGC's behalf.'' This is to allow PBGC to provide physical access security and facility access via its landlord's facilities management provider.

Additionally, PBGC is adding a new routine use that will read: ''13. To Another Agency or Non-Federal Entity in Connection with an OIG Audit, Investigation, or Inspection: To another Federal agency or non-Federal entity to compare such records in the agency's system of records or to non-Federal records in coordination with the Office of Inspector General (OIG) conducting an audit, investigation, inspection, or some other review as authorized by the Inspector General Act, as amended.'' Pursuant to the Inspector General Empowerment Act of 2016, an Inspector General or an agency, in coordination with an Inspector General, may conduct a computerized comparison of two or more automated system of records or a comparison of a Federal system of records with other records or non-Federal records without it creating a matching program as defined by the Computer Matching and Privacy Protection Act, as amended. PBGC's Inspector General requested that PBGC create a new routine use to reflect that information contained in a PBGC system of records may be used in a computerized comparison of two or more system of records or with non-Federal records in coordination with the OIG conducting an audit, investigation, inspection, or some other review as authorized by the Inspector General Act, as amended.

(5) PBGC is proposing to establish a new SORN ''PBGC–30: Surveys and Complaints—PBGC'' to reflect its current practice of using surveys.

PBGC is proposing to establish a new SORN—''PBGC–30: Surveys and Complaints—PBGC''—to reflect its current practice of using surveys to obtain internal agency feedback and for responding to complaints received by the PBGC departments that leverage PBGC's survey tool or other complaint procedures. PBGC previously relied upon a SORN published by the Department of the Interior (DOI), as PBGC utilized DOI's survey system and leveraged the applicable SORN. As PBGC is transitioning to a different system at DOI's direction, PBGC is seeking to establish its own system of records.

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written comments on the proposed changes described in this notice. A report has been sent to Congress and the Office of Management and Budget for their evaluation.

For the convenience of the public the amended and new systems of records are published in full below with changes italicized.

Issued in Washington, DC.

Gordon Hartogensis,

Director, Pension Benefit Guaranty Corporation.

SYSTEM NAME AND NUMBER:

PBGC–17: Office of Inspector General Investigative File System—PBGC.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Inspector General, Pension Benefit Guaranty Corporation (PBGC), *445 12th Street SW, Washington, DC, 20024–2101.*

SYSTEM MANAGER(S):

Office of the Inspector General, PBGC, *445 12th Street SW, Washington, DC, 20024–2101.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. App. 3, sections 2 and 4.

PURPOSE(S) OF THE SYSTEM:

This system of records is used to supervise and conduct investigations relating to programs and operations of PBGC by the Inspector General.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals named in investigations conducted by the Office of Inspector General (OIG); complainants and subjects of complaints collected through

the operation of the OIG Hotline; other individuals, including witnesses, sources, and members of the general public who are named individuals in connection with investigations conducted by OIG.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information within this system relates to OIG investigations carried out under applicable statutes, regulations, policies, and procedures. The investigations may relate to criminal, civil, or administrative matters. These OIG files may contain investigative reports; transcripts; internal staff memoranda; working drafts of papers to PBGC employees; investigative plans; litigation strategies; copies of personnel, financial, contractual, and property management records maintained by PBGC; information submitted by or about pension plan sponsors or plan participants; background data including arrest records, statements of informants and witnesses, and laboratory reports of evidence analysis; information and documentation received from other government agencies; search warrants, summonses and subpoenas; and other information related to investigations. Personal data in the system may consist of names, social security numbers, addresses, dates of birth and death, fingerprints, handwriting samples, reports of confidential informants, physical identifying data, voiceprints, polygraph tests, photographs, and individual personnel and payroll information.

RECORD SOURCE CATEGORIES:

Subject individuals; individual complainants; witnesses; interviews conducted during investigations; Federal, state, tribal, and local government records; individual or company records; claim and payment files; employer medical records; insurance records; court records; articles from publications; financial data; bank information; telephone data; service providers; other law enforcement organizations; grantees and sub-grantees; contractors and subcontractors; pension plan sponsors and participants; and other sources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information about covered individuals may be disclosed without consent as permitted by the Privacy Act of 1974, 5 U.S.C. 5*5*2a(b) and:

1. A record from this system may be disclosed to law enforcement in the event the record is connected to a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, regulation, rule, or order issued pursuant thereto. Such disclosure may be made to the appropriate agency, whether Federal, state, local, or tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if PBGC determines that the records are both relevant and necessary to any enforcement, regulatory, investigative or prospective responsibility of the receiving entity.

2. A record from this system of records may be disclosed to a Federal, state, tribal or local agency or to another public or private source maintaining civil, criminal, or other relevant enforcement information or other pertinent information if, and to the extent necessary, to obtain information relevant to a PBGC decision concerning the hiring or retention of an employee, the retention of a security clearance, or the letting of a contract.

3. A record from this system of records may be disclosed in a proceeding before a court or other adjudicative body in which PBGC, an employee of PBGC in his or her official capacity, an employee of PBGC in his or her individual capacity whom PBGC (or the Department of Justice (DOJ)) has agreed to represent is a party, or the United States or any other Federal agency is a party and PBGC determines that it has an interest in the proceeding, and if PBGC determines that the record is relevant and necessary to the litigation and that the use of the record is compatible with the purpose for which PBGC collected the information.

4. When PBGC, an employee of PBGC in his or her official capacity, or an employee of PBGC in his or her individual capacity whom PBGC (or DOJ) has agreed to represent is a party to a proceeding before a court or other adjudicative body, or the United States or any other Federal agency is a party and PBGC determines that it has an interest in the proceeding, a record from this system of records may be disclosed to DOJ if PBGC is consulting with DOJ regarding the proceeding or has decided that DOJ will represent PBGC, or its interest, in the proceeding and PBGC determines that the record is relevant and necessary to the litigation and that the use of the record is compatible with the purpose for which PBGC collected the information.

5. A record from this system of records may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual.

6. A record from this system of records may be disclosed to appropriate agencies, entities, and persons when (1) PBGC suspects or has confirmed that there has been a breach of the system of records; (2) PBGC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, PBGC (including its information systems, programs and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with PBGC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

7. To contractors, experts, consultants, and the agents thereof, and others performing or working on a contract, service, cooperative agreement, or other assignment for PBGC when necessary to accomplish an agency function. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to PBGC employees.

8. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

9. To any source from which information is requested in the course of processing a grievance, investigation, arbitration, or other litigation, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

10. To disclose information to a Federal agency, in response to its request, in connection with hiring or retaining an employee, issuing a security clearance, conducting a security or suitability investigation of an individual, or classifying jobs, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

11. To another federal agency or federal entity, when information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the agency (including its information systems, programs, and operations), the Federal Government, or national security.

12. A record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings or after conviction may be disclosed to a Federal, state, local, tribal or foreign prison; probation, parole, or pardon authority; or any other agency or individual involved with the maintenance, transportation, or release of such a person.

13. A record relating to a case or matter may be disclosed to an actual or potential party or his or her attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings.

14. A record may be disclosed to any source, either private or governmental, when reasonably necessary to elicit information or obtain the cooperation of a witness or informant when conducting any official investigation or during a trial or hearing or when preparing for a trial or hearing.

15. A record relating to a case or matter may be disclosed to a foreign country, through the United States Department of State or directly to the representative of such country, under an international treaty, convention, or executive agreement; or to the extent necessary to assist the U.S. Department of State, law enforcement officials, and such country in apprehending or returning a fugitive to a jurisdiction that seeks that individual's return.

16. A record originating exclusively within this system of records may be disclosed to other Federal offices of inspectors general and councils comprising officials from other Federal offices of inspectors general, as required by the Inspector General Act of 1978, as amended. The purpose is to ensure that OIG investigative operations can be subject to integrity and efficiency peer reviews, and to permit other offices of inspectors general to investigate and report on allegations of misconduct by senior OIG officials as directed by a council, the President, or Congress. Records originating from any other PBGC systems of records, which may be duplicated in or incorporated into this system, also may be disclosed with all identifiable information redacted.

17. A record may be disclosed to the Department of the Treasury and the Department of Justice when the OIG seeks an ex parte court order to obtain taxpayer information from the Internal Revenue Service.

18. A record may be disclosed to any governmental, professional, or licensing authority when such record reflects on qualifications, either moral, educational or vocational, of an individual seeking to be licensed or to maintain a license.

19. A record may be disclosed to any direct or indirect recipient of Federal funds, *e.g.,* a contractor, where such record reflects problems with the personnel working for a recipient, and disclosure of the record is made to permit a recipient to take corrective action beneficial to the Government.

20. A record may be disclosed where there is an indication of a violation or a potential violation of law, rule, regulation, or order whether civil, criminal, administrative or regulatory in nature, to the appropriate agency, whether Federal, state, tribal or local, or to a securities self-regulatory organization, charged with enforcing or implementing the statute, or rule, regulation, or order.

21. A record may be disclosed to Federal, state, tribal or local authorities in order to obtain information or records relevant to an Office of Inspector General investigation or inquiry.

22. A record may be disclosed to a bar association, state accountancy board, or other Federal, state, tribal, local, or foreign licensing or oversight authority; or professional association or self-regulatory authority to the extent that it performs similar functions (including the Public Company Accounting Oversight Board) for investigations or possible disciplinary action.

23. A record may be disclosed to inform complainants, victims, and witnesses of the results of an investigation or inquiry.

24. A record may be disclosed to the Department of Justice for the purpose of obtaining advice on investigatory matters or to refer information for the purpose of prosecution.

25. A record may be disclosed to contractors, interns and experts who have been engaged to assist in an OIG investigation or in the performance of a service related to this system of records and require access to these records for the purpose of assisting the OIG in the efficient administration of its duties. All recipients of these records will be required to comply with the requirements of the Privacy Act of 1974, as amended.

26. A record may be disclosed to the public when the matter under investigation has become public knowledge, or when the Inspector General determines that such disclosure is necessary to preserve confidence in the integrity of the OIG investigative process, to demonstrate the accountability of PBGC employees, or other individuals covered by this system, or when there exists a legitimate public interest, unless the Inspector General has determined that disclosure of specific information would constitute an unwarranted invasion of personal privacy.

27. A record to compare such records in other Federal agencies' systems of records or to non-Federal records.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained manually in paper and/or electronic form (including computer databases or discs). Records may also be maintained on back-up tapes, or on a PBGC or a contractor-hosted network.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by any one or more of the following: name; social security number; subject category; or assigned case number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained and destroyed in accordance with the National Archives and Record Administration's (NARA) Basic Laws and Authorities (44 U.S.C. 3301, et seq.) or a PBGC records disposition schedule approved by NARA. See General Record Schedule 4.2 Inspector General Item: 080. Records existing on paper are destroyed beyond recognition.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

PBGC has established security and privacy protocols that meet the required security and privacy standards issued by the National Institute of Standards and Technology (NIST). Records are maintained in a secure, password protected electronic system that utilizes security hardware and software to include multiple firewalls, active intruder detection, and role-based access controls. PBGC has adopted appropriate administrative, technical, and physical controls in accordance with PBGC's security program to protect the confidentiality, integrity, and availability of the information, and to ensure that records are not disclosed to or accessed by unauthorized individuals.

Electronic records are stored on computer networks, which may include cloud-based systems, and protected by controlled access with Personal Identity Verification (PIV) cards, assigning user accounts to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

RECORD ACCESS PROCEDURES:

This system is exempt from the notification and record access

requirements. However, consideration will be given to requests made in compliance with 29 CFR 4902.3 and 4902.4.

CONTESTING RECORD PROCEDURES:

This system is exempt from amendment requirements. However, consideration will be given to requests made in compliance with 29 CFR 4902.3 and 4902.5.

NOTIFICATION PROCEDURES:

This system is exempt from the notification requirements. However, consideration will be given to inquiries made in compliance with 29 CFR 4902.3.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(j) and (k), PBGC has established regulations at 29 CFR 4902.11 that exempt records in this system depending on their purpose.

HISTORY:

PBGC—17, Inspector General Investigative File System (last published at *83 FR 6268* (*February 13, 2018*)).

SYSTEM NAME AND NUMBER:

PBGC—28: Physical Security and Facility Access

SECURITY CLASSIFICATION:

Unclassified

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation (PBGC), *445 12th Street SW, Washington, DC, 20024–2101.*

SYSTEM MANAGER(S):

Director, Workplace Solutions Department, PBGC, *445 12th Street SW, Washington, DC, 20024–2101.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12977; 6 CFR part 37; Homeland Security Presidential Directive (HSPD) 12: Policy for a Common Identification Standard for Federal Employees and Contractors.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to maintain information to allow PBGC to provide for its facilities: control of visitor, employee, and government contractor access; physical and operational security; and video surveillance. It can also be used to maintain information from issuing temporary facility access for employees and contractors who are not in possession of their Personal Identity Verification (PIV) card or office key.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current PBGC employees, students, interns, government contractors, employees of other agencies, vendors, and other authorized visitors who access PBGC facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to employee and government contractor access, visitor access, and facility security. This includes government Personal Identity Verification (PIV) cards, visitor, contractor, and employee access records, temporary access cards, biometric data, and video surveillance recordings. PIV card records include the following information: name, *photo,* type of access, employee affiliation, expiration date, activation date, credential serial number *to include the full Card Holder Unique Identifier (CHUID),* height, eye color, and hair color. Visitor access records include the following information: name, *phone number, email address, digital photo, scan of government-issued photo identification,* reason for visit, organization name, date and time of visit, floor visited, and temporary visitor badge number or barcode. Employee access records include date and time of room or facility access and fingerprint or other biometric data.

RECORD SOURCE CATEGORIES:

Subject individuals, employees, visitors, contractors, vendors, and others visiting PBGC facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information about covered individuals may be disclosed without consent as permitted by the Privacy Act of 1974, 5 U.S.C. 552a(b), and:

1. A record from this system may be disclosed to law enforcement in the event the record is connected to a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, regulation, rule, or order issued pursuant thereto. Such disclosure may be made to the appropriate agency, whether Federal, state, local, or tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if PBGC determines that the records are both relevant and necessary to any enforcement, regulatory, investigative or prospective responsibility of the receiving entity.

2. A record from this system of records may be disclosed to a Federal, state, tribal or local agency or to another public or private source maintaining civil, criminal, or other relevant enforcement information or other pertinent information if, and to the extent necessary, to obtain information relevant to a PBGC decision concerning the hiring or retention of an employee, the retention of a security clearance, or the letting of a contract.

3. With the approval of the Director, Human Resources Department (or his or her designee), the fact that this system of records includes information relevant to a Federal agency's decision in connection with the hiring or retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit may be disclosed to that Federal agency.

4. A record from this system of records may be disclosed in a proceeding before a court or other adjudicative body in which PBGC, an employee of PBGC in his or her official capacity, an employee of PBGC in his or her individual capacity whom PBGC (or the Department of Justice (DOJ)) has agreed to represent is a party, or the United States or any other Federal agency is a party and PBGC determines that it has an interest in the proceeding, and if PBGC determines that the record is relevant and necessary to the litigation and that the use of the record is compatible with the purpose for which PBGC collected the information.

5. When PBGC, an employee of PBGC in his or her official capacity, or an employee of PBGC in his or her individual capacity whom PBGC (or DOJ) has agreed to represent is a party to a proceeding before a court or other adjudicative body, or the United States or any other Federal agency is a party and PBGC determines that it has an interest in the proceeding, a record from this system of records may be disclosed to DOJ if PBGC is consulting with DOJ regarding the proceeding or has decided that DOJ will represent PBGC, or its interest, in the proceeding and PBGC determines that the record is relevant and necessary to the litigation and that the use of the record is compatible with the purpose for which PBGC collected the information.

6. A record from this system of records may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual.

7. A record from this system of records may be disclosed to an official of a labor organization recognized under 5 U.S.C. ch. 71 when necessary for the labor organization to properly perform its duties as the collective bargaining representative of PBGC employees in the bargaining unit.

8. A record from this system of records may be disclosed to appropriate agencies, entities, and persons when (1) PBGC suspects or has confirmed that there has been a breach of the system of records; (2) PBGC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, PBGC (including its information systems, programs and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with PBGC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

9. To contractors, experts, consultants, and the agents thereof, and others performing or working on a contract, service, cooperative agreement, or other assignment for PBGC when necessary to accomplish an agency function. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to PBGC employees.

10. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

11. To any source from which information is requested in the course of processing a grievance, investigation, arbitration, or other litigation, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

12. Records from this system may be disclosed to a third party for purposes of providing access to facilities leased by PBGC or on PBGC's behalf.

13. To another Federal agency or non-Federal entity to compare such records in the agency's system of records or to non-Federal records in coordination with the Office of Inspector General conducting an audit, investigation, inspection, or some other review as authorized by the Inspector General Act, as amended.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained manually in paper and/or electronic form (including computer databases or discs). Records may also be maintained on back-up tapes, or on a PBGC or a *third-party physical access control system.*

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by any one of the following: employee or contractor name, PIV card number, temporary access card number, access clearance, key number, key removal date and time, visitor name, date and time of visit, organization, name of PBGC personnel escorting the visitor, visitor badge number, and reason for visit.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained and destroyed in accordance with the National Archives and Record Administration's (NARA) Basic Laws and Authorities (44 U.S.C. 3301, *et seq.*) or a PBGC records disposition schedule approved by NARA. Records existing on paper are destroyed beyond recognition. Records existing on computer storage media are destroyed according to the applicable PBGC media practice for physical security and access control systems and will be maintained in accordance with General Records Schedule 5.6 Security Records Items: 010, 021, 100, 111, 120, 121, 130, and 240.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

PBGC has established security and privacy protocols that meet the required security and privacy standards issued by the National Institute of Standards and Technology (NIST). Records are maintained in a secure, password protected electronic system that utilizes security hardware and software to include multiple firewalls, active intruder detection, and role-based access controls. PBGC has adopted appropriate administrative, technical, and physical controls in accordance with PBGC's security program to protect the confidentiality, integrity, and availability of the information, and to ensure that records are not disclosed to or accessed by unauthorized individuals.

Electronic records are stored on computer networks, which may include cloud-based systems, and protected by controlled access with PIV cards, assigning user accounts to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

RECORD ACCESS PROCEDURES:

Individuals, or third parties with written authorization from the individual, wishing to request access to their records in accordance with 29 CFR 4902.4, should submit a written request to the Disclosure Officer, PBGC, *445 12th Street SW, Washington, DC, 20024–2101, or by emailing disclosure@pbgc.gov,* providing their name, address, date of birth, and verification of their identity in accordance with 29 CFR 4902.3(c).

CONTESTING RECORD PROCEDURES:

Individuals, or third parties with written authorization from the individual, wishing to amend their records must submit a written request, in accordance with 29 CFR 4902.5, identifying the information they wish to correct in their file, following the requirements of Record Access Procedure above.

NOTIFICATION PROCEDURES:

Individuals, or third parties with written authorization from the individual, wishing to learn whether this system of records contains information about them should submit a written request to the Disclosure Officer, PBGC, *445 12th Street SW, Washington, DC, 20024–2101, or by emailing disclosure@pbgc.gov,* providing their name, address, date of birth, and verification of their identity in accordance with 29 CFR 4902.3(c).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

PBGC—28, Physical Security and Facility Access (last published at 87 FR 4668 (Jan. 28,2022)).

SYSTEM NAME AND NUMBER:

PBGC–30: Surveys and Complaints—PBGC

SECURITY CLASSIFICATION:

Unclassified

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation (PBGC), 445 12th Street SW, Washington, DC 20024–2101. (Records may be kept at an additional location of the commercial service provider of Qualtrics, 333 W. River Park Drive Provo, UT 84604, in the Amazon Web Services Government Commercial Cloud).

SYSTEM MANAGER(S):

Office of the General Counsel (OGC), PBGC, 445 12th Street SW, Washington, DC, 20024–2101.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1055, 1056(d)(3), 1302, 1303, 1310, 1321, 1322a, 1341, 1342, 1343, 1350; 1431, and 1432; 5 U.S.C. 301; 44 U.S.C. 3101 *et seq.*

PURPOSE(S) OF THE SYSTEM:

The purpose of this system of records is for all departments at PBGC to elicit

feedback through surveys and respond to complaints PBGC receives from communications contained within them. This includes a process for tracking, receiving, and responding to surveys, complaints, concerns, or questions from individuals about the organizational security and privacy practices. Names, addresses, and telephone numbers are used to survey customers to measure their satisfaction with PBGC's services and to track (for follow-up) those who do not respond to surveys. De-identified, aggregated information from this system may be used for research and statistical purposes.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who access a website operated by or on behalf of PBGC; and individuals who are the subject of or are otherwise connected to an inquiry, investigation, or complaint concerning PBGC's privacy or cybersecurity programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Responses to individual survey questions or complaint forms; IP addresses; cookies (session and persistent); email communications; and information pertaining to the individual's complaint such as their name, email address, phone number, and details about their experience using a PBGC website or their complaint.

RECORD SOURCE CATEGORIES:

Subject individuals; pension plan participants, sponsors, administrators and third parties; current and former employees or contractors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information about covered individuals may be disclosed without consent as permitted by the Privacy Act of 1974, 5 U.S.C. 552a(b), and:

1. A record from this system may be disclosed to law enforcement in the event the record is connected to a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, regulation, rule, or order issued pursuant thereto. Such disclosure may be made to the appropriate agency, whether Federal, state, local, or tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if PBGC determines that the records are both relevant and necessary to any enforcement, regulatory, investigative or prospective responsibility of the receiving entity.

2. A record from this system of records may be disclosed to a Federal, state, tribal or local agency or to another public or private source maintaining civil, criminal, or other relevant enforcement information or other pertinent information if, and to the extent necessary, to obtain information relevant to a PBGC decision concerning the hiring or retention of an employee, the retention of a security clearance, or the letting of a contract.

3. A record from this system of records may be disclosed in a proceeding before a court or other adjudicative body in which PBGC, an employee of PBGC in his or her official capacity, an employee of PBGC in his or her individual capacity whom PBGC (or the Department of Justice (DOJ)) has agreed to represent is a party, or the United States or any other Federal agency is a party and PBGC determines that it has an interest in the proceeding, and if PBGC determines that the record is relevant and necessary to the litigation and that the use of the record is compatible with the purpose for which PBGC collected the information.

4. When PBGC, an employee of PBGC in his or her official capacity, or an employee of PBGC in his or her individual capacity whom PBGC (or DOJ) has agreed to represent is a party to a proceeding before a court or other adjudicative body, or the United States or any other Federal agency is a party and PBGC determines that it has an interest in the proceeding, a record from this system of records may be disclosed to DOJ if PBGC is consulting with DOJ regarding the proceeding or has decided that DOJ will represent PBGC, or its interest, in the proceeding and PBGC determines that the record is relevant and necessary to the litigation and that the use of the record is compatible with the purpose for which PBGC collected the information.

5. A record from this system of records may be disclosed to OMB in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

6. A record from this system of records may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual.

7. A record from this system of records may be disclosed to an official of a labor organization recognized under 5 U.S.C. ch. 71 when necessary for the labor organization to properly perform its duties as the collective bargaining representative of PBGC employees in the bargaining unit.

8. A record from this system of records may be disclosed to appropriate agencies, entities, and persons when (1) PBGC suspects or has confirmed that there has been a breach of the system of records; (2) PBGC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, PBGC (including its information systems, programs and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with PBGC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

9. To contractors, experts, consultants, and the agents thereof, and others performing or working on a contract, service, cooperative agreement, or other assignment for PBGC when necessary to accomplish an agency function. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to PBGC employees.

10. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

11. To any source from which information is requested in the course of processing a grievance, investigation, arbitration, or other litigation, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

12. To Another Agency or Non-Federal Entity in Connection with an OIG Audit, Investigation, or Inspection: To another Federal agency or non-Federal entity to compare such records in the agency's system of records or to non-Federal records in coordination with the Office of Inspector General conducting an audit, investigation, inspection, or some other review as authorized by the Inspector General Act, as amended.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in electronic databases. Records may also be maintained on back-up tapes, or on a PBGC or a contractor-hosted network.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Indexing surveys and complaints will be determined by individual system

implementations, but records are generally indexed by a generic, sequential survey or complaint record identifier. Records may be indexed by a combination of survey responses and contact information that is voluntarily provided through the survey or complaint form.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained and destroyed in accordance with the National Archives and Record Administration's (NARA) Basic Laws and Authorities (44 U.S.C. 3301, *et seq.*) or a PBGC records disposition schedule approved by NARA. Records existing on paper are destroyed beyond recognition. Records existing on computer storage media are destroyed according to the applicable PBGC media practice for systems that leverage this SORN and will be maintained in accordance with PBGC Records Schedule. See General Records Schedule (GRS) Items 6.5.010 and 6.5.020: Public Customer Service Records; See also GRS 6.5.010: Complaints-Customer Service; see also GRS Items 4.2.06; Privacy complaint files. See also PBGC Records Schedule Item 1.2: Administrative Records—Privacy Act.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

PBGC has established security and privacy protocols that meet the required security and privacy standards issued by the National Institute of Standards and Technology (NIST). Records are maintained in a secure, password protected electronic system that utilizes security hardware and software to include multiple firewalls, active intruder detection, and role-based access controls. PBGC has adopted appropriate administrative, technical, and physical controls in accordance with PBGC's security program to protect the confidentiality, integrity, and availability of the information, and to ensure that records are not disclosed to or accessed by unauthorized individuals. Paper records are kept in file folders in areas of restricted access that are locked after office hours.

Electronic records are stored on computer networks, which may include cloud-based systems, and protected by controlled access with Personal Identity Verification (PIV) cards, assigning user accounts to individuals needing access to the records and by passwords set by authorized users that must be changed periodically. Further, for certain systems covered by this notice, heightened security access is required. Such access is granted by the specific permissions group assigned to monitor that particular system and only authorized employees of the agency may retrieve, review or modify those records.

RECORD ACCESS PROCEDURES:

Individuals, or third parties with written authorization from the individual, wishing to request access to their records in accordance with 29 CFR 4902.4, should submit a written request to the Disclosure Officer, PBGC, 445 12th Street SW, Washington, DC 20024–2101, or by emailing *disclosure@pbgc.gov,* providing their name, address, date of birth, and verification of their identity in accordance with 29 CFR 4902.3(c).

CONTESTING RECORD PROCEDURES:

Individuals, or third parties with written authorization from the individual, wishing to amend their records must submit a written request, in accordance with 29 CFR 4902.5, identifying the information they wish to correct in their file, in addition to following the requirements of the Record Access Procedure above.

NOTIFICATION PROCEDURES:

Individuals, or third parties with written authorization from the individual, wishing to learn whether this system of records contains information about them should submit a written request to the Disclosure Officer, PBGC, 445 12th Street SW, Washington, DC 20024–2101, or by emailing *disclosure@pbgc.gov,* providing their name, address, date of birth, and verification of their identity in accordance with 29 CFR 4902.3(c).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2024–00859 Filed 1–17–24; 8:45 am]

BILLING CODE 7709–02–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0136, Designation of Beneficiary: Federal Employees' Group Life Insurance, Standard Form 2823

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Office of Personnel Management (OPM), Healthcare and Insurance, Federal Employee Insurance Operations offers the general public and other Federal agencies the opportunity to comment on the reinstatement of an expired information collection request (ICR) without change, Designation of Beneficiary: Federal Employees' Group Life Insurance, Standard Form 2823. OPM is requesting approval that this form be designated as a ''Common Form''.

DATES: Comments are encouraged and will be accepted until March 18, 2024.

ADDRESSES: You may submit comments, identified by docket number and title, by the following method:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent by email to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or reached via telephone at (202) 936–0401.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection (OMB No. 3206–0136). The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

other forms of information technology, *e.g.,* permitting electronic submissions of responses.

The Federal Employees' Group Life Insurance (FEGLI) Program established pursuant to 5 U.S.C. 8701 *et seq,* provides eligible Federal employees and annuitants with the ability to enroll in life insurance coverage under one or more policies issued to the Government by one or more life insurance companies. MetLife is the life insurance company that has issued the policy, and MetLife's Office of Federal Employees' Group Life Insurance insures and administers claims under its contract with OPM.

Title 5, United States Code, section 8705, provides that employees and annuitants enrolled in the FEGLI Program may designate beneficiaries to receive monies payable under the FEGLI Program after the death of the enrollee. The law also provides that if the enrollee doesn't designate a beneficiary, the monies will be paid according to the order of precedence listed in section 8705(a) of the law. Title 5, Code of Federal Regulations, section 870.802, gives further details on the requirements for a designation of beneficiary. Section 870.909 provides that an assignee can also use the form to designate beneficiaries. (An assignee is someone who owns and controls the insured's insurance.)

Standard Form 2823 is used by any Federal employee or annuitant enrolled in the FEGLI Program, or an assignee who owns an insured's insurance, to instruct the Office of Federal Employees' Group Life Insurance how to distribute the proceeds of the FEGLI coverage when the statutory order of precedence does not meet their needs.

OPM is requesting approval for this form to be designated as a ''common form'' to allow agencies to use the form for the same purpose.

Analysis

Agency: Office of Personnel Management, Healthcare and Insurance, Federal Employee Insurance Operations.

Title: Designation of Beneficiary: Federal Employees' Group Life Insurance.

OMB Number: 3206–0136.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 48,000.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 12,000.

U.S. Office of Personnel Management.

Stephen Hickman,

Federal Register Liaison.

[FR Doc. 2024–00828 Filed 1–17–24; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99321; File No. SR–CboeBZX–2024–002]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Modify Historical Depth Data Fees

January 11, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 2, 2024, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/BZX/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule, effective January 2, 2024.

By way of background, the Exchange currently makes available for purchase Depth Data, which is a daily archive of the Exchange's depth of book real-time feed, which provides depth-of-book quotations and execution information based on equity orders entered into the System.[3] The Exchange also offers Historical Depth Data, which offers such data on a historical basis, *i.e.,* T+1 or later, dating back to September 2019. The Depth Data and Historical Depth Data are available for purchase to Members and Non-Members on the Cboe LiveVol, LLC (''LiveVol'') website,[4] for internal use only; LiveVol is a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc.

The Exchange's options platform (''BZX Options'') and affiliated equities and options exchanges (*i.e.,* Cboe Exchange, Inc. (''Cboe Options''), Cboe C2 Exchange, Inc. (''C2 Options''), Cboe EDGX Exchange, Inc. (''EDGX''), Cboe BYX Exchange, Inc. (''BYX''), and Cboe EDGA Exchange, Inc. (''EDGA'') (collectively, ''Affiliates'') also offer similar data products.[5] Particularly, each of the Exchange's Affiliates offer a daily and historical archive of their depth of book real-time feed with execution information based on their trading activity that is substantially similar to the information provided by the Exchange through its Depth Data products.

Currently, the Exchange charges a fee of $500 per month of Historical Depth Data accessed by a user. This fee has been in place, without change, since April 2010 when the Exchange first began charging for access to historical quotation and transactions data from the Exchange's PITCH data feed (''Historical PITCH Data'').[6] In the time since, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* BZX Fee Schedule and BZX Rule 11.22. Daily end-of-day delivery is provided via the DataShop SFTP. Files will typically become available after 10 p.m. ET; *see also* BZX Rule 1.5, which defines ''System.''

[4] *See https://datashop.cboe.com/cboe-us-equities-pitch.*

[5] *See,* for example, EDGX Fee Schedule, BYX Fee Schedule, EDGA Fee Schedule.

[6] *See* Securities Exchange Act Release No. 61885 (April 9, 2010), 75 FR 20018 (April 16, 2010) (SR–BATS–2010–002); *see also* Securities Exchange Act Release No. 74285 (February 18, 2015), 80 FR 9828

Exchange has made a number of significant enhancements to its platform, including, among other things, a significant expansion of its listing program for exchange-traded products, that have resulted in improved trading opportunities for investors and, consequently, more valuable market data. Further, the Exchange has implemented a more efficient means of data delivery (via SFTP rather than shipment of hard drives), which consequently increases the value of the market data product.

The Exchange now proposes to increase the fee from $500 to $1,000 per month of Historical Depth Data accessed by a user.[7] As is currently the case, the data will be provided to data recipients for internal use only, and thus, no redistribution will be permitted.

The Exchange notes that the Depth Data products, including the Historical Depth Data, are completely voluntary products, in that the Exchange is not required by any rule or regulation to make the reports or services available and that potential subscribers may purchase it only if they voluntarily choose to do so. Further, the Exchange notes that other exchanges offer similar products for a fee.[8]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [10] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [11] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[12] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [13]

With respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC* upheld the Commission's reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' [14]

The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [15]

More recently, the Commission confirmed that it applies a ''market-based'' test in its assessment of market data fees, and that under that test:

> the Commission considers whether the exchange was subject to significant competitive forces in setting the terms of its proposal for [market data], including the level of any fees. If an exchange meets this burden, the Commission will find that its fee rule is consistent with the Act unless there is a substantial countervailing basis to find that the terms of the rule violate the Act or the rules thereunder.[16]

The Exchange operates in a highly competitive environment. Indeed, there are currently 16 registered equities exchanges that trade equities. Based on publicly available information, no single equities exchange has more than 13% of the equity market share.[17] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supercompetitive fees. In the event that a market participant views one exchange's data product as more attractive than the competition, that market participant can, and often does, switch between similar products. The proposed fees are a result of the competitive environment of the U.S. equities industry as the Exchange seeks to increase fees for Historical Depth Data, while continuing to attract purchasers.

The Exchange's Historical Depth Data is a competitively priced alternative to historical depth of book data disseminated by other national securities exchanges. The Exchange's Depth Data products, including Historical Depth Data, benefits a wide range of investors that participate in the national market system. As noted above, Nasdaq and NYSE have a similar Depth Data offerings for a charge.[18] The Exchange therefore believes that the proposed fees are reasonable and set at a level to compete with other equity exchanges that offer similar reports.

(February 24, 2015) (SR–BATS–2015–11), pursuant to which ''Historical PITCH'' was renamed ''Historical Depth.''

[7] As part of the proposed rule change, the Exchange proposes to establish a separate ''Historical Depth'' table in its Fee Schedule, and rename the current ''BZX Historical Top, Historical Depth or Historical Last Sale Data'' to ''BZX Historical Top or Historical Last Sale Data.'' The Exchange also proposes to remove the fee related to delivery per 1TB drive of data as the Exchange does not provide 1TB drives anymore.

[8] *See, e.g., https://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#nom*; and *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf.*

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *Id.*

[12] 15 U.S.C. 78f(b)(4).

[13] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[14] *See NetCoalition* v. *SEC,* 615 F.3d 525, 535 (D.C. Cir. 2010) (''*NetCoalition I*'') (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323).

[15] *Id.* at 535.

[16] *See* Securities Exchange Act Release No. 34–90217 (October 16, 2020), 85 FR 67392 (October 22, 2020) (SR–NYSENAT–2020–05) (Order Approving a Proposed Rule Change to Establish Fees for the NYSE National Integrated Feed) (internal quotation marks omitted), quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) (NYSE ArcaBook Approval Order).

[17] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (December 8, 2023), available at *https://www.cboe.com/us/equities/market_statistics/.*

[18] *See supra* note 8.

Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. As such, if a market participant views another exchange's potential report as more attractive, then such market participant can merely choose not to purchase the Exchange's Historical Depth Data offering and instead purchase another exchange's similar data product, which offers similar data points, albeit based on other market's trading activity.

Further, the Exchange believes the fees are reasonable, as even with the proposed fee increase, they continue to represent a relatively modest fee for historical depth of book data that has proven valuable for investors. The Exchange believes the fee, as proposed, remains reasonable, as the moderate increase is the first increase to the fee since its introduction in 2010.

The Exchange also believes that the proposed fee is reasonable because it is reasonably aligned with the value and benefits provided to users that choose to purchase Historical Depth Data from the Exchange. As discussed above, Historical Depth Data may be beneficial to Members and non-Members as it may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange. As noted above, since first introducing the Historical Depth Data product offering, the Exchange has made a number of significant enhancements to its platform, including, among other things, a significant expansion of its listing program for exchange-traded products, that have resulted in improved trading opportunities for investors and, consequently, more valuable market data.

In addition, the Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will apply to all similarly situated Members and non-Members that choose to purchase Historical Depth Data equally. As stated, Historical Depth Data is completely optional and not necessary for trading. Rather, the Exchange voluntarily makes Historical Depth Data available, and users may choose to purchase the data based on their own individual business needs. Potential purchasers may purchase Historical Depth Data at any time if they believe it to be valuable or may decline to purchase it. Moreover, several other exchanges offer a similar data product which offer the same type of data content through similar reports.[19]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment in which the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As discussed above, the Exchange's Historical Depth Data offering is subject to direct competition from several other exchanges that offer similar data products. The proposed rule changes are grounded in the Exchange's efforts to compete more effectively. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

Additionally, the Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed Historical Depth Data fees will apply equally to Members and non-Members who purchase Historical Depth Data. Moreover, purchase of Historical Depth Data is optional.

Finally, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, similar products are offered by Nasdaq and NYSE. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''. Accordingly, the Exchange does not believe its proposal imposes any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[20] and paragraph (f) of Rule 19b–4[21] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[19] *See supra* note 8.

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f).

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–2024–002 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–2024–002. 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–2024–002 and should be submitted on or before February 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00845 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99342; File No. SR–NYSEAMER–2024–04]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend the NYSE American Options Fee Schedule

January 12, 2024.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 10, 2024, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE American Options Fee Schedule (the ''Fee Schedule'') with respect to the system processing fee for the Central Registration Depository (''CRD'' or ''CRD system'') collected by the Financial Industry Regulatory Authority, Inc. (''FINRA''). The Exchange proposes to implement the fee change on January 10, 2024. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule with respect to the system processing fee for use of CRD collected by FINRA.[3] The Exchange proposes to implement the fee changes effective January 10, 2024.[4]

FINRA collects and retains certain regulatory fees via CRD for the registration of associated persons of Exchange ATP Holders that are not FINRA members (''Non-FINRA ATP Holders'').[5] CRD fees are user-based, and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA ATP Holders.

In 2020, FINRA amended certain fees assessed for use of the CRD system for implementation between 2022 and 2024.[6] The Exchange accordingly proposes to amend the Fee Schedule to mirror the system processing fee assessed by FINRA, which will be implemented concurrently with the amended FINRA fee as of January 2024.[7] Specifically, the Exchange proposes to amend the Fee Schedule to modify the system processing fee charged to Non-FINRA ATP Holders for each registered

[3] CRD is the central licensing and registration system for the U.S. securities industry. The CRD system enables individuals and firms seeking registration with multiple states and self-regulatory organizations to do so by submitting a single form, fingerprint card, and a combined payment of fees to FINRA. Through the CRD system, FINRA maintains the qualification, employment, and disciplinary histories of registered associated persons of broker-dealers.

[4] The Exchange originally filed to amend the Fee Schedule on December 29, 2023 (SR–NYSE–2023–68)[sic]. SR–NYSE–2023–68[sic] was withdrawn on January 10, 2024 and replaced by this filing.

[5] The Exchange originally adopted fees for use of the CRD system in 2003 and amended those fees in 2013, 2022 and 2023. *See* Securities Exchange Act Release Nos. 48066 (June 19, 2003), 68 FR 38409 (June 27, 2003) (SR–Amex–2003–49); 68589 (January 4, 2013), 78 FR 2465 (January 11, 2013) (SR–NYSEMKT–2012–89); 93901 (January 5, 2022), 87 FR 1453 (January 11, 2022) (SR–NYSEAMER–2021–48); and 96717 (January 19, 2023), 88 FR 4857 (January 25, 2023) (SR–NYSEAMER–2023–07). While the Exchange lists these fees in its Fee Schedule, it does not collect or retain these fees.

[6] *See* Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (SR–FINRA–2020–032).

[7] The Exchange notes that it has only adopted the CRD system fees charged by FINRA to Non-FINRA ATP Holders when such fees are applicable. In this regard, certain FINRA CRD system fees and requirements are specific to FINRA members, but do not apply to NYSE Arca-only ATP Holders. Non-FINRA ATP Holders have been charged CRD system fees since 2005. *See* note 5, *supra.* ATP Holders that are also FINRA members are charged CRD system fees according to Section 4 of Schedule A to the FINRA By-Laws.

representative and principal from $45 to $70.[8]

The Exchange notes that the proposed change is not otherwise intended to address any other issues surrounding regulatory fees, and the Exchange is not aware of any problems that ATP Holders would have in complying with the proposed change.

1. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[9] in general, and furthers the objectives of section 6(b)(4) [10] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges. The Exchange also believes that the proposed rule change is consistent with section 6(b)(5) of the Act,[11] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed fee change is reasonable because the fee will be identical to that adopted by FINRA as of January 2024 for use of the CRD system to submit an initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification of one or more disclosure events or proceedings and the posting to CRD each set of fingerprints submitted electronically to FINRA. The costs of operating and improving the CRD system are similarly borne by FINRA when a Non-FINRA ATP Holder uses the CRD system; accordingly, the fees collected for such use should, as proposed by the Exchange, mirror the fees assessed to FINRA members. In addition, as FINRA noted in amending its fees, it believes that its proposed pricing structure is reasonable and correlates fees with the components that drive its regulatory costs to the extent feasible. The Exchange further believes that the change is reasonable because it will provide greater specificity regarding the CRD system fees that are applicable to Non-FINRA ATP Holders. All similarly situated ATP Holders are subject to the same fee structure, and every ATP Holder must use the CRD system for registration and disclosure. Accordingly, the Exchange believes that the fees collected for such use should likewise increase in lockstep with the fees assessed to FINRA members, as proposed by the Exchange.

The Exchange also believes that the proposed fee change provides for the equitable allocation of reasonable fees and other charges, and does not unfairly discriminate between customers, issuers, brokers, and dealers. The fee applies equally to all individuals and firms required to report information the CRD system, and the proposed change will result in the same regulatory fees being charged to all ATP Holders required to report information to CRD and for services performed by FINRA regardless of whether such ATP Holders are FINRA members. Accordingly, the Exchange believes that the fee collected for such use should increase in lockstep with the fee adopted by FINRA as of January 2024, as proposed by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,[12] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed change will reflect fees that will be assessed by FINRA as of January 2024 and will thus result in the same regulatory fees being charged to all ATP Holders required to report information to the CRD system and for services performed by FINRA, regardless of whether or not such ATP Holders are FINRA members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act [13] and Rule 19b–4(f)(2) [14] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEAMER–2024–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEAMER–2024–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 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;

[8] *See* Section (4)(b)(7) of Schedule A to the FINRA By-laws.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78f(b)(5).

[12] *See* 15 U.S.C. 78f(b)(8).

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f)(2).

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–NYSEAMER–2024–04 and should be submitted on or before February 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00922 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99332; File No. SR–NYSEARCA–2023–87]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend its NYSE Arca Equities Fees and Charges

January 11, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 29, 2023, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its NYSE Arca Equities Fees and Charges (the ''Fee Schedule'') with respect to the system processing fee for the Central Registration Depository (''CRD'' or ''CRD system'') collected by the Financial Industry Regulatory Authority, Inc. (''FINRA''). The Exchange proposes to implement the fee change on January 2, 2024. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule with respect to the system processing fee for use of CRD collected by FINRA.[3] The Exchange proposes to implement the fee changes effective January 2, 2024.

FINRA collects and retains certain regulatory fees via CRD for the registration of associated persons of Exchange ETP Holders that are not FINRA members (''Non-FINRA ETP Holders'').[4] CRD fees are user-based, and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA ETP Holder.

In 2020, FINRA amended certain fees assessed for use of the CRD system for implementation between 2022 and 2024.[5] The Exchange accordingly proposes to amend the Fee Schedule to mirror the system processing fee assessed by FINRA, which will be implemented concurrently with the amended FINRA fee as of January 2024.[6] Specifically, the Exchange proposes to amend the Fee Schedule to modify the system processing fee charged to Non-FINRA ETP Holders for each registered representative and principal from $45 to $70.[7]

The Exchange notes that the proposed change is not otherwise intended to address any other issues surrounding regulatory fees, and the Exchange is not aware of any problems that ETP Holders would have in complying with the proposed change.

1. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(4)[9] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[10] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed fee change is reasonable because the fee will be identical to that adopted by FINRA as of January 2024 for use of the CRD system to submit an initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification of one or more disclosure events or proceedings and the posting to CRD each set of fingerprints submitted electronically to FINRA. The costs of operating and improving the CRD system are similarly borne by FINRA

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] CRD is the central licensing and registration system for the U.S. securities industry. The CRD system enables individuals and firms seeking registration with multiple states and self-regulatory organizations to do so by submitting a single form, fingerprint card, and a combined payment of fees to FINRA. Through the CRD system, FINRA maintains the qualification, employment, and disciplinary histories of registered associated persons of broker-dealers.

[4] The Exchange originally adopted fees for use of the CRD system in 2005 and amended those fees in 2013, 2022 and 2023. *See* Securities Exchange Act Release Nos. 51641 (May 2, 2005), 70 FR 24155 (May 6, 2005) (SR–PCX–2005–49); 68588 (January 4, 2013), 78 FR 2473 (Jan. 11, 2013) (SR–NYSEArca–2012–145); and 96682 (January 17, 2023), 88 FR 4044 (January 23, 2023) (SR–NYSEArca–2023–02). While the Exchange lists these fees in its Fee Schedule, it does not collect or retain these fees.

[5] *See* Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (SR–FINRA–2020–032).

[6] The Exchange notes that it has only adopted the CRD system fees charged by FINRA to Non-FINRA ETP Holders when such fees are applicable. In this regard, certain FINRA CRD system fees and requirements are specific to FINRA members, but do not apply to NYSE Arca-only ETP Holders. Non-FINRA ETP Holders have been charged CRD system fees since 2005. *See* note 4, *supra.* ETP Holders that are also FINRA members are charged CRD system fees according to Section 4 of Schedule A to the FINRA By-Laws.

[7] *See* Section (4)(b)(7) of Schedule A to the FINRA By-laws.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(5).

when a Non-FINRA ETP Holder uses the CRD system; accordingly, the fees collected for such use should, as proposed by the Exchange, mirror the fees assessed to FINRA members. In addition, as FINRA noted in amending its fees, it believes that its proposed pricing structure is reasonable and correlates fees with the components that drive its regulatory costs to the extent feasible. The Exchange further believes that the change is reasonable because it will provide greater specificity regarding the CRD system fees that are applicable to Non-FINRA ETP Holders. All similarly situated ETP Holders are subject to the same fee structure, and every ETP Holder must use the CRD system for registration and disclosure. Accordingly, the Exchange believes that the fees collected for such use should likewise increase in lockstep with the fees assessed to FINRA members, as proposed by the Exchange.

The Exchange also believes that the proposed fee change provides for the equitable allocation of reasonable fees and other charges, and does not unfairly discriminate between customers, issuers, brokers, and dealers. The fee applies equally to all individuals and firms required to report information the CRD system, and the proposed change will result in the same regulatory fees being charged to all ETP Holders required to report information to CRD and for services performed by FINRA regardless of whether such ETP Holders are FINRA members. Accordingly, the Exchange believes that the fee collected for such use should increase in lockstep with the fee adopted by FINRA as of January 2024, as proposed by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[11] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed change will reflect fees that will be assessed by FINRA as of January 2024 and will thus result in the same regulatory fees being charged to all ETP Holders required to report information to the CRD system and for services performed by FINRA, regardless of whether or not such ETP Holders are FINRA members.

[11] *See* 15 U.S.C. 78f(b)(8).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[12] and Rule 19b–4(f)(2)[13] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEARCA–2023–87 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEARCA–2023–87. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 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–NYSEARCA–2023–87 and should be submitted on or before February 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00853 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99334; File No. SR–NYSEARCA–2023–88]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend its NYSE Arca Options Fees and Charges

January 11, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 29, 2023, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its NYSE Arca Options Fees and Charges (the ''Fee Schedule'') with respect to the system processing fee for the Central Registration Depository (''CRD'' or ''CRD system'') collected by the Financial Industry Regulatory Authority, Inc. (''FINRA''). The Exchange proposes to implement the fee change on January 2, 2024. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule with respect to the system processing fee for use of CRD collected by collected by FINRA.[3] The Exchange proposes to implement the fee changes effective January 2, 2024.

FINRA collects and retains certain regulatory fees via CRD for the registration of associated persons of Exchange OTP Holders and OTP Firms that are not FINRA members (''Non-FINRA OTP Holders'').[4] CRD fees are user-based, and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA OTP Holder.

In 2020, FINRA amended certain fees assessed for use of the CRD system for implementation between 2022 and 2024.[5] The Exchange accordingly proposes to amend the Fee Schedule to mirror the system processing fee assessed by FINRA, which will be implemented concurrently with the amended FINRA fee as of January 2024.[6] Specifically, the Exchange proposes to amend the Fee Schedule to modify the system processing fee charged to Non-FINRA OTP Holders for each registered representative and principal from $45 to $70.[7]

The Exchange notes that the proposed change is not otherwise intended to address any other issues surrounding regulatory fees, and the Exchange is not aware of any problems that OTP Holders would have in complying with the proposed change.

1. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(4) [9] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[10] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed fee change is reasonable because the fee will be identical to that adopted by FINRA for use of the CRD system to submit an initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification of one or more disclosure events or proceedings and the posting to CRD each set of fingerprints submitted electronically to FINRA. The costs of operating and improving the CRD system are similarly borne by FINRA when a Non-FINRA OTP Holder uses the CRD system; accordingly, the fees collected for such use should, as proposed by the Exchange, mirror the fees assessed to FINRA members. In addition, as FINRA noted in amending its fees, it believes that its proposed pricing structure is reasonable and correlates fees with the components that drive its regulatory costs to the extent feasible. The Exchange further believes that the change is reasonable because it will provide greater specificity regarding the CRD system fees that are applicable to Non-FINRA OTP Holders. All similarly situated OTP Holders are subject to the same fee structure, and every OTP Holder must use the CRD system for registration and disclosure. Accordingly, the Exchange believes that the fees collected for such use should likewise increase in lockstep with the fees assessed to FINRA members, as proposed by the Exchange.

The Exchange also believes that the proposed fee change provides for the equitable allocation of reasonable fees and other charges, and does not unfairly discriminate between customers, issuers, brokers, and dealers. The fee applies equally to all individuals and firms required to report information the CRD system, and the proposed change will result in the same regulatory fees being charged to all OTP Holders required to report information to CRD and for services performed by FINRA regardless of whether such OTP Holders are FINRA members. Accordingly, the Exchange believes that the fee collected for such use should increase in lockstep with the fee adopted by FINRA as of January 2024, as proposed by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[11] the Exchange believes that the

[3] CRD is the central licensing and registration system for the U.S. securities industry. The CRD system enables individuals and firms seeking registration with multiple states and self-regulatory organizations to do so by submitting a single form, fingerprint card, and a combined payment of fees to FINRA. Through the CRD system, FINRA maintains the qualification, employment, and disciplinary histories of registered associated persons of broker-dealers.

[4] The Exchange originally adopted fees for use of the CRD system in 2005 and amended those fees in 2013, 2022 and 2023. *See* Securities Exchange Act Release Nos. 51641 (May 2, 2005), 70 FR 24155 (May 6, 2005) (SR–PCX–2005–49); 68590 (January 4, 2013), 78 FR 2470 (January 11, 2013) (SR–NYSEArca–2012–145); 93899 (January 5, 2022), 87 FR 1455 (January 11, 2022) (SR–NYSEArca–2021–106); and 96698 (January 18, 2023), 88 FR 4260 (January 24, 2023) (SR–NYSEArca–2023–03). While the Exchange lists these fees in its Fee Schedule, it does not collect or retain these fees.

[5] *See* Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (SR–FINRA–2020–032).

[6] The Exchange notes that it has only adopted the CRD system fees charged by FINRA to Non-FINRA OTP Holders when such fees are applicable. In this regard, certain FINRA CRD system fees and requirements are specific to FINRA members, but do not apply to NYSE Arca-only OTP Holders. Non-FINRA OTP Holders have been charged CRD system fees since 2005. *See* note 4, *supra.* OTP Holders that are also FINRA members are charged CRD system fees according to Section 4 of Schedule A to the FINRA By-Laws.

[7] *See* Section (4)(b)(7) of Schedule A to the FINRA By-laws.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(5).

[11] *See* 15 U.S.C. 78f(b)(8).

proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed change will reflect fees that will be assessed by FINRA as of January 2024 and will thus result in the same regulatory fees being charged to all OTP Holders required to report information to the CRD system and for services performed by FINRA, regardless of whether or not such OTP Holders are FINRA members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [12] and Rule 19b–4(f)(2) [13] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–NYSEARCA–2023–88 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEARCA–2023–88. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 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–NYSEARCA–2023–88 and should be submitted on or before February 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00855 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99333; File No. SR–MEMX–2023–29]

Self-Regulatory Organizations; MEMX LLC; Notice of Withdrawal of a Proposed Rule Change To Amend the Exchange's Fee Schedule To Adopt Connectivity and Application Session Fees for MEMX Options

January 11, 2024.

On October 24, 2023, MEMX LLC (''MEMX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change (File No. SR–MEMX–2023–29) to adopt connectivity and application session fees for MEMX Options.[3] The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[4] The proposed rule change was published for comment in the **Federal Register** on November 15, 2023.[5] On December 21, 2023, the Exchange withdrew the proposed rule change (SR–MEMX–2023–29).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00854 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99326; File No. SR–CBOE–2024–002]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Related to Certain Data Fees

January 11, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 2, 2024, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 98888 (November 8, 2023), 88 FR 78430 (November 15, 2023) (''Notice'').

[4] 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as ''establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.'' 15 U.S.C. 78s(b)(3)(A)(ii).

[5] *See* Notice, *supra* note 3.

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule, effective January 2, 2024.

Open-Close Data

The Exchange proposes to amend certain fees related to its provision of Open-Close Data. By way of background, the Exchange currently offers End-of-Day (''EOD'') and Intraday Open-Close Data (collectively, ''Open-Close Data''). EOD Open-Close Data is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Open-Close Data is proprietary Cboe Options trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed.

The Exchange also offers Intraday Open-Close Data, which provides similar information to that of Open-Close Data but is produced and updated every 10 minutes during the trading day. Data is captured in ''snapshots'' taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period.[3] The Intraday Open-Close Data provides a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing). The customer and professional customer volume are further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Intraday Open-Close Data is also proprietary Cboe Options trade data and does not include trade data from any other exchange.

Cboe LiveVol, LLC (''LiveVol''), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., makes the Open-Close Data available for purchase to TPHs and non-TPHs on the LiveVol DataShop website (*datashop.cboe.com*). Customers may currently purchase Intraday Open-Close Data on a subscription basis (monthly or annually) or by ad hoc request for a specified month (*e.g.,* request for Intraday Open-Close Data for month of December 2023). The Exchange assesses a monthly fee of $2,000 (or $24,000 per year) for subscribing to the data feed and assesses a fee of $1,000 per request per month for an ad-hoc request of historical Intraday Open/Close data covering all Exchange-listed securities. The Exchanges notes that Open-Close Data is subject to direct competition from similar end-of-day and intraday options trading summaries offered by several other options exchanges.[4] All of these exchanges offer essentially the same end-of-day and intraday options trading summary information, which may be purchased on both a subscription and ad-hoc basis and which are similarly priced.[5]

The Exchange notes that the current fee for Intraday Open-Close Data has been in place, without change, since 2020 when the Exchange first adopted the Intraday Open-Close Data product offering. In the time since, the Exchange has made enhancements to the offering, including adding data from the Global Trading Hours (''GTH'')[6] session to the Intraday Open-Close Data, in addition to the Regular Trading Hours (''RTH'') and Curb sessions.[7] As a result, Intraday Open-Close Data is produced and updated every 10 minutes throughout all trading sessions. The Exchange now proposes to increase the fee for Intraday Open-Close Data.[8] The Exchange proposes to assess a monthly fee of $3,000 (or $36,000 per year) for subscribing to the data feed.

Historical Depth Data

By way of background, the Exchange currently makes available for purchase Depth Data, which is a daily archive of the Exchange's depth of book real-time feed, which provides depth-of-book quotations and execution information based on options orders entered into the System.[9] The Exchange also offers Historical Depth Data, for no charge, which offers such data on a historical basis, *i.e.* T+1 or later, dating back to

[3] For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update will represent the aggregate data captured from the current ''snapshot'' and all previous ''snapshots.''

[4] These substitute products include: Nasdaq PHLX Options Trade Outline, Nasdaq Options Trade Outline, ISE Trade Profile, GEMX Trade Profile data; open-close data from C2, BZX, and EDGX; and Open Close Reports from MIAX Options, Pearl, and Emerald.

[5] *See* Price List—U.S. Derivatives Data for Nasdaq PHLX, LLC (''PHLX''), The Nasdaq Stock Market, LLC (''Nasdaq''), Nasdaq ISE, LLC (''ISE''), and Nasaq GEMX, LLC (''GEMX''), available at *http://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#web.* Particularly, PHLX offers ''Nasdaq PHLX Options Trade Outline (PHOTO)'' and assesses $2,500 per month for an intraday subscription and $1,000 per month for historical reports; Nasdaq offers the ''Nasdaq Options Trade Outline (NOTO)'' and assesses $750 per month for an intraday subscription and $500 per month for historical reports; ISE offers the ''Nasdaq ISE Open/Close Trade Profile'' and assesses $2,000 per month for an intraday subscription and $1,000 per month for historical reports; and GEMX offers the ''Nasdaq GEMX Open/Close Trade Profile'' and assesses $1,000 per month for an intraday subscription and $750 per month for historical reports.

[6] *See* Rule 5.1(c). Except under unusual conditions as may be determined by the Exchange or the Holiday hours set forth in Rule 5.1(d), GTH starts at 8:15 p.m. ET and continue through the next day until 9:15 a.m. ET. Currently trading is limited to SPX, VIX, and XSP.

[7] *See* Rule 5.1 (b) (Regular Trading Hours) and Rule 5.1(d) (Curb Trading Hours).

[8] As part of the proposed rule change, the Exchange proposes to delete language in the Fees Schedule regarding the provision of a 20% discount on fees assessed to Exchange Members and non-Members that purchase $20,000 or more of historical Open-Close Data; such discount program was effective from November 15, 2023 through December 31, 2023, and is no longer in effect.

[9] *See* Exchange Fees Schedule. Daily end-of-day delivery is provided via the DataShop SFTP. Files will typically become available after 8pm ET; *see also* Exchange Rule 1.1, which defines ''System.''

October 2019. The Depth Data and Historical Depth Data are available to Members and Non-Members on the Cboe LiveVol, LLC (''LiveVol'') website,[10] for internal use only; LiveVol is a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc.

The Exchange and affiliated equities and options exchanges (*i.e.,* Cboe C2 Exchange, Inc. (''C2 Options''), Cboe EDGX Exchange, Inc. (''EDGX''), Cboe BYX Exchange, Inc. (''BYX''), Cboe BZX Exchange, Inc. (''BZX''), and Cboe EDGA Exchange, Inc. (''EDGA'') (collectively, ''Affiliates'') also offer similar data products. Particularly, each of the Exchange's Affiliates offer a daily and historical archive of their depth of book real-time feed with execution information based on their trading activity that is substantially similar to the information provided by the Exchange through its Depth Data products.

Currently, the Exchange provides Historical Depth Data to users without a charge. Since the Exchange first began offering access to historical quotation and transactions data, the Exchange has made a number of significant enhancements to its platform, including, among other things, implementing a more efficient means of data delivery (via SFTP rather than shipment of hard drives), which consequently increases the value of the market data product.

The Exchange now proposes to amend its Fees Schedule and assess a fee of $1,500 per month of Historical Depth Data accessed by a user. As is currently the case, the data will be provided to data recipients for internal use only, and thus, no redistribution will be permitted.

The Exchange notes that the Depth Data products, including the Historical Depth Data, are completely voluntary products, in that the Exchange is not required by any rule or regulation to make the reports or services available and that potential subscribers may purchase it only if they voluntarily choose to do so. Further, the Exchange notes that other exchanges offer similar products for a fee.[11]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[12] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [13] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [14] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[15] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes the proposed changes to increase the fee for Intraday Open-Close Data subscriptions and adopt a fee for Historical Depth Data are reasonable. In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data.

The Exchange also operates in a highly competitive environment. Indeed, there are currently 17 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 12% of the market share.[16] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [17] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products.

The Exchange believes the proposed change will continue to broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Open-Close Data is designed to help investors understand underlying market trends to improve the quality of investment decisions. Indeed, subscribers to the data may enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies, especially given recent changes to the offering, including the addition of data from the GTH trading session. The Exchange believes Open-Close Data continues to provide a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading and as noted above, is entirely optional. Moreover, several other exchanges offer a similar data product which offer the same type of data content through end-of-day or intraday reports,[18] with similar pricing.

Further, the Exchange believes the proposed changes to the Intraday Open-Close Data fee are reasonable, given the enhancements to the offering, including the addition of data from the GTH session, in addition to the RTH and Curb sessions. As noted above, Intraday Open-Close Data is now produced and updated every 10 minutes throughout all trading sessions. The addition of the GTH session provides subscribers with more granular insight into trading activity in the products that trade during that session. The Exchange notes a wide variety of market participants purchase Intraday Open-Close Data, including, but not limited to, individual customers, buy-side investors, and investment banks. The Exchange believes the Intraday Open-Close Data

[10] *See https://datashop.cboe.com/cboe-us-options-multicast-pitch.*

[11] *See, e.g., https://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#nom;* and *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf.*

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *Id.*

[15] 15 U.S.C. 78f(b)(4).

[16] *See* Cboe Global Markets U.S. Options Market Volume Summary (December 18, 2023), available at *https://markets.cboe.com/us/options/market_statistics/.*

[17] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[18] *See supra* note 4.

product provides helpful trading information regarding investor sentiment that may allow market participants to make better trading decisions throughout the day and may be used to create and test trading models and analytical strategies and provides comprehensive insight into trading on the Exchange. For example, intraday open data may allow a market participant to identify new interest or possible risks throughout the trading day, while intraday closing data may allow a market participant to identify fading interests in a security. The product is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so. The Exchange notes that other exchanges offer similar data products, which are similarly priced.[19]

Additionally, the Exchange believes the proposed changes to the Historical Depth Data fee are reasonable, as the Exchange's Historical Depth Data is a competitively priced alternative to historical depth of book data disseminated by other national securities exchanges. The Exchange's Depth Data products, including Historical Depth Data, benefits a wide range of investors that participate in the national market system. As noted above, Nasdaq and NYSE have similar Depth Data offerings for a charge.[20] The Exchange therefore believes that the proposed fees are reasonable and set at a level to compete with other exchanges that offer similar reports. Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. As such, if a market participant views another exchange's potential report as more attractive, then such market participant can merely choose not to purchase the Exchange's Historical Depth Data offering and instead purchase another exchange's similar data product, which offers similar data points, albeit based on other market's trading activity. Further, the Exchange believes the fees are reasonable since, as proposed, they represent a relatively modest fee for historical depth of book data that has proven valuable for investors.

The Exchange also believes that the proposed fee is reasonable because it is reasonably aligned with the value and benefits provided to users that choose to purchase Historical Depth Data from the Exchange. As discussed above, Historical Depth Data may be beneficial to Members and non-Members as it may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange. As noted above, since first offering Historical Depth Data, the Exchange has made a number of significant enhancements to its platform, including, among other things, implementing a more efficient means of data delivery (via SFTP rather than shipment of hard drives), which consequently increases the value of the market data product.

Finally, the Exchange believes that the proposed changes to the Exchange's Intraday Open-Close Data and Historical Depth Data offerings are equitable and not unfairly discriminatory because the changes to the offerings apply to all current and potential subscribers of the products uniformly, in that all subscribers will be assessed the new proposed fee for purchases of Intraday Open-Close Data or Historical Depth Data. As stated, purchase of Intraday Open-Close Data and Historical Depth Data is completely optional and not necessary for trading. Rather, the Exchange voluntarily makes Intraday Open-Close Data and Historical Depth Data available, and users may choose to purchase the data based on their own individual business needs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, the Exchange's Intraday Open-Close Data and Historical Depth Data offerings are subject to direct competition from several other exchanges that offer similar data products. The proposed rule changes are grounded in the Exchange's efforts to compete more effectively. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes the proposed rule changes permit fair competition among national securities exchanges.

Additionally, the Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The changes to the Intraday Open-Close Data and Historical Depth Data offerings apply to all current and potential subscribers of the product uniformly, in that all subscribers will be assessed the same fees for subscribing to receive Intraday Open-Close Data and Historical Depth Data. Moreover, purchase of Intraday Open-Close Data and Historical Depth Data is optional.

Further, the Exchange also does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, other exchanges offer similar data products, which are similarly priced.[21] As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 16 other options exchanges and off-exchange venues. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 12% of the market share.[22] Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [23] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution';

[19] *See supra* note 5.

[20] *See supra* note 11.

[21] *See supra* notes 5 and 11.

[22] *See supra* note 16.

[23] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[24] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [25] and paragraph (f) of Rule 19b–4 [26] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–CBOE–2024–002 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–CBOE–2024–002. 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–CBOE–2024–002 and should be submitted on or before February 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00848 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99320; File No. SR–CboeBYX–2024–001]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Modify Historical Depth Data Fees

January 11, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 2, 2024, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/BYX/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule, effective January 2, 2024.

By way of background, the Exchange currently makes available for purchase Depth Data, which is a daily archive of the Exchange's depth of book real-time feed, which provides depth-of-book quotations and execution information based on equity orders entered into the System.[3] The Exchange also offers Historical Depth Data, which offers such data on a historical basis, *i.e.* T+1 or

[24] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f).

[27] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* BZX Fees Schedule and BZX Rule 11.22. Daily end-of-day delivery is provided via the DataShop SFTP. Files will typically become available after 10 p.m. ET; *see also* BZX Rule 1.5, which defines ''System.''

later, dating back to September 2019. The Depth Data and Historical Depth Data are available for purchase to Members and Non-Members on the Cboe LiveVol, LLC (''LiveVol'') website,[4] for internal use only; LiveVol is a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc.

The Exchange's options platform (''BYX Options'') [sic] and affiliated equities and options exchanges (*i.e.,* Cboe Exchange, Inc. (''Cboe Options''), Cboe C2 Exchange, Inc. (''C2 Options''), Cboe EDGX Exchange, Inc. (''EDGX''), Cboe BZX Exchange, Inc. (''BZX''), and Cboe EDGA Exchange, Inc. (''EDGA''), (collectively, ''Affiliates'') also offer similar data products.[5] Particularly, each of the Exchange's Affiliates offer a daily and historical archive of their depth of book real-time feed with execution information based on their trading activity that is substantially similar to the information provided by the Exchange through its Depth Data products.

Currently, the Exchange charges a fee of $500 per month of Historical Depth Data accessed by a user. This fee has been in place, without change, since April 2010 when the Exchange first began charging for access to historical quotation and transactions data from the Exchange's PITCH data feed (''Historical PITCH Data'').[6] In the time since, the Exchange has made a number of significant enhancements to its platform, including, among other things, implementing a more efficient means of data delivery (via SFTP rather than shipment of hard drives), which consequently increases the value of the market data product.

The Exchange now proposes to increase the fee from $500 to $1,000 per month of Historical Depth Data accessed by a user.[7] As is currently the case, the data will be provided to data recipients for internal use only, and thus, no redistribution will be permitted.

The Exchange notes that the Depth Data products, including the Historical Depth Data, are completely voluntary products, in that the Exchange is not required by any rule or regulation to make the reports or services available and that potential subscribers may purchase it only if they voluntarily choose to do so. Further, the Exchange notes that other exchanges offer similar products for a fee.[8]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [10] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [11] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[12] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [13]

With respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC* upheld the Commission's reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' [14]

The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [15]

More recently, the Commission confirmed that it applies a ''market-based'' test in its assessment of market data fees, and that under that test:

> the Commission considers whether the exchange was subject to significant competitive forces in setting the terms of its proposal for [market data], including the level of any fees. If an exchange meets this burden, the Commission will find that its fee rule is consistent with the Act unless there is a substantial countervailing basis to find that the terms of the rule violate the Act or the rules thereunder.[16]

The Exchange operates in a highly competitive environment. Indeed, there are currently 16 registered equities exchanges that trade equities. Based on

[4] *See https://datashop.cboe.com/cboe-us-equities-pitch.*

[5] *See,* for example, EDGX Fee Schedule, BZX Fee Schedule, EDGA Fee Schedule.

[6] *See* Securities Exchange Act Release No. 74050 (January 14, 2015), 80 FR 2989 (January 21, 2015) (SR–BYX–2015–01); *see also* Securities Exchange Act Release No. 74402 (March 2, 2015), 80 FR 12242 (March 6, 2015) (SR–BYX–2015–12), pursuant to which ''Historical PITCH'' was renamed ''Historical Depth.''

[7] As part of the proposed rule change, the Exchange proposes to establish a separate ''Historical Depth'' table in its Fees Schedule, and rename the current ''BYX Historical Top, Historical Depth or Historical Last Sale Data'' to ''BYX Historical Top or Historical Last Sale Data.'' The Exchange also proposes to remove the fee related to delivery per 1TB drive of data as the Exchange does not provide 1TB drives anymore.

[8] *See, e.g., https://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#nom;* and *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf.*

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *Id.*

[12] 15 U.S.C. 78f(b)(4).

[13] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[14] *See NetCoalition* v. *SEC,* 615 F.3d 525, 535 (D.C. Cir. 2010) (''*NetCoalition I*'') (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323).

[15] *Id.* at 535.

[16] *See* Securities Exchange Act Release No. 34–90217 (October 16, 2020), 85 FR 67392 (October 22, 2020) (SR–NYSENAT–2020–05) (Order Approving a Proposed Rule Change to Establish Fees for the NYSE National Integrated Feed) (internal quotation marks omitted), quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) (NYSE ArcaBook Approval Order).

publicly available information, no single equities exchange has more than 13% of the equity market share.[17] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supercompetitive fees. In the event that a market participant views one exchange's data product as more attractive than the competition, that market participant can, and often does, switch between similar products. The proposed fees are a result of the competitive environment of the U.S. equities industry as the Exchange seeks to increase fees for Historical Depth Data, while continuing to attract purchasers.

The Exchange's Historical Depth Data is a competitively priced alternative to historical depth of book data disseminated by other national securities exchanges. The Exchange's Depth Data products, including Historical Depth Data, benefits a wide range of investors that participate in the national market system. As noted above, Nasdaq and NYSE have a similar Depth Data offerings for a charge.[18] The Exchange therefore believes that the proposed fees are reasonable and set at a level to compete with other equity exchanges that offer similar reports. Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. As such, if a market participant views another exchange's potential report as more attractive, then such market participant can merely choose not to purchase the Exchange's Historical Depth Data offering and instead purchase another exchange's similar data product, which offers similar data points, albeit based on other market's trading activity.

Further, the Exchange believes the fees are reasonable, as even with the proposed fee increase, they continue to represent a relatively modest fee for historical depth of book data that has proven valuable for investors. The Exchange believes the fee, as proposed, remains reasonable, as the moderate increase is the first increase to the fee since its introduction in 2010.

The Exchange also believes that the proposed fee is reasonable because it is reasonably aligned with the value and benefits provided to users that choose to purchase Historical Depth Data from the Exchange. As discussed above, Historical Depth Data may be beneficial to Members and non-Members as it may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange. As noted above, the Exchange has made a number of significant enhancements to its platform, including, among other things, implementing a more efficient means of data delivery (via SFTP rather than shipment of hard drives), which consequently increases the value of the market data product.

In addition, the Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will apply to all similarly situated Members and non-Members that choose to purchase Historical Depth Data equally. As stated, Historical Depth Data is completely optional and not necessary for trading. Rather, the Exchange voluntarily makes Historical Depth Data available, and users may choose to purchase the data based on their own individual business needs. Potential purchasers may purchase Historical Depth Data at any time if they believe it to be valuable or may decline to purchase it. Moreover, several other exchanges offer a similar data product which offer the same type of data content through similar reports.[19]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment in which the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As discussed above, the Exchange's Historical Depth Data offering is subject to direct competition from several other exchanges that offer similar data products. The proposed rule changes are grounded in the Exchange's efforts to compete more effectively. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

Additionally, the Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed Historical Depth Data fees will apply equally to Members and non-Members who purchase Historical Depth Data. Moreover, purchase of Historical Depth Data is optional.

Finally, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, similar products are offered by Nasdaq and NYSE. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''. Accordingly, the Exchange does not believe its proposal imposes any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

[17] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (December 8, 2023), available at *https://www.cboe.com/us/equities/market_statistics/*.

[18] *See supra* note 8.

[19] *See supra* note 8.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [20] and paragraph (f) of Rule 19b–4 [21] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–CboeBYX–2024–001 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–CboeBYX–2024–001. 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–CboeBYX–2024–001 and should be submitted on or before February 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00844 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99325; File No. SR–C2–2024–001]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Add Historical Depth Data Fee

January 11, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 2, 2024, Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/ctwo/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule, effective January 2, 2024.

By way of background, the Exchange currently makes available for purchase Depth Data, which is a daily archive of the Exchange's depth of book real-time feed, which provides depth-of-book quotations and execution information based on options orders entered into the System.[3] The Exchange also offers Historical Depth Data, for no charge, which offers such data on a historical basis, *i.e.,* T+1 or later, dating back to October 2019. The Depth Data and Historical Depth Data are available to Members and Non-Members on the Cboe LiveVol, LLC (''LiveVol'') website,[4] for internal use only; LiveVol is a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc.

The Exchange and affiliated equities and options exchanges (*i.e.,* Cboe Exchange, Inc. (''Cboe Options''), Cboe EDGX Exchange, Inc. (''EDGX''), Cboe BYX Exchange, Inc. (''BYX''), Cboe BZX Exchange, Inc. (''BZX''), and Cboe EDGA Exchange, Inc. (''EDGA'') (collectively, ''Affiliates'') also offer similar data products. Particularly, each of the Exchange's Affiliates offer a daily and historical archive of their depth of book real-time feed with execution information based on their trading

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Fees Schedule. Daily end-of-day delivery is provided via the DataShop SFTP. Files will typically become available after 8 p.m. ET; *see also* Exchange Rule 1.1, which defines ''System.''

[4] *See https://datashop.cboe.com/cboe-us-options-multicast-pitch.*

activity that is substantially similar to the information provided by the Exchange through its Depth Data products.

Currently, the Exchange provides Historical Depth Data to users without a charge. Since the Exchange first began offering access to historical quotation and transactions data, the Exchange has made a number of significant enhancements to its platform, including, among other things, implementing a more efficient means of data delivery (via SFTP rather than shipment of hard drives), which consequently increases the value of the market data product.

The Exchange now proposes to amend its Fees Schedule and assess a fee of $500 per month of Historical Depth Data accessed by a user. As is currently the case, the data will be provided to data recipients for internal use only, and thus, no redistribution will be permitted.

The Exchange notes that the Depth Data products, including the Historical Depth Data, are completely voluntary products, in that the Exchange is not required by any rule or regulation to make the reports or services available and that potential subscribers may purchase it only if they voluntarily choose to do so. Further, the Exchange notes that other exchanges offer similar products for a fee.[5]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[9] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes the proposed change to adopt a fee for Historical Depth Data is reasonable. In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data.

The Exchange also operates in a highly competitive environment. Indeed, there are currently 17 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 12% of the market share.[10] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [11] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The Exchange believes the proposed change will continue to broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS.

Additionally, the Exchange believes the proposed changes to the Historical Depth Data fee are reasonable, as the Exchange's Historical Depth Data is a competitively priced alternative to historical depth of book data disseminated by other national securities exchanges. The Exchange's Depth Data products, including Historical Depth Data, benefits a wide range of investors that participate in the national market system. As noted above, Nasdaq and NYSE have similar Depth Data offerings for a charge.[12] The Exchange therefore believes that the proposed fees are reasonable and set at a level to compete with other exchanges that offer similar reports. Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. As such, if a market participant views another exchange's potential report as more attractive, then such market participant can merely choose not to purchase the Exchange's Historical Depth Data offering and instead purchase another exchange's similar data product, which offers similar data points, albeit based on other market's trading activity. Further, the Exchange believes the fees are reasonable since, as proposed, they represent a relatively modest fee for historical depth of book data that has proven valuable for investors.

The Exchange also believes that the proposed fee is reasonable because it is reasonably aligned with the value and benefits provided to users that choose to purchase Historical Depth Data from the Exchange. As discussed above, Historical Depth Data may be beneficial to Members and non-Members as it may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange. As noted above, since first offering Historical Depth Data, the Exchange has made a number of significant enhancements to its platform, including, among other things, implementing a more efficient means of data delivery (via SFTP rather than shipment of hard drives), which consequently increases the value of the market data product. Finally, the Exchange believes that the proposed change to the Exchange's Historical

[5] *See, e.g., https://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#nom;* and *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf.*

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

[9] 15 U.S.C. 78f(b)(4).

[10] *See* Cboe Global Markets U.S. Options Market Volume Summary (December 18, 2023), available at *https://markets.cboe.com/us/options/market_statistics/.*

[11] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[12] *See supra* note 5.

Depth Data offerings is equitable and not unfairly discriminatory because the change to the offering applies to all current and potential subscribers of the products uniformly, in that all subscribers will be assessed the new proposed fee for purchases of Historical Depth Data. As stated, purchase of Historical Depth Data is completely optional and not necessary for trading. Rather, the Exchange voluntarily makes Historical Depth Data available, and users may choose to purchase the data based on their own individual business needs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, the Exchange's Historical Depth Data offering is subject to direct competition from several other exchanges that offer similar data products. The proposed rule changes are grounded in the Exchange's efforts to compete more effectively. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes the proposed rule changes permit fair competition among national securities exchanges.

Additionally, the Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The change to the Historical Depth Data offering applies to all current and potential subscribers of the product uniformly, in that all subscribers will be assessed the same fee for subscribing to receive Historical Depth Data. Moreover, purchase of Historical Depth Data is optional.

Further, the Exchange also does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, other exchanges offer similar data products, which are similarly priced.[13] As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 16 other options exchanges and off-exchange venues. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 12% of the market share.[14] Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [15] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[16] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and paragraph (f) of Rule 19b–4 [18] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–C2–2024–001 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–C2–2024–001. 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

[13] *See supra* note 5.

[14] *See supra* note 10.

[15] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[16] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

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–C2–2024–001 and should be submitted on or before February 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00847 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Release No. 34–99328; File No. SR–CboeEDGX–2024–008]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Add Historical Depth Data Fee

January 11, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 10, 2024, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule.[3] By way of background, the Exchange currently makes available for purchase Depth Data, which is a daily archive of the Exchange's depth of book real-time feed, which provides depth-of-book quotations and execution information based on options orders entered into the System.[4] The Exchange also offers Historical Depth Data, for no charge, which offers such data on a historical basis, *i.e.* T+1 or later, dating back to October 2019. The Depth Data and Historical Depth Data are available to Members and Non-Members on the Cboe LiveVol, LLC (''LiveVol'') website,[5] for internal use only; LiveVol is a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc.

The Exchange's equities platform (''EDGX Equities'') and affiliated equities and options exchanges (*i.e.,* Cboe Exchange, Inc. (''Cboe Options''), Cboe C2 Exchange, Inc. (''C2 Options''), Cboe BYX Exchange, Inc. (''BYX''), Cboe BZX Exchange, Inc. (''BZX''), and Cboe EDGA Exchange, Inc. (''EDGA'') (collectively, ''Affiliates'') also offer similar data products. Particularly, each of the Exchange's Affiliates offer a daily and historical archive of their depth of book real-time feed with execution information based on their trading activity that is substantially similar to the information provided by the Exchange through its Depth Data products.

Currently, the Exchange provides Historical Depth Data to users without a charge. Since the Exchange first began offering access to historical quotation and transactions data, the Exchange has made a number of significant enhancements to its platform, including, among other things, implementing a more efficient means of data delivery (via SFTP rather than shipment of hard drives), which consequently increases the value of the market data product.

The Exchange now proposes to amend its Fee Schedule and assess a fee of $500 per month of Historical Depth Data accessed by a user. As is currently the case, the data will be provided to data recipients for internal use only, and thus, no redistribution will be permitted.

The Exchange notes that the Depth Data products, including the Historical Depth Data, are completely voluntary products, in that the Exchange is not required by any rule or regulation to make the reports or services available and that potential subscribers may purchase it only if they voluntarily choose to do so. Further, the Exchange notes that other exchanges offer similar products for a fee.[6]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed fee changes on January 2, 2024 (SR–CboeEDGX–2024–003). On January 10, 2024, the Exchange withdrew that filing and submitted SR–CboeEDGX–2024–008.

[4] *See* Exchange Fee Schedule. Daily end-of-day delivery is provided via the DataShop SFTP. Files will typically become available after 8pm ET; *see also* Exchange Rule 1.5, which defines ''System.''

[5] *See https://datashop.cboe.com/cboe-us-options-multicast-pitch.*

[6] *See, e.g., https://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#nom;* and *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf.*

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

the Section 6(b)(5) [9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[10] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange believes the proposed change to adopt a fee for Historical Depth Data is reasonable. In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data.

The Exchange also operates in a highly competitive environment. Indeed, there are currently 17 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 12% of the market share.[11] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [12] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The Exchange believes the proposed change will continue to broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS.

Additionally, the Exchange believes the proposed changes to the Historical Depth Data fee are reasonable, as the Exchange's Historical Depth Data is a competitively priced alternative to historical depth of book data disseminated by other national securities exchanges. The Exchange's Depth Data products, including Historical Depth Data, benefits a wide range of investors that participate in the national market system. As noted above, Nasdaq and NYSE have similar Depth Data offerings for a charge.[13] The Exchange therefore believes that the proposed fees are reasonable and set at a level to compete with other exchanges that offer similar reports. Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. As such, if a market participant views another exchange's potential report as more attractive, then such market participant can merely choose not to purchase the Exchange's Historical Depth Data offering and instead purchase another exchange's similar data product, which offers similar data points, albeit based on other market's trading activity. Further, the Exchange believes the fees are reasonable since, as proposed, they represent a relatively modest fee for historical depth of book data that has proven valuable for investors.

The Exchange also believes that the proposed fee is reasonable because it is reasonably aligned with the value and benefits provided to users that choose to purchase Historical Depth Data from the Exchange. As discussed above, Historical Depth Data may be beneficial to Members and non-Members as it may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange. As noted above, since first offering Historical Depth Data, the Exchange has made a number of significant enhancements to its platform, including, among other things, implementing a more efficient means of data delivery (via SFTP rather than shipment of hard drives), which consequently increases the value of the market data product.

Finally, the Exchange believes that the proposed change to the Exchange's Historical Depth Data offerings is equitable and not unfairly discriminatory because the change to the offering applies to all current and potential subscribers of the products uniformly, in that all subscribers will be assessed the new proposed fee for purchases of Historical Depth Data. As stated, purchase of Historical Depth Data is completely optional and not necessary for trading. Rather, the Exchange voluntarily makes Historical Depth Data available, and users may choose to purchase the data based on their own individual business needs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, the Exchange's Historical Depth Data offering is subject to direct competition from several other exchanges that offer similar data products. The proposed rule changes are grounded in the Exchange's efforts to compete more effectively. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes the proposed rule changes permit fair competition among national securities exchanges.

Additionally, the Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The change to the Historical Depth Data offering applies to all current and potential subscribers of the product uniformly, in that all subscribers will be assessed the same fee for subscribing to receive Historical Depth Data. Moreover, purchase of Historical Depth Data is optional.

Further, the Exchange also does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, other exchanges offer similar data products, which are similarly priced.[14] As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 16 other options exchanges and off-exchange venues. Additionally, the Exchange represents a small percentage

[9] *Id.*

[10] 15 U.S.C. 78f(b)(4).

[11] *See* Cboe Global Markets U.S. Options Market Volume Summary (December 18, 2023), available at *https://markets.cboe.com/us/options/market_statistics/.*

[12] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[13] *See supra* note 5.

[14] *See supra* note 5.

of the overall market. Based on publicly available information, no single options exchange has more than 12% of the market share.[15] Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [16] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission*, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[17] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and paragraph (f) of Rule 19b–4 [19] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeEDGX–2024–008 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeEDGX–2024–008. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeEDGX–2024–008 and should be submitted on or before February 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00850 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

[15] *See supra* note 10.

[16] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[17] NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca-2006–21)).

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99323; File No. SR–NYSE–2024–02]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List

January 11, 2024.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on January 2, 2024, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to (1) extend a fee waiver for new firm application fees for applicants seeking only to obtain a bond trading license (''BTL'') for 2024; and (2) waive the BTL fee for 2024. The Exchange proposes to implement the fee changes effective January 2, 2024. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to (1) extend a fee waiver for new firm application fees for applicants seeking only to obtain a BTL for 2024; and (2) waive the BTL fee for 2024.[4] The Exchange proposes to implement the fee changes effective January 2, 2024.

The Exchange currently charges a New Firm Fee ranging from $2,000 to $4,000, depending on the type of firm, which is charged per application for any broker-dealer that applies to be approved as an Exchange member organization. The Exchange proposes to amend the Price List to waive the New Firm Fee for 2024 for new member organization applicants that are seeking only to obtain a BTL and not trade equities at the Exchange. The proposed waiver of the New Firm Fee would be available only to applicants seeking approval as a new member organization, including carrying firms, introducing firms, or non-public organizations, which would be seeking to obtain a BTL at the Exchange and not trade equities. Further, if a new firm that is approved as a member organization and has had the New Firm Fee waived converts a BTL to a full trading license within one year of approval, the New Firm Fee would be charged in full retroactively. The Exchange believes that charging the New Firm Fee retroactively within a year of approval is appropriate because it would discourage applicants to claim that they are applying for a BTL solely to avoid New Firm Fees.

Additionally, the Exchange currently charges a BTL fee of $1,000 per year. The Exchange proposes to amend the Price List to waive the BTL fee for 2024 for all member organizations.

The Exchange believes that the proposed fee changes would provide increased incentives for bond trading firms that are not currently Exchange member organizations to apply for Exchange membership and a BTL. The Exchange believes that having more member organizations trading on the Exchange's bond platform would benefit investors through the additional display of liquidity and increased execution opportunities in Exchange-traded bonds at the Exchange.

2. Statutory Basis

The Exchange proposes to amend its Price List to (1) extend a fee waiver for new firm application fees for applicants seeking only to obtain a BTL for 2024; and (2) waive the BTL fee for 2024.[5] The Exchange proposes to implement the fee changes effective January 2, 2024.

The Exchange currently charges a New Firm Fee ranging from $2,000 to $4,000, depending on the type of firm, which is charged per application for any broker-dealer that applies to be approved as an Exchange member organization. The Exchange proposes to amend the Price List to waive the New Firm Fee for 2024 for new member organization applicants that are seeking only to obtain a BTL and not trade equities at the Exchange. The proposed waiver of the New Firm Fee would be available only to applicants seeking approval as a new member organization, including carrying firms, introducing firms, or non-public organizations, which would be seeking to obtain a BTL at the Exchange and not trade equities. Further, if a new firm that is approved as a member organization and has had the New Firm Fee waived converts a BTL to a full trading license within one year of approval, the New Firm Fee would be charged in full retroactively. The Exchange believes that charging the New Firm Fee retroactively within a year of approval is appropriate because it would discourage applicants to claim that they are applying for a BTL solely to avoid New Firm Fees.

Additionally, the Exchange currently charges a BTL fee of $1,000 per year. The Exchange proposes to amend the Price List to waive the BTL fee for 2024 for all member organizations.

The Exchange believes that the proposed fee changes would provide increased incentives for bond trading firms that are not currently Exchange member organizations to apply for Exchange membership and a BTL. The Exchange believes that having more member organizations trading on the Exchange's bond platform would benefit investors through the additional display of liquidity and increased execution opportunities in Exchange-traded bonds at the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[6] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Debt securities typically trade in a decentralized over-the-counter (''OTC'') dealer market that is less liquid and transparent than the equities markets. The Exchange believes that the proposed change would increase competition with these OTC venues by reducing the cost of being approved as and operating as an Exchange member organization that solely trades bonds at the Exchange, which the Exchange believes will enhance market quality through the additional display of liquidity and increased execution opportunities in Exchange-traded bonds at the Exchange.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues that are not transparent. In such an environment, the Exchange must continually review, and consider adjusting its fees and

[4] The Exchange initially filed to adopt the fee waiver and waive the BTL fee in 2015. *See* Securities Exchange Act Release No. 74031 (January 12, 2015), 80 FR 2462 (January 16, 2015) (SR–NYSE–2014–78). The Exchange has filed to extend the fee waiver and waive the BTL fee for each calendar year since 2017. *See* Securities Exchange Act Release Nos. 79710 (December 29, 2016), 82 FR 1395 (January 5, 2017) (SR–NYSE–2016–89); 82418 (December 28, 2017), 83 FR 568 (January 4, 2018) (SR–NYSE–2017–70); 84899 (December 20, 2018), 83 FR 67395 (December 28, 2018) (SR–NYSE–2018–65); 87952 (January 13, 2020), 85 FR 3089 (January 17, 2020) (SR–NYSE–2019–73); 90891 (January 11, 2021), 86 FR 4147 (January 15, 2021) (SR–NYSE–2021–03); 93992 (January 18, 2022), 87 FR 3635 (January 24, 2022) (SR–NYSE–2022–01); and 96622 (January 10, 2023), 88 FR 2697 (January 17, 2023) (SR–NYSE–2023–01).

[5] The Exchange initially filed to adopt the fee waiver and waive the BTL fee in 2015. *See* Securities Exchange Act Release No. 74031 (January 12, 2015), 80 FR 2462 (January 16, 2015) (SR–NYSE–2014–78). The Exchange has filed to extend the fee waiver and waive the BTL fee for each calendar year since 2017. *See* Securities Exchange Act Release Nos. 79710 (December 29, 2016), 82 FR 1395 (January 5, 2017) (SR–NYSE–2016–89); 82418 (December 28, 2017), 83 FR 568 (January 4, 2018) (SR–NYSE–2017–70); 84899 (December 20, 2018), 83 FR 67395 (December 28, 2018) (SR–NYSE–2018–65); 87952 (January 13, 2020), 85 FR 3089 (January 17, 2020) (SR–NYSE–2019–73); 90891 (January 11, 2021), 86 FR 4147 (January 15, 2021) (SR–NYSE–2021–03); 93992 (January 18, 2022), 87 FR 3635 (January 24, 2022) (SR–NYSE–2022–01); and 96622 (January 10, 2023), 88 FR 2697 (January 17, 2023) (SR–NYSE–2023–01).

[6] 15 U.S.C. 78f(b)(8).

rebates to remain competitive with other exchanges as well as with alternative trading systems and other venues that are not required to comply with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed change will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)[7] of the Act and paragraph (f) thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSE–2024–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSE–2024–02. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSE–2024–02 and should be submitted on or before February 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00846 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99329; File No. SR–NASDAQ–2024–002]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Membership Fee at Equity 7, Section 10

January 11, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 2, 2024, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Membership Fee at Equity 7, Section 10.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's Membership Fee at Equity 7, Section 10. Specifically, the Exchange proposes to increase its annual membership fee (''Annual Membership Fee'') from $3,000 per year to $4,000 per year. This fee is assessed on all Nasdaq members on an annual basis.

Nasdaq has not increased its Annual Membership Fee since 2007.[3] The Exchange believes the proposed modest fee increase is warranted to ensure that its Annual Membership Fee better reflects the current value of being a

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 56617 (Oct. 4, 2007), 72 FR 58142 (Oct. 12, 2007) (SR–NASDAQ–2007–083).

member of the Exchange rather than the value when the Annual Membership Fee was last increased to $3,000 per year more than 15 years ago. The Exchange believes that its ability to deliver value to its customers through technology, liquidity and functionality merits the proposed change to its Annual Membership Fee. The membership team also provides ongoing support to Exchange members with respect to membership changes, registration, and other questions that commonly arise from Exchange members regarding such matters.

Even with the proposed fee increase, the cost of Nasdaq membership is lower than the cost of membership in other SROs such as the Long-Term Stock Exchange, Inc. (''LTSE'').[4]

Ultimately, Exchange membership is voluntary and if Nasdaq is incorrect in its determination that the proposed Annual Membership Fee change reflects the value of Exchange membership, then any Exchange member that is dissatisfied with the proposal can choose not to be a member of the Exchange and send its order flow to another exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes its proposal to increase its Annual Membership Fee from $3,000 per year to $4,000 per year is reasonable, equitable and not unfairly discriminatory. Nasdaq believes that this modest increase is an equitable method of ensuring that its Annual Membership Fee better reflects the value of the services it provides its membership. Nasdaq also believes the proposed modest increase of Nasdaq membership is reasonable since it has not been increased since 2007 and, even following the proposed increase to its Annual Membership Fee, the cost of Nasdaq membership still is less than those of other SROs.[7] Additionally, the Exchange believes that the proposed change is both an equitable allocation and is not designed to permit unfair discrimination between Exchange members because the fee is applied equally to all Exchange members.

The decision to become a member of an exchange is complex, and not solely based on the non-transactional costs assessed by an exchange. Becoming a member of an exchange does not ''lock'' a potential member into a market or diminish the overall competition for exchange services. The decision to become a member of an exchange is no less subject to competition than trading fees.

In 2022, MEMX LLC (''MEMX'') commenced assessing a monthly membership fee.[8] MEMX reasoned in that rule change that there is value in becoming a member of the exchange.[9] MEMX stated that it believed that its proposed membership fee ''is not unfairly discriminatory because no broker-dealer is required to become a member of the Exchange.'' [10] In this respect, MEMX is correct; a membership fee is reasonable, equitably allocated and not unfairly discriminatory. Market participants may voluntarily choose to become a member of one or more of a number of different exchanges, of which, Nasdaq is but one choice. Additionally, any Exchange member that is dissatisfied with the proposal is free to choose not to be a member of the Exchange and send order flow to another exchange.

The Exchange's proposal to increase its Annual Membership Fee from $3,000 per year to $4,000 per year is reasonable, equitable and not unfairly discriminatory. As a self-regulatory organization, Nasdaq's membership department reviews existing members and new applicants to ensure that each complies with its rules and regulations, as well as other requirements for membership. New applicants must also meet the Exchange's qualification criteria prior to approval. The membership review includes, but is not limited to, the registration and qualification of associated persons, financial health, the validity of the required clearing relationship, and the history of disciplinary matters. All members are required to comply with the Exchange's By-Laws and Rules and are subject to regulation by Nasdaq.

As noted above, if the Exchange is incorrect in its determination that the proposed Annual Membership Fee change reflects the value of Exchange membership, then any Exchange member that is dissatisfied with the proposal may voluntarily decide whether membership to the Exchange is worthwhile and has the option of sending order flow to another exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Nasdaq believes that the proposed modest fee increase to its Annual Membership Fee proves unattractive to market participants, it is likely that Nasdaq will experience a decline in membership as a result.

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem annual membership fees levels at a particular venue to be excessive or opportunities available at other venues to be more favorable. Because competitors are free to modify their own annual membership fees in response, the Exchange believes that the degree to which annual membership fees changes in this market may impose any burden on competition is extremely limited.

The Exchange notes that other markets have adopted membership fees. MEMX recently reasoned that it should be permitted to adopt membership fees because MEMX's proposed membership fees would be lower than the cost of membership on other exchanges, and therefore,

> . . . may stimulate intramarket competition by attracting additional firms to become Members on the Exchange or at least should not deter interested participants from joining the Exchange. In addition, membership fees are subject to competition from other exchanges. Accordingly, if the changes proposed herein are unattractive to market participants, it is likely the Exchange will see a decline in membership as a result. The proposed fee change will not impact intermarket competition because it will apply to all Members equally. The Exchange operates in a highly competitive market in which market participants can determine whether or not to join the Exchange based on

[4] *See, e.g.,* Long-Term Stock Exchange, Inc. Rule 15.200(a) (Annual Membership Fee) at *https://assets-global.website-files.com/6462417e8db99f8baa06952c/64cd4f221126981fa31652b3_LTSE%20Rule%20Book%20through%20June%209%202023%20(SR-LTSE-2023-01%20Amendment%20No.%202).pdf.*

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] *Supra* note 4.

[8] *See* Securities Exchange Act Release No. 93927 (January 7, 2022), 87 FR 2191 (January 13, 2022) (SR–MEMX–2021–19).). In 2023, MEMX filed to establish fees for members of its options exchange. *See* Securities Exchange Act Release No. 98648 (September 29, 2023), 88 FR 68762 (October 4, 2023) (SR–MEMX–2023–26).

[9] *Id.*

[10] *Id.*

the value received compared to the cost of joining and maintaining membership on the Exchange.[11]

As noted above, Nasdaq's Annual Membership Fee would remain substantially lower than the analogous fees of LTSE,[12] and membership fees are subject to competition from other exchanges. Accordingly, if the Annual Membership Fee change proposed herein is unattractive to market participants, it is likely that Nasdaq will experience a decline in membership as a result.

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.[13] Nasdaq does not believe that the proposed rule change places an unnecessary burden on competition because it is a modest fee increase for a fee that has remained unchanged since 2007 and that will now better reflect the value of the services it provides its membership.

Accordingly, any Exchange member that is dissatisfied with the proposal is free to choose not to be a member of the Exchange and send order flow to another exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NASDAQ–2024–002 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–NASDAQ–2024–002. 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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR–NASDAQ–2024–002, and should be submitted on or before February 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00851 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

[11] *See* Securities Exchange Act Release No. 93927 (January 7, 2022), 87 FR 2191 (January 13, 2022) (SR–MEMX–2021–19).

[12] *Supra* note 4.

[13] 15 U.S.C. 78f(b)(8).

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99339; File No. SR–NYSENAT–2023–30]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing of Proposed Change To Amend Its Schedule of Fees and Rebates

January 12, 2024.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 29, 2023, NYSE National, Inc. (''NYSE National'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees and Rebates (the ''Fee Schedule'') with respect to the system processing fee for the Central Registration Depository (''CRD'' or ''CRD system'') collected by the Financial Industry Regulatory Authority, Inc. (''FINRA''). The Exchange proposes to implement the fee change on January 2, 2024. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule with respect to the system processing fee for use of CRD collected by FINRA.[3] The Exchange proposes to implement the fee changes effective January 2, 2024.

FINRA collects and retains certain regulatory fees via CRD for the registration of associated persons of Exchange ETP Holders that are not FINRA members (''Non-FINRA ETP Holders'').[4] CRD fees are user-based, and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA ETP Holder.

In 2020, FINRA amended certain fees assessed for use of the CRD system for implementation between 2022 and 2024.[5] The Exchange accordingly proposes to amend the Price List to mirror the system processing fee assessed by FINRA, which will be implemented concurrently with the amended FINRA fee as of January 2024.[6] Specifically, the Exchange proposes to amend the Fee Schedule to modify the system processing fee charged to Non-FINRA ETP Holders for each registered representative and principal from $45 to $70.[7]

The Exchange notes that the proposed change is not otherwise intended to address any other issues surrounding regulatory fees, and the Exchange is not aware of any problems that ETP Holders would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[8] in general, and furthers the objectives of section 6(b)(4) [9] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges. The Exchange also believes that the proposed rule change is consistent with section 6(b)(5) of the Act,[10] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed fee change is reasonable because the fee will be identical to that adopted by FINRA as of January 2024 for use of the CRD system to submit an initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification of one or more disclosure events or proceedings and the posting to CRD each set of fingerprints submitted electronically to FINRA. The costs of operating and improving the CRD system are similarly borne by FINRA when a Non-FINRA ETP Holder uses the CRD system; accordingly, the fees collected for such use should, as proposed by the Exchange, mirror the fees assessed to FINRA members. In addition, as FINRA noted in amending its fees, it believes that its proposed pricing structure is reasonable and correlates fees with the components that drive its regulatory costs to the extent feasible. The Exchange further believes that the change is reasonable because it will provide greater specificity regarding the CRD system fees that are applicable to Non-FINRA ETP Holders. All similarly situated ETP Holders are subject to the same fee structure, and every ETP Holder must use the CRD system for registration and disclosure. Accordingly, the Exchange believes that the fees collected for such use should likewise increase in lockstep with the fees assessed to FINRA members, as proposed by the Exchange.

The Exchange also believes that the proposed fee change provides for the equitable allocation of reasonable fees and other charges, and does not unfairly discriminate between customers, issuers, brokers, and dealers. The fee applies equally to all individuals and firms required to report information the CRD system, and the proposed change will result in the same regulatory fees being charged to all ETP Holders required to report information to CRD and for services performed by FINRA regardless of whether such ETP Holders are FINRA members. Accordingly, the Exchange believes that the fee collected for such use should increase in lockstep with the fee adopted by FINRA as of January 2024, as proposed by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,[11] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed change will reflect a fee that will be assessed by FINRA as of January 2024 and will thus result in the same regulatory fee being charged to all ETP Holders required to report information to the CRD system and for services performed by FINRA, regardless of whether or not such ETP Holders are FINRA members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section

[3] CRD is the central licensing and registration system for the U.S. securities industry. The CRD system enables individuals and firms seeking registration with multiple states and self-regulatory organizations to do so by submitting a single form, fingerprint card, and a combined payment of fees to FINRA. Through the CRD system, FINRA maintains the qualification, employment, and disciplinary histories of registered associated persons of broker-dealers.

[4] The Exchange originally adopted fees for use of the CRD system in 2018 and amended those fees in 2022 and 2023. *See* Securities Exchange Act Release Nos. 83867 (July 23, 2018), 83 FR 35696 (July 27, 2018) (SR–NYSENAT–2018–16); 93903 (January 5, 2022), 87 FR 1466 (January 11, 2022) (SR–NYSENAT–2021–24); and 96681 (January 17, 2023), 88 FR 4045 (January 23, 2023) (SR–NYSENAT–2023–01). While the Exchange lists these fees in its Fee Schedule, it does not collect or retain these fees.

[5] *See* Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (SR–FINRA–2020–032).

[6] The Exchange notes that it has only adopted the CRD system fees charged by FINRA to Non-FINRA ETP Holders when such fees are applicable. In this regard, certain FINRA CRD system fees and requirements are specific to FINRA members, but do not apply to NYSE National-only ETP Holders. Non-FINRA ETP Holders have been charged CRD system fees since 2018. *See* note 4, *supra.* ETP Holders that are also FINRA members are charged CRD system fees according to Section 4 of Schedule A to the FINRA By-Laws.

[7] *See* Section (4)(b)(7) of Schedule A to the FINRA By-laws.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(5).

[11] *See* 15 U.S.C. 78f(b)(8).

19(b)(3)(A)(ii) of the Act[12] and Rule 19b–4(f)(2)[13] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSENAT–2023–30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSENAT–2023–30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 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–NYSENAT–2023–30 and should be submitted on or before February 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00920 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99340; File No. SR–CboeEDGA–2024–001]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Modify Historical Depth Data Fees

January 12, 2024.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 2, 2024, Cboe EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/edga/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule, effective January 2, 2024.

By way of background, the Exchange currently makes available for purchase Depth Data, which is a daily archive of the Exchange's depth of book real-time feed, which provides depth-of-book quotations and execution information based on equity orders entered into the System.[3] The Exchange also offers Historical Depth Data, which offers such data on a historical basis, *i.e.,* T+1 or later, dating back to September 2019. The Depth Data and Historical Depth Data are available for purchase to Members and Non-Members on the Cboe LiveVol, LLC (''LiveVol'') website,[4] for internal use only; LiveVol is a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc.

The Exchange's affiliated equities and options exchanges (*i.e.,* Cboe BZX Exchange, Inc. (''BZX''), Cboe Exchange, Inc. (''Cboe Options''), Cboe C2 Exchange, Inc. (''C2 Options''), Cboe EDGX Exchange, Inc. (''EDGX''), and Cboe BYX Exchange, Inc. (''BYX'') (collectively, ''Affiliates'') also offer similar data products.[5] Particularly, each of the Exchange's Affiliates offer a daily and historical archive of their depth of book real-time feed with execution information based on their trading activity that is substantially similar to the information provided by

[3] *See* EDGA Fees Schedule. Daily end-of-day delivery is provided via the DataShop SFTP. Files will typically become available after 10pm ET; *see also* EDGA Rule 1.5, which defines ''System.''

[4] *See https://datashop.cboe.com/cboe-us-equities-pitch.*

[5] *See,* for example, EDGX Fee Schedule, BYX Fee Schedule, BZX Fee Schedule.

the Exchange through its Depth Data products.

Currently, the Exchange charges a fee of $500 per month of Historical Depth Data accessed by a user. This fee has been in place, without change, since 2014 when the Exchange began charging for access to historical quotation and transactions data from the Exchange via its Historical Depth Data product.[6] In the time since, the Exchange has made a number of significant enhancements to its platform, including, among other things, implementing a more efficient means of data delivery (via SFTP rather than shipment of hard drives), which consequently increases the value of the market data product.

The Exchange now proposes to increase the fee from $500 to $1,000 per month of Historical Depth Data accessed by a user.[7] As is currently the case, the data will be provided to data recipients for internal use only, and thus, no redistribution will be permitted.

The Exchange notes that the Depth Data products, including the Historical Depth Data, are completely voluntary products, in that the Exchange is not required by any rule or regulation to make the reports or services available and that potential subscribers may purchase it only if they voluntarily choose to do so. Further, the Exchange notes that other exchanges offer similar products for a fee.[8]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[10] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[11] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with section 6(b)(4) of the Act,[12] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [13]

With respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC* upheld the Commission's reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data:

> ''In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' '' [14]

The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [15]

More recently, the Commission confirmed that it applies a ''market-based'' test in its assessment of market data fees, and that under that test:

> the Commission considers whether the exchange was subject to significant competitive forces in setting the terms of its proposal for [market data], including the level of any fees. If an exchange meets this burden, the Commission will find that its fee rule is consistent with the Act unless there is a substantial countervailing basis to find that the terms of the rule violate the Act or the rules thereunder.[16]

The Exchange operates in a highly competitive environment. Indeed, there are currently 16 registered equities exchanges that trade equities. Based on publicly available information, no single equities exchange has more than 13% of the equity market share.[17] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supercompetitive fees. In the event that a market participant views one exchange's data product as more attractive than the competition, that market participant can, and often does, switch between similar products. The proposed fees are a result of the competitive environment of the U.S. equities industry as the Exchange seeks to increase fees for Historical Depth Data, while continuing to attract purchasers.

The Exchange's Historical Depth Data is a competitively priced alternative to historical depth of book data disseminated by other national securities exchanges. The Exchange's Depth Data products, including Historical Depth Data, benefits a wide range of investors that participate in the national market system. As noted above, Nasdaq and NYSE have a similar Depth Data offerings for a charge.[18] The Exchange therefore believes that the proposed fees are reasonable and set at a level to compete with other equity

[6] *See* Securities Exchange Act Release No. 73759 (December 5, 2014), 79 FR 73676 (December 11, 2014) (SR–EDGA–2014–30).

[7] As part of the proposed rule change, the Exchange also proposes to remove the fee related to delivery per 1TB drive of data as the Exchange does not provide 1TB drives anymore.

[8] *See, e.g., https://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#nom;* and *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf.*

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *Id.*

[12] 15 U.S.C. 78f(b)(4).

[13] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[14] *See NetCoalition* v. *SEC,* 615 F.3d 525, 535 (D.C. Cir. 2010) (''*NetCoalition I*'') (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323).

[15] *Id.* at 535.

[16] *See* Securities Exchange Act Release No. 34–90217 (October 16, 2020), 85 FR 67392 (October 22, 2020) (SR–NYSENAT–2020–05) (Order Approving a Proposed Rule Change to Establish Fees for the NYSE National Integrated Feed) (internal quotation marks omitted), quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) (NYSE ArcaBook Approval Order).

[17] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (December 8, 2023), available at *https://www.cboe.com/us/equities/market_statistics/.*

[18] *See supra* note 8.

exchanges that offer similar reports. Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. As such, if a market participant views another exchange's potential report as more attractive, then such market participant can merely choose not to purchase the Exchange's Historical Depth Data offering and instead purchase another exchange's similar data product, which offers similar data points, albeit based on other market's trading activity.

Further, the Exchange believes the fees are reasonable, as even with the proposed fee increase, they continue to represent a relatively modest fee for historical depth of book data that has proven valuable for investors. The Exchange believes the fee, as proposed, remains reasonable, as the moderate increase is the first increase to the fee since 2014.

The Exchange also believes that the proposed fee is reasonable because it is reasonably aligned with the value and benefits provided to users that choose to purchase Historical Depth Data from the Exchange. As discussed above, Historical Depth Data may be beneficial to Members and non-Members as it may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange. As noted above, since first introducing the Historical Depth Data product offering, the Exchange has made a number of significant enhancements to its platform, including, among other things, implementing a more efficient means of data delivery (via SFTP rather than shipment of hard drives), which consequently increases the value of the market data product.

In addition, the Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will apply to all similarly situated Members and non-Members that choose to purchase Historical Depth Data equally. As stated, Historical Depth Data is completely optional and not necessary for trading. Rather, the Exchange voluntarily makes Historical Depth Data available, and users may choose to purchase the data based on their own individual business needs. Potential purchasers may purchase Historical Depth Data at any time if they believe it to be valuable or may decline to purchase it. Moreover, several other exchanges offer a similar data product which offer the same type of data content through similar reports.[19]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment in which the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As discussed above, the Exchange's Historical Depth Data offering is subject to direct competition from several other exchanges that offer similar data products. The proposed rule changes are grounded in the Exchange's efforts to compete more effectively. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

Additionally, the Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed Historical Depth Data fees will apply equally to Members and non-Members who purchase Historical Depth Data. Moreover, purchase of Historical Depth Data is optional.

Finally, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, similar products are offered by Nasdaq and NYSE. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''. Accordingly, the Exchange does not believe its proposal imposes any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[20] and paragraph (f) of Rule 19b–4[21] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or

[19] *See supra* note 8.

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f).

• Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeEDGA–2024–001 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–CboeEDGA–2024–001. 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–CboeEDGA–2024–001 and should be submitted on or before February 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00921 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99327; File No. SR–NYSEARCA–2024–03]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Schedule of Fees and Charges

January 11, 2024.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on January 10, 2024, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees and Charges (the ''Fee Schedule'') regarding annual fees applicable to Exchange Traded Products. The Exchange proposes to implement the fee changes effective January 10, 2024.[4] The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange previously filed to amend the Fee Schedule on December 27, 2023, for January 2, 2024 effectiveness (SR–NYSEARCA–2023–86), and withdrew such filing on January 10, 2024.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule regarding annual fees for Exchange Traded Products (''ETPs'').[5]

The proposed change responds to the current extremely competitive environment for ETP listings, in which issuers can readily favor competing venues or transfer their listings if they deem fee levels at a particular venue to be excessive or discount opportunities available at other venues to be more favorable. In response to the competitive environment for listings, the Exchange proposes to amend the Fee Schedule to (1) modify the annual fees for ETPs set forth in the tables in Sections 6.a. and 6.b. of the Annual Fee section of the Fee Schedule; (2) provide for reduced annual fees for qualifying ETPs; and (3) provide for discounted annual fees for fund families with ETPs exclusively listed on the Exchange.

The Exchange proposes to implement the fee changes effective January 2, 2024.

Proposed Rule Change

Annual fees are assessed each January in the first full calendar year following the year of listing. Currently, the Exchange's annual fees for ETPs are based on the number of shares outstanding per issue and then are further differentiated based on whether or not the ETP tracks an index, has a maturity date, or provides an expected return over a specific outcome period.[6] The aggregate total shares outstanding is calculated based on the total shares outstanding as reported by the fund issuer or fund ''family'' in its most recent periodic filing with the Commission or other publicly available information. Annual fees apply regardless of whether any of these funds are listed elsewhere.

Currently, Section 6.a. provides for annual fees as follows for ETPs (excluding Managed Fund Shares, Active Proxy Portfolio Shares, Managed Trust Securities, and Managed Portfolio Shares) and Exchange-Traded Fund Shares listed under Rule 5.2–E(j)(8) that track an index, have a maturity date, or provide an expected return over a specific outcome period:

[5] ''Exchange Traded Products'' is defined in footnote 3 of the current Schedule of Fees and Charges.

[6] *See* Fee Schedule, ANNUAL FEE (PAYABLE JANUARY IN EACH CALENDAR YEAR), Section 6.a. & Section 6.b.

Number of shares outstanding (each issue)	Annual fee
Less than 25 million	$7,500
25 million up to 49,999,999	10,000
50 million up to 99,999,999	15,000
100 million up to 249,999,999	20,000
250 million up to 499,999,999	25,000
500 million and over	30,000

Section 6.b. sets forth the following annual fees for Managed Fund Shares, Managed Trust Securities, Active Proxy Portfolio Shares, Managed Portfolio Shares, and Exchange-Traded Fund Shares listed under Rule 5.2–E(j)(8) that do not track an index:

Number of shares outstanding (each issue)	Annual fee
Less than 25 million	$10,000
25 million up to 49,999,999	12,500
50 million up to 99,999,999	20,000
100 million up to 249,999,999	25,000
250 million and over	30,000

As noted above, the Exchange proposes to amend the annual fees reflected in Sections 6.a. and 6.b. As proposed, annual fees would continue to be based on the number of shares outstanding, but the Exchange proposes certain changes to both the number of shares outstanding corresponding to each level of annual fee and the annual fee amounts. The proposed change is intended to simplify the Fee Schedule by largely harmonizing the annual fees set forth in Sections 6.a. and 6.b. Except for ETPs with fewer than 25 million shares outstanding, the Exchange proposes that the annual fees for ETPs listed on the Exchange would be the same for ETPs that fall under either Section 6.a. or 6.b.

The Exchange proposes to amend the fees set forth in Section 6.a. as follows:

Number of shares outstanding (each issue)	Annual fee
Less than 25 million	$8,500
25 million up to 99,999,999	15,000
100 million up to 199,999,999	25,000
200 million up to 599,999,999	35,000
600 million and over	30,000

The Exchange similarly proposes to amend the fees set forth in Section 6.b. as below:

Number of shares outstanding (each issue)	Annual fee
Less than 25 million	$10,000
25 million up to 99,999,999	15,000
100 million up to 199,999,999	25,000
200 million up to 599,999,999	35,000
600 million and over	30,000

The Exchange believes it is reasonable to continue to differentiate between ETPs in Sections 6.a. and 6.b. when an ETP has fewer than 25 million shares outstanding. The Exchange currently provides for lower fees for ETPs under Section 6.a., which are those that track an index, have a maturity date, or provide an expected return over a specific outcome period, given that such products generally require less Exchange resources associated with listing and trading such products (*e.g.,* costs related to issuer services, listing administration, product development, and regulatory oversight). The Exchange believes it is reasonable to retain a comparatively lower listing fee for ETPs that track an index, have a maturity date, or provide an expected return over a specific outcome period when such products have fewer than 25 million shares outstanding, but to otherwise conform annual fees in Sections 6.a. and 6.b. to streamline the Fee Schedule.

The Exchange believes the proposed change would simplify and improve the clarity of the Fee Schedule by aligning the annual fees applicable to all ETPs, based on the number of outstanding shares. As currently, the Exchange proposes that annual fees would generally increase as the number of shares outstanding increases. However, the Exchange proposes that the annual fee for ETPs with 600 million or more shares outstanding would be $30,000 (lower than the annual fee for ETPs with 200 million to 599,999,999 shares outstanding), which the Exchange believes could further incentivize issuers to list multiple series of certain securities on the Exchange. Although the proposed change would, in some cases, increase the annual fee for certain ETPs based on the number of shares outstanding, the Exchange believes that the proposed fees would continue to encourage issuers to list ETPs on the Exchange and represents a reasonable effort by the Exchange to respond to the competitive environment for ETP listings, particularly in conjunction with the incentives proposed below that would offer issuers additional opportunities to qualify for lower annual fees.

The Exchange proposes to offer two new alternative methods through which ETPs could qualify for reduced annual fees in new Section 6.c.

First, proposed Section 6.c.i. would provide that ETPs with at least $50 billion in assets under management, at the time the annual fee is billed, would be subject to an annual fee of $5,000 (regardless of number of shares outstanding).

Proposed Section 6.c.ii. would provide that ETPs could instead qualify for reduced annual fees (as set forth in the table below) by achieving certain primary listing market auction volume, measured by ADV. For purposes of qualifying for this incentive, ADV would be calculated based on combined volume executed in the Exchange's opening and closing auctions in the preceding calendar year.

Primary listing market ETF auction volume (ADV)	Annual fee
50,000 shares	$10,000
75,000 shares	7,500
100,000 shares	6,500
150,000 shares	6,000
200,000 shares	5,000

The Exchange also proposes to add an Exclusive Listing Discount to Section 9 (Additional Annual Fee Discounts for Exchange Traded Products and Structured Products) of the Fee Schedule.[7] The Exclusive Listing Discount would, as proposed, provide fund families with 50 or more ETPs exclusively listed on NYSE Arca with a 12.5% discount off the annual fee applicable to each fund. The Exchange further proposes that the Exclusive Listing Discount could be combined with the Product Family and High Volume Products[8] discounts already offered in the Fee Schedule, but that the discounts together may not exceed a 35% discount on annual fees.[9]

The Exchange believes these proposed discounts on annual fees could incentivize issuers to list or transfer to list ETPs on the Exchange, thereby promoting competition among exchanges that list ETPs, to the benefit of market participants, and, together with the proposed changes to annual fees described above, represent an effort by the Exchange to compete with other venues that list ETPs.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[11] in particular, because it provides for the equitable

[7] *See* Fee Schedule, ANNUAL FEE (PAYABLE JANUARY IN EACH CALENDAR YEAR), Section 9.

[8] The Product Family and High Volume Products discounts are described in Section 9, subparagraphs (ii) and (iii), respectively.

[9] Currently, subparagraph (iv) of Section 9 sets forth various limitations on annual fee discounts. Item 1. under subparagraph (iv) currently provides that the Product Family and High Volume Products discounts may be combined. The Exchange proposes to describe the Exclusive Listing Discount in subparagraph (iv) of Section 9 and to renumber current subparagraph (iv) to be subparagraph (v). Item 1. under new subparagraph (v) of Section 9 would provide for the combination of the Exclusive Listing Discount with the Product Family and High Volume Products discounts and specify that the discounts could not combine to provide more than a 35% discount on annual fees.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4) & (5).

allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Change Is Reasonable

As discussed above, the Exchange operates in a highly competitive market for the listing of ETPs. Specifically, ETP issuers can readily favor competing venues or transfer listings if they deem fee levels at a particular venue to be excessive, or discount opportunities available at other venues to be more favorable. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [12]

The Exchange believes that the ongoing competition among the exchanges with respect to new listings and the transfer of existing listings among competitor exchanges demonstrates that issuers can choose different listing markets in response to fee changes. Accordingly, competitive forces constrain exchange listing fees. Stated otherwise, changes to exchange listing fees can have a direct effect on the ability of an exchange to compete for new listings and retain existing listings.

The Exchange's current annual fees for ETPs are based on the number of shares outstanding per issuer and provide incentives for issuers to list multiple series of certain securities on the Exchange. The Exchange believes the proposed changes to the annual fees set forth in Sections 6.a. and 6.b. are reasonable because they are intended to simplify the Fee Schedule by promoting consistency in the annual fees that would apply to all ETPs. The Exchange proposes that, as currently, annual fees would generally increase as the number of shares outstanding increases (which would continue to reduce the barriers to entry and incentivize enhanced competition among issuers of ETPs), but proposes to eliminate differences in annual fees based on whether or not the ETP tracks an index, has a maturity date, or provides an expected return over a specific outcome period, except in the case of issues with 25 million shares or fewer outstanding. The Exchange believes that retaining this differentiation is reasonable because it would continue to reflect that fewer Exchange resources may be needed to support the listing and administration of ETPs that track an index, have a maturity date, or provide an expected return over a specific outcome period as an initial matter, but that such difference is generally more significant when there are fewer shares outstanding. The Exchange further believes that the proposed changes to annual fees are reasonable taken together with the proposed incentives that would offer various methods for ETPs to qualify for lower annual fees by achieving qualifying levels of assets under management, achieving primary listing market auction volume, or exclusively listing on the Exchange.

The Exchange believes that the proposal would continue to encourage issuers to list ETPs on the Exchange, even though it would, in some cases, increase the annual fee for certain ETPs and reflects a competitive pricing structure designed to incentivize issuers to list new products and transfer existing products to the Exchange, which the Exchange believes will enhance competition both among ETP issuers and listing venues, to the benefit of investors. The Exchange also believes the proposed changes are a reasonable effort by the Exchange to respond to the current competitive environment in which it operates.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes the proposal equitably allocates its fees among its market participants. In the prevailing competitive environment, issuers can readily favor competing venues or transfer listings if they deem fee levels at a particular venue to be excessive, or discount opportunities available at other venues to be more favorable. The Exchange believes that the proposed change is equitable because the proposed annual fees would apply uniformly to all similarly situated issuers. The Exchange also believes that it is equitable to continue to provide for a slightly lower annual fee for ETPs that track an index, have a maturity date, or provide an expected return over a specific outcome period when such ETPs have a smaller number of shares outstanding, to reasonably reflect the difference in Exchange resources required to support the listing and administration of such ETPs in those circumstances. The proposal is also an equitable allocation of fees because all issuers would be eligible to qualify for reduced annual fees by meeting the same qualifying criteria. Moreover, the proposed fees would be equitably allocated among issuers because issuers would continue to qualify for an annual fee under criteria applied uniformly to all such issuers. For the same reasons, the proposal neither targets nor will it have a disparate impact on any particular category of market participant.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. In the prevailing competitive environment, issuers are free to list elsewhere if they believe that alternative venues offer them better value. The Exchange believes the proposed change is not unfairly discriminatory because it is intended to provide for simplified annual fees that would generally apply equally to all ETPs listed on the Exchange, based on the number of shares outstanding. The Exchange believes that it is not unfairly discriminatory to maintain certain differentiation in annual fees for ETPs that track an index, have a maturity date, or provide an expected return over a specific outcome period as an initial matter and those that do not, to reflect the difference in Exchange resources required to support the listing and administration of such ETPs. The proposed methods through which issuer could qualify for reduced annual fees are also not unfairly discriminatory, as all issuers would be eligible to qualify for reduced annual fees based on the same criteria.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[13] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed change would encourage competition by generally harmonizing the annual fees for all ETPs listed on the Exchange, thereby incentivizing issuers to list such

[12] *See* Regulation NMS, 70 FR at 37499.

[13] 15 U.S.C. 78f(b)(8).

products on the Exchange and enhancing competition among issuers and listing venues, to the benefit of investors. The Exchange believes that the proposed opportunities to qualify for lower annual fees could incentivize enhanced competition among issuers of ETPs and could encourage issuers to list additional products on the Exchange. The proposed rule changes reflect a competitive pricing structure designed to incentivize issuers to list and transfer new products on the Exchange, which the Exchange believes will enhance competition both among ETP issuers and listing venues, to the benefit of investors. As noted, the market for listing services is extremely competitive. Issuers have the option to list their securities on these alternative venues based on the fees charged and the value provided by each listing exchange. Because issuers have a choice to list their securities on a different national securities exchange, the Exchange does not believe that the proposed change imposes a burden on competition.

Intramarket Competition. The proposed change is a competitive pricing structure designed to encourage issuers to list and transfer ETPs to list on the Exchange. The Exchange believes the proposal would enhance competition among ETP issuers, to the benefit of investors. The Exchange does not believe the proposed change would burden intramarket competition, as it seeks to harmonize the fees for all ETPs listed on the Exchange and offer the same opportunities to qualify for reduced annual fees to all issuers. Accordingly, the Exchange believes that the proposed change would apply to and potentially benefit all issuers equally and thus would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive listings market in which issuers can readily choose alternative listing venues. In such an environment, the Exchange must adjust its fees and discounts to remain competitive with other exchanges competing for the same listings. The Exchange believes that the proposed rule change could enhance competition among ETP listing venues by simplifying the annual fees for listing ETPs on the Exchange and offering issuers new opportunities to qualify for reduced annual fees. The Exchange believes that the proposal is a competitive proposal designed to enhance pricing competition among listing venues. Because competitors are free to modify their own fees and discounts in response, and because issuers may readily adjust their listing decisions and practices, the Exchange does not believe its proposed change would impose any burden on intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [14] of the Act and subparagraph (f)(2) of Rule 19b–4 [15] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [16] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEARCA–2024–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEARCA–2024–03. 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–NYSEARCA–2024–03 and should be submitted on or before February 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00849 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(2).

[16] 15 U.S.C. 78s(b)(2)(B).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99343; File No. SR–CboeEDGX–2024–004]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Modify Historical Depth Data Fees

January 12, 2024.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b thereunder,[2] notice is hereby given that on January 2, 2024, Cboe EDGX Exchange, Inc. (the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*) [sic], at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule, effective January 2, 2024.

By way of background, the Exchange currently makes available for purchase Depth Data, which is a daily archive of the Exchange's depth of book real-time feed, which provides depth-of-book quotations and execution information based on equity orders entered into the System.[3] The Exchange also offers Historical Depth Data, which offers such data on a historical basis, *i.e.* T+1 or later, dating back to September 2019. The Depth Data and Historical Depth Data are available for purchase to Members and Non-Members on the Cboe LiveVol, LLC (''LiveVol'') website,[4] for internal use only; LiveVol is a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc.

The Exchange's options platform (''EDGX Options'') and affiliated equities and options exchanges (*i.e.,* Cboe BZX Exchange, Inc. (''BZX''), Cboe Exchange, Inc. (''Cboe Options''), Cboe C2 Exchange, Inc. (''C2 Options''), Cboe EDGA Exchange, Inc. (''EDGA''), and Cboe BYX Exchange, Inc. (''BYX'') (collectively, ''Affiliates'') also offer similar data products.[5] Particularly, each of the Exchange's Affiliates offer a daily and historical archive of their depth of book real-time feed with execution information based on their trading activity that is substantially similar to the information provided by the Exchange through its Depth Data products.

Currently, the Exchange charges a fee of $500 per month of Historical Depth Data accessed by a user. This fee has been in place, without change, since 2014 when the Exchange began charging for access to historical quotation and transactions data from the Exchange via its Historical Depth Data product.[6] In the time since, the Exchange has made a number of significant enhancements to its platform, including, among other things, implementing a more efficient means of data delivery (via SFTP rather than shipment of hard drives), which consequently increases the value of the market data product.

The Exchange now proposes to increase the fee from $500 to $1,000 per month of Historical Depth Data accessed by a user.[7] As is currently the case, the data will be provided to data recipients for internal use only, and thus, no redistribution will be permitted.

The Exchange notes that the Depth Data products, including the Historical Depth Data, are completely voluntary products, in that the Exchange is not required by any rule or regulation to make the reports or services available and that potential subscribers may purchase it only if they voluntarily choose to do so. Further, the Exchange notes that other exchanges offer similar products for a fee.[8]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[10] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[11] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with section 6(b)(4) of the Act,[12] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[13]

With respect to market data, the decision of the United States Court of

[3] *See* EDGX Fee Schedule. Daily end-of-day delivery is provided via the DataShop SFTP. Files will typically become available after 10 p.m. ET; *see also* Exchange Rule 1.5, which defines ''System.''

[4] *See https://datashop.cboe.com/cboe-us-equities-pitch.*

[5] *See,* for example, EDGA Fee Schedule, BYX Fee Schedule, BZX Fee Schedule.

[6] *See* Securities Exchange Act Release No. 73758 (December 5, 2014), 79 FR 73679 (December 11, 2014) (SR–EDGX–2014–30).

[7] As part of the proposed rule change, the Exchange also proposes to remove the fee related to delivery per 1TB drive of data as the Exchange does not provide 1TB drives anymore.

[8] *See, e.g., https://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#nom;* and *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf.*

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *Id.*

[12] 15 U.S.C. 78f(b)(4).

[13] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC* upheld the Commission's reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' [14]

The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [15]

More recently, the Commission confirmed that it applies a ''market-based'' test in its assessment of market data fees, and that under that test:

> the Commission considers whether the exchange was subject to significant competitive forces in setting the terms of its proposal for [market data], including the level of any fees. If an exchange meets this burden, the Commission will find that its fee rule is consistent with the Act unless there is a substantial countervailing basis to find that the terms of the rule violate the Act or the rules thereunder.[16]

The Exchange operates in a highly competitive environment. Indeed, there are currently 16 registered equities exchanges that trade equities. Based on publicly available information, no single equities exchange has more than 13% of the equity market share.[17] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supercompetitive fees. In the event that a market participant views one exchange's data product as more attractive than the competition, that market participant can, and often does, switch between similar products. The proposed fees are a result of the competitive environment of the U.S. equities industry as the Exchange seeks to increase fees for Historical Depth Data, while continuing to attract purchasers.

The Exchange's Historical Depth Data is a competitively priced alternative to historical depth of book data disseminated by other national securities exchanges. The Exchange's Depth Data products, including Historical Depth Data, benefits a wide range of investors that participate in the national market system. As noted above, Nasdaq and NYSE have a similar Depth Data offerings for a charge.[18] The Exchange therefore believes that the proposed fees are reasonable and set at a level to compete with other equity exchanges that offer similar reports. Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. As such, if a market participant views another exchange's potential report as more attractive, then such market participant can merely choose not to purchase the Exchange's Historical Depth Data offering and instead purchase another exchange's similar data product, which offers similar data points, albeit based on other market's trading activity.

Further, the Exchange believes the fees are reasonable, as even with the proposed fee increase, they continue to represent a relatively modest fee for historical depth of book data that has proven valuable for investors. The Exchange believes the fee, as proposed, remains reasonable, as the moderate increase is the first increase to the fee since 2014.

The Exchange also believes that the proposed fee is reasonable because it is reasonably aligned with the value and benefits provided to users that choose to purchase Historical Depth Data from the Exchange. As discussed above, Historical Depth Data may be beneficial to Members and non-Members as it may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange. As noted above, since first introducing the Historical Depth Data product offering, the Exchange has made a number of significant enhancements to its platform, including, among other things, implementing a more efficient means of data delivery (via SFTP rather than shipment of hard drives), which consequently increases the value of the market data product.

In addition, the Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will apply to all similarly situated Members and non-Members that choose to purchase Historical Depth Data equally. As stated, Historical Depth Data is completely optional and not necessary for trading. Rather, the Exchange voluntarily makes Historical Depth Data available, and users may choose to purchase the data based on their own individual business needs. Potential purchasers may purchase Historical Depth Data at any time if they believe it to be valuable or may decline to purchase it. Moreover, several other exchanges offer a similar data product which offer the same type of data content through similar reports.[19]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment in which the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As discussed above, the Exchange's Historical Depth Data offering is subject to direct competition from several other exchanges that offer similar data products. The proposed rule changes are grounded in the Exchange's efforts to compete more effectively. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

Additionally, the Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed Historical Depth Data fees will apply equally to Members and non-Members who purchase Historical Depth Data.

---

[14] *See NetCoalition* v. *SEC,* 615 F.3d 525, 535 (D.C. Cir. 2010) (''*NetCoalition I*'') (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323).

[15] *Id.* at 535.

[16] *See* Securities Exchange Act Release No. 34–90217 (October 16, 2020), 85 FR 67392 (October 22, 2020) (SR–NYSENAT–2020–05) (Order Approving a Proposed Rule Change to Establish Fees for the NYSE National Integrated Feed) (internal quotation marks omitted), quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) (NYSE ArcaBook Approval Order).

[17] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (December 8, 2023), available at *https://www.cboe.com/us/equities/market_statistics/.*

[18] *See supra* note 8.

[19] *See supra* note 8.

Moreover, purchase of Historical Depth Data is optional.

Finally, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, similar products are offered by Nasdaq and NYSE. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''. Accordingly, the Exchange does not believe its proposal imposes any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act [20] and paragraph (f) of Rule 19b–4 [21] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeEDGX–2024–004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeEDGX–2024–004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeEDGX–2024–004 and should be submitted on or before February 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00923 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99338; File No. SR–NYSECHX–2023–25]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Schedule of Fees and Rebates

January 12, 2024.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 29, 2023, NYSE Chicago, Inc. (''NYSE Chicago'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees and Rebates (the ''Fee Schedule'') with respect to the system processing fee for the Central Registration Depository (''CRD'' or ''CRD system'') collected by the Financial Industry Regulatory Authority, Inc. (''FINRA''). The Exchange proposes to implement the fee change on January 2, 2024. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule with respect to the system processing fee for use of CRD collected by FINRA.[3] The Exchange proposes to implement the fee changes effective January 2, 2024.

FINRA collects and retains certain regulatory fees via CRD for the registration of associated persons of Exchange Participants that are not FINRA members (''Non-FINRA Participants'').[4] CRD fees are user-based, and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA Participant.

In 2020, FINRA amended certain fees assessed for use of the CRD system for implementation between 2022 and 2024.[5] The Exchange accordingly proposes to amend the Fee Schedule to mirror the fees assessed by FINRA, which will be implemented concurrently with the amended FINRA fee as of January 2024.[6] Specifically, the Exchange proposes to amend the Fee Schedule to modify the system processing fee charged to Participants that are not FINRA Members for each registered representative and principal from $45 to $70.[7]

The Exchange notes that the proposed change is not otherwise intended to address any other issues surrounding regulatory fees, and the Exchange is not aware of any problems that Participants would have in complying with the proposed change.

1. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[8] in general, and furthers the objectives of section 6(b)(4) [9] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges. The Exchange also believes that the proposed rule change is consistent with section 6(b)(5) of the Act,[10] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed fee change is reasonable because the fee will be identical to that adopted by FINRA as of January 2024 for use of the CRD system to submit an initial or amended Form U4, Form U5 or Form BD that includes the initial reporting, amendment, or certification of one or more disclosure events or proceedings and the posting to CRD each set of fingerprints submitted electronically to FINRA. The costs of operating and improving the CRD system are similarly borne by FINRA when a Non-FINRA Participant uses the CRD system; accordingly, the fees collected for such use should, as proposed by the Exchange, mirror the fees assessed to FINRA members. In addition, as FINRA noted in amending its fees, it believes that its proposed pricing structure is reasonable and correlates fees with the components that drive its regulatory costs to the extent feasible. The Exchange further believes that the change is reasonable because it will provide greater specificity regarding the CRD system fees that are applicable to Non-FINRA Participants. All similarly situated Participants are subject to the same fee structure, and every Participant must use the CRD system for registration and disclosure. Accordingly, the Exchange believes that the fees collected for such use should likewise increase in lockstep with the fees assessed to FINRA members, as proposed by the Exchange.

The Exchange also believes that the proposed fee change provides for the equitable allocation of reasonable fees and other charges, and does not unfairly discriminate between customers, issuers, brokers, and dealers. The fee applies equally to all individuals and firms required to report information the CRD system, and the proposed change will result in the same regulatory fees being charged to all Participants required to report information to CRD and for services performed by FINRA regardless of whether such Participants are FINRA members. Accordingly, the Exchange believes that the fee collected for such use should increase in lockstep with the fee adopted by FINRA as of January 2024, as proposed by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,[11] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed change will reflect fees that will be assessed by FINRA as of January 2024 and will thus result in the same regulatory fees being charged to all Participants required to report information to the CRD system and for services performed by FINRA, regardless of whether or not such Participants are FINRA members.

[3] CRD is the central licensing and registration system for the U.S. securities industry. The CRD system enables individuals and firms seeking registration with multiple states and self-regulatory organizations to do so by submitting a single form, fingerprint card, and a combined payment of fees to FINRA. Through the CRD system, FINRA maintains the qualification, employment, and disciplinary histories of registered associated persons of broker-dealers.

[4] The Exchange originally adopted fees for use of the CRD system in in 2008 and amended those fees in 2013, 2022 and 2023. *See* Securities Exchange Act Release Nos. 57587 (March 31, 2008), 73 FR 18598 (April 4, 2008) (SR–CHX–2007–21); 68647 (January 14, 2013), 78 FR 4506 (January 22, 2013) (SR–CHX–2013–01); 93907 (January 5, 2022), 87 FR 1468 (January 11, 2022) (SR–NYSECHX–2021–18); and 96683 (January 17, 2023), 88 FR 4065 (January 23, 2013) (SR–NYSECHX–2023–01). While the Exchange lists these fees in its Fee Schedule, it does not collect or retain these fees.

[5] *See* Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (SR–FINRA–2020–032).

[6] The Exchange notes that it has only adopted the CRD system fees charged by FINRA to Non-FINRA Participants when such fees are applicable. In this regard, certain FINRA CRD system fees and requirements are specific to FINRA members, but do not apply to NYSE Chicago-only Participants. Non-FINRA Participants have been charged CRD system fees since 2008. *See* note 4, *supra.* Participants that are also FINRA members are charged CRD system fees according to Section 4 of Schedule A to the FINRA By-Laws.

[7] *See* Section (4)(b)(7) of Schedule A to the FINRA By-laws.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(5).

[11] *See* 15 U.S.C. 78f(b)(8).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act [12] and Rule 19b–4(f)(2) [13] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSECHX–2023–25 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSECHX–2023–25. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 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–NYSECHX–2023–25 and should be submitted on or before February 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00919 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99335; File No. SR–FINRA–2023–013]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change To Amend the FINRA Codes of Arbitration Procedure and Code of Mediation Procedure To Revise and Restate the Qualifications for Representatives in Arbitrations and Mediations

January 11, 2024.

I. Introduction

On October 5, 2023, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''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 amend the FINRA Code of Arbitration Procedure for Customer Disputes (''Customer Code''), the Code of Arbitration Procedure for Industry Disputes (''Industry Code''), and the Code of Mediation Procedure (''Mediation Code'') (collectively, the ''Codes''), to revise and restate the qualifications for representatives in arbitrations and mediations in the forum administered by FINRA Dispute Resolution Services (''DRS'').

The proposed rule change was published for public comment in the **Federal Register** on October 13, 2023.[3] The public comment period closed on November 3, 2023. The Commission received comment letters related to this filing.[4] On November 9, 2023, FINRA consented to an extension of the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to January 11, 2024.[5] On January 8, 2024, FINRA responded to the comment letters received in response to the Notice.[6] This order approves the proposed rule change.

II. Description of the Proposed Rule Change

A. Background

The Codes currently permit parties to arbitrations and mediations in the DRS forum to represent themselves, to be represented by an attorney at law in good standing, or to be represented by a non-attorney representative (''NAR'').[7] Some NARs receive compensation in connection with their representation of parties (''compensated NARs'').[8] Other NARs assist parties with their cases without compensation (''uncompensated NARs'').[9] In addition, although the practice is not specifically addressed by the Codes, law students sometimes represent parties while practicing under the supervision of an attorney through securities arbitration clinics (''SACs'').[10]

[1] *See* 15 U.S.C. 78s(b)(1).

[2] *See* 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 98703 (Oct. 6, 2023), 88 FR 71051 (Oct. 13, 2023) (File No. SR–FINRA–2023–013) (''Notice'').

[4] The comment letters are available at *https://www.sec.gov/comments/sr-finra-2023-013/srfinra2023013.htm.*

[5] *See* letter from Kristine Vo, Assistant General Counsel, FINRA, to Lourdes Gonzalez, Assistant Chief Counsel, Division of Trading and Markets, Commission, dated November 9, 2023. This letter is available at *https://www.finra.org/sites/default/files/2023-11/SR-FINRA-2023-013-ExtensionNo1.pdf.*

[6] *See* letter from Kristine Vo, Assistant General Counsel, Office of General Counsel, FINRA, to Vanessa Countryman, Secretary, Commission, dated January 8, 2024 (''FINRA Response'').

[7] *See* FINRA Rules 12208, 13208, and 14106.

[8] Notice at 71051.

[9] *Id.*

[10] *Id.* at 71051–52.

In response to DRS forum users' concerns regarding the conduct of compensated NARs, FINRA reviewed their representation of parties in arbitrations and mediations in the DRS forum.[11] FINRA found that compensated NARs represent customers in a small percentage (one percent) of the customer cases in the DRS forum.[12] Nevertheless, FINRA identified several allegations of improper conduct by compensated NARs in connection with their representation of parties in the DRS forum.[13] In contrast, FINRA did not identify any allegations of improper conduct by uncompensated NARs or law students.[14] FINRA expressed concern that parties may be harmed when compensated NARs are found to be engaged in the unauthorized practice of law under the law of the relevant United States (''U.S.'') jurisdiction.[15] FINRA highlighted that compensated NARs have, for example, been enjoined from continuing their representation of parties during pending arbitrations after courts determined that the representation constituted the unauthorized practice of law.[16] DRS arbitrators have also issued awards dismissing claims, or finding against investors, after determining that a compensated NAR's representation of an investor constituted the unauthorized practice of law in the jurisdiction.[17]

Moreover, FINRA expressed concern that NARs are not subject to professional qualification requirements, ethical rules, disciplinary processes, and client protections that the states and other U.S. jurisdictions apply to attorneys who represent parties in the DRS forum.[18] As such, customers of compensated NARs do not benefit from the client protections and disciplinary processes that apply to attorneys and may have limited recourse if they are harmed by the misconduct of compensated NARs.[19]

For the reasons discussed above, FINRA filed the proposed rule change to revise and restate the qualifications for representatives of parties using the DRS forum, as described below.[20]

B. Proposed Rule Change

FINRA Rules 12208(c), 13208(c), and 14106(c) currently prohibit compensated and uncompensated NARs from representing parties in arbitration and mediation if: (1) state law prohibits such representation; (2) the prospective representative is currently suspended or barred from the securities industry in any capacity; or (3) the prospective representative is currently suspended from the practice of law or disbarred.[21] FINRA Rules 12208(d), 13208(d), and 14106(d) further provide that issues regarding the qualifications of a person to represent a party in arbitration or mediation are governed by applicable law and may be determined by an appropriate court or other regulatory agency.[22]

1. Disallowing Compensated NARs in the DRS Forum

The proposed rule change would prohibit a person who is not an attorney and who receives compensation in any manner in connection with the representation (*i.e.,* a compensated NAR) from representing a party at any stage of an arbitration or mediation proceeding. Specifically, the proposed rule change would state that any party in an arbitration or mediation proceeding held in a U.S. hearing location may be represented by ''a person who is not an attorney, who has not received, and will not receive, compensation in any manner in connection with the representation.'' [23]

To help ensure that a NAR is not receiving compensation in connection with their representation of a party in the DRS forum, proposed Rules 12208(b)(1)(C), 13208(b)(1)(C), and 14106(b)(1)(C) would require the NAR and the party being represented to attest that the NAR is not receiving compensation. Specifically, the proposed rule change would state that a party could be represented in arbitration or mediation by an uncompensated NAR, provided that ''prior to the representation, the person or the party files with the Director through the Party Portal a written statement, signed by the person and the party, attesting that the person has not received, and will not receive, compensation in connection with the representation.'' [24]

2. Codifying the Role of Law Students and SACs

The Codes do not specifically address the representation of parties in the DRS forum by law students supervised by attorneys through SACs.[25] The proposed rule change would amend the Codes to codify the current practice of allowing a party to be represented by an enrolled law student participating in a law school clinical program or its equivalent and practicing under the supervision of an attorney.[26] Specifically, the proposed rule change would state that any party in an arbitration or mediation proceeding held in a U.S. hearing location may be represented by ''a student enrolled in a law school participating in a law school clinical program or its equivalent and practicing under the supervision of an attorney.'' [27]

3. Persons Prohibited From Representing Parties in the DRS Forum

The Codes currently provide that non-attorneys may not represent a party if state law prohibits such representation, the person is currently suspended or barred from the securities industry in

[11] *Id.* at 71052.

[12] *Id.* at 71054.

[13] *Id.*

[14] *Id.*

[15] *Id.* at 71053.

[16] *Id.*

[17] *Id.*

[18] *See id.* at n.16 (stating that ''[g]enerally, licensed attorneys are required to have: (1) completed a bachelor's degree program (or its equivalent) and a legal education as required by a licensing state; (2) passed a state bar exam; (3) passed the Multistate Professional Responsibility Examination; (4) passed a licensing state's character and fitness review, which includes questions about academic conduct at law school, criminal history, social conduct in general and any applicable disciplinary actions; and (5) taken a [legally] binding oath with a licensing state's supreme court or high-court equivalent. In addition, many states require attorneys to complete continuing legal education, including ethics credits, to maintain a law license. In addition, all jurisdictions require lawyers to abide by rules of professional conduct, which are enforced through state disciplinary processes.'').

[19] *Id.* at 71053.

[20] FINRA stated that the amendments would be effective for arbitrations and mediations filed in the DRS forum on or after the effective date. Notice at 71055.

[21] Notice at 71054.

[22] *Id.* As noted above, an arbitrator may also address issues regarding the qualifications of a person to represent a party in the DRS forum. *See* Notice at 71053 n.21 (citing dismissed cases involving findings that a compensated NAR's representation of an investor constituted the unauthorized practice of law).

[23] Proposed Rules 12208(b)(1)(C), 13208(b)(1)(C), and 14106(b)(1)(C).

[24] Proposed Rules 12208(b)(1)(C), 13208(b)(1)(C), and 14106(b)(1)(C). Under the Customer Code and Industry Code, the term ''Director'' means the Director of DRS. *See* FINRA Rules 12100(m), 12103, 13100(m), and 13103. Under the Mediation Code, the term ''Director'' refers to the Director of Mediation of DRS. *See* FINRA Rules 14100(d) and 14103. The Party Portal provides forum users with a secure, online location for claim filing and interactions relating to case administration. Parties use the Party Portal to, among other things, file claims, pay filing fees, receive documents from and send documents to DRS, receive service of claims, submit answers to claims, submit additional case documents, view the status of cases, select arbitrators, schedule hearings and send documents to other Party Portal case participants. *See, e.g.,* FINRA Rules 12300, 12302, 12402, 12403, 13300, 13302, and 13404. Since mediation is voluntary in all instances, DRS permits parties to a mediation proceeding to use the Party Portal on a voluntary basis to submit and view their mediation case information and documents. *See* FINRA Rule 14109(b) and (h); *see also* Notice at 71054 n.37.

[25] *See* Notice at 71051–52.

[26] *See* proposed Rules 12208(b)(1)(B), 13208(b)(1)(B), and 14106(b)(1)(B).

[27] *See* proposed Rules 12208(b)(1)(B), 13208(b)(1)(B), and 14106(b)(1)(B).

any capacity, or the person is currently suspended from the practice of law or disbarred.[28] The proposed rule change would retain the substance of these provisions, while also stating that the laws of U.S. jurisdictions that are not states may also disqualify the person from representing a party.[29] The proposed rule change would also apply these prohibitions generally to all persons, including attorneys.[30] Furthermore, the proposed rule change would specifically preclude a person who is currently suspended from or denied the privilege of appearing or practicing before the Commission from representing a party in the DRS forum.[31]

Specifically, the proposed rule change would state that no person may represent a party in an arbitration or mediation proceeding held in a U.S. hearing location if: ''(A) the laws of a state of the United States, the District of Columbia, or commonwealth, territory, or possession of the United States with jurisdiction over the representation prohibit the representation; (B) the person is currently suspended or barred from the securities industry in any capacity; (C) the person is currently suspended from the practice of law or disbarred; or (D) the person is currently suspended from or denied the privilege of appearing or practicing before the Securities and Exchange Commission.'' [32]

4. Determinations of Qualifications of Representatives

The Codes currently provide, in part, that ''[i]ssues regarding the qualifications of a person to represent a party in arbitration [or mediation] are governed by applicable law and may be determined by an appropriate court or other regulatory agency.'' [33] The Codes also currently provide that ''[i]n the absence of a court order, the arbitration [or mediation] proceeding shall not be stayed or otherwise delayed pending resolution of such issues.'' [34] To improve the clarity of these provisions, the proposed rule change would make non-substantive changes to them.[35] Specifically, the proposed rule change would state that ''[a] challenge to the qualifications of a representative made outside of the [arbitration or mediation] proceeding shall not stay or otherwise delay the [arbitration or mediation] proceeding in the absence of a court order.'' [36]

III. Discussion and Commission Findings

After careful review of the proposed rule change and the comment letters, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities association.[37] Specifically, as explained in more detail below, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act, which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.[38]

A. Disallowing Compensated NARs in the DRS Forum

1. General Prohibition

As noted above, FINRA is proposing to amend the Codes to revise and restate the qualifications for representatives of parties using the DRS forum to disallow compensated NARs from representing parties in the DRS forum. FINRA is proposing these rule changes in response to several allegations of improper conduct by compensated NARs in connection with their representation of parties in the DRS forum (*e.g.,* compensated NARs aggressively soliciting customers to bring claims in the DRS forum).[39] Specifically, FINRA stated that compensated NARs have a pecuniary incentive to engage in misconduct when seeking new client relationships or bringing claims in the DRS forum, and that parties harmed by such conduct lack recourse against compensated NARs who are not directly regulated.[40] Nevertheless, while FINRA acknowledged that as a result of disallowing compensated NARs, some parties may have difficulty in obtaining counsel, FINRA stated that the proposed rule change ''balances the need for parties, including investors, to be able to avail themselves of representation in the DRS forum with protecting those parties, the integrity of the DRS forum, and the public interest generally from the potential harmful conduct and lack of recourse that may come from representation by compensated NARs.'' [41]

Commenters generally supported the proposed rule change.[42] One commenter stated that ''it is in the best interest of investors to disallow compensated [NARs] from representing customer claimants in FINRA arbitration.'' [43] A second commenter similarly stated that the proposed rule change would ''reduce the risk that parties, including investors, may be significantly harmed by the activities of compensated

[28] *See* FINRA Rules 12208(c), 13208(c), and 14106(c).

[29] *See* proposed Rules 12208(b)(2)(A), 13208(b)(2)(A), and 14106(b)(2)(A).

[30] *See* proposed Rules 12208(b)(2)(C), 13208(b)(2)(C), and 14106(b)(2)(C). The prohibitions would not apply retroactively to persons who are suspended or barred from the securities industry and who are representing a party in a proceeding at the time of the effective date of the proposed rule change. *See* Notice at 71055 n.50. The proposed rule change would apply to arbitrations and mediations filed in the DRS forum on or after the effective date and would preclude such representation going forward. Notice at 71055.

[31] *See* proposed Rules 12208(b)(2)(D), 13208(b)(2)(D), and 14106(b)(2)(D). This prohibition would not apply retroactively to persons who are suspended or denied the privilege of appearing or practicing before the Commission and who are representing a party in a proceeding at the time of the effective date of the proposed rule change. *See* Notice at 71055 n.51. The proposed rule change would apply to arbitrations and mediations filed in the DRS forum on or after the effective date and would preclude representation by such parties going forward. Notice at 71055.

[32] Proposed Rules 12208(b)(2)(D), 13208(b)(2)(D), and 14106(b)(2)(D).

[33] FINRA Rules 12208(d) and 13208(d); *see* FINRA Rule 14106(d).

[34] FINRA Rules 12208(d) and 13208(d); *see* FINRA Rule 14106(d).

[35] Notice at 71055.

[36] Proposed Rules 12208(d) and 13208(d); *see* proposed Rule 14106(d).

[37] In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[38] 15 U.S.C. 78*o*–3(b)(6).

[39] *See* Notice at 71052.

[40] FINRA also stated that although compensated NARs may be subject to state laws governing general business practices, they are not subject to the specific and extensive professional qualification requirements, ethical rules, disciplinary processes and client protections that the states and other U.S. jurisdictions apply to attorneys who represent parties in the DRS forum. Further, compensated NARs' interactions with customers are not subject to regulation like the state disciplinary rules on lawyer advertising and solicitation. *See* Notice at 71052–53.

[41] Notice at 71055–56; *see also* Notice at 71054, 71058. FINRA acknowledged that for claims of $100,000 or less, an attorney may believe that their share of a potential award might be too small to justify the effort, not all investors will qualify for assistance by SACs, and that investors may ultimately have to represent themselves. *Id.*

[42] *See* letters from Steven B. Caruso, dated October 7, 2023 (''Caruso Letter''); Joseph C. Peiffer, President, Public Investors Advocate Bar, to Vanessa Countryman, Secretary, Commission, dated November 3, 2023 (''PIABA Letter''); Mark Quinn, Director of Regulatory Affairs, Cetera Financial Group, to Secretary, Commission, dated November 3, 2023 (''Cetera Letter''); Christine Lazaro, Supervising Attorney, Elizabeth Allhusen, Legal Intern, Camille Perbost, Legal Intern, and Elissa Germaine, Supervising Attorney, Securities Arbitration Clinic of St. John's University School of Law, to Vanessa Countryman, Secretary, Commission, dated November 3, 2023 (''St. John's Letter''); *see also* letter from Lynne Brundage, dated January 5, 2024 (describing an experience with the DRS forum that is outside the scope of the proposed rule change).

[43] PIABA Letter at 1.

NARs.'' [44] A third commenter stated that ''NARs have a greater propensity than attorneys to engage in improper or disruptive conduct.'' [45] A fourth commenter agreed with each of FINRA's concerns, stating that the proposed rule change is ''important and necessary to protect investors from improper conduct by compensated [NARs,] . . . who are not governed by the same constraints as licensed attorneys or law students under the supervision of licensed attorneys. . . . [A]nd individuals who fall prey to incompetent representation by a NAR may not have any method of recourse.'' [46]

Compensated NARs represent claimants in a small percentage of the overall customer cases in the DRS forum but have demonstrated a higher propensity to engage in improper conduct in connection with their representation than their counterparts, including uncompensated NARs.[47] Similarly, compensated NARs are less likely to be subject to professional qualification requirements, ethical rules, disciplinary processes, and client protections than attorneys who represent parties in the DRS forum.[48] Further, compensated NARs' interactions with customers are not subject to regulation like the state disciplinary rules on lawyer advertising (*e.g.,* failure to disclose disciplinary history or assuring customers that they would recover investments).[49] Thus, to the extent compensated NARs aggressively solicit customers to bring claims in the DRS forum, pursue frivolous claims, charge clients non-refundable fees, or engage in additional misconduct, including the unauthorized practice of law, customers generally would not have recourse that would be available had they engaged an attorney.[50] By prohibiting compensated NARs from representing parties in the DRS forum, the proposed rule change removes the participation of individuals who have a financial incentive to engage in improper conduct in connection with their representation of parties in the DRS forum. As such, excluding compensated NARs from the DRS forum is a reasonable approach to help ensure that persons representing claimants in the DRS forum for compensation adhere to professional standards and can be held to account when they do not (*e.g.,* attorneys) or lack the pecuniary incentive to engage in improper conduct (*e.g.,* uncompensated NARs).

The Commission recognizes that some claimants with smaller claims who might have otherwise considered representation by a compensated NAR may have more difficulty obtaining representation as a result of the proposed rule change. Similarly, claimants with smaller claims may incur additional costs to retain an attorney or risk worse outcomes by representing themselves at a hearing. However, these concerns are outweighed by the threat of harm, including harm to investors, presented by compensated NARs whose interactions with customers are not subject to professional standards of conduct. Furthermore, because compensated NARs represent only a small percentage (one percent) of parties in the DRS forum, the potential impact of the proposed rule change on representation within the DRS forum may be limited and is thus a reasonable way for FINRA to prevent potential harms caused by compensated NARs without unduly impacting representation within the DRS forum.

2. Statement of No Compensation for Uncompensated NAR Representation

As noted above, the proposed rule change provides that a party could be represented in arbitration or mediation by an uncompensated NAR, provided that prior to the representation, the uncompensated NAR or party files the required written attestation with the Director of DRS. Commenters generally supported the proposed rule change.[51]

The proposed rule change requiring a written attestation that a NAR has not received and will not receive compensation in connection with its representation of a party is a reasonable obligation that would permit FINRA to verify that the NAR is uncompensated and help to ensure that all parties are aware of this requirement, thus supporting the regulatory goal of excluding compensated NARs from the DRS forum. For these reasons, the proposed rule change is reasonable.

B. Codifying the Role of Law Students and SACs

As noted above, FINRA stated that it is proposing to amend the Codes to codify the current practice whereby a party may be represented by a student enrolled in a law school participating in a law school clinical program or its equivalent and practicing under the supervision of an attorney. FINRA stated that SACs and the law students who participate in these programs provide an inexpensive option for customers who qualify and may not be able to find or afford an attorney. Moreover, these representations may be regulated by state rules that govern the performance of legal services by law students and the attorneys who supervise them.[52] Accordingly, FINRA stated that it would be appropriate to codify the role of law students in providing representation to investors through SACs.[53]

Commenters generally supported the proposed rule change.[54] One of these commenters stated that for a clinic that provides pro bono representation to investors who otherwise are unable to find an attorney due to the size of their claims or the uncertainty of collectability, ''it is critical that law school students in clinic programs remain able to represent customers in the DRS forum to fill the access to justice gap with ethical representation for investors who cannot otherwise afford it.'' [55] Similarly, a second commenter stated that it supports the proposed rule change ''because it benefits both the parties and the system by helping to assure that parties have access to expertise that they may lack or cannot afford to pay for.'' [56] In order to improve parties' access to representation in the DRS forum, this commenter recommended that FINRA study what it means to be the ''equivalent'' to a law school clinic within the meaning of the proposed rule change. Specifically, the commenter suggested that FINRA (1) determine if such institutions exist and, if they do, (2)(a) consider what qualifications or restrictions may be necessary to allow them to represent parties in the DRS forum and (b) consider and publish standards for programs that would satisfy the ''or equivalent'' provision in proposed Rule 12208(b)(1)(B).[57] In response, FINRA stated that it included the ''or equivalent'' provision in the proposed rule change ''to account for flexibility in law school programs (*e.g.,* a law school without a formal clinical program, but that has students

[44] Caruso Letter at 3.

[45] Cetera Letter at 2.

[46] St. John's Letter at 1.

[47] *See supra* notes 12–13.

[48] *See supra* note 18.

[49] *See supra* note 40 and Notice at 71061.

[50] *See* Notice at 71052–53.

[51] *See* Caruso Letter, PIABA Letter, Cetera Letter, and St. Johns Letter.

[52] *See* Notice at 71055.

[53] *Id.*

[54] *See* Caruso Letter, PIABA Letter, Cetera Letter, and St. Johns Letter.

[55] St John's Letter at 2.

[56] *See* Cetera Letter at 2; *see also* Caruso Letter (stating that the Commission should approve the proposed rule change codifying the current practice governing SACs on an expedited basis).

[57] *See* Cetera Letter at 2–3. While the proposed rule change does not identify programs that are ''equivalent'' to a law school clinic at this time, it leaves open the opportunity to capture such a program if one were to come forward.

providing legal services under the supervision of a law school professor).'' [58] Further, while FINRA is not aware of any such programs at this time, should one arise, FINRA would ''make an evaluation on a case-by-case basis and provide guidance as appropriate.'' [59]

Currently, a party in arbitration or mediation may be represented by a student enrolled in a law school participating in a law school clinical program or its equivalent and practicing under the supervision of an attorney. This practice, however, is not currently codified in the FINRA rulebook. Accordingly, parties may not be aware that this option is available when they are seeking representation. The proposed rule change should help make customers seeking to use the forum aware of this alternative option for representation. Similarly, it should also provide clarity to law school students and the attorneys that supervise them. Law school clinical programs lack the pecuniary incentive to engage in the conflicted conduct described above and are under the supervision of attorneys, thus helping to ensure that a customer's representative is subject to professional standards of conduct. As such, the proposed rule change reasonably balances the needs of customers who might otherwise be unable to obtain legal representation with protecting parties from the conflicts associated with compensated NARs.

C. Persons Prohibited From Representing Parties in the DRS Forum

As noted above, the Codes currently provide that non-attorneys may not represent a party if state law prohibits such representation, the person is currently suspended or barred from the securities industry in any capacity, or the person is currently suspended from the practice of law or disbarred.[60] The proposed rule change is retaining the substance of the current provisions but would expand the scope of the rule in three ways.

First, the proposed rule change would add that the laws of U.S. jurisdictions that are not states (*i.e.,* the District of Columbia, or a commonwealth, territory, or possession of the United States) may also disqualify the person from representing a party.[61] FINRA stated that the current rule's prohibition on representing a party if state law prohibits the representation does not fully address FINRA's concerns with the unauthorized practice of law by compensated NARs because it is not always clear in advance of the arbitration or mediation whether a compensated NAR's representation of a party in arbitration or mediation in a particular jurisdiction is legally permissible. As such, incorporating this new, broader standard into the proposed rule change would help protect the integrity and quality of the DRS forum and protect investors by incorporating the disqualification provisions of all relevant jurisdictions.[62]

Second, the proposed rule change would prohibit all persons, not just non-attorneys, from practicing in the DRS forum who meet the aforementioned conditions.[63] FINRA stated that all persons, including attorneys, should be prohibited from practicing in the DRS forum if these conditions apply.[64]

Third, the proposed rule change would preclude a person who is currently suspended from, or denied the privilege of, appearing or practicing before the Commission from representing a party in the DRS forum.[65] As with the above changes, FINRA stated that incorporating this standard into the proposed rule change would help protect the integrity and quality of the DRS forum and protect investors.[66]

Commenters generally supported the proposed rule change.[67]

The proposed rule change's expansion of the categories of persons prohibited from representing parties in the DRS forum are reasonable to help prohibit problematic representatives from appearing in the DRS forum. Specifically, expanding the rule to provide that the laws of any U.S. jurisdiction, and not only states, may disqualify the person from representing a party helps ensure that persons in all relevant jurisdictions are covered by the rules' prohibitions. Similarly, expanding the prohibitions to apply to all persons, not just attorneys, helps ensure that any person with a demonstrated track record of misconduct would be precluded from representing parties in the DRS forum. Further, precluding a person who is currently suspended from, or denied the privilege of, appearing or practicing before the Commission from representing a party in the DRS forum precludes another group of persons with a demonstrated track record of misconduct from representing parties in the DRS forum. By excluding problematic representatives from, and at the beginning of, the DRS process, the proposed change is a reasonable way to help enhance the integrity of those individuals representing parties in the DRS forum.

D. Determinations of Qualifications of Representatives

As noted above, the proposed rule change would make some clarifying changes to the current provision that prevents delay of a proceeding while a challenge to the qualifications of a person to represent a party is resolved outside of the DRS forum. Specifically, the proposed rule change would simplify the Codes' language to state that a challenge to the qualifications of a representative made outside of the arbitration proceeding shall not stay or otherwise delay the proceeding in the absence of a court order. Commenters generally supported the proposed rule change.[68] The proposed change makes no substantive changes to the rule, and reasonably clarifies the language regarding challenges outside of the DRS forum that could affect the progression of an active proceeding.

IV. Conclusion

For the reasons set forth above, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act, which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and, in general, protect investors and the public interest.[69]

It is therefore ordered pursuant to Section 19(b)(2) of the Act [70] that the proposal (SR–FINRA–2023–013), be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[71]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00856 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

[58] FINRA Response at 2.

[59] *Id.*

[60] *See* FINRA Rules 12208(c), 13208(c), and 14106(c).

[61] Notice at 71055.

[62] *Id.* at 71055.

[63] *Id.*

[64] *Id.*

[65] *See* proposed Rules 12208(b)(2)(D), 13208(b)(2)(D), and 14106(b)(2)(D). FINRA stated that this prohibition would not apply retroactively to persons who were suspended or denied the privilege of appearing or practicing before the Commission prior to the effective date of the proposed rule change. *See* Notice at 71055 n.51.

[66] Notice at 71055.

[67] *See* Caruso Letter, PIABA Letter, Cetera Letter, and St. Johns Letter.

[68] *See* Caruso Letter, PIABA Letter, Cetera Letter, and St. Johns Letter.

[69] 15 U.S.C. 78*o*–3(b)(6).

[70] 15 U.S.C. 78s(b)(2).

[71] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99330; File No. SR–BX–2024–001]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Equity 7, Section 118

January 11, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on January 2, 2024, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's transaction fees at Equity 7, Section 118(b), as described further below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend a transaction fee at Equity 7, Section 118(b). Currently, the Exchange has a schedule at Equity 7, Section 118(a), which consists of charges and credits that apply to orders in securities priced at $1 or more per share. The Exchange has a schedule at Equity 7, Section 118(b), which consists of charges that apply for securities priced at less than $1 per share. The Exchange proposes to amend Equity 7, Section 118(b) to adjust an existing charge for securities priced at less than $1 per share.

Specifically, the Exchange proposes to adjust the charge to members for accessing liquidity on the Exchange in securities priced at less than $1 per share from the current rate of 0.10% of the total transaction cost to 0.30% of the total transaction cost. The Exchange wishes to streamline such charge with that of its sister exchanges, The Nasdaq Stock Market LLC and Nasdaq PHLX LLC. The Nasdaq Stock Market LLC and Nasdaq PHLX LLC currently charge 0.30% of the total transaction cost to members for accessing liquidity on the exchange in securities priced at less than $1 per share.[3] In addition, the Exchange has limited resources available to it to offer its members market-improving incentives, and it allocates those limited resources to those segments of the market where it perceives the need to be greatest and/or where it determines that the incentive is likely to achieve its intended objective. Accordingly, the Exchange proposes to adjust the charge for accessing liquidity on the Exchange in securities priced at less than $1 per share, as noted above.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed changes to its schedule of credits are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''[6]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[7]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules.

The Exchange believes it is reasonable, equitable, and not unfairly discriminatory to amend Equity 7, Section 118(b) to adjust an existing charge for securities priced at less than $1 per share as the Exchange has limited resources to devote to incentive programs, and it is appropriate for the Exchange to periodically adjust its fees

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* The Nasdaq Stock Market LLC Rulebook, Equity 7, Section 118(b); Nasdaq PHLX LLC Rulebook, Equity 7, Section 3(b).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4) and (5).

[6] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[7] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

and incentives in a manner that best achieves the Exchange's overall mix of objectives. In addition, the proposed revision would streamline the charge to members for accessing liquidity on the Exchange in securities priced at less than $1 with that of its sister exchanges.

Those participants that are dissatisfied with the change to the Exchange's fee schedule are free to shift their order flow to competing venues that provide more generous pricing or less stringent qualifying criteria.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that its proposals will place any category of Exchange participant at a competitive disadvantage.

The Exchange intends for its proposed fee change to streamline its charge to members for accessing liquidity on the Exchange in securities priced at less than $1 with that of its sister exchanges and align its limited resources with the Exchange's overall mix of objectives. The Exchange notes that its members are free to trade on other venues to the extent they believe that its proposal is not attractive. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes.

Intermarket Competition

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its credits and fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own credits and fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which credit or fee changes in this market may impose any burden on competition is extremely limited.

The proposed change is reflective of this competition because, as a threshold issue, the Exchange is a relatively small market so its ability to burden intermarket competition is limited. In this regard, even the largest U.S. equities exchange by volume has less than 20% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. This is in addition to free flow of order flow to and among off-exchange venues which comprises more than 40% of industry volume.

In sum, if the change proposed herein is unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[8]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–BX–2024–001 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–BX–2024–001. 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–BX–2024–001 and should be submitted on or before February 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00852 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99318; File No. SR–PEARL–2023–73]

Self-Regulatory Organizations; MIAX Pearl, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Pearl Equities Fee Schedule To Expand the NBBO Setter Plus Program and Remove the Step-Up Added Liquidity Rebate

January 11, 2024.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 29, 2023, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the fee schedule (the ''Fee Schedule'') applicable to MIAX Pearl Equities, an equities trading facility of the Exchange.

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-equities/pearl-equities/rule-filings,* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to: (i) adopt two new tiers and corresponding rebates for the NBBO Setter Plus Program (referred to in this filing as the ''NBBO Program''); (ii) remove the Step-Up Added Liquidity Rebate table and associated rebate; [3] and (iii) make corresponding changes to the Definitions section and NBBO Setter Plus Table to account for the removal of the Step-Up Added Liquidity Rebate.

Background—NBBO Program and Step-Up Added Liquidity Rebate

In general, the NBBO Program provides enhanced rebates for Equity Members [4] that add displayed liquidity (''Added Displayed Volume'') in securities priced at or above $1.00 per share in all Tapes based on increasing volume thresholds and increasing market quality levels (described below), and provides an additive rebate [5] applied to orders that set the NBB or NBO [6] upon entry.[7] The NBBO Program was implemented beginning September 1, 2023.[8]

Pursuant to the NBBO Setter Plus Table in Section 1(c) of the Fee Schedule, the NBBO Program provides four volume tiers enhanced by three market quality levels to provide increasing rebates in this segment. The four volume tiers are achievable by greater volume from the best of three alternative methods. The three market quality levels are achievable by greater NBBO participation in a minimum number of specific securities.

MIAX Pearl Equities first determines the applicable NBBO Program tier based on three different volume calculation methods. The three volume-based methods to determine the Equity Member's tier for purposes of the NBBO Program are calculated in parallel in each month, and each Equity Member receives the highest tier achieved from any of the three methods each month. All three volume calculation methods are based on an Equity Member's respective ADAV [9] or NBBO Set Volume or ADV, each as a percent of industry TCV [10] as the denominator.

Under volume calculation Method 1, the Exchange provides tiered rebates based on an Equity Member's ADAV as a percentage of TCV. An Equity Member qualifies for the base rebates in Tier 1 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADAV of at least 0.00% and less than 0.08% of TCV. An Equity Member qualifies for the enhanced rebates in Tier 2 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADAV of at least 0.08% and less than 0.25% of TCV. An Equity Member qualifies for the enhanced rebates in Tier 3 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADAV of at least 0.25% and less than 0.40% of TCV. Finally, an Equity Member qualifies for the enhanced rebates in Tier 4 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADAV of at least 0.40% of TCV.

Under volume calculation Method 2, the Exchange provides tiered rebates

[3] *See* Fee Schedule, Section 1(f).

[4] The term ''Equity Member'' is a Member authorized by the Exchange to transact business on MIAX Pearl Equities. *See* Exchange Rule 1901.

[5] The Exchange does not propose to amend the NBBO Setter Additive Rebate, which is an additive rebate of ($0.0003) per share for executions of orders in securities priced at or above $1.00 per share that set the NBB or NBO on MIAX Pearl Equities with a minimum size of a round lot. *See* Fee Schedule, Section 1(c).

[6] With respect to the trading of equity securities, the term ''NBB'' shall mean the national best bid, the term ''NBO'' shall mean the national best offer, and the term ''NBBO'' shall mean the national best bid and offer. *See* Exchange Rule 1901.

[7] *See* Fee Schedule, Section 1(c).

[8] *See* Securities Exchange Act Release No. 98472 (September 21, 2023), 88 FR 66533 (September 27, 2023) (SR–PEARL–2023–45) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Pearl Equities Fee Schedule To Adopt the NBBO Setter Plus Program and Eliminate Certain Other Rebates).

[9] ''ADAV'' means average daily added volume calculated as the number of shares added per day and ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis. ''NBBO Set Volume'' means the ADAV in all securities of an Equity Member that sets the NBB or NBO on MIAX Pearl Equities. The Exchange excludes from its calculation of ADAV, ADV, and NBBO Set Volume shares added or removed on any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during regular trading hours, on any day with a scheduled early market close, and on the ''Russell Reconstitution Day'' (typically the last Friday in June). Routed shares are not included in the ADAV or ADV calculation. *See* the Definitions section of the Fee Schedule.

[10] ''TCV'' means total consolidated volume calculated as the volume in shares reported by all exchanges and reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. The Exchange excludes from its calculation of TCV volume on any given day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during Regular Trading Hours, on any day with a scheduled early market close, and on the ''Russell Reconstitution Day'' (typically the last Friday in June). *See* the Definitions section of the Fee Schedule.

based on an Equity Member's NBBO Set Volume as a percentage of TCV. Under volume calculation Method 2, an Equity Member qualifies for the base rebates in Tier 1 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an NBBO Set Volume of at least 0.00% and less than 0.02% of TCV. An Equity Member qualifies for the enhanced rebates in Tier 2 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an NBBO Set Volume of at least 0.02% and less than 0.03% of TCV. An Equity Member qualifies for the enhanced rebates in Tier 3 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an NBBO Set Volume of at least 0.03% and less than 0.08% of TCV. An Equity Member qualifies for the enhanced rebates in Tier 4 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an NBBO Set Volume of at least 0.08% of TCV.

Under volume calculation Method 3, the Exchange provides tiered rebates based on an Equity Member's ADV as a percentage of TCV. An Equity Member qualifies for the base rebates in Tier 1 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADV of at least 0.00% and less than 0.20% of TCV. An Equity Member qualifies for the enhanced rebates in Tier 2 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADV of at least 0.20% and less than 0.60% of TCV. An Equity Member qualifies for the enhanced rebates in Tier 3 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADV of at least 0.60% and less than 1.00% of TCV. An Equity Member qualifies for the enhanced rebates in Tier 4 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADV of at least 1.00% of TCV.

After the volume calculation is performed to determine highest tier achieved by the Equity Member, the applicable rebate is calculated based on two different measurements based on the Equity Member's participation at the NBBO on the Exchange in certain securities (referenced below).

The Exchange provides one column of base rebates (referred to in the NBBO Program table as ''Level A'') and two columns of enhanced rebates (referred to in the NBBO Program table as ''Level B'' and ''Level C''),[11] depending on the Equity Member's Percent Time at NBBO[12] on MIAX Pearl Equities in a certain amount of specified securities (''Market Quality Securities'' or ''MQ Securities'').[13] The NBBO Setter Plus Table specifies the percentage of time that the Equity Member must be at the NBBO on MIAX Pearl Equities in at least 200 symbols out of the full list of 1,000 MQ Securities (which symbols may vary from time to time based on market conditions). The list of MQ Securities is generally based on the top multi-listed 1,000 symbols by ADV across all U.S. securities exchanges. The list of MQ Securities is updated monthly by the Exchange and published on the Exchange's website.[14]

The base rebates (''Level A'') are as follows: ($0.00240) per share in Tier 1; ($0.00310) per share in Tier 2; ($0.00345) per share in Tier 3; and ($0.00350) per share in Tier 4. Under Level B, the Exchange provides enhanced rebates for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes if the Equity Member's Percent Time at NBBO is at least 25% and less than 50% in at least 200 MQ Securities per trading day during the month. The Level B rebates are as follows: ($0.00250) per share in Tier 1; ($0.00315) per share in Tier 2; ($0.00350) per share in Tier 3; and ($0.00355) per share in Tier 4. Under Level C, the Exchange provides enhanced rebates for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes if the Equity Member's Percent Time at NBBO is at least 50% in at least 200 MQ Securities per trading day during the month. The Level C rebates are as follows: ($0.00260) per share in Tier 1; ($0.00320) per share in Tier 2; ($0.00355) per share in Tier 3; and ($0.00360) per share in Tier 4.

The Exchange also provides a volume-based pricing incentive, referred to as the ''Step-Up Added Liquidity Rebate'' that is separate from the NBBO Program, in which qualifying Equity Members receive an enhanced rebate of ($0.0031) per share for executions of orders in securities priced at or above $1.00 per share that add displayed liquidity to the Exchange.[15] Equity Members qualify for the Step-Up Added Liquidity Rebate by achieving a ''Step-Up ADAV as a % of TCV'' [16] of at least 0.03% over the baseline month of May 2023. The Step-Up Added Liquidity Rebate is currently set to expire on December 31, 2023.[17]

Proposal To Adopt Two New Tiers and Corresponding Rebates for the NBBO Program

The Exchange proposes to amend the NBBO Setter Plus Table in Section 1(c) of the Fee Schedule to adopt two new tiers and corresponding rebates for the NBBO Program. The two new tiers will result in the NBBO Program now offering six different tiers pursuant to which Equity Members are able to achieve higher rebates based on the three different volume calculation methods.

The Exchange proposes that under volume calculation Method 1, an Equity Member will now qualify for the base rebates in Tier 1 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADAV of at least 0.00% and less than 0.035% of TCV. An Equity Member will qualify for the enhanced rebates in Tier 2 for

[11] For the purpose of determining qualification for the rebates described in Level B and Level C of the Market Quality Tier columns in the NBBO Setter Plus Program, the Exchange will exclude from its calculation: (1) any trading day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during regular trading hours; (2) any day with a scheduled early market close; and (3) the ''Russell Reconstitution Day'' (typically the last Friday in June). *See* the Definitions section of the Fee Schedule.

[12] ''Percent Time at NBBO'' means the aggregate of the percentage of time during regular trading hours where a Member has a displayed order of at least one round lot at the national best bid (''NBB'') or national best offer (''NBO''). *See* the Definitions section of the Fee Schedule.

[13] ''Market Quality Securities'' or ''MQ Securities'' shall mean a list of securities designated as such, that are used for the purposes of qualifying for the rebates described in Level B and Level C of the Market Quality Tier columns in the NBBO Setter Plus Program. The universe of these securities will be determined by the Exchange and published on the Exchange's website. *See* the Definitions section of the Fee Schedule.

[14] *See* MIAX Pearl Equities Exchange—Market Quality Securities (MQ Securities) List, effective December 1 through December 29, 2023, *available at https://www.miaxglobal.com/markets/us-equities/pearl-equities/fees* (last visited December 21, 2023).

[15] *See* Securities Exchange Act Release No. 95614 (August 26, 2022), 87 FR 53813 (September 1, 2022) (SR–PEARL–2022–33). The enhanced rebate provided by the Step-Up Added Liquidity Rebate applies to Liquidity Indicator Codes AA (adds liquidity, displayed order, Tape A), AB (adds liquidity, displayed order, Tape B) and AC (adds liquidity, displayed order, Tape C). *See* Fee Schedule, Section 1(f), Step-Up Added Liquidity Rebate, and Section 1(b), Liquidity Indicator Codes and Associated Fees.

[16] The term ''Step-Up ADAV as a % of TCV'' means ADAV as a percent of TCV in the relevant baseline month subtracted from the current month's ADAV as a percent of TCV. *See* the Definitions Section of the Fee Schedule.

[17] *See* Fee Schedule, Section 1(f).

executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADAV of at least 0.035% and less than 0.05% of TCV. An Equity Member will qualify for the enhanced rebates in Tier 3 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADAV of at least 0.05% and less than 0.08% of TCV. An Equity Member will qualify for the enhanced rebates in Tier 4 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADAV of at least 0.08% and less than 0.25% of TCV. An Equity Member will qualify for the enhanced rebates in Tier 5 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADAV of at least 0.25% and less than 0.40% of TCV. Finally, an Equity Member will qualify for the enhanced rebates in Tier 6 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADAV of at least 0.40% of TCV.

The Exchange proposes that under volume calculation Method 2, an Equity Member will now qualify for the base rebates in Tier 1 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an NBBO Set Volume of at least 0.00% and less than 0.01% of TCV. An Equity Member will qualify for the enhanced rebates in Tier 2 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an NBBO Set Volume of at least 0.01% and less than 0.015% of TCV. An Equity Member will qualify for the enhanced rebates in Tier 3 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an NBBO Set Volume of at least 0.015% and less than 0.02% of TCV. An Equity Member will qualify for the enhanced rebates in Tier 4 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an NBBO Set Volume of at least 0.02% and less than 0.03% of TCV. An Equity Member will qualify for the enhanced rebates in Tier 5 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an NBBO Set Volume of at least 0.03% and less than 0.08% of TCV. Finally, an Equity Member will qualify for the enhanced rebates in Tier 6 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an NBBO Set Volume of at least 0.08% of TCV.

The Exchange proposes that under volume calculation Method 3, an Equity Member will now qualify for the base rebates in Tier 1 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADV of at least 0.00% and less than 0.15% of TCV. An Equity Member will qualify for the enhanced rebates in Tier 2 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADV of at least 0.15% and less than 0.18% of TCV. An Equity Member will qualify for the enhanced rebates in Tier 3 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADV of at least 0.18% and less than 0.20% of TCV. An Equity Member will qualify for the enhanced rebates in Tier 4 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADV of at least 0.20% and less than 0.60% of TCV. An Equity Member will qualify for the enhanced rebates in Tier 5 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADV of at least 0.60% and less than 1.00% of TCV. Finally, an Equity Member will qualify for the enhanced rebates in Tier 6 for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes by achieving an ADV of at least 1.00% of TCV.

With the addition of two tiers to the NBBO Program, the Exchange proposes to amend the corresponding rebates for each tier, described below. The Exchange proposes that the base rebates (''Level A'') will now be as follows: ($0.00240) per share in Tier 1; ($0.00290) per share in Tier 2; ($0.00300) per share in Tier 3; ($0.00310) per share in Tier 4; ($0.00345) per share in Tier 5; and ($0.00350) per share in Tier 6.

Under Level B, the Exchange will continue to provide enhanced rebates for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes if the Equity Member's Percent Time at NBBO is at least 25% and less than 50% in at least 200 MQ Securities per trading day during the month. The Exchange proposes that the Level B rebates will be as follows: ($0.00250) per share in Tier 1; ($0.00295) per share in Tier 2; ($0.00305) per share in Tier 3; ($0.00315) per share in Tier 4; ($0.00350) per share in Tier 5; and ($0.00355) per share in Tier 6.

Under Level C, the Exchange will continue to provide enhanced rebates for executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume across all Tapes if the Equity Member's Percent Time at NBBO is at least 50% in at least 200 MQ Securities per trading day during the month. The Exchange proposes that the Level C rebates will be as follows: ($0.00260) per share in Tier 1; ($0.00300) per share in Tier 2; ($0.00310) per share in Tier 3; ($0.00320) per share in Tier 4; ($0.00355) per share in Tier 5; and ($0.00360) per share in Tier 6.

The purpose of adding two new tiers and corresponding rebates to the NBBO Program is for business and competitive reasons in light of recent volume growth on the Exchange. The Exchange notes that with the addition of two interim tiers to the NBBO Program, the base rebates, enhanced rebates and volume requirements of the NBBO Program remain competitive with, or better than, the rebates and volume requirements provided by other exchanges for executions of orders in securities priced at or above $1.00 per share that add displayed liquidity to those exchanges.[18]

Proposal To Remove the Step-Up Added Liquidity Rebate

The Exchange proposes to remove the Step-Up Added Liquidity Rebate table and associated rebate in Section 1(f) of the Fee Schedule. The Step-Up Added Liquidity Rebate is currently set to expire on December 31, 2023, as set forth in the Fee Schedule. The Exchange has determined to not extend or modify the Step-Up Added Liquidity Rebate. Accordingly, the Exchange proposes to remove the Step-Up Added Liquidity Rebate table and associated rebate from the Fee Schedule. The purpose of this

[18] *See* Cboe BZX Equities Fee Schedule, NBBO Setter section and Add/Remove Volume Tiers section, *available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/* (providing a base rebate of ($0.0016) per share and a top displayed liquidity tier rebate of ($0.0031) per share for executions of added displayed volume in securities priced at or above $1.00 per share, so long as the member meets all three volume requirements for the enhanced rebate); *see also* NYSE Arca Equities Fee Schedule, *available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf* (providing standard rebates of $0.0020 per share (Tapes A and C) and $0.0016 per share (Tape B) for adding displayed liquidity in securities priced at or above $1.00 per share).

change is to provide clarity within the Fee Schedule that the expiring Step-Up Added Liquidity Rebate will no longer be available after December 31, 2023. The Exchange believes that the benefits of the NBBO Program—three volume calculation methods, higher base (Level A) rebates, and two market quality levels based on participation at the NBBO in order to obtain enhanced rebates—provide more opportunities for Equity Members to achieve higher rebates and will encourage the submission of increased order flow. The Exchange believes this will, in turn, benefit all Equity Members by providing greater execution opportunities on the Exchange and contribute to a deeper, more liquid market, to the benefit of all investors and market participants.

Corresponding Changes to the Fee Schedule

As mentioned above, with the removal of Step-Up Added Liquidity Rebate table and associated rebate, the Exchange proposes to amend the Definitions section of the Fee Schedule to delete the defined term ''Step-Up ADAV as a % of TCV.'' The Exchange also proposes to amend the NBBO Setter Plus Table in Section 1(c) of the Fee Schedule to delete footnote #4, which refers to the Step-Up Added Liquidity Rebate. The purpose of these changes is to provide consistency and clarity in the Fee Schedule in light of the proposed removal of the Step-Up Added Liquidity Rebate table and associated rebate.

Implementation

The proposed changes are effective beginning January 1, 2024.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [19] in general, and furthers the objectives of Section 6(b)(4) of the Act [20] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Equity Members and issuers and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [21] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers or dealers.

The Exchange operates in a highly fragmented and competitive market in which market participants can readily direct their order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of sixteen registered equities exchanges, and there are a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange had more than approximately 15–16% of the total market share of executed volume of equities trading for the month of November 2023.[22] Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange represented approximately 2.08% of the overall market share for the month of November 2023. The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [23]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue or reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes the proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance liquidity and market quality in both a broad manner and in a targeted manner with respect to the MQ Securities and the modified NBBO Program.

Proposal To Adopt Two New Tiers and Corresponding Rebates for the NBBO Program

The Exchange believes that the proposal to add two new tiers to the NBBO Program, in general, provides a reasonable means to continue to encourage Equity Members to not only increase their order flow to the Exchange but also to contribute to price discovery and market quality on the Exchange by submitting aggressively priced displayed liquidity in securities priced at or above $1.00 per share. The Exchange believes that the NBBO Program, as modified with this proposal, continues to be equitable and not unfairly discriminatory because it is open to all Equity Members on an equal basis and provides enhanced rebates that are reasonably related to the value of the Exchange's market quality associated with greater order flow by Equity Members that set the NBBO, and the introduction of higher volumes of orders into the price and volume discovery process. The Exchange believes the proposal to add two new tiers to the NBBO Program is equitable and not unfairly discriminatory because it is designed to incentivize the entry of aggressively priced displayed liquidity that will create tighter spreads, thereby promoting price discovery and market quality on the Exchange to the benefit of all Equity Members and public investors.

The Exchange believes that its proposal to add two new tiers and corresponding rebates to the NBBO Program is reasonable and not unfairly discriminatory in light of recent volume growth on the Exchange. The Exchange notes that with the addition of two interim tiers to the NBBO Program, the base rebates, enhanced rebates and volume requirements of the NBBO Program remain competitive with, or better than, the rebates and volume requirements provided by other exchanges for executions of orders in securities priced at or above $1.00 per share that add displayed liquidity to those exchanges.[24]

Proposal To Remove the Step-Up Added Liquidity Rebate Table and Associated Rebate

The Exchange believes its proposal to remove the Step-Up Added Liquidity Rebate table and associated rebate in Section 1(f) of the Fee Schedule is reasonable, equitably allocated and not unfairly discriminatory. The Exchange adopted the Step-Up Added Liquidity Rebate for the purpose of encouraging

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(4).

[21] 15 U.S.C. 78f(b)(5).

[22] *See* the ''Market Share'' section of the Exchange's website, *available at https://www.miaxglobal.com/* (last visited December 21, 2023).

[23] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37499 (June 29, 2005).

[24] *See supra* note 18.

Equity Members to increase their orders that add liquidity on the Exchange, thereby improving its market quality with respect to such securities and contributing to a more robust and well-balanced market ecosystem on the Exchange to the benefit of all Equity Members.

Further, the Step-Up Added Liquidity Rebate is currently set to expire on December 31, 2023, as set forth in the Fee Schedule. The Exchange has determined to not extend or modify the Step-Up Added Liquidity Rebate. Accordingly, the Exchange believes it is reasonable and not unfairly discriminatory to remove the expiring rebate from the Fee Schedule in order to provide clarity to Equity Members that this rebate is no longer available.

Proposal To Make Corresponding Changes to the Fee Schedule

The Exchange believes its proposal to amend the Definitions section of the Fee Schedule to delete the defined term ''Step-Up ADAV as a % of TCV'' and footnote #4 from the NBBO Setter Plus Table is reasonable because the Exchange will no longer offer the Step-Up Added Liquidity Rebate after December 31, 2023. The Exchange believes it is reasonable to provide clarity and consistency within the Fee Schedule by removing references to the Step-Up Added Liquidity Rebate, which will no longer be available.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange believes the proposed rule change does not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed new tiers to the NBBO Program will be eligible to all Equity Members equally in that all Equity Members have the opportunity to participate and therefore qualify for the proposed enhanced rebates. Furthermore, the Exchange believes that the NBBO Program, as modified by this proposal, will continue to incentivize Equity Members to submit additional aggressively priced displayed liquidity to the Exchange, and to increase their order flow on the Exchange generally, thereby contributing to a deeper and more liquid market and promoting price discovery and market quality on the Exchange to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. The Exchange believes that this, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Equity Members by providing more trading opportunities and encourages Equity Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants.

The proposal to remove the Step-Up Added Liquidity Rebate table and associated rebate from the Fee Schedule does not impose a burden on intra-market competition that is not in furtherance of the Act in that the proposed change applies to all Equity Members equally and Equity Members may still compete for the enhanced rebates provided in the NBBO Program under volume calculation Method 1, which is similar to the expiring volume calculation provided for in the Step-Up Added Liquidity Rebate table.

The proposed changes to the Definitions section and NBBO Setter Plus table to remove references to the Step-Up Added Liquidity Rebate are similarly non-burdensome as they are intended to provide consistency and clarity within the Fee Schedule.

Intermarket Competition

The Exchange believes its proposal will benefit competition, and the Exchange notes that it operates in a highly competitive market. Equity Members have numerous alternative venues they may participate on and direct their order flow to, including fifteen other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently had more than 15–16% of the total market share of executed volume of equities trading for the month of November 2023.[25] Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow in response to new or different pricing structures being introduced to the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates generally, including with respect to executions of Added Displayed Volume, and market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable.

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [26] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission*, the DC circuit stated: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possess a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . .''.[27] Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[28] and Rule 19b–4(f)(2) [29] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is

[25] *See supra* note 22.

[26] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[27] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSE–2006–21)).

[28] 15 U.S.C. 78s(b)(3)(A)(ii).

[29] 17 CFR 240.19b–4(f)(2).

necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–PEARL–2023–73 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–PEARL–2023–73. 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–PEARL–2023–73 and should be submitted on or before February 8, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00843 Filed 1–17–24; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

National Small Business Development Center Advisory Board

AGENCY: Small Business Administration.

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The SBA is issuing this notice to announce the date, time and agenda for a meeting of the National Small Business Development Center Advisory Board. The meeting will be open to the public; however, advance notice of attendance is required.

DATES: Wednesday, February 14, 2024, at 1:00 PM EST.

ADDRESSES: Meeting will be held in-person and via Microsoft Teams.

FOR FURTHER INFORMATION CONTACT: Rachel Karton, Office of Small Business Development Centers, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416; *Rachel.newman-karton@sba.gov;* 202–619–1816.

If anyone wishes to be a listening participant or would like to request accommodations, please contact Rachel Karton at the information above.

SUPPLEMENTARY INFORMATION: Pursuant to section l0(a) of the Federal Advisory Committee Act (5 U.S.C. appendix 2), the SBA announces the meetings of the National SBDC Advisory Board. This Board provides advice and counsel to the SBA Administrator and Associate Administrator for Small Business Development Centers.

Purpose

The purpose of the meeting is to discuss the following pertaining to the SBDC Program:

- Annual Plan/White Paper
- Outreach and Engagement with the SBDC State Directors

Andrienne Johnson,

Committee Management Officer.

[FR Doc. 2024–00914 Filed 1–17–24; 8:45 am]

BILLING CODE 8026–09–P

[30] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Delegation of Authority No. 550]

Classification Authority Acting Under the Direction of the Senior Agency Official

By virtue of the authority vested in me as the Senior Agency Official designated under section 5.4 of the Executive Order on Classified National Security Information (E.O. 13526), and by authority delegated to me by the Secretary of State pursuant to Delegation of Authority 514, dated April 20, 2021, I hereby authorize and direct the following individuals to classify or reclassify information consistent with the circumstances and procedures described in section 1.7(d) of E.O. 13526: the Assistant Secretary for Administration (A), the Deputy Assistant Secretary for Global Information Services (DAS for A/GIS) and the Director of the Office of Information Programs and Services (A/GIS/IPS). This authority delegated herein may be re-delegated, to the extent consistent with law. The Under Secretary for Management will approve (by Action Memo) any such re-delegation of authority.

As prescribed in section 1.7(d) of E.O. 13526, this authority shall be exercised on a document-by-document basis only as to information that has not been previously released to the public under proper authority, and only if such classification meets the requirements of E.O. 13526. The official exercising this authority shall do so under the policy direction of the Under Secretary for Management.

Any actions related to the functions described herein that may have been taken by the officials designated herein prior to the date of this delegation are hereby confirmed and ratified. Such actions shall remain in force as if taken under this delegation of authority, unless or until such actions are rescinded, amended, or superseded.

This delegation of authority supersedes Delegation of Authority 393, dated March 10, 2016. This document shall be published in the **Federal Register**.

Dated: July 12, 2023.

John R. Bass,

Under Secretary for Management, Department of State.

Editorial Note: This document was received for publication by the Office of the Federal Register on January 11, 2024.

[FR Doc. 2024–00825 Filed 1–17–24; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice: 12309]

Termination of Iran, North Korea, and Syria Nonproliferation Act Measures Against an Indian Entity

ACTION: Notice.

SUMMARY: A determination has been made, pursuant to the Iran, North Korea, and Syria Nonproliferation Act, to terminate nonproliferation measures pursuant to this Act on an Indian entity.

DATES: January 18, 2024.

FOR FURTHER INFORMATION CONTACT: Pam Durham, Office of Missile, Biological, and Chemical Nonproliferation, Bureau of International Security and Nonproliferation, Department of State, Telephone (202) 647–4930, Email *durhampk@state.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Iran, North Korea, and Syria Nonproliferation Act (Pub. L. 109–353), the U.S. Government decided on December 28, 2023 to terminate measures initially imposed on October 14, 2022 (see Volume 87 FR Public Notice 11887) on the Indian entity Synnat Pharma Pvt Ltd, and any successor, sub-unit, or subsidiary thereof.

Choo S. Kang,

Assistant Secretary for International Security and Nonproliferation, Department of State.

[FR Doc. 2024–00858 Filed 1–17–24; 8:45 am]

BILLING CODE 4710–27–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of 60-Day Extension of the Public Comment Period for the Draft Environmental Assessment for Proposed Settlement Agreement Departure Procedure Amendments for Bob Hope ''Hollywood Burbank'' Airport

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

ACTION: Notice of a 60-day extension of the public comment period.

SUMMARY: The FAA has received several requests seeking an extension of the public comment period for the Draft Environmental Assessment (EA) for proposed departure procedure amendments at Bob Hope ''Hollywood Burbank'' Airport (BUR Airport). This notice announces the 60-day extension of the public comment period until March 24, 2024, to solicit public comments on the Draft EA.

DATES: The Draft EA comment period began with the Notification of Availability published in the **Federal Register** on December 11, 2023 (88 FR 85968, pages 85968–85969, Docket-Number 2023–27143) and was originally scheduled to end on January 24, 2024. Based on comments received, the comment period will be extended by an additional 60 days and all comments must be received no later than March 24, 2024.

ADDRESSES: Comments can be submitted by email to *9-AJO-BUR-Community-Involvement@FAA.GOV* or by mail to Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 216th Street, Des Moines, WA 98198.

Under FAA Order 1050.1F, 6–2.2(g), Public Comments on a Draft EA, the ''FAA or applicant must publish a notice of the draft EA's availability in local newspapers, other media, and/or on the internet. This notice must include the following statement: Before including your address, phone number, email address, or other personal identifying information in your comment, be advised 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 from public review your personal identifying information, we cannot guarantee that we will be able to do so.''

FOR FURTHER INFORMATION CONTACT: Lonnie D. Covalt, Operations Support Group, Western Service Center, 2200 216th Street, Des Moines, WA 98198; email *9-AJO-BUR-Community-Involvement@FAA.GOV*. (206) 231–3998.

Issued in Des Moines, WA, on January 11, 2024.

Lonnie D. Covalt,

Lead Environmental Protection Specialist, Operations Support Group, Western Service Center.

[FR Doc. 2024–00838 Filed 1–17–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2024–0001 (Notice No. 2024–01)]

Hazardous Materials: Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments on three Office of Management and Budget (OMB) control numbers pertaining to hazardous materials transportation. PHMSA intends to request renewal and extension for these three control numbers from OMB.

DATES: Interested persons are invited to submit comments on or before March 18, 2024.

ADDRESSES: You may submit comments identified by the Docket Number PHMSA–2024–0001 (Notice No. 2024–01) by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System; U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* To the Docket Management System; Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and Docket Number (PHMSA–2024–0001) for this notice at the beginning of the comment. To avoid duplication, please use only one of these four methods. All comments received will be posted without change to the Federal Docket Management System (FDMS) and will include any personal information you provide.

Requests for a copy of an information collection should be directed to Steven Andrews or Nina Vore, Standards and Rulemaking Division, (202) 366–8553, *ohmspra@dot.gov,* Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov* or DOT's Docket Operations Office (see **ADDRESSES**).

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as

described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Confidential Business Information: 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 notice 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 notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Steven Andrews or Nina Vore, Standards and Rulemaking Division, and addressed to the Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 or *ohmspra@dot.gov.* Comments received by PHMSA which are not specifically designated as ''CBI'' will be placed in the public docket for this notice.

FOR FURTHER INFORMATION CONTACT: Steven Andrews or Nina Vore, Standards and Rulemaking Division, (202) 366–8553, *ohmspra@dot.gov,* Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), title 5, Code of Federal Regulations (CFR) requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies information collection requests PHMSA will be submitting to OMB for renewal and extension. These information collections are contained in 49 CFR 171.6 of the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). PHMSA has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on changes in proposed or final rules published since the information collections were last approved. The following information is provided for each information collection: (1) title of the information collection, including former title if a change is being made; (2) OMB control number; (3) summary of the information collection activity; (4) description of affected public; (5) estimate of total annual reporting and recordkeeping burden; and (6) frequency of collection. PHMSA will request a 3-year term of approval for each information collection activity and will publish a notice in the **Federal Register** upon OMB's approval.

PHMSA requests comments on the following information collections:

Title: Cargo Tank Specification Requirements.

OMB Control Number: 2137–0014.

Summary: This information collection consolidates and describes the information collection provisions in parts 107, 178, and 180 of the HMR involving the manufacture, qualification, maintenance, and use of all specification cargo tank motor vehicles. It also includes the information collection and recordkeeping requirements for persons who are engaged in the manufacture, assembly, requalification, and maintenance of DOT specification cargo tank motor vehicles. The types of information collected include:

(1) *Registration Statements:* Cargo tank manufacturers and repairers, as well as cargo tank motor vehicle assemblers, are required to be registered with DOT and must furnish information relative to their qualifications to perform the functions in accordance with the HMR. DOT uses the registration statements to identify these persons to ensure they possess the knowledge and skills necessary to perform the required functions and that they are performing the specified functions in accordance with the applicable regulations.

(2) *Requalification and Maintenance Reports:* These reports are prepared by persons who requalify or maintain cargo tanks. This information is used by cargo tank owners, operators and users, and DOT compliance personnel to verify that the cargo tanks are requalified, maintained, and in proper condition for the transportation of hazardous materials.

(3) *Manufacturers' Data Reports, Certificates, and Related Papers:* These reports are prepared by cargo tank manufacturers and certifiers. They are used by cargo tank owners, operators, users, and DOT compliance personnel to verify that a cargo tank motor vehicle was designed and constructed to meet all requirements of the applicable specification. The following information collections and their burdens are associated with this OMB Control Number. Please note that these estimates may be rounded for readability:

Affected Public: Manufacturers, assemblers, repairers, requalifiers, certifiers, and owners of cargo tanks.

Information collection	Annual respondents	Total annual responses	Time per response	Total annual burden hours
Registration—Cargo Tank Manufacturers	24	24	20 minutes	8
Registration—Repair Facilities	33	33	20 minutes	11
Registration—Design Certifying Engineers & Registered Inspectors	1,110	1,110	20 minutes	370
Registration—Recordkeeping	117	117	15 minutes	29
Updating a Cargo Tank Registration	145	145	15 minutes	36
Design Certificates for Prototypes	55	55	2.5 hours	138
Design Certificates for Prototypes—Recordkeeping	7	7	15 minutes	2
Manufacturer's Data Reports or Certificate and Related Papers	145	6,960	30 minutes	3,480
Manufacturer's Data Reports or Certificate and Related Papers—Record-keeping.	700	700	15 minutes	175
Completion of Manufacturer's Data Report—New Cargo Tanks	145	4,785	30 minutes	2,393
Completion of Manufacturer's Data Report—Remanufactured Cargo Tanks	145	1,015	30 minutes	508
Completion of Manufacturer's Data Report—Recordkeeping	145	580	15 minutes	145
Cargo Tank Repair/Modification Reports	195	15,015	5 minutes	1,251
Testing and Inspection of Cargo Tanks—Visual Inspections	1,654	24,600	30 minutes	12,300
Testing and Inspection of Cargo Tanks—External Visual Inspections	1,654	123,000	30 minutes	61,500

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 6,274.

Total Annual Responses: 178,146.

Total Annual Burden Hours: 82,346.

Frequency of Collection: On occasion.

Title: Testing, Inspection, and Marking Requirements for Cylinders.

OMB Control Number: 2137–0022.

Summary: Requirements in § 173.301 for the qualification, maintenance, and use of cylinders include periodic inspections and retesting to ensure continuing compliance with packaging standards. Information collection requirements address registration of retesters and marking of cylinders by retesters with their identification number and retest date following the completion of required tests. The cylinder owner or designated agent must keep records showing the results of inspections and retests until either expiration of the retest period or until the cylinder is re-inspected or retested, whichever occurs first. These requirements ensure that retesters have the qualifications to perform tests and identify to cylinder fillers and users that cylinders are qualified for continuing use. Information collection requirements in § 173.303 require that fillers of acetylene cylinders keep, for at least 30 days, a daily record of the representative pressure to which cylinders are filled. The following information collections and their burdens are associated with this OMB Control Number. Note, that these estimates may be rounded for readability:

Information collection	Annual respondents	Total annual responses	Time per response	Total annual burden hours
Cylinder Manufacture Marking	225	101,250	7.17 minutes	12,099
Cylinder Manufacture Inspector's Report	225	225	30 minutes	113
Cylinder Manufacture Inspector's Report—Recordkeeping	30	30	12 minutes	6
Record of Alloy Added to Cylinder	23	23	1 hour	23
Cylinder Requalification Marking	15,000	14,550,000	46 seconds	185,917
Cylinder Requalification Recordkeeping	15,000	14,550,000	45 seconds	181,875
Cylinder Requalification Record—Recordkeeping	330	330	6 minutes	33
Recent Recalibration Record	2,300	4,600	5 minutes	383
Repair, Rebuilding, or Reheat Treatment Records	47	2,350	12 minutes	470
Repair, Rebuilding, or Reheat Treatment Records—Recordkeeping	6	6	10 minutes	1
Changing Marked Service Pressure	8	8	15 minutes	2

Affected Public: Fillers, owners, users, and retesters of reusable cylinders.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 33,194.

Total Annual Responses: 29,208,822.

Total Annual Burden Hours: 380,922.

Frequency of Collection: On occasion.

Title: Container Certification Statements.

OMB Control Number: 2137–0582.

Summary: Shippers of explosives, in freight containers or transport vehicles by vessel, are required to certify on shipping documentation that the freight container or transport vehicle meets minimal structural serviceability requirements. This requirement ensures an adequate level of safety for the transport of explosives aboard vessel and consistency with similar requirements in international standards. The following information collections and their burdens are associated with this OMB Control Number. Please note that these estimates may be rounded for readability:

Information collection	Annual respondents	Total annual responses	Time per response (minutes)	Total annual burden hours
Freight Container Packing Certification	620	890,000	1	14,833
Class 1 (explosives) Container Structural Serviceability Statement	30	4,500	1	75

Affected Public: Shippers of explosives in freight containers or transport vehicles by vessel.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 650.

Total Annual Responses: 894,500.

Total Annual Burden Hours: 14,908.

Frequency of Collection: On occasion.

Issued in Washington, DC, on January 11, 2024, under authority delegated in 49 CFR 1.97.

T. Glenn Foster,

Chief, Regulatory Review and Reinvention Branch, Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2024–00837 Filed 1–17–24; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Actions on Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material

Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before February 20, 2024.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on January 3, 2024.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
Special Permits Data—Granted			
11107–M	Pacific Scientific Energetic Materials Company (California) LLC.	173.51(a), 173.54	To authorize the transportation in commerce of certain Division 1.4 explosive devices which have not been examined and approved to be shipped as Division 1.1 devices under certain conditions.
13211–M	Copperhead Chemical Company, Inc.	172.102(c)(5)	To modify the special permit to authorize an additional packaging.
15999–M	Lockheed Martin Corporation	172.300, 172.400, 173.1	To modify the special permit to authorize an alternative transportation route.
20352–M	Schlumberger Technology Corp.	173.301(f), 173.302(a), 173.304(a).	To modify the special permit to authorize an additional packaging.
20907–M	Versum Materials US, LLC	171.23(a)(1), 171.23(a)(3)	To modify the special permit to authorize a cylinder in transportation or a cylinder filled prior to the expiration of the authorized service life to be transported to be emptied.
21195–M	Panasonic Energy Corporation of America.	173.185(c)(1)(iii)	To modify the special permit to authorize an additional lithium metal cell, to update the cell testing requirements, and to authorize an additional location.
21300–M	Distributor Operations, Inc	172.200, 172.300, 172.400, 171.2(k), 173.159(e)(1).	To modify the special permit to authorize the transportation in commerce of batteries containing acid or alkali, battery acid fluid, non-spillable wet batteries, and lithium ion batteries in the same transport vehicle without being subject to certain requirements of the HMR.
21459–N	Hopkins Holdings LLC	173.306(a)(1)	To authorize the transportation in commerce of 2P receptacles, with capacities exceeding 4 fluid ounces, containing butane as limited quantities.
21489–N	Stericycle, Inc	171.1	To authorize the manufacture, mark, sale, and use of the non-bulk combination packaging specified in paragraph 7.a. for the transportation in commerce of certain materials authorized to be disposed of under 21 CFR Part 1317, Subpart B.
21490–M	Myers Industries, Inc	173.28(b)(2), 173.28(b)(2), 178.509(b)(7), 178.509(b)(7), 178.601(h), 178.601(h).	To modify the special permit to authorize testing variations 3 and 5 under 49 CFR 178.601(g)(3) and (5).
21538–N	Evolve Renewable Materials, Inc.	172.200, 172.300, 172.400, 172.102(c)(1), 173.185(c)(1)(iii), 173.185(c)(1)(iv), 173.185(c)(1)(v), 173.185(c)(3), 173.159a(c)(2).	To authorize the manufacture, mark, sale, and use of UN standard 4G fiberboard boxes for the transportation in commerce of certain batteries without shipping papers and certain marking and labeling when transported for recycling or disposal.
21551–N	Bollore Logistics Germany GmbH.	172.300, 172.400, 172.101(j), 173.301(f), 173.302a(a)(1), 173.185(a)(1), 172.101(j)(1), 173.220.	To authorize the transportation in commerce of certain hazardous materials installed in spacecraft or components of spacecraft.
21575–N	Luxfer Inc	173.302(a)(1), 173.304(a)	To authorize the manufacture, mark, sale, and use of non-DOT specification fully wrapped carbon fiber reinforced composite cylinder with a seamless aluminum liner. The cylinders may be used for the transportation in commerce of the hazardous materials listed in paragraph 6.
21588–N	Ford Motor Company	173.185(h)	To authorize the transportation in commerce of lithium ion batteries exceeding 35 kg aboard cargo-only aircraft.
21589–N	Department of Energy	173.301(h), 173.302(a)	To authorize the transportation in commerce of compressed helium in a non-DOT specification pressure vessel.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21593–N	Livent USA Corp	172, 173	To authorize the transportation in commerce of certain hazardous materials between applicant facilities (distances of less than one mile) without being subject to Part 172 and Part 173 of the Hazardous Materials Regulations.
21598–N	ME Logistic Services GmbH & Co.KG.	173.185(e)	To authorize the shipment of low production batteries exceeding the quantity limitation.
21617–N	Astra Space Operations, Inc	173.301(f), 173.302a(a)(1)	To authorize the transportation in commerce of non-DOT specification cylinders that are not equipped with pressure relief devices. (spacecraft)
21625–N	Brainerd Helicopter Services, Inc.	172.400, 172.101(j), 172.200, 172.204(c)(3), 172.301(c), 173.27(b)(2), 175.75.	To authorize the transportation in commerce of certain hazardous materials by 14 CFR Part 135 aircraft without being subject to certain hazard communication requirements, quantity limitations and certain loading and stowage requirements.
21640–N	Mark Rite Lines Equipment Company, Inc..	173.5a(c)(2)(ii)	To authorize the manufacture, mark, sale, and use of non-DOT specification cargo tanks used for roadway striping that do not have a minimum design pressure of 100 psig in accordance with 49 CFR § 173.5a(c)(2).
21649–N	Minnesoda Club LLC	171.2(k), 171.2(k)	To authorize the transportation in commerce of certain DOT 3AL, TC/3ALM and UN ISO 7866 cylinders that contain carbon dioxide, with alternative hazard communication.
21666–N	CMC Materials EC, Inc	173.22(a)(2), 173.24(c)(1)(i)	To authorize the transportation in commerce of certain oxidizing liquids in alternative packaging.
21668–N	IMC Companies, LLC	172.320, 172.301(a)(1), 172.301(c), 173.62.	To authorize the transportation of primers, cap type packaged in non-specification combination fiberboard boxes that are not marked with the proper shipping name specified in the § 172.101 Hazardous Materials Table and the EX-number.
Special Permits Data—Denied			
Special Permits Data—Withdrawn			
20500–M	California Department of Toxic Substances Control.	171–180	To modify the special permit to authorize use in all natural disaster areas.
20677–M	Department of Defense (Military Surface Deployment & Distribution Command).	173.302(a)(1), 173.302(a)(1)	To modify the special permit to authorize additional packagings.
21670–N	Australian Federal Police	172.700(a), 172.400, 172.200, 172.300, 175.75(b).	To authorize the transportation in commerce of Division 6.1 hazardous materials in the cabin of a passenger-carrying aircraft.

[FR Doc. 2024–00812 Filed 1–17–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Modification to Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before February 2, 2024.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC or at *http://regulations.gov.*

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on January 3, 2024.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
10427–M	Astrotech Space Operations LLC	173.61(a), 173.301(g), 173.302(a), 173.336.	To modify the special permit to authorize additional hazardous materials and to increase the height in paragraph 7.b.(3)(viii) to 70 feet. (mode 1)
11032–M	Air Liquide Advanced Technologies	178.65(f)(3)	To modify the special permit to use an alternate definition of ''lot''. (mode 1)
11215–M	Orbital Sciences LLC	172.300, 172.600, 172.400, 172.500, 173.62, 175.75.	To modify the special permit to authorize motor vehicle as a mode. (modes 1, 4)
13307–M	UPL NA Inc	172.504	To modify the special permit to add a hazardous material and to authorize additional packaging. (mode 1)
14282–M	Dyno Nobel Inc	172.301(c), 177.835(g)	To modify the special permit to authorize additional hazardous materials. (mode 1)
14651–M	Versum Materials US, LLC	173.40(e)	To modify the special permit to add UN 3306 Zone B mixtures of Fluorine Nitrogen. (mode 1)
14981–M	Eclipse Aerospace, Inc	173.202, 173.302(a)(1)	To modify the special permit to authorize an additional packaging. (modes 1, 2, 3, 4)
15882–M	Ryan Air, Inc	173.27, 173.243	To modify the special permit to authorize an additional packaging. (mode 4)
20245–M	Jaguar Instruments Inc	173.192, 173.201, 173.202, 173.203, 173.302(a), 173.304(a).	To modify the special permit to authorize a cylinder with a length not exceeding 48 inches. (modes 1, 2, 3, 4)
21212–M	The Boeing Company	173.241	To modify the special permit to add 2 hydraulic carts. (mode 1)
21607–M	Amazon.com, Inc	172.200(b)(3), 172.315(a)(2)	To modify the special permit to authorize shipments of division 5.2 hazardous materials, remove the maximum ferry route limitation of 35 miles, remove dangerous goods manifest requirements, and modify shipment reporting requirements to allow product-type details to be provided in lieu of proper shipping name information.

[FR Doc. 2024–00814 Filed 1–17–24; 8:45 am]
BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for New Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before February 20, 2024.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on January 3, 2024.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21669–N	Versum Materials US, LLC	173.302a(b)(5)	To authorize the one-time transportation of a cylinder pressurized to 110% of its marked service pressure, similar to DOT SP–6530. (mode 1)
21671–N	PPI Supplies LLC	171.2(k), Part 172 Subparts C through F and H.	To authorize the transportation in commerce of certain used DOT Specification 3AL cylinders that contain carbon dioxide with alternative hazard communication. (mode 1)
21672–N	High Performance Helicopters Corp.	172.101(j)	To authorize the transportation in commerce of gasoline by 14 CFR Part 133 cargo-only aircraft (rotorcraft external load operations) in which hazardous materials are attached to or suspended from the aircraft in remote areas of the U.S. only when other means of transportation are impracticable. (mode 4)
21673–N	Asset Recycling and Recovery LLC.	173.185(f)(1), 173.185(f)(2), 173.185(f)(3).	To authorize the transportation in commerce of lithium batteries in roll-off containers. (mode 1)
21675–N	Zoox, Inc	173.185(a)(1), 173.220(d)	To authorize the transportation in commerce aboard cargo-only aircraft of battery-powered vehicles containing prototype and low production lithium ion batteries for testing. (mode 4)
21676–N	Anduril Industries, Inc	172.101(j), 173.185(a)(1)	To authorize the transportation in commerce of prototype lithium ion batteries exceeding 35 kg net weight by cargo-only aircraft. (modes 1, 2, 3, 4)
21677–N	Unipart North America Limited	172.101(j)	To authorize the transportation in commerce of lithium ion batteries exceeding 35 kg net weight by cargo-only aircraft. (mode 4)
21678–N	Moxion Power Co	172.102(c)(1)	To authorize the transportation in commerce of lithium ion batteries installed in cargo transport units by cargo-only aircraft. (mode 4)
21681–N	Applied Energy Systems, Inc	172.101(j), 173.187, 173.212, 173.240, 173.242, 176.83(a)(2).	To authorize the transportation in commerce of dry metal catalyst in non-DOT specific bulk packaging. (modes 1, 3, 4)
21683–N	Colep Consumer Products Portugal, S.A.	178.33–7(a), 178.33a–7(a)	To authorize the manufacture, mark, sale, and use of non-DOT specification receptacles with reduced wall thickness. (modes 1, 2, 3, 4, 5)
21685–N	Kit Helicopter Operations LLC	172.101(j), 172.200, 172.301(c), 175.75, 178.1.	To authorize the transportation in commerce of certain hazardous materials by 14 CFR Part 133 Rotorcraft External Load Operations transporting hazardous materials attached to or suspended from an aircraft in remote areas of the US only, without being subject to hazard communication requirements, quantity limitations and certain loading and stowage requirements. (mode 4)
21686–N	Garmon Distributors LLC	173.306(a)(1)	To authorize the transportation in commerce of a Division 2.2 gas (helium and air blend) in cylinders exceeding 4 fluid ounces in capacity as a limited quantity. (mode 1)
21687–N	Scientific Design Company, Inc.	173.213	To authorize the transportation in commerce of waste hazardous substances in non-DOT specification packaging. (mode 1)
21689–N	FIBA Technologies, Inc	178.35(b)	To authorize the use of statistical sampling for cylinder manufacturing in lieu of chemical analyses being conducted in the United States. (modes 1, 2, 3, 4, 5)
21690–N	Berlin Packaging LLC	173.185(b)(3)(i), 173.185(b)(3)(iii), 173.185(b)(3)(iii)(A), 173.185(b)(3)(iii)(B), 173.185(b)(6), 173.185(e)(1), 173.185(e)(4), 173.185(f)(1), 173.185(f)(2), 173.185(f)(3), 173.185(f)(3)(iii).	To authorize the manufacture, mark, sale, and use of specially designed packaging for the transportation in commerce of single and multiple lithium batteries and cells, prototype and low production lithium batteries and cells, and damaged, defective, or recalled lithium batteries and cells. (modes 1, 2, 3)
21691–N	Amtrol-Alfa, Metalomecânica, S.A.	173.304a	To authorize the manufacture, mark, sale, and use of a non-DOT specification of a refillable transportable welded cylinder made of carbon steel. (modes 1, 2, 3, 4, 5)
21693–N	KULR Technology Corporation	172.704, 173.185(f)(1), 173.185(f)(3)(i).	To authorize the manufacture, mark, sale, and use of specially designed thermal runaway shield (TRS) packagings for the transportation in commerce of damaged, defective, or recalled, end of life lithium-ion cells and batteries and lithium metal cells and batteries for recycling, reuse, refurbishment, repurposing, or evaluation. (modes 1, 2)
21694–N	Invinity Energy Systems US Corp.	173.159	To authorize the transportation in commerce of wet batteries in alternative packaging. (modes 1, 3)

SPECIAL PERMITS DATA—Continued

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21696–N	U.S. Postal Inspection Service	175.10(a)(18)(ii)	To authorize the transportation in commerce of up to ten (10) lithium batteries with a capacity between 100Wh and 160Wh aboard commercial passenger aircrafts. (mode 5)

[FR Doc. 2024–00813 Filed 1–17–24; 8:45 am]
BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0342]

Agency Information Collection Activity Under OMB Review: Application and Training Agreement for Apprenticeship and On-the-Job Training Programs

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link *www.reginfo.gov/public/do/PRAMain, select* ''Currently under Review—Open for Public Comments'', then search the list for the information collection by Title or ''OMB Control No. 2900–0342.''

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20420, (202) 266–4688 or email *Maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0342 in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 10 U.S.C. 16131(d), 16136, and section 510 of chapter 31, 38 U.S.C. 3034(a)(1), 3241(a)(1), 3323(a), 3534(a), 3671, 3672, 3687(a), 38 CFR 21.4150(c), 21.4261(b) and (c), 21.5250(a), 21.7220(a), 21.7720, and Section 903 of Pub. L. 96–342.

Title: Application and Training Agreement for Apprenticeship and On-the-Job Training Programs, VA Forms 22–8864 and 22–8865.

OMB Control Number: 2900–0342.

Type of Review: Revision of a currently approved collection.

Abstract: The Training Agreement, VA Form 22–8864 is no longer being submitted to VA, therefore it no longer needs an OMB approval. VA mostly requires employers with OJT or Apprenticeship programs approved for VA benefits to provide a training agreement to prospective Veterans using VA benefits while training with their company. The 22–8864 has always been an option for these employers to use if they didn't have their own training agreement or use one from their state department of labor. Employers used to submit a copy of the VA Form 22–8864 or their own as a condition of the Veteran receiving VA benefits. The employer is still required to provide a training agreement to their trainees, but VA no longer collects it as a condition of paying EDU benefits.

The Employer's Application to Provide Job Training, VA Form 22–8865 (or the equivalent tool provided by the SAAs) is used to ensure that training programs meet the statutory and regulatory requirements for approval.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 88 FR 76278 on Monday, November 6, 2023, pages 76278 and 76279.

Affected Public: Individuals and Households.

Estimated Annual Burden: 1,710 hours.

Estimated Average Burden Time per Respondent: 90 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 1,140.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–00816 Filed 1–17–24; 8:45 am]
BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 89 Thursday,
No. 12 January 18, 2024

Part II

Federal Deposit Insurance Corporation

12 CFR Part 328
FDIC Official Signs and Advertising Requirements, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo; Final Rule

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 328

RIN 3064–AF26

FDIC Official Signs and Advertising Requirements, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is amending its regulations governing use of the official FDIC sign and insured depository institutions' (IDIs) advertising statements to reflect how depositors conduct business with IDIs today, including through digital and mobile channels. The final rule also clarifies the FDIC's regulations regarding misrepresentations of deposit insurance coverage by addressing specific scenarios where consumers may be misled as to whether they are conducting business with an IDI and whether their funds are protected by federal deposit insurance. The final rule is intended to enable consumers to better understand when they are conducting business with an IDI and when their funds are protected by the FDIC's deposit insurance coverage.

DATES: The amendments made in this rule are effective April 1, 2024. Compliance is required by January 1, 2025.

FOR FURTHER INFORMATION CONTACT: Division of Depositor and Consumer Protection: Luke H. Brown, Associate Director, 202–898–3842, *LuBrown@FDIC.gov;* Meron Wondwosen, Chief, Supervisory Policy, 202–898–7211, *MeWondwosen@FDIC.gov;* Edward J. Hof, Senior Policy Analyst, 202–898–7213, *EdwHof@FDIC.gov.* Legal Division: Vivek Khare, Counsel, 202–898–6847, *VKhare@fdic.gov;* James Watts, Counsel, 202–898–6678, *JWatts@FDIC.gov;* Chantal Hernandez, Senior Attorney, 202–898–7388, *ChHernandez@fdic.gov.*

SUPPLEMENTARY INFORMATION: The FDIC is amending part 328 of its regulations, which includes requirements for use of the official FDIC sign and IDIs' advertising statements, as well as misrepresentations of insured status and misuse of the FDIC's name or logo. The final rule generally: (1) modernizes and amends the rules governing the display of the official sign in branches to also, for example, apply the rules to IDIs' physical premises with different layouts and designs where consumers have access to or transact with deposits; (2) establishes and requires the display of the FDIC official digital sign on bank websites, mobile applications, and certain IDI automated teller machines (ATMs) and other like devices; (3) requires the use of disclosures differentiating deposits and non-deposit products across all banking channels, including digital channels; (4) clarifies the FDIC's rules regarding misrepresentations of deposit insurance coverage by addressing specific scenarios where information provided to consumers may be misleading; (5) amends the definition of ''non-deposit product'' to include crypto-assets and specifically address safe deposit box services; and (6) requires IDIs to establish and maintain written policies and procedures addressing compliance with part 328. As explained below, the final rule is intended to enable consumers to better understand when they are conducting business with an IDI and when their funds are protected by the FDIC's deposit insurance coverage.

A. Policy Objectives

The banking landscape has significantly changed since 2006, when the FDIC last updated its regulation on the official sign and advertising statement. For example, consumers are increasingly relying on internet and mobile banking channels to access IDI banking services, bank branches are continually evolving to serve depositors, and financial technology (fintech) companies are offering consumers new options and alternatives for accessing banking products and services. While these developments are beneficial, they may make it more difficult for depositors and consumers to understand when they are conducting business with an IDI and when their funds are protected by FDIC deposit insurance. In addition, the FDIC has observed an increase in misleading representations about deposit insurance on the internet, which can result in consumer confusion and harm. These types of misleading statements create uncertainty and could dilute and undermine the confidence that underpins banks and our nation's broader financial system.

To address ongoing market and technological developments, the amendments to part 328 are intended to achieve several policy goals. Specifically, the FDIC intends to bring the certainty and confidence historically provided by the FDIC official sign found at banks' teller windows to IDI digital channels through which depositors are increasingly handling their banking needs today. These channels serve as the digital teller windows of the modern banking landscape, and it is critical that these channels provide clear, consistent, and accurate information about deposit insurance upon which consumers, businesses, and other entities may base their financial decisions.

The final rule establishes sign requirements across all banking channels, including evolving digital channels, to better align with how depositors conduct business with IDIs today. The sign requirements are also intended to more clearly distinguish insured deposits from non-deposit products (which are not insured) and to help consumers distinguish IDIs from non-banks in the digital age. The final rule allows consumers, businesses, and other entities to better understand when their funds are protected by FDICs deposit insurance, and when they may not be insured. At the same time, the sign requirements are intended to permit flexibility for IDIs and other firms in the marketing of their products and services.

The amendments to the FDIC's rules regarding misrepresentations of deposit insurance coverage are intended to address specific scenarios where information provided to consumers may be misleading with respect to deposit insurance coverage. In particular, the FDIC is concerned that certain business relationships between IDIs and non-banks may be confusing to many consumers. Consequently, the final rule requires clear disclosures that will better inform consumers as to when their funds are protected by FDIC deposit insurance. Further clarity in this area will be beneficial for both consumers and the industry.

B. Background

The FDIC is an independent federal agency and its mission is to maintain stability and public confidence in the nation's financial system by, among other things, insuring deposits at all IDIs. Today, there are about 4,654 IDIs in the United States.[1] Since 1933, the FDIC has taken action in accordance with its mission to restore public confidence in the banking system in times of financial turmoil, including the severe financial crisis of 2008 to 2013, during the financial stress associated with the coronavirus disease 2019 (COVID–19) pandemic, and, most recently, when large regional banks failed in the first half of 2023. The FDIC has proactively sought to protect

[1] Call Reports as of June 30, 2023.

depositors and consumers,[2] promote public confidence in insured deposits, and prevent false and misleading representations about the manner and extent of FDIC deposit insurance.

Statutory Authority and Regulations

Sign and advertising statement requirements for IDIs date back to the Banking Act of 1935 and are now set forth in section 18(a) of the Federal Deposit Insurance Act (FDI Act).[3] Section 18(a) grants the FDIC authority to prescribe regulations with respect to these requirements, which are currently contained in subpart A to 12 CFR part 328.[4]

The FDIC's official sign and advertising statement regulations require IDIs to continuously display the FDIC official sign where insured deposits are usually and normally received in the bank's principal place of business and at all of its branches and to use an official advertising statement, such as ''Member FDIC,'' when advertising deposit products and services, with few exceptions.[5] The FDIC last made major amendments to these regulations in 2006.[6] The 2006 amendments refer to an IDI's physical premises and ''Remote Service Facilities'' but do not specify other banking channels that have since evolved, such as digital banking channels.[7]

Section 18(a)(4) of the FDI Act prohibits any person from misusing the name or logo of the FDIC or from engaging in false advertising or making knowing misrepresentations about deposit insurance.[8] The FDIC has broad statutory authority in this area and, in May 2022, issued specific regulations in subpart B to 12 CFR part 328 regarding false representations related to FDIC insurance and the misuse of the FDIC name and logo.[9]

Developments in Consumer Access to Banking and Financial Services

In recent years, there have been significant changes in the provision of banking products and services, including the widespread use of digital banking channels as a critical and fundamental mechanism to access banking and financial services, the evolution of bank branches' role in serving consumers, and an increasingly broad array of financial products offered through banking channels, including access to non-deposit products. The following overview of these trends is intended to provide context for the final rule, which seeks to enable consumers to better understand when they are conducting business with an IDI and when their funds are protected by the FDIC's deposit insurance coverage.

Many bank branches retain a traditional physical branch footprint, serving depositors primarily at teller windows or stations. According to the FDIC's 2021 National Survey of Unbanked and Underbanked Households (Household Survey), roughly 63.4 percent of all banked households used a bank teller to access their accounts at least once in the last 12 months, including 57.8 percent of the youngest banked households between the ages of 15 to 24, and 72.2 percent of the oldest banked households aged 65 or older.[10] However, IDIs have increasingly begun operating physical premises with different layouts and designs. These locations may include electronically-staffed kiosks, interactive ATMs that provide remote assistance with a teller, and teller-less cafés with internet access where deposits can be accepted on tablets or through ATMs. The FDIC's long-standing sign rules, focused on display of the official sign at teller windows or stations, need to be updated to reflect these market changes and the way banks and consumers conduct business.

The FDIC's long-standing sign rules also do not reflect the digital banking services now offered, such as online banking and mobile banking. For example, digital banking channels enable banks to receive customer deposits through remote deposit capture. For consumers that use these channels to make deposits, an IDI's ATM, website, or mobile application effectively serves as a digital teller window. The results of the Household Survey show that the proportion of banked households that used *mobile* banking as their primary method of bank account access increased from 34.0 percent in 2019 to 43.5 percent in 2021.[11] The proportion of banked households that used *online* banking as their primary method of bank account access was similar in 2019 (22.8 percent) and 2021 (22.0 percent).[12] Combined, 65.4 percent of banked households in 2021 used *mobile or online* banking as their primary method of bank account access, up from 56.8 percent in 2019.[13] Given that nearly two-thirds of banked households primarily access banking products through phones, computers, and other devices, the FDIC believes it is critical to update its rules and provide consistent sign requirements for digital channels.

Banking customers are also offered an increasingly wide array of financial products and services, regardless of whether they are in a branch, using an ATM, or connecting with an IDI through digital channels. In many instances, IDIs offer both deposits and non-deposit products to consumers. For example, IDIs might allow depositors in their branches to consult with an investment adviser and purchase securities or mutual funds. Options to purchase non-deposit products are continuing to evolve, with some IDIs offering ATM or digital banking customers the ability to purchase crypto-assets with their funds. In some cases, an IDI may provide its customers who initially access the IDI's website, ATM, or banking application the ability to purchase non-deposit products from a third party. Absent adequate signs or disclosures, simultaneous offering of both insured deposits and non-deposit products may lead bank customers (who are aware that the IDI is insured by the FDIC) to mistakenly conclude that all of the financial products being offered through

[2] As used in this document, the term ''consumer'' means any current or potential depositor, including natural persons, organizations, corporate entities, and governmental bodies. *See* 12 CFR 328.101.

[3] 12 U.S.C. 1828(a)(1). Section 9 of the FDI Act provides the FDIC with the authority to prescribe rules and regulations as it may deem necessary to carry out the provisions of this Act or of any other law which it has the responsibility of administering or enforcing. 12 U.S.C. 1819(a) Tenth.

[4] *See* subpart A to 12 CFR part 328 (§§ 328.0 through 328.5–328.99).

[5] *See generally,* 12 CFR part 328.

[6] 71 FR 66098 (Nov. 13, 2006).

[7] *See* 12 CFR 328.2. ''Remote Service Facility'' includes any automated teller machine, cash dispensing machine, point-of-sale terminal, or other remote electronic facility where deposits are received. 12 CFR 328.2(a)(1)(ii).

[8] 12 U.S.C. 1828(a)(4). Section 18(a)(4) also provides the FDIC independent authority to investigate and take administrative enforcement actions, including the power to issue cease and desist orders and impose civil money penalties, against any person who misuses the FDIC name or logo or makes misrepresentations about deposit insurance. 12 U.S.C. 1828(a)(4)(C)–(D). Furthermore, under Federal law, it is a criminal offense to misuse the FDIC name or make false representations regarding deposit insurance. *See* 18 U.S.C. 709.

[9] 87 FR 33415 (June 2, 2022); Subpart B to 12 CFR part 328 (§§ 328.100 through 328.109). Subpart B establishes the process by which the FDIC identifies and investigates conduct that may violate section 18(a)(4), the standards under which such conduct is evaluated, and the procedures the FDIC follows when formally and informally enforcing the provisions of section 18(a)(4).

[10] Federal Deposit Insurance Corporation (FDIC), *2021 National Survey of Unbanked and Underbanked Households* (October 2022), *https://www.fdic.gov/analysis/household-survey/2021report.pdf.*

[11] *Id.* at 25.

[12] *Id.*

[13] *Id.*

their bank's website or application are FDIC-insured.

Growth in the number of fintech companies has also blurred the distinction between IDIs and non-banks in the eyes of many consumers, increasing the potential for confusion regarding deposit insurance coverage. Business arrangements between IDIs and non-banks, including fintech companies, can take many forms and continue to evolve at a rapid pace. In some cases, such business arrangements can present the risk of consumer confusion. For example, an IDI and a fintech company might enter into an arrangement where the fintech company offers the IDI's deposit products and services to the fintech company's customers. In other instances, fintech companies might deposit their customers' funds at an IDI. In such cases, the fintech company might represent to its customers that the customers' funds are FDIC-insured, or that they are insured by the FDIC on a ''pass-through'' basis, without noting that it is subject to certain conditions. The substantial increase in the number and types of arrangements and the various representations that companies are making regarding deposit insurance coverage may confuse many consumers. For example, inadequate disclosures may result in consumers not understanding whether they are dealing with an IDI, and whether their funds are insured by the FDIC.

Industry Outreach—Request for Information

In February 2020 and April 2021, the FDIC published Requests for Information (collectively, the RFIs) in the **Federal Register** to seek public input regarding potential modernization of the official sign and advertising rules to reflect changes in deposit-taking via physical branch, digital, and mobile banking channels.[14] In response to the RFIs, the FDIC received 20 comments from trade associations, IDIs, and others.[15] In addition, FDIC staff met with representatives from IDIs, a technology service provider, and consumer groups. Commenters generally recognized the importance and value of displaying FDIC signs and the advertising statement, and some commenters stressed that depositors place significant trust in FDIC signs. A summary of these comments was provided in the December 2022 Notice of Proposed Rulemaking (NPR or proposal) and the comments were considered as part of this rulemaking process.[16]

Previous Rulemaking

On May 17, 2022, the FDIC issued a final rule adding a new subpart B to 12 CFR part 328.[17] The final rule describes: (1) the process by which the FDIC will identify and investigate conduct that may violate the prohibitions against misuse and misrepresentation; (2) the standards under which such conduct will be evaluated; and (3) the procedures that the FDIC will follow when formally and informally enforcing these prohibitions. While this rulemaking was an important step, the FDIC has observed an increase in the number of instances where financial services providers or other entities or individuals have misused the FDIC's name or logo or have made misrepresentations about FDIC insurance. Although the FDIC demanded that these non-banks cease and desist from making false and misleading statements, such actions by non-banks caused continuing challenges for consumers in determining whether they are conducting business with an IDI and whether their funds are protected by the FDIC's deposit insurance coverage.[18] This final rule will provide further clarification of subpart B to address these challenges, particularly to address specific situations where consumers may be misled as to whether an entity is insured by the FDIC or as to the nature and extent of deposit insurance coverage.

December 2022 Proposal and Comments

On December 13, 2022, the FDIC Board approved an NPR on the FDIC's sign and advertising requirements, rules on misrepresentation of insured status, and misuse of the FDIC's name or logo. The FDIC sought to obtain input from the public for these proposed regulations in light of significant changes to bank branches and their role in serving consumers, the proliferation of digital channels as a critical and fundamental mechanism to access banking and financial services, and an increasingly broad array of financial products offered through banking channels, including access to non-deposit products.

Specifically, the FDIC's proposal aimed to modernize its sign and advertising requirements to reflect current banking practices, like deposit-taking via physical branches and similar locations, digital banking channels, and ATMs. The proposal included three distinct signs relating to deposit insurance. The first pertained to the official sign displayed at IDIs' principal places of business. The NPR proposed to modernize the requirements relating to display of the official sign to reflect developments in the marketplace. The second was for a new digital official sign that IDIs would be required to display on their digital deposit-taking channels, such as online banking websites, mobile applications, and ATMs. Third, the FDIC proposed requiring IDIs to display a non-deposit products sign indicating that such products: are not insured by the FDIC; are not deposits; and may lose value (where the IDI offers both insured and uninsured, non-deposit products through the same channel) in order to address potential customer confusion regarding a product's insured status. The FDIC also proposed limited amendments to its official advertising statement requirements to provide IDIs with an additional option for a shortened official advertising statement. Finally, the proposal included clarifications for the application of the misrepresentation statute in specific situations where consumers may misunderstand or be misled as to whether an entity is insured by the FDIC or the nature and extent of deposit insurance coverage.

The NPR solicited comments on all aspects of the proposed rule. The comment period ended on April 7, 2023. The FDIC received 17 substantive comments from financial institutions, industry groups, consumer organizations, investor advocacy groups, crypto-asset/blockchain groups, deposit networks, and third-party vendors.[19]

A number of comments were supportive of the proposal. More specifically, several comments supported the FDIC's efforts to modernize its rules in light of changes and innovation in the marketplace and to provide further clarity through

[14] 85 FR 18528 (Feb. 26, 2020); 86 FR 18528 (Apr. 9, 2021).

[15] Comments to the RFIs can be found on the FDIC's website, *available at: https://www.fdic.gov/resources/regulations/federal-register-publications/2020/2020-rfi-fdic-sign-and-advertising-requirements-3064-za14.html* and *https://www.fdic.gov/resources/regulations/federal-register-publications/2021/2021-rfi-fdic-official-sign-and-advertising-requirements-3064-za14.html.*

[16] 87 FR 78017, 78020 (Dec. 21, 2022).

[17] 87 FR 33415 (June 2, 2022).

[18] A public list of FDIC cease and desist letters related to violations of section 18(a)(4) of the FDI Act can be found on the FDIC's website, *available at: https://www.fdic.gov/resources/regulations/laws/section-18a4-of-fdi-act/.*

[19] Comments can be accessed at: *https://www.fdic.gov/resources/regulations/federal-register-publications/2022/2022-fdic-official-sign-advertising-requirements-3064-af26.html.* In response to a comment letter, the FDIC extended the comment period by 45 days to provide additional opportunity for the public to prepare comments to address the matters raised by the NPR.

deposit insurance signage and advertisement requirements. Several comments also supported the FDIC's efforts to ensure consumers fully understand the insured status of products offered by financial institutions. One commenter provided that the confusion over new and complex financial products could undermine public confidence in the safety and reliability of the mainstream banking system.

A number of commenters expressed a desire for more flexibility regarding the proposed signage and disclosure requirements. Some commenters advocated for increased flexibility in the placement of both physical and digital signage, noting the costs entailed to comply with the proposed rule's requirements.

Several financial institutions provided that the proposed rule focused on community banks instead of non-banks that falsify their insured status, and noted that banks already take affirmative steps to inform their customers about deposit insurance coverage. However, other commenters commended the FDIC's effort to improve clarity for customers regarding deposit insurance coverage and reduce customer confusion, given the rise of various banking services offered by the third parties.

Some comments advocated for stronger measures to address deposit insurance misrepresentations. Specifically, a commenter suggested that FDIC should expressly prohibit comparing an uninsured financial product to an insured product without clearly and conspicuously noting the difference between insured and uninsured status.

Commenters also expressed views on an appropriate effective date for the rule. One commenter recommended a minimum 18-month implementation period before the final rule becomes effective. Another commenter requested that the requirements related to the digital sign be made effective after the industry has at least one year to comply.

C. Final Rule and Discussion of Comments

The FDIC has reviewed and carefully considered public comments received and is generally finalizing the rule as proposed, with some changes and clarifications, as described below. The amendments made by this final rule will take effect on April 1, 2024. However, full compliance with the amendments made by this final rule is extended to January 1, 2025. The extended compliance date is intended to provide sufficient time for financial institutions to put in place processes, systems and technological updates to implement the new regulatory requirements described below.

1. FDIC Official Sign

The FDIC did not receive comments on its official sign and will continue to use the existing design of the official sign, which, in addition to prominently bearing the name of the FDIC, includes statements indicating that each depositor is insured up to at least $250,000 and that the FDIC's deposit insurance is backed by the full faith and credit of the United States government. In the proposed rule, the FDIC moved the reference to the display of the official sign to proposed § 328.3, including the language that the official sign must be in a size of 7″ by 3″ or larger with black lettering on a gold background. After further consideration, the FDIC is including the official sign size and color requirements as part of the official sign description under § 328.2 for ease of reference under the final rule. The FDIC also continues to reference this language in the requirements for display of the official sign in § 328.3 under the final rule.

2. Sign Requirements on IDIs' Physical Premises

Official Sign In an IDI's Physical Premises

Proposed Rule

Section 18(a) of the FDI Act requires all IDIs to display at each place of business a sign or signs relating to the insurance of the deposits of the institution. The FDIC proposed updated signage requirements in § 328.3 to govern signage within an IDI's premises. The proposed rule would have continued to require all IDIs to continuously, clearly, and conspicuously display the official sign in their principal place of business and all their U.S. branches.[20] To accommodate evolving styles and footprints of branches, the proposed rule also would have required IDIs to display the FDIC official sign in any physical location where IDIs receive deposits other than teller windows or stations (referred to as ''non-traditional branches'' in the preamble to the proposed rule).

Discussion of Comments

One commenter suggested that the FDIC eliminate references to ''non-traditional branches'' and stated that non-branch locations should not be subject to the proposed rule's sign requirement. The commenter further stated that the proposed rule's requirements for physical premises would apply only to banks' principal place of business and branches. The commenter expressed concerns that the term ''non-traditional branch'' could be over-inclusive and include non-branch locations, like deposit production offices.

Final Rule

The FDIC is revising § 328.3(b) to now require that:

> Each insured depository institution must continuously, clearly, and conspicuously display the official sign *at each place of business where consumers have access to or transact with deposits, including all of its branches (except branches excluded from the scope of this subpart under § 328.0) and other premises in which customers have access to or transact with deposits,* in the manner described in this paragraph (b).[21]

This requirement is consistent with section 18(a) of the FDI Act, which provides the FDIC authority to prescribe regulations for IDIs to display at each place of business a sign or signs relating to the insurance of deposits of the institution.[22]

With respect to the comment that requested the FDIC not use the term ''non-traditional branches,'' the FDIC did not intend to affect how the term ''branch'' is defined or interpreted in other regulations. In the preamble to the proposal, the FDIC used the term ''non-traditional branches'' to help distinguish such places of business from what are commonly viewed as the ''traditional branches'' where deposits are usually and normally received at only teller windows. The FDIC intended for the term to describe the new layouts and designs that some IDIs are using where deposits are usually and normally received in areas other than teller windows or stations.[23]

However, to prevent potential confusion related to the term ''branch'' and its applications in other regulations, the preamble to the final rule will not refer to the term ''non-traditional branches.'' Rather, under the final rule, the signage requirements apply to an IDI's places of business where consumers have access to, or transact with, deposits, including branches and other physical premises (*e.g.,* café-style locations). As a result, the types of bank premises that were intended to be covered under the proposal are covered by the final rule. For example, under a

[20] As stated in the NPR, the term ''branch'' would be defined by reference to the FDI Act's definition of ''domestic branch,'' 12 U.S.C. 1813(*o*).

[21] Final 12 CFR 328.3(b) (*emphasis added*).

[22] *See* 12 U.S.C. 1828(a)(1)(A), 1828(a)(2).

[23] *See* final 12 CFR 328.3(b)(2).

scenario where an IDI usually and normally receives insured deposits at a teller window or station *and* other areas within the same premise, then pursuant to the final rule, the IDI is required to display the official sign in accordance with the applicable signage requirements for each area as provided in § 328.3(b).

Display of Official Sign When Deposits Received at Teller Windows or Stations

Proposed Rule

Under the proposed rule, if IDIs usually and normally receive deposits at teller windows or stations, IDIs would have been required to display the official sign at each teller window or station in a size of 7″ by 3″ or larger with black lettering on a gold background. The proposed rule would also have allowed flexibility with respect to display of the official sign where the IDI usually and normally receives deposits at teller windows or stations and only offers insured deposit products on the premises. In such instances, an IDI would have the option to display the official sign at one or more locations visible from the teller windows or stations in a manner that ensures a copy of the official sign is large enough so as to be legible from anywhere in that area.

Discussion of Comments

One commenter suggested that the FDIC provide IDIs with flexibility to display clear and conspicuous signage and disclosures best suited for a particular branch facility. The commenter further stated that branch managers and other employees are readily available onsite to answer customer questions and address any confusion to the extent a customer may have questions, even with the presence of clear, conspicuous disclosures.

With respect to IDIs that only offer insured deposit products on the premises, one commenter requested clarification as to whether the proposed flexible option would apply if the IDI's larger locations offer non-deposit products. The same commenter also commended the FDIC for providing flexibility in signage placement but sought an example of what the FDIC would consider a sign ''*large enough to be legible from anywhere in that area*'' to satisfy this flexible option.

Final Rule

The FDIC is finalizing the proposed requirements with respect to the display of the official sign when IDIs usually and normally receive deposits at teller windows or stations. The final rule will continue to require that IDIs display the official sign at each teller window or station in a size of 7″ by 3″ or larger, with black lettering on a gold background, if insured deposits are usually and normally received at teller windows or stations.

As provided under the proposal, the FDIC believes that it is appropriate to allow additional flexibility with respect to display of the official sign in instances when the IDI usually and normally receives deposits at teller windows and stations and *only* offers insured deposit products on the premises. In such cases, the requirement to display the official sign at each teller window or station may be satisfied by displaying the official sign in one or more locations visible from the teller windows or stations, in a size large enough to be legible from anywhere in that area. This flexible option would apply to branches that do not offer non-deposit products on the premises even if the IDI's other locations offer non-deposit products.[24]

Under the final rule, whether the display of the official sign is ''*large enough to be legible from anywhere in that area*'' means that the average customer can easily see and read the sign from a reasonable distance from that area. This would depend on factors specific to the layout of the bank's physical premises or places of business and the sign used, such as the size and shape of the physical location, the area where deposits are usually and normally accepted, a sign's placement, a sign's size, and its font and colors. For example, if a bank's place of business has two teller windows right next to each other and it posts one official sign between the teller windows that is large enough to be legible to depositors at both teller windows, that approach would meet the standard. Banks' places of business vary significantly in size and layout, and the final rule is intended to provide banks the flexibility to account for these physical variations.

Display of Official Sign When Deposits Received in Areas Other Than Teller Windows or Stations

Proposed Rule

Under the proposal, if an IDI usually and normally receives deposits in areas of the premises other than teller windows or stations, IDIs would have been required to display the official sign in one or more locations in a manner that ensures the official sign is large enough so as to be legible from anywhere in those areas.

Discussion of Comments

As discussed above, a commenter suggested that non-branch locations should not be subject to the proposed rule's sign requirements.

Final Rule

Consistent with the proposal, the final rule provides that if insured deposits are usually and normally received in areas of the premises other than teller windows or stations (*e.g.,* café-style locations), the IDI is required to display the official sign in one or more locations in a size large enough to be legible anywhere in those deposit-taking areas.[25] The FDIC believes that such a requirement will help ensure that IDI customers are aware that their deposits are protected by deposit insurance.

As discussed above, an IDI's premises, including non-branch locations that receive deposits in areas other than teller windows or stations, are subject to the final rule's requirements. For example, an IDI's café-style location that does not receive deposits at a teller window or station, but where customers engage with bankers in an open area and customers have access to or transact with deposits, is subject to the sign requirements under the final rule.

Non-Deposit Signage on an IDIs' Physical Premises

Proposed Rule

When both insured deposits and non-deposit products are offered within the IDI's premises (regardless of whether deposits are received at teller windows or stations or deposits are received in areas other than teller windows or stations), the proposed rule would have required IDIs to display a non-deposit sign within a segregated area and not in close proximity to the official sign. The proposed rule would have required that IDIs continuously, clearly, and conspicuously display signage indicating that the non-deposit products: are not insured by the FDIC; are not deposits; and may lose value.

Under the proposed rule, the definition of ''non-deposit product'' read as, ''Any product that is not a 'deposit', including, but not limited to: stocks, bonds, government and municipal securities, mutual funds, annuities (fixed and variable), life

[24] *See infra* Non-Deposits Sign on IDI's Premises Section for discussion on the offering of non-deposit products.

[25] As discussed, whether the display of the official sign is ''*large enough to be legible from anywhere in that area*'' means that the average customer can easily see and read the sign from a reasonable distance from that area depending on factors specific to the layout of the bank's physical branch and the sign used, such as the size and shape of the physical location, the area where deposits are usually and normally accepted, a sign's placement, a sign's size, and its font and colors.

insurance policies (whole and variable), savings bonds, and crypto-assets. For purposes of this definition, a credit product is not a non-deposit product.'' [26]

Discussion of Comments

Non-deposit product definition. One commenter requested clarification on what products constitute a non-deposit product under the proposed rule, such that they would require the display of the non-deposit sign. Specifically, the commenter noted the proposal only included life insurance policies that are whole or variable and requested clarification as to whether other types of insurance offerings are also included in the definition. Moreover, the commenter requested clarification on whether safe deposit box services would be considered a non-deposit product requiring the display of the non-deposit sign.

Non-deposit sign design. With respect to the design of the non-deposit sign, one commenter stated that it would not be necessary for the FDIC to fully standardize the design, but recommended the FDIC set minimum standards for the sign such as a minimum font size. Another commenter supported standardization of the non-deposit sign and suggested a standardized icon, such as the red circle-backslash symbol overlaid on the word ''FDIC'' or ''FDIC-insured'' with the phrase ''NOT FDIC-insured'' underneath the symbol.

Display of non-deposit sign. Some commenters requested that the FDIC take a less prescriptive approach with respect to the non-deposit sign requirements and adopt a more flexible approach that can change with evolving technology and business practices. Two commenters suggested that the FDIC adopt a single, centralized disclosure approach to address deposit and non-deposit products rather than separate signage requirements. Another commenter raised concerns that the costs of segregating physical signage across multiple branch locations would be challenging in smaller branch locations and requested further clarification when separation would be required for institutions with various service offerings.

One commenter requested the FDIC define the term ''offers'' in relation to the offering of non-deposit products on the IDI's physical premises that would require the display of the non-deposit sign. The commenter stated that they understood ''offers'' to mean that the bank has personnel on the premises who are licensed to sell non-deposit products but would exclude locations without onsite staff licensed to sell non-deposit products.

Final Rule

The FDIC is finalizing the proposed requirement to display non-deposit signs when both insured deposits and non-deposit products are offered within the IDI's premises. The final rule's non-deposit sign requirement applies to both an IDI's places of business where deposits are received at teller windows or stations and an IDI's places of business where deposits are received in areas other than teller windows or stations (*e.g.,* café-style locations). Under the final rule an IDI generally must physically segregate the areas where non-deposit products are offered from areas where insured deposits are usually and normally accepted, and display a sign in the non-deposit areas indicating that non-deposit products: are not insured by the FDIC; are not deposits; and may lose value.[27] An IDI is required to continuously, clearly, and conspicuously display this non-deposit sign; however, the final rule does not include specific design or size requirements. To minimize the potential for consumer confusion, the final rule prohibits display of non-deposit signs in close proximity to the official FDIC sign.

Non-Deposit Product Definition

Through the proposed rule, the FDIC intended to provide further clarity on the types of products that would constitute non-deposit products. In response to comments related to the non-deposit definition, the FDIC acknowledges that the proposed definition, as written, could be read as excluding products that would otherwise constitute a non-deposit product. Accordingly, the final rule generally retains the current non-deposit definition with minor changes, discussed in further detail below.

The final rule defines a non-deposit product as: ''[A]ny product that is not a 'deposit', including, but not limited to: insurance products, annuities, mutual funds, securities, and crypto-assets. For purposes of this definition, credit products and safe deposit box services are not non-deposit products.'' [28]

The definition under the final rule provides a non-exclusive list of general examples of the types of products that constitute non-deposit products that is consistent with the long-standing definition, updated to include ''crypto-assets.'' [29] However, the FDIC agrees with a commenter that safe deposit boxes should not be included in the definition for purposes of requiring display of the non-deposit sign under part 328, Subpart A, and has revised the definition under the final rule to clarify the treatment of safe deposit boxes.[30] Banks have a longstanding history of providing safe deposit box services to consumers to store valuables in a private, secure section of the bank. Accordingly, IDIs are not required to display the non-deposit sign in areas where IDIs provide safe deposit boxes and offer no other non-deposit products.

Design of Non-Deposit Sign

Consistent with the proposal, the final rule requires IDIs that offer both deposit and non-deposit products at their physical premises to display a non-deposit sign in a continuous, clear, and conspicuous manner with information indicating that non-deposit products: are not insured by the FDIC; are not deposits; and may lose value. The FDIC is not standardizing the design of the non-deposit sign as the FDIC believes the rule strikes a proper balance in providing IDIs flexibility, but also helps prevent consumer confusion by requiring signs informing consumers of the risks associated with non-deposit products. With respect to the comment to use red circle-backslash over ''FDIC'' or ''FDIC-insured,'' the FDIC views the suggestion as potentially confusing to consumers. With respect to the recommendation that the FDIC set minimum standards for the sign such as a minimum font size, the final rule, as proposed, requires that the sign be displayed in a continuous, clear, and conspicuous manner. As such, the FDIC believes this standard will help mitigate potential concerns regarding minimum font sizes and standards to ensure that consumers are able to view clearly the non-deposit sign. Accordingly, the FDIC is not adopting this recommendation and is not standardizing the design of the non-deposit sign.

Display of the Non-Deposit Sign

Under the final rule, the FDIC requires IDIs that offer both insured deposits and non-deposit products to clearly delineate and distinguish areas where activities related to the sale of non-deposit products occur from the

[26] 87 FR 78017, 78033, 78036 (Dec. 21, 2022).

[27] As noted above, this requirement is intended to be generally consistent with longstanding interagency guidance on the retail sale of non-deposit investment products that many institutions already follow and thus should be familiar to many consumers.

[28] Final §§ 328.1, 328.101.

[29] *See infra* Crypto-Assets Section for further discussion.

[30] For purposes of part 328, subpart B, the ''non-deposit definition'' includes safe deposit boxes.

areas where insured deposit-taking activities occur. The FDIC believes requiring display of the non-deposit sign in a physically segregated area would more effectively mitigate the potential for consumer confusion than a centralized disclosure as recommended by some commenters, as it would better alert consumers when products are not insured. Further, given that the final rule does not require standardization of the non-deposit sign and provides IDIs flexibility regarding the design of the non-deposit sign, the FDIC believes that the approach taken in the final rule is responsive to commenter concerns on flexibility.

With respect to comments noting concerns on the costs of segregating physical signage across multiple locations and requesting further clarification on when separation would be required, the non-deposit sign requirement is intended to be generally consistent with practices described in the longstanding interagency guidance on the retail sale of non-deposit investment products.[31] As a result, the FDIC has added a provision to the final rule, generally consistent with longstanding guidance, noting that in limited situations in which physical considerations present challenges to offering non-deposit products in a distinct area, institutions must take prudent and reasonable steps to minimize customer confusion. This guidance has informed many institutions' current approaches, and thus should be familiar to many IDIs and consumers.

Consistent with the interagency guidance, the FDIC expects IDIs to minimize the possibility of consumer confusion when delineating the areas where non-deposit activities take place from areas where insured deposit-taking activities occur. The FDIC intends for the delineation requirement to include some flexibility, depending on the circumstances. For example, IDIs could conduct non-deposit related activity in separate areas or in areas that are not in close proximity to where deposits are taken by using a desk, cubicle, partitions, railings, planters, a separate room, or other indicator that the area is distinct and separate from the deposit-taking area. In the limited situations where IDIs experience challenges in physically segregating products, IDIs must take prudent and reasonable steps to minimize consumer confusion, consistent with the regulation's requirements.

In response to the commenter requesting clarification on the term ''offers'' for purposes of displaying the non-deposit sign under part 328, the FDIC interprets ''offers'' to capture situations where customers are presented with or sold non-deposit products within an IDI's physical premises. This could include situations where personnel are not physically present on the bank premises, but the IDI presents or sells non-deposit products to consumers within the bank's premises. As an example, non-deposit signs are required in areas where the consumer is offered non-deposit products within an IDI's physical premises by personnel through an electronic communication device (*e.g.,* an interactive kiosk or tablet).

Relevance of Non-Deposit Sign Requirements to Interagency Statement of Policy

The federal banking agencies have previously issued guidance to IDIs they supervise relating to the retail sale of non-deposit investment products.[32] The FDIC's proposed rule stated that its non-deposit sign requirement was intended to be consistent with the practices described in this longstanding interagency guidance. Specifically, the proposed rule's non-deposit sign requirements were similar to disclosures related to sales of non-deposit products described in the interagency guidance.

Use of Electronic Media or Varied Signs To Satisfy Official Sign and Non-Deposit Sign Requirements on IDIs' Premises

Proposed Rule

Under the proposed rule, IDIs would have had the option to display the official sign and non-deposit sign through the use of electronic media. The proposed rule also would retain certain provisions of existing regulations that provide IDIs with flexibility in displaying the official sign. Under the proposal, IDIs would have the option to display the official sign in locations on the premises other than those required under the rule, except for in areas where non-deposit products are offered. For locations where display of the official sign is required, IDIs could choose to display signs that vary from the official sign in size, color, or material, provided that the sign is no smaller than the official sign, has the same color for the text and graphics, and includes the same content.

Discussion of Comments

Commenters supported the proposed option to use electronic media to display the official sign and non-deposit sign. One commenter recommended that the FDIC produce educational, captioned consumer videos to be displayed on digital signage within an IDI's lobby.

Final Rule

The final rule adopts the proposal to provide IDIs the flexibility to utilize electronic media to satisfy sign requirements on an IDI's premises. This provision allowing IDIs to use electronic signs applies to both display of the official sign and non-deposit signage, where required, and would similarly be subject to the continuous, clear, and conspicuous display standard. Accordingly, a rotating display will not satisfy the ''continuous'' requirement applicable to the display of official sign and non-deposit sign.

The final rule also retains certain provisions of current regulations that provide IDIs with flexibility in displaying the official sign. IDIs have the option to display the official sign in locations on the premises other than those required under the rule, except for in areas where non-deposit products are offered. For locations where display of the official sign is required, IDIs may choose to display signs that vary from the official sign in size, color, or material, provided that the sign is no smaller than the official sign, has the same color for the text and graphics, and includes the same content.

Under the final rule, the FDIC will not require IDIs to display FDIC-produced videos within their physical premises. The FDIC is, however, undertaking several efforts to educate consumers regarding deposit insurance and the role of the FDIC, including a public awareness campaign on deposit insurance launched in October 2023.[33]

3. Sign Requirements for Digital Deposit-Taking Channels

The final rule will facilitate banks providing consumers with clear, consistent, and accurate digital disclosures to promote consumers' understanding of when they are interacting with an IDI and when their funds are protected by the FDIC's deposit insurance coverage. At the same time, the FDIC intends to permit some flexibility for IDIs with respect to digital sign requirements. As such, the FDIC is

[31] *See* Interagency Statement on Retail Sales of Non-deposit Investment Products, FIL–9–94 (Feb. 17, 1994), *available at: https://www.fdic.gov/news/financial-institution-letters/1994/fil9409.html.*

[32] *Id.*

[33] FDIC's national consumer campaign (''Know Your Risk. Protect Your Money''), *available at: https://www.fdic.gov/news/campaigns/know-your-risk/index.html.*

finalizing sign requirements related to IDI digital channels, with some changes and clarifications, as described below.

a. FDIC Official Digital Sign

Proposed Rule

Under the proposal, an IDI would have been required to clearly, continuously, and conspicuously display a newly established digital sign on the IDI's homepage, landing and login pages or screens, and transactional pages or screens involving deposits, to the extent applicable. The proposal further provided that a digital sign displayed in a continuous manner, near the top of the relevant page or screen in close proximity to the IDI's name, would be considered ''clear and conspicuous.'' The proposed digital sign was intended to visually communicate to consumers that they are conducting business with an IDI rather than a non-bank. The proposal provided that the FDIC expected the digital sign to be an abbreviated version of the official sign and that it would prominently bear the name of the FDIC and the statement that insured deposits are backed by the full faith and credit of the U.S. Government.

Discussion of Comments

Some commenters raised concerns that the proposed changes in digital signage design and placement were overly prescriptive and may be difficult to implement due to technological and budgetary limits. However, other commenters supported the proposed requirement, noting the importance of ensuring that bank customers are made fully aware of situations where deposit insurance is present and is separate and distinct from product offerings that do not include deposit insurance.

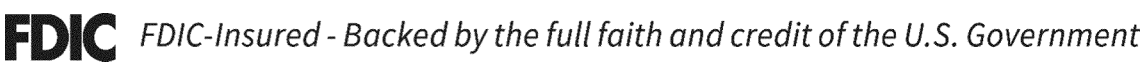
With respect to the placement of the proposed digital sign on the IDI's homepage, landing and login pages or screens, one commenter offered that home pages and landing pages are not the primary point of interaction between banks and customers, noting that home pages are generally used for marketing, not customer transactions. As such, the commenter believed only pages with transactional capacity should be subject to the proposed signage requirement. Some commenters questioned the necessity of displaying the same digital signage on each subsequent screen after a customer has logged in, and thought that the rules were unclear regarding internal transfer screens between FDIC-insured products after log-in. One comment noted that having the digital sign on login and other pages could imply to customers that deposit insurance applies to all products on the website.

Several commenters recommended that the FDIC adopt a more flexible approach where banks could place the digital sign on the bank's web page. One commenter noted that many websites use a basic template that carries through each successive web page and that template could contain the required statement. To allow for further flexibility in implementation and compliance, a commenter suggested that the FDIC add a ''reasonable person test'' when assessing the digital signage requirements in order to allow banks to continue to innovate. Another commenter provided that there would be no significant difference for a consumer in placing the FDIC official digital sign at the top of the page in close proximity to the bank name, other than increased costs for the IDIs. Other commenters supported the proposal to place the sign at the top of the screen to comply with the clear and conspicuous requirement.

The FDIC notes that a specific question was asked as part of the NPR about the design of the digital sign but no comments were received in response to this question.

Final Rule

After carefully considering the comments received, the FDIC is adopting this part of the proposed rule as final and will require IDIs to display the FDIC official digital sign ''clearly and conspicuously'' in a continuous manner, near the top of the relevant page or screen, and in close proximity to the IDI's name. The FDIC is finalizing a design for the FDIC official digital sign that consists of ''FDIC'' along with the following text: ''*FDIC-Insured- Backed by the full faith and credit of the U.S. Government.*'' Below is the design for the FDIC official digital sign under § 328.5:



The final rule establishes a clear standard to promote consistency in the use and application of the FDIC official digital sign by IDIs. The rule specifies the color, size, and font to establish an easily recognizable, consistent digital sign to convey the certainty and confidence historically provided by the FDIC official sign at banks' teller windows. Recognizing the variability in the design and color of IDI websites, the final rule also provides an alternative color if the specified colors, navy blue and black, would not be legible against the background design colors of the IDI's web page or mobile banking application.

The final rule requires ''FDIC'' in the FDIC official digital sign to be displayed with a wordmark size of 37.36 x 15.74px in navy blue (hexadecimal color code #003256), with ''*FDIC-Insured—Backed by the full faith and credit of the U.S. Government*'' in Source Sans Pro Web font (regular 400 italic), 12.8px, displayed in black (hexadecimal color code #000000) lettering. If the official FDIC digital sign in these colors would be illegible due to the color of the background, the final rule requires the ''FDIC'' and the one line of smaller type to the right of ''FDIC'' to both be displayed in white (hexadecimal color code #FFFFFF).

The FDIC official digital sign aligns with the statutory provisions in section 18 of the FDI Act on the display of signage at each IDI's principal place of business relating to the insurability of deposits and, consistent with section 18 of the FDI Act, the FDIC official digital sign includes a statement that insured deposits are backed by the full faith and credit of the U.S. Government. The FDIC appreciates the issues raised by commenters with respect to the FDIC official digital sign, including supporting flexibility and ensuring the new FDIC official digital sign does not cause depositor confusion. Given the discussion above regarding the increased use of mobile banking, as well as the FDIC's interest in protecting consumers, the FDIC believes the requirement to display the FDIC official digital sign will promote consumer confidence in the Nation's banking system and benefit IDIs by assisting consumers in more easily identifying IDI websites.

The FDIC believes that the use of the FDIC official digital sign by IDIs will assist consumers in better understanding when they are conducting business with an IDI and when they are interacting with a non-bank entity. Seeing the FDIC official digital sign on all IDI websites and mobile applications will promote awareness that consumers are doing business with FDIC-insured institutions. Display of the FDIC official digital sign

by any non-bank third party would improperly imply that the non-bank is FDIC-insured and would constitute a misrepresentation under part 328 subpart B.

The FDIC official digital sign must be displayed on the (1) initial or homepage of the website or application, (2) landing or login pages, and (3) pages where the customer may transact with deposits. For example, the FDIC official digital sign should be displayed where an IDI's mobile application allows customers to deposit checks remotely, because this electronic space is in effect a digital teller window.

In response to comments related to technical issues and potential costs, the FDIC recognizes the commenters' concerns. But several comments also highlighted the importance and value of clear and conspicuous signage to prevent consumer confusion. The FDIC believes that the benefits of the FDIC official digital sign outweigh the concerns about costs. To alleviate those concerns the FDIC is reviewing options to provide IDIs with technical assistance or guidance to assist in implementing the FDIC official digital sign requirements. The FDIC will also review options to provide an image of the FDIC official digital sign to IDIs upon request at no charge, similar to the process by which the FDIC provides banks with physical official signs.

b. Digital Display of Non-Deposit Signage

Proposed Rule

Under the proposed rule, if a digital deposit-taking channel offers access to deposits, as well as non-deposit products, IDIs would have been required to clearly, continuously and conspicuously display a non-deposit sign indicating that the non-deposit products: are not insured by the FDIC; are not deposits; and may lose value.

To satisfy this proposed requirement, the proposed rule would have required the continuous display of the non-deposit sign (referred to as the ''static'' non-deposit sign) on each IDI page relating to non-deposit products and prohibit displaying the non-deposit sign in close proximity to the FDIC official digital sign. The FDIC would expect the non-deposit signage to be in a prominent place, in an appropriate size, and displayed in a continuous manner for any consumer accessing the page to notice. The proposal provided, however, that institutions would have flexibility in the way they market non-deposit products and did not specify design or size requirements for this non-deposit sign.

In addition, under the proposed rule, IDIs would have been required to display this non-deposit sign via a ''one-time'' notification when consumers initially access a page related to non-deposit products (referred to as the one-time notification). The notification would have provided an initial, prominent display of the non-deposit information to alert consumers that they are dealing with non-deposit products that are not covered by FDIC insurance. Moreover, consumers would need to take action to dismiss the notification before accessing the relevant page or screen.

Discussion of Comments

Commenters generally recommended that the FDIC consider the costs related to implementing the digital signage requirements for IDIs and to ensure that the requirements are not overly burdensome for consumers and the industry.

More specifically, several commenters raised concerns that the increased digital signage requirements would increase costs for banks without countervailing benefits for consumers. While agreeing with the sentiment behind the proposed pop-up requirement, two commenters noted that creating pop-ups can be operationally complex and may be burdensome for smaller institutions to implement. Similarly, another commenter raised technical concerns and suggested a reduction of the repetitive disclosures.

One commenter recommended that the FDIC only finalize a requirement for non-deposit disclosures to be included statically on the applicable pages, and not require affirmative consumer action regarding such disclosures.

Some commenters also stated that the proposed digital signage requirements could lead to customer confusion and create a suboptimal customer experience. Relatedly, another commenter stated that the proposed digital pop-up message could degrade the customer experience and may cause difficulties for screen readers used by disabled customers.

One commenter expressed appreciation about the ability of ''pop-ups'', ''speedbumps'', or ''overlays'' to notify consumers of non-deposit products and ensure that they remain properly informed. However, the commenter also asserted that to reflect the various business models, products, and services, as well as adequately respect the importance of a consumer's experience in the increasingly competitive online financial services market, the FDIC should allow banks to work with their non-bank partners to ensure proper disclosure and ensure that these disclosures are properly applied to the various online platforms and consumer experiences.

Several commenters supported the proposed requirements, noting that it would be beneficial for customers to know a given entity's or product's insured status. One commenter advocated for the FDIC to require IDIs to explicitly mark every financial product as either insured or non-insured and advocated for a more comprehensive disclosure statement.

Non-Deposit Digital Signage in Final Rule: Requirements When Non-Deposit Products and Deposit Products Are Offered Through Same Digital Deposit-Taking Channel

After consideration of the comments responding to the proposed non-deposit digital signage requirements, the FDIC is finalizing certain aspects of the proposal and modifying other aspects as described below.

The FDIC is finalizing the requirement for IDIs to clearly and conspicuously display the ''static'' non-deposit signage on its digital deposit-taking channels. More specifically, if an IDI's digital deposit-taking channel offers access to both deposits at the IDI and non-deposit products, the IDI must clearly and conspicuously display [34] signage indicating that the non-deposit products: are not insured by the FDIC; are not deposits; and may lose value. This signage must be displayed on each IDI page relating to non-deposit products and may not be displayed in close proximity to the FDIC digital sign. The static non-deposit language described above will provide an important disclosure aimed at addressing potential customer confusion regarding the insured status of particular products offered by IDIs.

Separately, the FDIC acknowledges the commenters that discussed the one-time non-deposit notification requirement increasing costs, being operationally complex, and creating a suboptimal customer experience. The FDIC has concluded that having two separate disclosures relating to non-deposit products on an IDI's digital channel—the ''static'' signage and the one-time notification—are unnecessary.

[34] Some IDIs currently display non-deposit disclosures in small font near the bottom of web pages and application screens. Consumers are unlikely to notice such disclosures and may mistakenly believe that non-deposits products are covered by FDIC insurance. Such display of non-deposit disclosures would not satisfy the clear, continuous, and conspicuous display requirement of the proposed rule.

One such disclosure will sufficiently inform consumers and mitigate risks. As such, and in response to commenter concerns, the FDIC is only retaining a part of the proposed one-time notification requirement and is narrowing the scope for when the one-time notification is provided.

Under the final rule, IDIs will only be required to display a one-time notification when a bank customer accesses non-deposit products from a non-bank third party via an IDI's digital deposit-taking channel such as through a hyperlink (or similar weblinking feature). For example, if an IDI's digital channel offers a third party's securities product that requires the bank customer to leave the IDI's website and access the securities product on the third party's website, then the IDI will be required to provide the bank customer with a ''one time'' notification before the customer leaves the IDI's digital channel.

Moreover, under the final rule, the ''one time'' notification requirement will not apply broadly to *all* consumers accessing the IDI's website; instead, it will only apply to bank customers that have logged into their respective account at a particular IDI website. The ''one time'' notification will be required per web session, which is the period of interaction between a bank customer and the IDI's digital channel, starting when the customer logs in and ending when the customer logs off.

Consistent with the proposal, the ''one time'' notification must be clearly and conspicuously displayed and indicate that the non-deposit products: are not insured by the FDIC; are not deposits; and may lose value. The one-time notification could include, for example, an IDI using a ''pop-up'', ''speedbump'', or ''overlay'' that displays a notification to the customer that the customer must dismiss before accessing the content related to non-deposit products on the third party's website.

Bank customers, who log in to their bank's website and can access non-deposit products through their IDI's deposit-taking digital channel, may click on a hyperlink that takes them to an IDI's non-deposit page or click on a hyperlink that, unbeknownst to the customer, causes them to leave the bank's website to access non-deposit products offered or presented by a third party. From the FDIC's perspective, this raises two areas of elevated risk regarding customer confusion and potential harm because a bank customer is moving: (a) from an IDI to a non-bank; and (b) from an FDIC-insured deposit area to a non-deposit area. Further, bank customers that are accessing the third party's website will not have the same benefit of the ''static'' non-deposit signage that will be available on IDI digital channels.

As described above, one commenter recommended that the FDIC allow banks to work with their non-bank partners to ensure proper disclosure and ensure that these disclosures are properly applied to the various online platforms and consumer experiences. Given that certain non-bank third parties may offer both deposit products through a bank partner and non-deposit products on its website, IDIs will have discretion to provide customers with additional disclosure information as part of its one-time notification related to products offered by the non-bank third party, which may further minimize customer confusion.

The final rule's narrower, less burdensome, one-time non-deposit notification responds to several commenters' concerns, while still mitigating the broader consumer protection risks by enabling bank customers to better understand when they are doing business with an IDI and when their funds are protected by the FDIC's deposit insurance coverage.

Regarding the comment about digital pop-up disclosures causing issues for disabled customers that use screen readers, the FDIC encourages IDIs to ensure that their pop-up notifications can be as accessible to screen reader users as any other web content.

4. Automated Teller Machines and Similar Devices

Proposed Rule

The FDIC proposed amendments to update § 328.4 signage requirements for IDIs' ATMs and other remote electronic facilities that receive deposits. The FDIC sought to ensure that depositors receive necessary disclosures regarding deposit insurance as banks continue to devise new ways to provide services to their customers. The proposed rule intended to capture banking kiosks and other devices currently defined as ''Remote Service Facilities'' [35] that receive deposits. This section of the proposed rule was not intended to address online and mobile banking channels, which are considered ''digital deposit-taking channels.''

The proposed rule would have required electronic display of the FDIC official digital sign on IDIs' ATM and like devices. The proposed rule provided that the official FDIC sign must be electronically displayed clearly and conspicuously. ATMs and like devices would be required, at a minimum, to display the FDIC official digital sign on the home page or screen and each transaction page or screen relating to deposits.

The proposed rule would have further required electronic non-deposit signs where an IDI's ATM or like device both receives deposits for an IDI and offers access to non-deposit products.[36] In this instance, the ATM or like device would be required to clearly, continuously, and conspicuously display electronic disclosures indicating that non-deposit products are not insured by the FDIC, are not deposits, and may lose value. The proposed rule would have required the display of these disclosures on each transaction page or screen relating to non-deposit products.

Discussion of Comments

Generally, commenters expressed concern over the difficulty or cost in implementing the proposed signage requirements for ATMs. Some commenters noted that costs will disproportionately affect community banks who rely on third-party vendors that provide ATM operating software; one commenter noted that software changes take time, and these vendors would be expected to prioritize large banks. Another commenter noted that a handful of third-party vendors are utilized by many banks, and the proposed changes would create supply bottlenecks as digital platforms are individualized for each bank. Three commenters specifically requested additional time—ranging from at least one year to up to 18 months—in order to comply with any new requirements imposed for physical or software signs on ATMs or similar devices. Relatedly, another commenter urged the FDIC to consider allowing banks to use a physical sign at their ATMs instead of an electronic one.

A few comments sought clarity or expressed concern on the scope of the proposed ATM signage requirements. One commenter requested that the FDIC clarify whether the proposed ATM provision would only apply to ATMs and similar devices that receive deposits, excluding facilities that only provide balance, transfer, or withdrawal capabilities. Another commenter requested that the FDIC exclude Interactive Teller Machines (ITMs) from the ATM and like devices requirements as the commenter believed that ITMs do

[35] ''Remote Service Facility'' includes any automated teller machine, cash dispensing machine, point-of-sale terminal, or other remote electronic facility where deposits are received. 12 CFR 328.2(a)(1)(ii).

[36] The FDIC would not view postage stamps sold at ATMs to require these disclosures.

not have any transaction screens visible and do not perform bank branch functions. One commenter requested that the FDIC clarify whether non-deposit signage requirements apply to the owner of the ATM and not the depository bank, if they are not the same.

Commenters representing consumer groups were supportive of the proposed rule changes relating to ATMs and similar devices. One commenter believed the proposed rules were beneficial because consumers do not have the opportunity to seek clarification from bank employees at an ATM, like they would at a bank or bank branch. One commenter advocated for more stringent signage requirements for ATMs, recommending that the FDIC require IDIs to display disclosures on each screen that references a deposit or non-deposit product.

Final Rule

The FDIC has carefully considered these comments and is adopting certain parts of the proposed ATM signage requirements, with changes discussed below. The FDIC appreciates the comments and concerns provided regarding the costs of the proposed requirements and a need for additional time and the impact of potential changes on community banks who often rely on third parties to support operating and maintaining ATMs. The FDIC believes that the benefits of the new ATM signage requirements outweigh the potential costs; however, additional flexibility is warranted in certain situations. The new ATM requirements under the final rule will provide clear information to consumers as to when they are engaging with insured deposit products and when they are engaging with non-deposit products.

For an IDI's ATM or like device that receives deposits but does not offer access to non-deposit products, the final rule provides flexibility to meet the signage requirement by either (1) displaying the FDIC official digital sign as described in § 328.5 on ATM screens, or (2) displaying the physical official sign as described in § 328.2 by attaching or posting it to the ATM. However, IDIs' ATMs or like devices that accept deposits and are put into service after January 1, 2025, must display the official digital sign (with no option to satisfy the requirement through display of the physical official sign). This approach provides IDIs with flexibility, consistent with some comments the FDIC received, and provides additional time to make related system and process revisions and updates.

For an IDI's ATM or like device that both receives deposits and offers access to non-deposit products, the final rule requires that such ATMs must: (a) display the official digital sign clearly, continuously, and conspicuously on the home page or screen and on each transaction page or screen relating to deposits; and (b) clearly, continuously, and conspicuously indicate that non-deposit products are not insured by the FDIC, are not deposits, and may lose value on each transaction page or screen relating to non-deposit products by January 1, 2025. The FDIC believes that clear signs differentiating the insured and uninsured products is important in this setting because customers often interact with ATMs alone, including when bank branches are closed or in areas that are isolated or where there are no bank branches. In such situations bank customers would not have an opportunity to ask clarifying questions of a bank representative or for bank staff to ensure that customers fully understand whether a product is covered by FDIC deposit insurance.

The final rule also provides that degraded or defaced physical official signs would not meet the ''clearly, continuously, and conspicuously'' standard. For example, an official sign defaced such that portions are illegible would not ''clearly'' signal or notify consumers that they are dealing with an FDIC-insured depository institution's ATM. However, if an ATM's physical digital sign is, for example, slightly diminished, minimally blemished, or superficially damaged, these circumstances would be considered de minimis for the purposes of determining whether a physical official sign meets the ''clearly, continuously, and conspicuous'' standard for the purposes of compliance with the final rule.

In addition, the final rule includes specific design features of the digital official sign, including specifics about colors, size, and font which should assist in implementation. In response to the comments on the scope of the rule, the final rule's ATM provisions apply to an IDI's automated teller machines or other remote electronic facilities that receive deposits. If an IDI's remote electronic facility receives deposits and is labeled an ITM (instead of an ATM), the official sign requirements in part 328 apply; however, if an ITM does not receive deposits, it is not subject to the rule.

In some cases, where there is a deposit-taking ATM or like device, the owner of the ATM and the IDI may not be the same. As noted above, § 328.4 applies to ''IDIs' automated teller machines or like devices.'' In determining whether an ATM or like device is an IDI's, the FDIC will consider circumstances such as the ATM or like device's location, branding, whether it is operated by the IDI, and other factors that reasonably indicate it is an IDI's ATM. Under the final rule, for such in-scope ATMs and like devices, the official digital sign and non-deposit signage requirements under § 328.4 apply.

In response to the comment on recommending more stringent requirements, the FDIC does not consider more stringent signage requirements as necessary to achieve its policy goals. For certain in-scope ATMs, the signage requirements under the final rule apply to each transaction page or screen for deposits and, if applicable, non-deposit products.

5. Official Advertising Statement for IDIs

Proposed Rule

The FDIC proposed limited amendments to the advertisement statement requirements applicable to IDIs. Specifically, the FDIC proposed to expand IDIs' options for use of a short advertising statement to include the term ''FDIC-insured.''

Currently, IDIs must include the official advertising statement in all advertisements that promote deposit products.[37] The term advertisement means a commercial message in any medium that is designed to attract public attention or patronage to a product or business.[38] The FDIC views this definition to include advertising published through social media channels.

The current regulation allows IDIs to use the short title ''Member of FDIC'', ''Member FDIC'', or a reproduction of the symbol of the corporation (defined in § 328.2(b)). In addition to these options, to provide additional flexibility, the proposed rule would allow the use of ''FDIC-insured''.

The FDIC also proposed to make a technical correction to the reference to the deposit insurance limit found in paragraph (d)(10) of the current regulation, which states that ''deposits or depositors are insured by the Federal Deposit Insurance Corporation to at least $100,000 for each depositor.'' [39] As a technical correction, the proposed rule would instead reference the standard maximum deposit insurance amount (currently $250,000), as established by Congress.

[37] 12 CFR 328.3(c).

[38] 12 CFR 328.3(a).

[39] 12 CFR 328.3(d)(10).

Discussion of Comments

A comment letter submitted by several non-profit organizations opposed the addition of the term ''FDIC-insured'' for use as a shortened form of the official advertising statement and suggested that IDIs continue to use the shortened forms of the advertising statement found in the existing regulation (''Member of FDIC'' or ''Member FDIC''). The commenters stated that when IDIs offer products that are not FDIC-insured, their use of the term ''FDIC-insured'' could be misleading and poses risk of consumer confusion. The commenters asserted that the purported benefit to IDIs of increased flexibility is not worth this risk of increased consumer confusion.

Final Rule

The FDIC appreciates the concern about risk of consumer confusion stemming from use of the term ''FDIC-Insured.'' However, the FDIC believes that restrictions on usage of the advertising statement (including a shortened form) in connection with non-deposit products sufficiently mitigate any risk of consumer confusion.

Specifically, IDIs are prohibited from using the official advertising statement in any advertisement relating solely to non-deposit products. IDIs are also prohibited from using the official advertising statement in any advertisement relating solely to hybrid products, which are products that have both deposit product features and non-deposit product features. IDIs may use the official advertising statement in advertisements containing information about both insured deposit products and non-deposit or hybrid products, but are required to clearly segregate the official advertising statement from any portion of the advertisement that relates to the non-deposit products. These restrictions are part of the existing regulation and were included in the proposed rule. The FDIC is including these same restrictions in the final rule, meaning that consumers should not, for example, see statements indicating that a particular IDI is ''FDIC-Insured'' made in connection with advertisements related solely to non-deposit products.

The FDIC is finalizing the advertising statement provisions of the final rule as proposed. Under the final rule, IDIs will have the option to use ''FDIC-Insured'' as a short form of the official advertising statement to satisfy advertising statement requirements. Subject to limited exceptions, IDIs are required to include the official advertising statement in all advertisements that promote either deposit products and services or non-specific banking products and services offered by the institution. The advertising statement must be in a size and print to be clearly legible.

In addition, as noted in the proposed rule, the FDIC does not intend for the digital sign requirement to overlap with the general advertising statement requirements that apply to IDIs. For example, the advertising statement would not be required on web pages where an IDI displays the digital official sign, such as a homepage. In these situations, under § 328.6(d)(10), the advertising statement is unnecessary because the inclusion of the digital official sign makes it clear that the IDI is insured by the FDIC. However, IDIs remain responsible for complying with the official advertising statement requirements for other qualifying advertisements, including those contained on other web pages.

As under existing regulations, the final rule provides that a non-English equivalent of the official advertising statement may be used in any advertisement, provided that the translation has the prior written approval of the FDIC. The FDIC is also considering making available to the public approved translations of the official advertising statement in several common languages on its website or through other means in the future to support IDIs' efforts to communicate with their non-English-speaking customers.

6. Misrepresentations and Material Omissions by Any Person

Proposed Rule

Section 18(a)(4) of the FDI Act,[40] and its implementing regulations in subpart B to part 328,[41] prohibit any person from misusing the name or logo of the FDIC, engaging in false advertising, and making knowing misrepresentations about deposit insurance. In the NPR, the FDIC stated that it may be beneficial to provide further clarity on the application of the statutory prohibition on misrepresentations in specific situations where consumers may be misled as to whether an entity is insured by the FDIC and the nature and extent of deposit insurance coverage. The FDIC proposed to amend subpart B to expressly address these situations, making clear when specific statements or omissions constitute a misrepresentation under section 18(a)(4).

[40] *See* 12 U.S.C. 1828(a)(4).

[41] *See* §§ 328.100 through 328.109.

Use of the Official Advertising Statement or FDIC-Associated Terms or Images

Consumers have historically identified the use of the official advertising statement (such as ''Member FDIC''), FDIC-Associated Terms, or FDIC-Associated Images to signify that they are dealing with an IDI and will receive the protection of FDIC deposit insurance. The official advertising statement, FDIC-Associated Terms, and FDIC-Associated Images have increasingly been used by non-banks that purport to deposit their customers' funds at IDIs. As discussed in the NPR, the FDIC believes that use of the official advertisement, FDIC-Associated Terms, or FDIC-Associated Images in such instances presents a high risk of confusing consumers as to whether they are dealing with an IDI and whether deposit insurance applies to their funds.

To address this risk, the proposed rule would have amended § 328.102(a) and § 328.102(b) to clarify specific circumstances under which use of the official advertising statement, FDIC-Associated Terms, or FDIC-Associated Images by a non-bank would constitute a misrepresentation of insured status as it would inaccurately imply that the non-bank is FDIC-insured. For example, under the proposed rule, a non-bank's use of the ''Member FDIC'' logo on its website or in its marketing materials would have been a misrepresentation unless that logo is next to the name of one or more IDIs. The NPR also stated that a non-bank's use of either the FDIC official sign or the FDIC official digital sign would be a misrepresentation if it inaccurately implies that the non-bank is insured by the FDIC and backed by the full faith and credit of the U.S. Government. Similarly, the NPR stated that a non-bank's use of FDIC-Associated Terms in statements suggesting that the non-bank is insured by the FDIC would constitute a misrepresentation.[42]

Failure To Disclose That a Person Is a Non-Bank Is a Material Omission When a Statement Is Made Regarding Deposit Insurance

Non-banks that purport to deposit their customers' funds at IDIs sometimes make statements regarding deposit insurance coverage for those funds. Absent additional context, to the extent such statements suggest that FDIC

[42] These examples are intended to be illustrative, rather than an exhaustive list of ways in which a non-bank might misrepresent its insured status. Any use of the official advertising statement, FDIC-Associated Terms, or FDIC-Associated Images that inaccurately states or implies that the non-bank is insured by the FDIC will violate the final rule.

deposit insurance will protect consumers in the event of the non-bank's insolvency, they likely misrepresent the insured status of the non-bank. To minimize the risk of consumer confusion, the proposed rule provided that if a non-bank makes statements regarding deposit insurance for its customers, it is a material omission for the non-bank to fail to clearly and conspicuously disclose that it is not itself an FDIC-insured institution and that the FDIC's deposit insurance coverage only protects against the failure of an FDIC-insured depository institution. In the NPR, the FDIC stated that this additional disclosure is necessary to prevent consumers from misinterpreting a non-bank's assertions regarding deposit insurance coverage. The FDIC noted that some non-banks already include such language on their websites, often identifying the partner IDI through which banking services are provided.[43] The proposed rule did not prescribe specific disclosure language; however, it explained that a statement that a person is not an FDIC-insured bank and deposit insurance covers the failure of an insured bank would be considered a clear statement for purposes of this provision. The proposed rule aimed to give non-banks that wish to make statements regarding deposit insurance coverage some flexibility in how they communicate the required information.

Failure To State That Non-Deposit Products Are Not Insured by the FDIC Is a Material Omission When a Statement Is Made Regarding Deposit Insurance

The FDIC's experience suggests that deposits and non-deposit products are increasingly being offered to consumers in ways that fail to distinguish which products are insured by the FDIC. For instance, marketing materials might emphasize the deposit insurance protection that applies to some products while failing to make clear that not all of the products offered are FDIC-insured. In other instances, firms have represented to their customers that non-deposit products are eligible for deposit insurance coverage, which has led consumers to believe, mistakenly, that their money or investments are protected by deposit insurance. In the NPR, the FDIC stated it believes that where banks or non-banks make statements regarding deposit insurance in a context where deposits and non-deposit products are involved, additional information is necessary to ensure that consumers understand which products are subject to deposit insurance. To prevent consumer confusion, the proposed rule provided that if a person makes statements regarding deposit insurance in a context that involves both deposits and non-deposit products, it is a material omission to fail to disclose that non-deposit products are not insured by the FDIC, are not deposits, and may lose value. For example, under the proposed rule, if a non-bank's website offered customers the option to have their funds deposited at an IDI and protected by deposit insurance or invested in non-deposit products, it would be a material omission if the non-bank's website failed to state that the non-deposit products are not insured by the FDIC, are not deposits, and may lose value.

Failure To State That Requirements Apply to Pass-Through Deposit Insurance

The FDIC has a long history of providing ''pass-through'' deposit insurance coverage, meaning that deposits placed at an IDI by a third party on behalf of one or more owners are insured as if deposited directly at the IDI by the owner(s). Pass-through insurance allows each owner of the funds in such an arrangement to be separately insured up to the statutory deposit insurance limit, currently $250,000, even if the total deposits of all owners (in the aggregate) exceeds the $250,000 limit. Pass-through insurance only applies, however, if certain regulatory requirements are satisfied.[44]

Arrangements that rely on pass-through insurance have become increasingly common, with non-banks often claiming to provide the protection of pass-through deposit insurance for consumers' funds. Such representations, however, may be inaccurate, mislead consumers, and fail to apprise them of the risk they face in the event that the pass-through deposit insurance requirements have not been satisfied. If the pass-through requirements are not met, consumers' funds may not be fully insured in the event the IDI where their funds have been deposited were to fail. In the NPR, the FDIC would have required that parties that make statements regarding the application of pass-through deposit insurance make additional disclosure to promote awareness of this risk.

The proposed rule provided that if a person makes statements regarding pass-through deposit insurance for its customers' funds, it is a material omission to fail to clearly and conspicuously disclose that certain conditions must be satisfied for pass-through deposit insurance coverage to apply. The proposed rule would not require a person making a statement regarding pass-through deposit insurance to list the specific conditions that must be satisfied; simply referencing that conditions must be satisfied would be sufficient under the proposed rule. The proposed rule also did not prescribe specific disclosure language, providing flexibility in how parties may wish to express the required information. For example, under the proposed rule, if a website for a financial product were to state that consumers' funds are eligible for pass-through deposit insurance, it would be a material omission to fail to clearly and conspicuously state that certain conditions must be satisfied in order for pass-through insurance to apply.

Discussion of Comments

Some commenters recommended that the rule require entities to disclose certain information that they believed was necessary to avoid material omissions when making statements about deposit insurance. For example, one commenter suggested that the FDIC impose several specific requirements, presumptions, and enforcement practices on any advertising relating to digital assets. Another commenter suggested that the FDIC prohibit non-banks from using the words ''banking'' and ''bank account'' to describe their products or services offered, and that a non-bank's failure to comply should constitute a material omission.

With respect to statements referencing deposit and non-deposit products, one commenter suggested that the FDIC should make clear that comparing an uninsured financial product to an insured one without clearly and conspicuously noting the difference in insurance status is a misrepresentation. Another commenter similarly suggested that it would be a material omission for a non-bank to fail to disclose that its non-deposit products are not FDIC-insured.

[43] For example, ''ABC Co. is not an FDIC-insured depository institution; banking services provided by XYZ Bank, Member FDIC.''

[44] *See* §§ 330.5, 330.7. For pass-through deposit insurance to apply, a consumer's funds must first be on deposit at an IDI. In addition: (1) the deposit account records of the IDI must disclose a basis for pass-through coverage, such as a custodial or agency relationship; (2) the identities and interests of the actual owners of the funds must be ascertainable either from the records of the IDI or records maintained in good faith and in the regular course of business by another party; and (3) the relationship that provides the basis for pass-through deposit insurance coverage must be genuine, with the deposited funds actually owned by the named owners. Additional requirements apply to arrangements involving multiple levels of relationships.

In connection with the proposed pass-through provision, one commenter suggested that it should be a material omission for entities that are not FDIC-insured to advertise pass-through deposit insurance without setting forth all the conditions necessary to receive such coverage. Another commenter suggested that requiring a clear and conspicuous disclosure that certain conditions must be satisfied for pass-through insurance, without more, could lead a depositor to wonder what those conditions might be and question whether pass-through claims will be honored.

One commenter requested confirmation as to whether hyperlinking would be permissible for the required disclosures. Specifically, the commenter requested confirmation that a non-bank entity placing deposits through a deposit network would still be permitted to hyperlink to the list of network banks to satisfy this provision under the new rule, as previously stated in the preamble to the 2022 final rule.[45] The same commenter also requested confirmation that a non-bank would be permitted to hyperlink to required disclosures that a non-bank is not a bank and that pass-through insurance coverage is subject to conditions.

Final Rule

As generally provided in the proposal, with specific changes noted below, the FDIC is amending subpart B to expressly address additional examples that violate part 328, making clear when specific statements or omissions constitute a misrepresentation under section 18(a)(4). Moreover, the FDIC reiterates that the specific examples set forth in the final rule are part of a non-exhaustive list of conduct that violates part 328. The FDIC has the authority to take action against conduct that constitutes a prohibited misrepresentation about deposit insurance, regardless of whether it is among the non-exhaustive list of examples included in the final rule.

The FDIC has been, and will continue to be, consistently proactive in enforcing its requirements and taking appropriate action whenever it becomes aware of prohibited conduct.

Use of the Official Advertising Statement or FDIC-Associated Terms or Images

The final rule adopts the proposed amendments to § 328.102 to clarify specific circumstances under which use of the official advertising statement, FDIC-Associated Terms, or FDIC-Associated Images by a non-bank would constitute a misrepresentation of insured status. In a technical change from the proposal, the final rule corrects an amendment to § 328.102. Proposed § 328.102(b)(4)(i) stated, without limitation, a false or misleading representation is deemed to be material if it states, suggests, or implies that, ''A person or Uninsured Financial Products are insured or guaranteed by the FDIC''. The final rule corrects the reference to ''A person'' to ''A person other than Insured Depository Institution'' and moves this amendment to new § 328.102(b)(1)(iv).[46]

Failure To Disclose That a Person Is a Non-Bank Is a Material Omission When a Statement Is Made Regarding Deposit Insurance

The FDIC is adopting the proposal that if a non-bank makes statements regarding deposit insurance for its customers, it is a material omission for the non-bank to fail to clearly and conspicuously disclose that it is not itself an FDIC-insured institution and that the FDIC's deposit insurance coverage only protects against the failure of an FDIC-insured depository institution. With respect to the comment on prohibiting non-banks from using the words ''banking'' and ''bank account,'' the final rule's amendments to subpart B are limited to addressing misrepresentations concerning deposit insurance, which is the focus of section 18(a)(4) of the FDI Act. A non-bank's use of the terms ''bank'' or ''banking account'' does not itself misrepresent deposit insurance status. However, such usage may violate other laws, including state banking laws or laws that address deceptive practices.

As stated above, the final rule makes clear that it is a misrepresentation for an entity that is not insured by the FDIC to state, suggest, or imply that it is FDIC-insured. Further, the final rule specifically notes that the FDIC considers it to be a material omission for an entity that is not an IDI to make statements about deposit insurance without clearly and conspicuously disclosing that it is not an IDI and that FDIC insurance only covers the failure of IDIs. The FDIC concludes that these provisions adequately address commenters' concerns regarding situations where an entity that is not FDIC-insured suggests that it is.

Failure To State That Non-Deposit Products Are Not Insured by the FDIC Is a Material Omission When a Statement Is Made Regarding Deposit Insurance

The final rule adopts the proposal that, if a person makes statements regarding deposit insurance in a context that involves both deposits and non-deposit products, it is a material omission to fail to disclose that non-deposit products are not insured by the FDIC, are not deposits, and may lose value, subject to the clarifications below. The FDIC believes that the final rule addresses commenters' concerns regarding misrepresentations about uninsured financial products and non-deposit products as the rule helps mitigate potential consumer confusion when deposit insurance statements are made in the context of deposit and non-deposit products. Under the final rule, if a non-bank's website offered customers the option to have their funds deposited at an IDI and protected by deposit insurance or invested in non-deposit products in close proximity, it is a material omission if the non-bank's website failed to state that the non-deposit products are not insured by the FDIC, are not deposits, and may lose value.

Non-bank digital wallets. The FDIC recognizes that certain non-banks offer payment products that are not FDIC-insured that allow consumers to store, send, or receive fiat money, for example U.S. dollars, electronically. While these products are not insured by the FDIC and therefore are vulnerable to the risks related to the non-bank's insolvency, they do not otherwise fluctuate in value. Accordingly, the FDIC believes that requiring non-banks to disclose to consumers that such products ''may lose value'' may not be beneficial. As such, if a non-bank offers customers access to deposit products and a digital wallet where funds placed in a digital wallet are not covered by FDIC deposit insurance, it will not be a material omission for the non-bank entity to not include ''may lose value'' with respect to such digital wallet products. It will be a material omission for the non-bank to fail to disclose that any such uninsured products are: ''not insured by the FDIC and are not deposits''. The FDIC believes that a disclosure that the product is not a deposit and not FDIC-insured strikes a reasonable balance by providing consumers with sufficient information if they utilize these digital wallet products from non-bank entities that also offer deposit products. The FDIC also notes that if the non-bank offers other non-deposit products as

[45] *See* 87 FR 33415, 33418 (June 2, 2022).

[46] *See* final 12 CFR 328.102(b)(4)(iv).

defined by part 328, including non-deposit products as part of its digital wallet on its website, it must disclose that the non-deposit product ''may lose value'' in addition to disclosing that the products are ''not a deposit, not FDIC insured''.

Proximity. It has been the FDIC's experience that it is more likely that a consumer will be confused about the application of deposit insurance to non-deposit products, when the deposit product is being offered in close proximity to the non-deposit product by the non-bank. For example, the FDIC has seen that some non-banks provide ''mixed advertisements'' where deposit products and non-deposit products are offered on the same web page or as part of a single social media post. As such, the FDIC believes that such offerings, in close proximity, represent clear scenarios where it would be a material omission for the entity to fail to disclose that the non-deposit product is not insured by the FDIC, is not a deposit, and may lose value.

Non-deposit products unrelated to financial or investment products. The intent of this particular clarification in the final rule is to ensure that consumers understand when deposit insurance applies, particularly when a non-bank is offering both deposits and non-deposit products. From the FDIC's experience, consumers are more likely to be confused about the application of deposit insurance when a non-bank offers deposit products and non-deposit products that are financial products subject to investment risks. Services or products offered by a non-bank that are unrelated to financial or investment products and physical goods are generally not the type of non-deposit product that would confuse consumers about deposit insurance. While the FDIC generally would not expect non-banks offering these types of non-deposit products to provide disclosures that the non-deposit product is not insured by the FDIC, is not a deposit, and may lose value, the non-bank is nevertheless prohibited from representing or implying that the non-deposit products are insured or guaranteed by the FDIC.[47]

Failure To State That Requirements Apply to Pass-Through Deposit Insurance

The FDIC is finalizing the proposal that if a person makes statements regarding pass-through deposit insurance for its customers' funds, it is a material omission to fail to clearly and conspicuously disclose that certain conditions must be satisfied for pass-through deposit insurance coverage to apply. Under the final rule, a person making a statement regarding pass-through deposit insurance is not required to list the specific conditions that must be satisfied; simply referencing that conditions must be satisfied is sufficient. The final rule also does not prescribe specific disclosure language, providing flexibility as to how parties may express the required information.

With respect to the comments recommending that entities list all the conditions necessary to receive pass-through coverage, the FDIC believes that the final rule strikes an appropriate balance with making consumers aware of the risks they face without inundating them with a technical recitation of the pass-through conditions. Further, such technical information may be impracticable for some types of advertisements due to the amount of text required to adequately disclose the requirements. The FDIC believes that the final rule's approach reflects a better balance, as it puts consumers on notice that pass-through insurance is not automatic or guaranteed and empowers them to raise questions or concerns.

The FDIC remains concerned, however, that even with this notice, it is challenging to consumers to assess the risks related to the likelihood of receiving pass-through insurance given its technical legal requirements. In addition, consumers would not have access to banks' or non-banks' records to directly confirm that applicable conditions have been met. Given these circumstances, the FDIC is considering options for conducting qualitative consumer testing of deposit insurance disclosure language, including regarding pass-through coverage, to assess consumers' understanding and whether there are other disclosure language options that are more effective and beneficial for consumers. In the event the FDIC identifies disclosure language through consumer testing that would improve consumer understanding of the risks related to pass-through coverage, the FDIC could consider options to promote use of the disclosure.

The FDIC is also considering whether additional public education efforts would be valuable to help consumers understand the differences in deposit insurance coverage when working with IDIs directly as compared to non-bank entities. Earlier this year, the FDIC launched its ''Know your Risk. Protect your Money.'' national public awareness campaign to help consumers better understand deposit insurance and how it protects their money. This campaign complements the final rule's intended purposes, including helping consumers understand when they are interacting with an IDI and when their funds are protected by the FDIC's deposit insurance coverage.

Hyperlinking to Material Information

In the NPR, the FDIC proposed to maintain the existing provision that it is a material omission for a non-insured entity that advertises deposit insurance to fail to identify the IDIs with which the representing party has a direct or indirect business relationship for the placement of deposits and into which the consumers' deposits may be placed.[48]

As explained in the proposal, the FDIC is concerned that certain business relationships between IDIs and non-banks may be confusing to consumers and proposed to require clear disclosures that would better inform consumers as to when their funds are protected by FDIC deposit insurance. The proposed rule made clear that it is a prohibited misrepresentation to fail to clearly and conspicuously disclose material information necessary to avoid a false statement, suggestion, or implication about deposit insurance. After considering the comment received on hyperlinking to the list of network banks, the FDIC is amending 12 CFR 328.102(b)(5)(i) in the final rule to expressly state that it is a material omission for a non-insured entity that advertises deposit insurance to fail to *clearly and conspicuously* identify the IDIs with which the representing party has a direct or indirect business relationship for the placement of deposits and into which the consumers' deposits may be placed.[49] The addition of this language harmonizes this provision with the other specific examples in the final rule and makes clear that information about where funds may be placed must be clear and conspicuous. To the extent that a non-bank entity places deposits through a deposit network, it may satisfy this requirement by clearly and conspicuously identifying the deposit network and each IDI in the deposit network or by providing a clear and conspicuous hyperlink to a current list of all the IDIs that are part of such a network.

Further, the FDIC will evaluate the clear and conspicuous requirement in the context of the statement the information is material to, including the information's proximity, placement, and prominence in relation to the statement.

[47] 12 CFR 328.102(a).

[48] *See* proposed 12 CFR 328.102(b)(5)(i).

[49] *See* final 12 CFR 328.102(b)(5)(i) (*emphasis added*).

In particular, the FDIC believes that Federal Trade Commission guidance provides helpful principles for determining whether hyperlinks to the list of deposit network IDIs are sufficiently clear and conspicuous.[50]

In response to the comment on hyperlinking to other disclosures, the FDIC generally believes that hyperlinking to the required disclosures—that a non-bank is not an FDIC-insured depository institution, the FDIC's deposit insurance coverage only protects against the failure of an FDIC-insured depository institution, and pass-through insurance coverage is subject to conditions—would not satisfy the ''clear and conspicuous'' standard in § 328.102(b)(5) under the final rule. Failure to include these disclosures with statements regarding deposit insurance could result in consumer confusion as to whether an entity is FDIC-insured and the extent of deposit insurance coverage.

7. Policies and Procedures for IDIs

Proposed Rule

The FDIC proposed requirements for IDIs to establish written policies and procedures to comply with part 328 that are commensurate with the nature, size, complexity, scope, and potential risk of the deposit-taking activities of the institution. As part of these policies and procedures, IDIs would also need to include, as appropriate, provisions related to monitoring and evaluating activities of persons that provide deposit-related services to the IDI or offer the IDI's deposit-related products or services to other parties.

a. Signs and Advertising Statement

The proposal provided that such policies and procedures could include, for example, measures that an IDI would take to ensure compliance with the proposed sign and advertising requirements when the IDI changes its advertising strategy or engages with, or expands into, new physical or digital deposit-taking channels. For example, this could include, if applicable, establishing procedures to ensure that the IDI's technology (*e.g.,* websites and mobile applications) is capable of implementing the proposed signs and advertisement statement requirements across all digital deposit-taking channels.

b. Certain Third-Party Relationships and Misrepresentations

The proposal also provided that to the extent a third party has a business relationship with, and is serving as a deposit-taking channel for, an IDI, sound risk management would compel the IDI to be aware of the activities of the third party to ensure that the availability of deposit insurance is not being misrepresented. As such, the proposal would have required IDIs, as appropriate, to establish policies and procedures that include provisions related to the deposit-related services that a third party provides to the IDI or deposit-related products or services offered by the third party to other parties. These policies and procedures would include, as appropriate, provisions related to monitoring and evaluating whether such third parties are in compliance with subpart B.

c. Reservation of Authority

The proposal reserved the FDIC's authority to take appropriate actions, including supervisory or enforcement actions, against any person that violates part 328. The existence of adequate policies and procedures would not preclude the FDIC from taking actions against IDIs or third parties to address violations.

Comments

Some commenters expressed concerns that the proposed policies and procedures requirement was not aligned with existing interagency third-party risk management guidance. In addition, commenters recommended excluding non-contractual relationships from the scope of the rule and clarifying that the involvement of non-marketing related deposit services does not automatically implicate the proposed rule. Other commenters requested the FDIC cover only third parties with a contractual relationship with the IDI addressing the offering or sales of the IDI's insured deposits, and only relationships involving marketing and public dissemination of information on FDIC deposit insurance. Another commenter requested that the FDIC exclude deposit products traded in secondary markets, such as certificates of deposit, because IDIs have no control over representations made to secondary market purchasers.

Final Rule

Under 12 CFR 328.8, the FDIC is finalizing the policies and procedures requirement for IDIs as proposed. As part of the final rule, IDIs must establish and maintain written policies and procedures to achieve compliance with part 328. Such policies and procedures must be commensurate with the nature, size, complexity, scope, and potential risk of the deposit-taking activities of the IDI and must include, as appropriate, provisions related to monitoring and evaluating activities of persons that provide deposit-related services to the IDI or offer the IDI's deposit-related products or services to other parties.

This new requirement is consistent with the *Interagency Guidance on Third-Party Relationships: Risk Management* that was issued earlier this year.[51] The interagency guidance underscores that a banking organization's use of third parties can increase its risk, and that the use of third parties does not diminish or remove a banking organization's responsibility to perform all activities in a safe and sound manner and in compliance with applicable laws and regulations, including those related to consumer protection.

Here, the policies and procedures established and maintained by IDIs will facilitate compliance with part 328, including by ensuring that appropriate monitoring is conducted and evaluations are performed regarding activities of certain persons that provide deposit-related services to IDIs or offer an IDI's deposit products or services to other parties. The policies and procedures will help ensure activities are conducted in compliance with applicable laws and that IDIs are aware of whether certain third parties are in violation of subpart B of part 328. Having these policies and procedures in place will help mitigate the risks of consumer harm and confusion, consistent with the statutory purpose underlying section 18(a) of the FDI Act and the FDIC's mission to maintain and promote public confidence in the banking system.

IDIs should include reasonable provisions regarding compliance with part 328 in their policies and procedures, including addressing for example: the use of FDIC-Associated Terms or FDIC-Associated Images by third parties in a manner that inaccurately states or implies that a person other than an IDI is insured by FDIC; statements made that represent or imply that an advertised product is insured by the FDIC but fail to identify the IDI; and ensuring the marketing and advertising information or materials presented or made available to prospective depositors by third parties do not misrepresent the insurability of the IDI's financial products. The FDIC

[50] *See* Federal Trade Commission, *.com Disclosures: How to Make Effective Disclosures in Digital Advertising, available at: https://www.ftc.gov/system/files/documents/plain-language/bus41-dot-com-disclosures-information-about-online-advertising.pdf.*

[51] *See* 88 FR 37920 (June 9, 2023).

expects that IDIs, as appropriate, will implement, or enhance, current policies and procedures related to training staff to review any marketing and advertising materials about the IDI's deposit products and services and to monitor and evaluate compliance with part 328.

With respect to the comments related to the scope of the third parties' activities, IDIs should establish and maintain policies and procedures to evaluate and monitor, as appropriate, any deposit insurance-related representations made by third parties that provide deposit-related services to the IDI or offer the IDI's deposit-related products or services to other parties. More specifically, IDIs should consider the extent to which their third-party relationships involve representations or statements subject to part 328, and the role third parties have in crafting or presenting such representations or statements for prospective depositors. For example, a third-party relationship for web hosting services may not warrant policies or procedures for compliance with part 328 to the extent the third party simply publishes and hosts content developed and directed by the IDI. However, if the IDI offers a deposit account through or by a non-bank third party on a consumer-facing website with the branding and marketing of a non-bank third party, that third party may be making representations to consumers to describe the product's characteristics in a manner that is covered by part 328 subpart B. This would warrant that the IDI include provisions in its policies and procedures to monitor and evaluate compliance with part 328 by the third party. The IDI should also consider steps that it would take to mitigate any misrepresentations related to deposit insurance that could cause potential consumer confusion and harm regarding a product provided by the IDI.

Commenters also suggested that the policies and procedures requirement should exclude non-contractual relationships. While the FDIC understands that IDIs often have provisions in their contracts with third parties to review certain marketing materials, the FDIC believes that limiting the scope of this requirement to only situations where IDIs have contractual relationships with third parties would not capture IDI relationships with certain third parties that the rule is intended to capture.

In response to commenter concerns about the scope of this requirement, the FDIC notes that the policies and procedures related to certain third parties are required to be commensurate with the nature, size, complexity, scope, and potential risk of the deposit-taking activities. With regard to third-party relationships, IDIs will be expected to utilize a risk-based approach in determining the nature and extent of the policies and procedures that are needed to monitor and evaluate certain third parties' compliance with part 328 subpart B. For example, there may be third parties that have long-standing, well-established relationships with the IDI such that the third party has been offering products and services on the IDI's behalf for many years and appropriately representing deposit insurance. In such instances, the IDI might deem the relationship to be one that warrants less extensive monitoring and evaluation, depending on the relationship and potential risk. The FDIC notes, however, that such relationships could experience significant changes, including in personnel, risk management philosophy, or new types of products offered, that may warrant more extensive policies and procedures. Likewise, the IDI may be involved in nascent relationships with novel arrangements and products that present a greater risk of consumer confusion and warrant more extensive monitoring and evaluation. As such, IDIs should ensure that the nature and scope of the policies and procedures under the final rule are tailored to the risks identified. The policies and procedures should effectively identify, address, and mitigate potential deposit insurance misrepresentations identified by the IDI. It is also prudent for policies and procedures to include provisions ensuring that third parties that provide marketing or joint marketing services, web and other electronic channel design, or similar services, are aware of the IDI's compliance responsibilities under part 328.

Finally, the FDIC notes that if a non-bank misrepresents deposit insurance, the FDIC would still expect to devote attention to taking action against the non-bank, formally or informally, under part 328 subpart B, regardless of the presence of a bank partner.

8. Crypto-Assets

Proposed Rule

Among other things, part 328 prohibits any person from representing or implying that any uninsured financial product is insured or guaranteed by the FDIC.[52] This prohibition applies to advertisements, publications, and other disseminations of information. The FDIC has noted a number of misrepresentations of deposit insurance coverage for crypto-assets,[53] and proposed to amend part 328 to reinforce that representations regarding deposit insurance in the crypto-asset marketplace fall within its scope. Specifically, the FDIC proposed to amend the definitions of ''Non-Deposit Product'' and ''Uninsured Financial Product'' in subpart B to include crypto-assets and define crypto-asset as ''any digital asset implemented using cryptographic techniques.''

The proposed rule also included crypto-assets in subpart A's definition of ''non-deposit product'' using the definition of ''crypto-asset'' described above. Accordingly, the non-deposit sign requirements proposed in subpart A would apply to crypto-assets. For example, if an IDI's ATM offered customers the ability to purchase crypto-assets, the ATM would be required to clearly, continuously, and conspicuously display disclosures indicating that the crypto-assets are not insured by the FDIC, are not deposits, and may lose value.

Discussion of Comments

Commenters generally supported the FDIC's efforts to address deposit insurance misrepresentations involving crypto-assets. Commenters also supported including crypto-assets in the definition of ''uninsured financial product'' and applying disclosure requirements for non-deposit products to crypto-assets. One commenter noted that misrepresentations made by prominent crypto-related entities demonstrate the necessity of the FDIC's proposed rules.

Commenters also raised concerns with the proposed definition of ''crypto-asset.'' A venture capital firm commented that the proposed definition of ''crypto-asset'' was over inclusive and vague. Specifically, the commenter explained that ''cryptographic techniques'' could refer to a variety of technologies not associated with the crypto-asset ecosystem, such as the end-to-end encryption technology that secures common communications applications. The commenter stated that the broader context of the FDIC's proposal did not indicate an intent to

[52] ''Uninsured Financial Product'' is currently defined to include non-deposit products, hybrid products, investments, securities, obligations, certificates, shares, or financial products other than insured deposits.

[53] *See* FDIC Press Release PR–60–2022, *FDIC Issues Cease and Desist Letters to Five Companies for Making Crypto Related False or Misleading Representations About Deposit Insurance* (Aug. 19, 2022); FDIC Press Release PR–9–2023, *FDIC Demands Four Entities Cease Making False or Misleading Representations About Deposit Insurance* (Feb. 15, 2023).

capture such usage. The commenter recommended an alternative definition and suggested that it did not present the same ambiguities as the proposal, making the amendment to part 328 more practicable.

A trade association and a consortium composed of banks and technology firms each raised the concern that the proposed definition of ''crypto-asset'' could be problematic for banks that seek to employ blockchain technology in offering their deposit products. These commenters suggested that the proposed rule's broad definition of ''crypto-asset'' might be read to include a traditional deposit product if the bank offering it were to employ blockchain technology. The consortium stated that equating a traditional deposit product to the crypto-asset products offered by non-banks would disadvantage regulated financial institutions and deter banks from leveraging blockchain technology to improve their products.

Another trade association stated that regulators will need to pay close attention to the rapidly expanding landscape of bank products, particularly offerings involving cryptocurrencies and tokenized assets that reside on blockchains. The commenter further stated that as tokenization increases in popularity, the risk of a traded asset being confused with a bank deposit will increase as customers navigate complex product offerings that blur the lines between bank deposits and non-deposit products.

Final Rule

The FDIC recognizes that the proposed definition of ''crypto-asset'' may have been over inclusive for the purposes of this regulation. This definition was not intended to capture, for example, the use of encrypted communications technology by firms developing or offering financial products. As pointed out by commenters, however, the proposed definition of ''crypto-asset'' included language (''any digital asset implemented using cryptographic techniques'') susceptible to a broad interpretation. The FDIC notes that the proposed definition of ''crypto-asset'' was limited to ''digital asset[s]'' that are implemented using cryptographic techniques, and it is not clear that traditional deposit products could be considered ''digital assets.'' Nevertheless, the FDIC agrees that the proposed definition was somewhat ambiguous in this respect.

While one commenter recommended an alternative definition for the term ''crypto-asset,'' the FDIC is concerned that the commenter's proposed two-part test—(1) that the asset confers economic, proprietary, or access rights or powers, and (2) is recorded using a cryptographically secured distributed ledger or similar technology—could be too narrow to capture some digital assets that are broadly recognized as crypto-assets by market participants today. This could be interpreted to exempt digital assets lacking certain specific characteristics from the regulations regarding misrepresentation of deposit insurance, which would be inconsistent with the FDIC's policy goals. The FDIC is also mindful that, as noted by a commenter, the landscape of these products continues to evolve rapidly.

The FDIC further notes that the proposed definition of ''uninsured financial product'' included any financial product that is not a deposit. The definition's enumerated list of uninsured products serve as examples, rather than an exhaustive list, of the products that are not insured by the FDIC. In determining whether a particular product is an ''uninsured financial product'' for purposes of part 328, the test is whether that product falls within the statutory definition of ''deposit.'' [54] The FDIC also notes that, of the products listed in the proposed definition of ''uninsured financial product,'' only ''crypto-asset'' was specifically defined in the proposal.

In light of this, the final rule adopts a more flexible approach better suited to an evolving landscape. While ''crypto-asset'' is included in the products listed in the definition of ''uninsured financial product,'' the FDIC is not including a specific definition of ''crypto-asset'' in part 328. The FDIC believes this approach will signal that representations regarding deposit insurance in the crypto-asset marketplace are subject to the prohibitions of section 18(a) and part 328, like other financial products, without relying on a specific regulatory definition of ''crypto-asset'' that could quickly become obsolete. The FDIC has publicly stated that crypto-assets are not insured by the FDIC.[55] As noted above, the test of whether a particular financial product is an ''uninsured financial product'' will continue to be based upon application of the statutory definition of ''deposit,'' and is by its nature fact specific.

D. Expected Effects

Costs

The costs of the final rule will be incurred by IDIs, as well as some non-banks that may need to update disclosures or marketing materials. This section addresses these two groups separately.

Costs to IDIs

According to data from recent Reports of Condition and Income (Call Reports), the FDIC insures the deposits of 4,654 IDIs operating approximately 80 thousand branches in the United States.[56] These IDIs are currently subject to the existing requirements of part 328, so the costs incurred by these IDIs due to the final rule will be limited to activities to ensure compliance with the new provisions in the final rule and ameliorated by the extent to which IDIs are already complying with the new provisions. These activities include updating the display of FDIC signs in both physical and digital locations where deposits are normally received (including ATMs and websites), creating and maintaining signs for non-deposit products, segregating areas related to the sale of non-deposit products from areas where insured deposits are normally received, and ensuring that FDIC signs are not displayed in close proximity with non-deposit product signs.

Data on the costs of updating the displays of signs and segregating physical areas within bank premises are unavailable, but the FDIC expects these costs would depend on the number of branches operated by each IDI as well as the complexities of each IDI's branches and other premises. The FDIC expects that larger banks are more likely to have branches that are nontraditional, complex, and/or offer both deposit and non-deposit products. For purposes of the final rule, the FDIC estimates that IDIs with less than $10 billion in assets will spend, on average, approximately one hour per year to complete these activities at each branch while IDIs with at least $10 billion in total consolidated assets (assets) will spend, on average, approximately two hours per year per branch, for a total estimated annual burden of approximately 120 thousand hours per year across all IDIs [57] at an

[54] *See* 12 U.S.C. 1813(*l*).

[55] *See* Fact Sheet, *What the Public Needs to Know About FDIC Deposit Insurance and Crypto Companies* (July 28, 2022), *available at: https://www.fdic.gov/news/fact-sheets/crypto-fact-sheet-7-28-22.pdf.* While blockchain technology may be used for purposes other than the creation of crypto-assets, the FDIC is not expressing a view with respect to whether a product employing such technology could meet the definition of a ''deposit'' in this final rule.

[56] Call Reports as of June 30, 2023.

[57] According to Call Reports as of June 30, 2023, there were 4,496 IDIs with assets less than $10 billion operating 33,479 branches and 158 IDIs with assets at least $10 billion operating 44,133 branches.

estimated annual cost of approximately $10 million.[58]

The costs of complying with the final rule's requirements for digital deposit-taking channels will also depend on the complexities of each IDI's digital deposit-taking operations. The FDIC expects that larger banks are more likely to have more complex digital operations or offer both deposit and non-deposit products through their digital deposit-taking operations. For purposes of the final rule, the FDIC estimates that, on average, IDIs will incur a one-time burden of sixty hours to update their digital operations to incorporate the requirements in the final rule, at an approximate cost of $23 million for the industry.[59] The FDIC also estimates that, in years subsequent to the enactment of the final rule, IDIs with less than $10 billion in assets will spend, on average, approximately ten additional hours per year to comply with the digital deposit-taking operation requirements of the final rule, while IDIs with at least $10 billion in assets will spend, on average, approximately twenty additional hours per year, at an estimated annual cost of approximately $4 million for the industry.[60]

Finally, all IDIs must update their policies and procedures to comply with the final rule. These policies and procedures are required to include, as appropriate, provisions related to monitoring and evaluating whether certain third parties are in compliance with subpart B. The FDIC recognizes that the costs to implement and maintain these policies and procedures will vary across IDIs in ways that depend on the specifics of each IDI's operations or relationships with certain third parties. For purposes of the final rule, the FDIC estimates that, on average, IDIs will incur a one-time burden of eighty hours to update their policies and procedures to incorporate the requirements in the final rule, at an approximately cost of $31 million for the industry.[61] The FDIC also estimates that, in years subsequent to the enactment of the proposed rule, IDIs will spend, on average, approximately seventeen additional hours per year to ensure that their policies and procedures maintain compliance with the final rule,[62] at an estimated annual cost of approximately $7 million for the industry.[63] Based on the preceding analysis, the FDIC expects that the banking industry will incur approximately $64 million in the first year after adoption and approximately $20 million in each subsequent year to comply with the amendments to part 328.

Costs to Non-Banks

The FDIC does not have direct data on the number of non-banks that will be affected by the final rule. FDIC staff believe that the non-banks affected by the final rule would generally be classified in the following North American Industry Classification System (NAICS) industries: Miscellaneous Financial Investment Activities (NAICS Code 523999), Financial Transaction Processing, Reserve & Clearinghouse Activities (NAICS Code 522320), Computer System Design and Related Services (NAICS Code 5415), and Investment Advice (NAICS Code 523930). According to recent Census data, there were 148,235 firms in these NAICS industries in 2020, the most recent year for which such data is available.[64] However, not all of these firms enter into agreements with IDIs or otherwise engage in operations related to insured deposits; FDIC staff believe that the number of non-banks engaged in such operations is likely considerably less than the number of IDIs. For purposes of the final rule, the FDIC estimates that the number of affected non-banks will be approximately one percent of firms in the NAICS industries listed above. Therefore, the FDIC estimates that approximately 1,500 non-banks will be affected by the proposed rule.

Non-banks have been statutorily prohibited from falsely representing that uninsured financial products are FDIC-insured for many years. Thus, the final rule will not create a new prohibition on such misrepresentations, but will clarify the types of communications that can materially misrepresent deposit insurance coverage. The non-banks affected by the final rule may need to update their disclosures and marketing materials to ensure that they neither misuse the FDIC's official sign or any FDIC-associated terms or images, nor omit or fail to clearly and conspicuously disclose material information that could lead to a reasonable consumer being unable to understand the extent or manner of deposit insurance provided. For purposes of the final rule, the FDIC estimates that, on average, each non-bank will spend an additional 2.5 hours in the first year to implement these changes and one hour per year to maintain compliance with the amendments to subpart B, for a total cost of approximately $300 thousand for the first year and $125 thousand for each subsequent year across all non-banks affected by the rule.[65]

E. Benefits

Provided that affected entities are not already complying with certain aspects of the final rule, the FDIC expects the final rule to produce benefits for the general public by providing clarity, and requiring affected entities to provide such clarity, to consumers about the extent to which or the manner in which products are insured by the FDIC. This clarity is expected to help consumers to more clearly understand when they are conducting business with IDIs and when their funds are protected by FDIC deposit insurance, thereby helping them avoid incurring financial losses as a result of investing in products they mistakenly thought were FDIC-insured. The final rule will reduce ambiguity about the nature of deposit insurance in situations where non-deposit products are offered by IDIs, where insured deposits are advertised by non-banks, or where both non-deposit products and deposit products are offered at the same location. The final rule will extend these benefits to digital deposit-taking channels where physical segregation is

[58] Dollar costs for this analysis are based on a $82.38 total hourly cost of compensation, a weighted average of the 75th percentile hourly wages reported by the Bureau of Labor Statistics (BLS) National Industry-Specific Occupational Employment and Wage Estimates (OEWS) across five occupational groups in the Depository Credit Intermediation sector, as of May 2022, and adjusted by 1.51 to include non-wage compensation and 1.05 to account for the change in the seasonally adjusted Employment Cost Index for the Credit Intermediation and Related Activities sector (NAICS Code 522) between March 2022 and June 2023. For this analysis, the FDIC uses the following estimated occupational burden weights and occupational hourly labor costs: 14.6 percent for executives and managers at $131.66 per hour, 2.8 percent for lawyers at $169.85 per hour, 35.7 percent for compliance officers at $65.27 per hour, 28.5 percent for IT professionals at $103.74 per hour, and 18.3 percent for clerical workers at $37.09 per hour.

[59] According to Call Reports as of June 30, 2023: $23 million = 4,654 IDIs × 60 hours per IDI × $82.38 per hour.

[60] According to Call Reports as of June 30, 2023: $4 million = 4,496 IDIs × 10 hours per IDI × $82.38 per hour + 158 IDIs × 20 hours per IDI x $82.38 per hour.

[61] According to Call Reports as of June 30, 2023: $31 million = 4,654 IDIs × 80 hours per IDI × $82.38 per hour.

[62] The FDIC estimates that twelve of the seventeen hours are recordkeeping costs under the Paperwork Reduction Act. The five remaining hours are regulatory costs of compliance that are not under the Paperwork Reduction Act.

[63] According to Call Reports as of June 30, 2023: $7 million = 4,654 IDIs × 17 hours per IDI × $82.38 per hour.

[64] *See* United States Census Bureau, *2020 SUSB Annual Data Tables by Establishment Industry, available at: https://www.census.gov/data/tables/2020/econ/susb/2020-susb-annual.html,* last retrieved on October 23, 2023.

[65] Assuming the same average hourly wage as calculated for IDIs: 1,500 non-banks × 2.5 hours per non-bank × $82.38 per hour = approximately $300 thousand. 1,500 non-banks × 1 hour per non-bank × $82.38 per hour = approximately $125 thousand.

not possible. The final rule will also require the clear, conspicuous, and consistent use of the official FDIC sign and symbol in both physical and digital locations. These requirements are expected to enhance consumers' recognition of the FDIC's guarantee and reassure them of the nature of deposit insurance for those products. This effect will reinforce the role of FDIC deposit insurance and may bolster confidence in the U.S. banking sector.

As discussed previously, the final rule will further clarify the FDIC's procedures for evaluating potential violations of section 18(a)(4). The final rule will generally be consistent with existing practices used by the FDIC with respect to these matters. Furthermore, the final rule will not affect the application of related criminal prohibitions under 18 U.S.C. 709. Therefore, the FDIC believes that this aspect of the final rule is unlikely to have any significant effect on formal or informal enforcement of the section 18(a)(4) prohibitions.

By providing the clarity described above, the FDIC believes the final rule is likely to curtail instances in which IDIs or non-banks potentially misuse or misrepresent the FDIC's name or logo.[66] Consumers' uncertainty as to the safety of their funds may weaken the confidence that underpins bank stability and our nation's broader financial system. The final rule is likely to reduce the frequency of these types of instances going forward. The FDIC does not have the data to quantify the cost savings of this effect but expects that the reduction in such instances would strengthen public confidence in the FDIC deposit insurance and the nation's banking system.

The FDIC invited comment on the expected effects of the proposed rule. Some commenters opined that burden costs borne by smaller banks may be similar to or even higher than those borne by larger banks. Other commenters noted that the increased digital signage requirements, including the pop-up requirements, may require smaller banks to adopt more complex and costly digital platforms. The FDIC recognizes that there will be variation in the costs of compliance across banks and that some small banks may incur higher compliance costs than others. After consideration of the public comments, the final rule has narrowed the one-time notification requirement to reduce the cost and complexity while also achieving the relevant policy goals, and maintains the hourly compliance estimates presented in the proposed rule. The cost estimates described in this section reflect the FDIC's supervisory experience that larger banks have, on average, higher costs for the maintenance of signage at their physical branches and the maintenance of their digital operations.

[66] There have been at least 165 such instances recently. *See* FDIC, *2019 Annual Report,* at 38 and FDIC, *2020 Annual Report,* at 47.

F. Alternatives Considered

The FDIC has considered a number of alternatives to the final rule that could meet its objectives in this rulemaking, including proposals suggested by commenters in response to the 2020 and 2021 RFIs and the NPR. Some of these alternatives have been discussed above and additional alternatives are described below. For the reasons described, the FDIC views the final rule as the most appropriate and effective means of achieving its policy objectives with respect to part 328.

Alternatives to Digital Official Sign for Digital Deposit-Taking Channels

With respect to digital deposit-taking channels, the FDIC considered alternatives to the digital official sign required by the final rule, including plain text signage and disclosure requirements.[67] As discussed above, the FDIC official digital sign is intended to quickly and visually convey to consumers that they are dealing directly with an IDI rather than a non-bank entity. This distinction is critical to understanding the risks a consumer faces, and the FDIC believes that it warrants a requirement for consistent visual signage. Plain text signage or disclosures would not achieve this objective as effectively.

Official Advertising Statement Requirements—Allow ''One-Click-Away'' Disclosures

Some commenters recommended that the FDIC adopt a ''one click away'' approach for electronic or digital advertisements (where the advertising statement may not be immediately visible to consumers but could be reached through one mouse click) in order to permit greater flexibility in advertising formats.[68] The FDIC believes that the final rule better meets its objectives, as a ''one click away'' approach places the burden on consumers to obtain the necessary information and makes it less likely that they will do so. In addition, the advertising statement options available to IDIs under the final rule allow significant flexibility in advertising formats, as IDIs could use short titles including ''Member of FDIC'', ''Member FDIC'', or ''FDIC-insured''. The FDIC believes that these options are sufficient to permit advertising flexibility.

[67] *See e.g.,* Hancock Whitney Bank Comment Letter to 2021 RFI (May 24, 2021); Kasasa Comment Letter to 2020 RFI (March 24, 2020) (stating that the official sign should not be required on an IDI's website or mobile applications but suggesting the FDIC require, at minimum, the FDIC advertising statement on certain pages).

[68] *See* Hancock Whitney Bank Comment Letter to 2021 RFI (May 24, 2021); American Bankers Association and Bank Policy Institute joint comment letter to 2021 RFI (May 21, 2021); Kasasa Comment Letter to 2020 RFI (March 24, 2020).

Additional Disclosures Requiring a Consumer's Signature for Non-Deposit Products Offered Within an IDI's Physical Premises

One commenter recommended that the FDIC require written and oral disclosures with respect to the sale or recommendation of any non-deposit product offered within an IDI's premises and to require a consumer's signature affirming their understanding. The FDIC believes that such additional requirements would be overly burdensome for IDIs. Accordingly, the final rule will not adopt this recommendation. However, nothing contained in this regulation should be read to limit the authority of any state or Federal agency or individual under any other laws that may require such disclosures.

G. Administrative Law Matters

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a final rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities.[69] However, a final regulatory flexibility analysis is not required if the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $850 million.[70]

[69] 5 U.S.C. 601 *et seq.*

[70] The SBA defines a small banking organization as having $850 million or less in assets, where an organization's ''assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' *See* 13 CFR 121.201 (as amended by 87 FR 69118, effective December 19, 2022). In its determination, the ''SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.'' *See* 13 CFR 121.103. Following these regulations, the FDIC uses an insured depository institution's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the insured

Continued

Generally, the FDIC considers a significant economic impact to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total noninterest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for FDIC-supervised institutions. For the reasons described below, the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

As described in the Expected Effects section, the proposed rule is expected to affect all institutions whose deposits are insured by the FDIC, as well as non-banks who may potentially use the official FDIC sign, advertising statements, or otherwise make representations that their products are insured or guaranteed by the FDIC. According to recent Call Reports, there are 4,654 IDIs.[71] Of these, approximately 3,373 are considered small entities for the purposes of RFA.[72] These small IDIs operate approximately 13 thousand deposit-taking offices. The number of deposit-taking offices at each small IDI ranges from 1 to 21. As discussed in the Expected Effects section, the FDIC expects affected IDIs with less than $10 billion in assets, which are likely to have less complex deposit-taking operations and fewer offices than larger IDIs, to spend, on average, 60 hours to update their digital operations, 80 hours to implement policies and procedures, and seven hours to update physical signage at branches in the first year. At average labor costs of $82.38 per hour, the expected first-year costs of complying with the proposed rule would average less than a percent of the small IDIs' total annual salaries and benefits. These expected first-year costs would exceed five percent of the total annual salaries and benefits for fewer than 20 small IDIs (comprising less than one percent of the total number of affected small IDIs). For subsequent years, the costs of maintaining compliance are even smaller. Thus, the proposed rule would not significantly affect a substantial number of small IDIs.

As described in the Expected Effects section, the FDIC estimates that 1,500 non-banks would be affected by the final rule. The FDIC does not have data on the number of non-banks that would be considered small entities for the purposes of RFA. As a conservative estimate, the FDIC assumes all 1,500 affected non-banks are small. As discussed in the Expected Effects section, the FDIC estimates that each non-bank, on average, would incur an additional 2.5 hours in the first year and 1 hour in each subsequent year to comply with the proposed amendments to subpart B. At an estimated compensation rate of $82.38, the expected costs of complying with the proposed rule would be less than $300 per year per non-bank, on average.

The final rule may also affect private individuals who may potentially misuse the FDIC name or logo or misrepresent the nature of deposit insurance. Private individuals are not considered ''small entities'' under the RFA.

Given that the expected costs of the proposed rule would be relatively small, the FDIC certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521), the FDIC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. Certain provisions of the proposed rule contain ''collection of information'' requirements within the meaning of the PRA.[73] The information collection requirements (IC) contained in this final rule have been submitted to OMB for review and approval by the FDIC under section 3507(d) of the PRA and section 1320.11 of OMB's implementing regulations (5 CFR part 1320) as a new information collection.

Title of Proposed Information Collection: Disclosure, Recordkeeping and Reporting Requirements Related to FDIC's Official Sign and Advertising Requirements, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo.

OMB Control Number: 3064–0219

Affected Public: Businesses or other for-profit.

Respondents: Any FDIC-insured depository institution and persons that provide deposit-related services to insured depository institutions or offer insured depository institution's deposit-related products or services to other parties.

Estimated Annual Burden:

The final rule contains the following ten (10) information collection requirements:

1. Signs within Institution Premises—Banks <$10B, 12 CFR 328.3 (Third-Party Disclosure; Mandatory). Section 328.3 imposes PRA third-party disclosure burden governing signage within the premises of insured depository institutions. This burden is associated with the display of signage for non-deposit products, segregating areas offering non-deposit products, and the use of electronic media. The FDIC believes the hourly burden for these activities differs among respondents. For purposes of PRA, the FDIC would split the burden into two information collection categories: one for banks with less than $10 billion in total consolidated assets (assets) and one for banks with at least $10 billion in assets. This IC captures the burden for the former group.

2. Signs within Institution Premises—Banks >$10B, 12 CFR 328.3 (Third-Party Disclosure; Mandatory). Section 328.3 imposes PRA third-party disclosure burden governing signage within the premises of insured depository institutions. This burden is associated with the display of signage for non-deposit products, segregating areas offering non-deposit products, and the use of electronic media. The FDIC believes the hourly burden for these activities differs among respondents. For purposes of PRA, the FDIC would split the burden into two ICs: one for banks with less than $10 billion in total consolidated assets (assets) and one for banks with at least $10 billion in assets. This IC captures the burden for the latter group.

3. Signage for ATMs and Digital Deposit-taking Channels—Implementation, §§ 328.4 and 328.5 (Third-Party Disclosure; Mandatory). Sections 328.4 and 328.5 impose PRA third-party disclosure burden governing signs for ATMs as well as digital deposit-taking channels. This burden is associated with the display of signage for both deposit and non-deposit products. The FDIC believes banks will incur burdens in the first year to update their digital channels to incorporate the amended requirements in the rule. This IC captures the burden for these implementation activities.

4. Signage for ATMs and Digital Deposit-taking Channels—Banks <$10B—Ongoing, §§ 328.4 and 328.5 (Third-Party Disclosure; Mandatory). Sections 328.4 and 328.5 impose PRA third-party disclosure burden governing signs for ATMs as well as digital deposit-taking channels. This burden is associated with the display of signage

depository institution is ''small'' for the purposes of RFA.

[71] Call Reports as of June 30, 2023.

[72] *Id.*

[73] Information collection is defined under OMB's regulations at 5 CFR 1320(c). Certain requirements in part 328 for public disclosure of the FDIC name and/or logo are not information collections. *See* 5 CFR 1320(c)(2).

for deposit and non-deposit products. The FDIC believes that, in years subsequent to implementation, banks would incur ongoing burdens to update and maintain their digital channels to ensure continual compliance with the requirements in the rule. For purposes of PRA, the FDIC would split this ongoing burden into two ICs: one for banks with less than $10 billion in total consolidated assets (assets) and one for banks with at least $10 billion in assets. This IC captures the burden for the former group.

5. Signage for ATMs and Digital Deposit-taking Channels—Banks >=$10B—Ongoing, §§ 328.4 and 328.5 (Third-Party Disclosure; Mandatory). Sections 328.4 and 328.5 impose PRA third-party disclosure burden governing signs for ATMs as well as digital deposit-taking channels. This burden is associated with the display of signage for deposit and non-deposit products. The FDIC believes that, in years subsequent to implementation, banks would incur ongoing burdens to update and maintain their digital channels to ensure continual compliance with the requirements in the rule. For purposes of PRA, the FDIC would split the burden into two ICs: one for banks with less than $10 billion in total consolidated assets (assets) and one for banks with at least $10 billion in assets. This IC captures the burden for the latter group.

6. Policies and Procedures—Implementation, 12 CFR 328.8 (Recordkeeping; Mandatory). Section 328.8 requires IDIs to establish and maintain written policies and procedures to achieve compliance with part 328 including provisions related to monitor and evaluate the activities of persons that provide deposit-related services to the IDI or offer the IDI's deposit-related products or services to other parties. The FDIC believes the hourly burden for these activities can be categorized into two distinct ICs covering: (1) implementation burdens incurred in the first year in which the policies and procedures are implemented; and (2) ongoing burden incurred every subsequent year to maintain compliance. This IC captures the implementation burden.

7. Policies and Procedures—Ongoing, 12 CFR 328.8 (Recordkeeping; Mandatory). Section 328.8 requires IDIs to establish and maintain written policies and procedures to achieve compliance with part 328 including provisions related to monitoring and evaluating the activities of persons that provide deposit-related services to the Insured Depository Institution or offer the Insured Depository Institution's deposit-related products or services to other parties. The FDIC believes the hourly burden for these activities can be categorized into two distinct ICs covering: (1) implementation burdens incurred in the first year in which the policies and procedures are implemented; and (2) ongoing burden incurred every subsequent year to maintain compliance. This IC captures the ongoing burden.

8. Insured Depository Institution Relationships—Implementation 12 CFR 328.102(b)(5) (Third-Party Disclosure; Mandatory). Section 328.102(b)(5) requires covered non-banks to ensure that their public statements regarding deposit insurance comply with the requirements in part 328. The FDIC believes the hourly burden for these activities can be categorized into two distinct ICs covering: (1) implementation burdens incurred in the first year in which the public statements are amended; and (2) ongoing burden incurred every subsequent year to ensure continual compliance. This IC captures the implementation burden.

9. Insured Depository Institution Relationships—Ongoing 12 CFR 328.102(b)(5) (Third-Party Disclosure; Mandatory). Section 328.102(b)(5) requires covered non-banks to ensure that their public statements regarding deposit insurance comply with the requirements in part 328. The FDIC believes the hourly burden for these activities can be categorized into two distinct ICs covering: (1) implementation burdens incurred in the first year in which the public statements are amended; and (2) ongoing burden incurred every subsequent year to ensure continual compliance. This IC captures the ongoing burden.

10. Request for Consent to Use Non-English Language Advertising Statement—12 CFR 328.3(f), proposed 12 CFR 328.6(f) (Reporting; Required to Obtain or Retain a Benefit). Existing § 328.3(f), which the proposed rule moves to § 328.6(f), requires IDIs to obtain prior written approval of the FDIC before using a non-English equivalent of the official FDIC advertising statement in an advertisement.

Methodology and Assumptions

Estimated Annual Number of Respondents

ICs 1–7 and IC 10 capture PRA burdens incurred by IDIs. According to recent Call Reports, the FDIC supervised approximately 4,564 IDIs.[74] These include 158 IDIs with assets at least $10 billion and 4,496 IDIs with assets less than $10 billion. Of these, 3,373 IDIs are considered small entities for purposes of the Regulatory Flexibility Act.

IC 1 captures PRA burdens incurred by all IDIs with less than $10 billion in assets, and IC 2 captures PRA burdens incurred by all IDIs with at least $10 billion in assets. Using the Call Report data summarized above, the FDIC estimates 4,496 annual respondents for IC 1 and 158 annual respondents for IC 2.

ICs 3 and 6 capture implementation burdens incurred by all 4,496 IDIs. Implementation burdens are incurred in the first year after the proposed rule would become effective. Given that this information collection request (ICR) covers PRA burdens over three years, the FDIC annualizes the counts of respondents by dividing the total number of respondents by three. Thus, the FDIC estimates 1,551 annual respondents for ICs 3 and 6.

ICs 4, 5, and 7 capture the ongoing PRA burdens incurred by the 4,496 IDIs with less than $10 billion in assets, the 158 IDIs with at least $10 billion in assets, and all 4,654 IDIs, respectively. Ongoing burdens are incurred in two of the three years after the rule would become effective. The FDIC annualizes the counts of respondents accordingly. Thus, the FDIC estimates 2,997 annual respondents for IC 4, 105 annual respondents for IC 5 and 3,103 annual respondents for IC 7.

ICs 8 and 9 capture PRA requirements incurred by non-banks. The FDIC does not have direct data on the number of non-banks that would be subject to part 328. The FDIC assumes that the affected non-banks would generally be classified in the following North American Industry Classification System (NAICS) industries: Miscellaneous Financial Investment Activities (NAICS Code 523999), Financial Transaction Processing, Reserve & Clearinghouse Activities (NAICS Code 522320), Computer System Design and Related Services (NAICS Code 5415), and Investment Advice (NAICS Code 523930). As discussed in the Expected Effects section, there were 148,235 firms in these NAICS industries in 2020, the most recent year for which such data is available. However, not all of these firms enter into agreements with IDIs or otherwise engage in operations related to insured deposits; the FDIC assumes that the number of non-banks engaged in such operations would be considerably less than the number of IDIs. For purposes of this estimation, the FDIC assumes that the number of covered non-banks would be approximately one percent of firms in the NAICS industries listed above.

[74] According to Call Reports as of June 30, 2023.

Therefore, the FDIC estimates that approximately 1,500 non-banks will incur burdens associated with part 328. ICs 8 and 9 are implementation and ongoing burdens, respectively. The FDIC annualizes the count of respondents accordingly. Thus, the FDIC estimates 500 annual respondents for IC 8 and 1,000 annual respondents for IC 9.

IC 10 captures PRA requirements incurred by IDIs that submit requests to the FDIC for the use of a non-English equivalent of the official FDIC advertising statement. The FDIC does not have data on the historical annual number of such requests submitted. However, the FDIC has not handled such a request since at least January 1, 2021, and believes it is unlikely that such a request from an IDI would be received within the next three years. As OMB's system of record for PRA burdens does not allow non-positive respondent counts, the FDIC uses an annual respondent count of one for IC 10 to preserve the estimated burden calculations.

Estimated Annual Number of Responses per Respondent

ICs 1 and 2 capture the activities that respondents undertake at each of their branches to comply with the PRA requirements in 12 CFR 328.3. For purposes of this ICR, the FDIC designates the activities at a single branch as a single response by the respondent. According to recent Call Reports, IDIs with assets less than $10 billion operate approximately seven branches each, on average, while IDIs with assets of at least $10 billion have approximately 279 branches each, on average.[75] Accordingly, the FDIC estimates seven responses per year for IC 1 and 279 responses per year for IC 2.

For ICs 3–10, the activities that respondents undergo throughout the year to comply with the PRA requirements in each IC can all be considered part of a single annual response to that IC. Therefore, the FDIC uses one as the number of annual responses per respondent for these ICs.

Estimated Burden Hours per Response

ICs 1 and 2 capture the third-party disclosure burden of ensuring that signage within the premises of insured depository institutions comply with part 328. Data on this burden is unavailable. The FDIC assumes that larger banks are more likely to have branches that are nontraditional, complex, and/or offer both deposit and non-deposit products. While smaller IDIs are more likely to operate simple branches that offer only deposit products and may not require extensive revisions of signage, those that do may require updates to their designated areas. For purposes of this ICR, the FDIC estimates the burden would be approximately one hour per branch, on average, for institutions with less than $10 billion in assets and approximately two hours per branch, on average, for institutions with at least $10 billion in assets. Accordingly, the FDIC estimates burdens as one hour per response for IC 1 and two hours per response for IC 2.

ICs 3, 4, and 5 capture the third-party disclosure burden of ensuring that signs for ATMs and digital deposit-taking channels comply with part 328. Data on this burden is unavailable. The FDIC assumes that larger banks are more likely to have more complex digital operations or offer both deposit and non-deposit products through their digital deposit-taking operations. However, these larger banks may also have permanent IT teams in place that could facilitate and/or reduce the hourly burden of these changes. Conversely, for smaller banks relying on third-party web service providers, many may be seeking compliance through the same channel as others, which could create a backlog of work on the third-party web service providers, making it so other small banks experience a delay in compliance timelines. For purposes of this ICR, FDIC assumes that each IDI will spend 60 hours, on average, in the first year to implement the changes to its ATM and digital deposit-taking channels to comply with part 328. In subsequent years, IDIs with less than $10 billion in assets would spend approximately 10 additional hours per year, on average, to maintain ongoing compliance, while IDIs with at least $10 billion in assets would spend approximately 20 additional hours per year, on average, to maintain ongoing compliance. As such, FDIC estimates burdens as 60 hours per response for IC 3, 10 hours per response for IC 4, and 20 hours per response for IC 5.

ICs 6 and 7 capture the recordkeeping burden of ensuring that the IDIs' policies and procedures comply with part 328. The FDIC assumes the recordkeeping burden imposed relates to documenting the development of policies and procedures by compliance officers and senior management that would be appropriate to the institution's risk profile. This program would then be reviewed, revised, and then approved by the board of directors or other executives at the institution. In addition, part 328 requires that IDIs monitor and evaluate certain third parties to ensure that these third parties are also in compliance with part 328. Additional recordkeeping burden would be incurred in documenting the results of such monitoring activities. Data on the hourly burden of these activities is unavailable. For purposes of this ICR, the FDIC assumes that each IDI, on average, would spend approximately 80 hours in the first year to establish and/or implement policies and approximately 12 hours in each subsequent year to revise and update these documents. The FDIC estimates burdens as 80 hours per response for IC 6 and 12 hours per response for IC 7.

ICs 8 and 9 capture the burden of ensuring that covered non-banks' third-party disclosures comply with part 328. Data on this burden is unavailable. The FDIC assumes each covered non-bank entity, on average, would spend approximately two and one-half hours in the first year to implement these procedures and approximately one hour in each subsequent year to revise and maintain ongoing compliance. The FDIC estimates burdens as two and one-half hours per response for IC 8 and one hour per response for IC 9.

IC 10 captures the reporting burden incurred when an IDI requests approval from the FDIC to use the non-English equivalent of the official advertising statement in any of its advertisements. The FDIC believes that an IDI would spend approximately two hours per year, on average, to prepare and submit such requests.

Estimated Annual Burden Summary

The estimated PRA burdens for the proposed rule are summarized in the *Summary of Estimated Annual Burden* table below. For each IC, the burden table lists the estimated annual number of responses per respondent and estimated time per response, as described in the sections above. Note that the counts of annual respondents for ICs 3–9 have been annualized to reflect a three-year PRA cycle in which respondents incur implementation costs in the first year and ongoing costs in the second and third years.

[75] According to Call Reports as of June 30, 2023, there were 4,496 IDIs with assets less than $10 billion operating 33,479 branches and 158 IDIs with assets at least $10 billion operating 44,133 branches.

SUMMARY OF ESTIMATED ANNUAL PRA BURDEN

Information collection (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Average number of responses per respondent	Average time per response (HH:MM)	Annual burden (hours)
1. Signs within Institution Premises—Banks <$10B, 12 CFR 328.3 (Mandatory).	Third-Party Disclosure (Annual).	4,496	7	1:00	31,472
2. Signs within Institution Premises—Banks >=$10B, 12 CFR 328.3 (Mandatory).	Third-Party Disclosure (Annual).	158	279	2:00	88,164
3. Signage for ATMs and Digital Deposit-taking Channels—Implementation, 12 CFR 328.4 and .5 (Mandatory).	Third-Party Disclosure (Annual).	1,551	1	60:00	93,060
4. Signage for ATMs and Digital Deposit-taking Channels—Banks <$10B—Ongoing, 12 CFR 328.4 and .5 (Mandatory).	Third-Party Disclosure (Annual).	2,997	1	10:00	29,970
5. Signage for ATMs and Digital Deposit-taking Channels—Banks >=$10B—Ongoing, 12 CFR 328.4 and .5 (Mandatory).	Third-Party Disclosure (Annual).	105	1	20:00	2,100
6. Policies and Procedures—Implementation, 12 CFR 328.8 (Mandatory).	Recordkeeping (Annual)	1,551	1	80:00	124,080
7. Policies and Procedures—Ongoing, 12 CFR 328.8 (Mandatory).	Recordkeeping (Annual)	3,103	1	12:00	37,236
8. Insured Depository Institution Relationships—Implementation 12 CFR 328.102(b)(5) (Mandatory).	Third-Party Disclosure (Annual).	500	1	2:30	1,250
9. Insured Depository Institution Relationships—Ongoing 12 CFR 328.102(b)(5) (Mandatory).	Third-Party Disclosure (Annual).	1,000	1	1:00	1,000
10. Request for Consent to Use Non-English Language Advertising Statement—12 CFR 328.6(f) (Required to Obtain or Retain a Benefit).	Reporting (On occasion).	1	1	2:00	2
Total Annual Burden (Hours)					408,334

Source: FDIC.

Note: The annual burden estimate for a given collection is calculated in two steps. First, the total number of annual responses is calculated as the whole number closest to the product of the annual number of respondents and the annual number of responses per respondent. Then, the total number of annual responses is multiplied by the time per response and rounded to the nearest hour to obtain the estimated annual burden for that collection. This rounding ensures the annual burden hours in the table are consistent with the values recorded in the OMB's regulatory tracking system.

Riegle Community Development and Regulatory Improvement Act

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA) requires that the Federal banking agencies, including the FDIC, in determining the effective date and administrative compliance requirements of new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations subject to certain exceptions, new regulations and amendments to regulations prescribed by a Federal banking agency which impose additional reporting, disclosures, or other new requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form.

Congressional Review Act

For purposes of the Congressional Review Act (5 U.S.C. 801 *et seq.*), the OMB makes a determination as to whether a final rule constitutes a ''major rule.'' If a rule is deemed a ''major rule'' by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication. The Congressional Review Act defines a ''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in: (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.[76] The FDIC has submitted the final rule to the OMB for this major rule determination. As required by the Congressional Review Act, the FDIC will also submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.[77]

Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the **Federal Register** after January 1, 2000. The FDIC invited comment regarding the use of plain language, but did not receive any comments on this topic.

List of Subjects in 12 CFR Part 328

Advertising, Bank deposit insurance, Savings associations, Signs and symbols.

[76] *See* 5 U.S.C. 804(2).

[77] *See* 5 U.S.C. 801(a)(1).

Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation amends part 328 of title 12 of the Code of Federal Regulations as follows:

PART 328—FDIC OFFICIAL SIGNS, ADVERTISEMENT OF MEMBERSHIP, FALSE ADVERTISING, MISREPRESENTATION OF INSURED STATUS, AND MISUSE OF THE FDIC'S NAME OR LOGO

■ 1. The authority citation for part 328 continues to read as follows:

Authority: 12 U.S.C. 1818, 1819 (Tenth), 1820(c), 1828(a).

■ 2. Revise the part heading to read as set forth above.

■ 3. Revise subpart A to read as follows:

Subpart A—FDIC Official Signs and Advertisement of Membership

Sec.

§ 328.0 Purpose.

Subpart A of this part describes the official signs and advertising statement and prescribes their use by insured depository institutions, as well as other signs to prevent customer confusion in the event non-deposit products are offered by an insured depository institution. Subpart A applies to insured depository institutions, including insured branches of foreign banks, but does not apply to non-insured offices or branches of insured depository institutions located in foreign countries.

§ 328.1 Definitions.

Branch has the same meaning as the term ''domestic branch'' as set forth under section 3(*o*) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(*o*).

Corporation means the Federal Deposit Insurance Corporation.

Deposit has the same meaning as set forth under section 3(*l*) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(*l*).

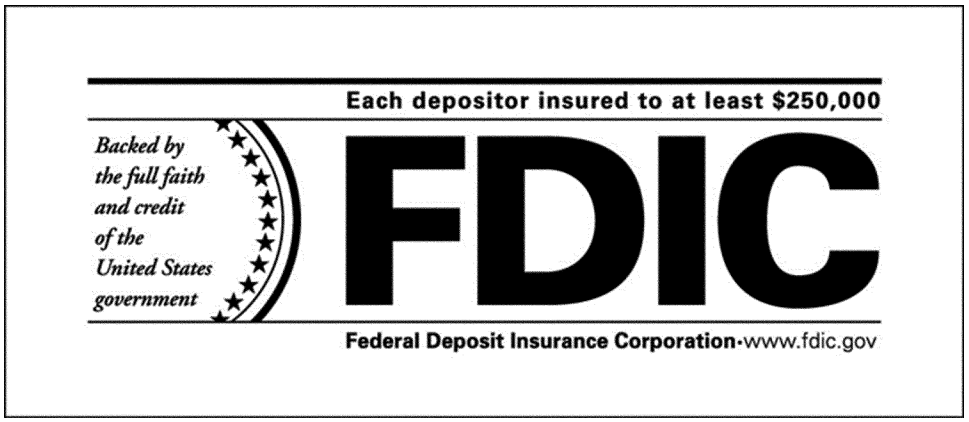
Digital deposit-taking channel means websites, banking applications, and any other electronic communications method through which an insured depository institution accepts deposits. *Hybrid product* means a product or service that has both deposit product features and non-deposit product features. A sweep account is an example of a hybrid product.

Insured depository institution has the same meaning as set forth under section 3(c)(2) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(c)(2).

Non-deposit product means any product that is not a ''deposit'', including, but not limited to: insurance products, annuities, mutual funds, securities and crypto-assets. For purposes of this definition, credit products and safe deposit boxes are not non-deposit products.

§ 328.2 Official sign.

(a) *Design.* Except as otherwise provided in this section, the official sign referred to in this part shall be 7'' by 3'' in size, with black lettering and gold background, and has the following design:



(b) *Symbol.* The ''symbol'' of the Corporation, as used in this subpart, shall be that portion of the official sign consisting of ''FDIC'' and the two lines of smaller type above and below ''FDIC.''

(c) *Procuring signage.* An insured depository institution may procure the official sign from the Corporation for official use at no charge. Information on obtaining the official sign is posted on the FDIC's internet website, *https://www.fdic.gov.* Alternatively, insured depository institutions may, at their expense, procure from commercial suppliers, signs that vary from the official sign in size, color, or material. Any insured depository institution which has promptly submitted a written request for an official sign to the Corporation shall not be deemed to have violated this subpart by failing to display the official sign, unless the insured depository institution fails to display the official sign after receipt thereof.

(d) *Required changes in signage.* The Corporation may require any insured depository institution, upon at least thirty (30) days' written notice, to change the wording or color of the official sign in a manner deemed necessary for the protection of depositors or others.

§ 328.3 Signs within institution premises and offering of non-deposit products within institution premises.

(a) *Scope.* This section governs signage within the premises of insured depository institutions and the offering of non-deposit products within the premises of insured depository institutions.

(b) *Display of official sign.* Each insured depository institution must continuously, clearly, and conspicuously display the official sign at each place of business where

consumers have access to or transact with deposits, including all of its branches (except branches excluded from the scope of this subpart under § 328.0) and other premises in which customers have access to or transact with deposits, in the manner described in this paragraph (b).

(1) *Deposits received at teller windows or stations.* If insured deposits are usually and normally received at teller windows or stations, the insured depository institution must display the official sign:

(i) At each teller window or station where insured deposits are usually and normally received, in a size of 7″ by 3″ or larger with black lettering on a gold background as described in § 328.2(a); or

(ii) If the insured depository institution does not offer non-deposit products on the premises, at one or more locations visible from the teller windows or stations in a manner that ensures a copy of the official sign is large enough so as to be legible from anywhere in that area.

(2) *Deposits received in areas other than teller windows or stations.* If insured deposits are usually and normally received in areas of the premises other than teller windows or stations, the insured depository institution must display the official sign in one or more locations in a manner that ensures a copy of the official sign is large enough so as to be legible from anywhere in those areas.

(3) *Other locations within the premises.* An insured depository institution may display the official sign in locations at the institution other than those required by this section, except for areas where non-deposit products are offered.

(4) *Varied signs.* An insured depository institution may display signs that vary from the official sign in size, color, or material at any location where display of the official sign is required or permitted under this paragraph. However, any such varied sign that is displayed in locations where display of the official sign is required must not be smaller in size than the official sign, must have the same color for the text and graphics, and includes the same content.

(5) *Newly insured institutions.* An insured depository institution shall display the official sign as described in this section no later than its twenty-first calendar day of operation as an insured depository institution, unless the institution promptly requested the official sign from the Corporation but did not receive it before that date.

(c) *Non-deposit products offered on insured depository institution premises—*

(1) *Segregated areas.* Except as provided in paragraph (c)(3) of this section, if non-deposit products are offered within the premises, those products must be physically segregated from areas where insured deposits are usually and normally accepted. The institution must identify areas where activities related to the sale of non-deposit products occur and clearly delineate and distinguish those areas from the areas where insured deposit-taking activities occur.

(2) *Non-deposit signage.* At each location within the premises where non-deposit products are offered, an insured depository institution must continuously, clearly, and conspicuously display signage indicating that the non-deposit products: are not insured by the FDIC; are not deposits; and may lose value. Such signage may not be displayed in close proximity to the official sign.

(3) *Physical area limitations.* In limited situations where physical considerations present challenges to offering non-deposit products in a distinct area, an institution must take prudent and reasonable steps to minimize customer confusion.

(d) *Electronic media.* Insured depository institutions may use electronic media to display the official sign and non-deposit sign required by this section.

§ 328.4 Signs for automated teller machines and like devices.

(a) *Scope.* This section governs signage for insured depository institutions' automated teller machines or other remote electronic facilities that receive deposits.

(b) *ATMs or like devices that do not offer access to non-deposit products.* Except as provided in paragraph (e), an insured depository institution's automated teller machine or like device that receives deposits for an insured depository institution and does not offer access to non-deposit products may comply with the official sign requirement of this section by either:

(1) Displaying the physical official sign as described in § 328.2 on the automated teller machine, subject to paragraph (f); or

(2) Displaying the FDIC official digital sign as described in paragraph (c) of this section.

(c) *Display of FDIC official digital sign.* An insured depository institution's automated teller machine or like device that receives deposits for an insured depository institution and offers access to non-deposit products must clearly, continuously, and conspicuously display the FDIC official digital sign as described in § 328.5 on its home page or screen and on each transaction page or screen relating to deposits.

(d) *Non-deposit signage.* An insured depository institution's automated teller machine or like device that receives deposits for an insured depository institution and offers access to non-deposit products must clearly, continuously, and conspicuously display electronic disclosures indicating that such non-deposit products: are not insured by the FDIC; are not deposits; and may lose value. These disclosures must be displayed on each transaction page or screen relating to non-deposit products. Such signage may not be displayed in close proximity to the FDIC official digital sign.

(e) *Automated teller machines and like devices placed into service after January 1, 2025.* An insured depository institution's automated teller machine or like device that receives deposits for an insured depository institution and does not offer access to non-deposit products, that is placed into service after January 1, 2025 must display the official digital sign as described in paragraph (c) of this section.

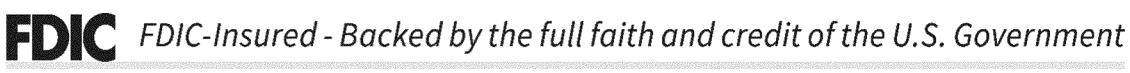
(f) *Degraded or defaced physical official signs.* A physical official sign that is displayed on an insured depository institution's automated teller machine or like device under paragraph (b)(1) that is degraded or defaced would not be displayed ''clearly, continuously, and conspicuously'' for purposes of paragraph (b)(1) of this section.

§ 328.5 Signs for digital deposit-taking channels.

(a) *Scope.* This section governs signage for digital deposit-taking channels, including insured depository institutions' websites and web-based or mobile applications that offer the ability to make deposits electronically and provide access to deposits at insured depository institutions.

(b) *Design.* In general, the ''FDIC'' in the FDIC official digital sign shall be displayed with a wordmark size of 37.36 × 15.74px, in navy blue (hexadecimal color code #003256), and the ''*FDIC-Insured—Backed by the full faith and credit of the U.S. Government*'' shall be displayed in regular 400 italic (12.8px) and with black (hexadecimal color code #000000) lettering. The entire FDIC official digital sign shall be displayed in Source Sans Pro Web. If the FDIC official digital sign in these colors would be illegible in a digital-taking channel, due to the color of the background, the entire FDIC official

digital sign shall be displayed in white (hexadecimal color code #FFFFFF). The official digital sign required by the provisions of this section shall have the following design:



(c) *Digital symbol.* The ''digital symbol'' of the Corporation, as used in this subpart, shall be that portion of the FDIC official digital sign consisting of ''FDIC'' and the one line of smaller type to the right of ''FDIC''.

(d) *Display of FDIC official digital sign.* An insured depository institution must clearly, continuously and conspicuously display the FDIC official digital sign specified in paragraph (b) of this section on its digital deposit-taking channels on the following pages or screens:

(1) Initial or homepage of the website or application;

(2) Landing or login pages; and

(3) Pages where the customer may transact with deposits.

(e) *Legibility.* The FDIC official digital sign shall be clearly legible across all insured depository institution deposit-taking channels.

(f) *Clear and conspicuous placement of FDIC official digital sign.* An official digital sign continuously displayed near the top of the relevant page or screen and in close proximity to the insured depository institution's name would be considered clear and conspicuous.

(g) *Display of non-deposit signage.* (1) Continuous Display of Non-deposit signage. If a digital deposit-taking channel offers both access to deposits at an insured depository institution and non-deposit products, the insured depository institution must clearly and conspicuously display signage indicating that the non-deposit products: are not insured by the FDIC; are not deposits; and may lose value. This signage must be displayed continuously on each page relating to non-deposit products. This non-deposit signage may not be displayed in close proximity to the digital sign required by paragraph (d) of this section.

(2) One-Time Notification for Bank Customers Related to Third-Party Non-deposit Products. If a digital deposit-taking channel offers access to non-deposit products from a non-bank third party's online platform, and a logged-in bank customer attempts to access such non-deposit products, the insured depository institution must provide a one-time per web session notification on the insured depository institution's deposit-taking channel before the customer leaves the insured depository institution's digital deposit-taking channel. The notification must be dismissed by an action of the bank customer before initially accessing the third party's online platform and it must clearly, conspicuously indicate that the third party's non-deposit products: are not insured by the FDIC; are not deposits; and may lose value. Nothing in this paragraph shall be read to limit an insured depository institution's ability to include additional disclosures in the notification that may help prevent consumer confusion, including, for example, that the bank customer is leaving the insured depository institution's website.

(h) *Required changes in digital signage.* The Corporation may require any insured depository institution, upon at least thirty (30) days' written notice, to change the wording, color or placement of the FDIC official digital sign and other signs for digital deposit-taking channels when it is deemed necessary for the protection of depositors or others or to ensure consistency with this part's requirement.

§ 328.6 Official advertising statement requirements.

(a) *Advertisement defined.* The term ''advertisement,'' as used in this subpart, shall mean a commercial message, in any medium, that is designed to attract public attention or patronage to a product or business.

(b) *Official advertising statement.* The official advertising statement shall be in substance as follows: ''Member of the Federal Deposit Insurance Corporation.''

(1) *Optional short title and symbol.* The short title ''Member of FDIC'', ''Member FDIC'', ''FDIC-Insured'', or a reproduction of the symbol of the Corporation (as described in § 328.2(b)), may be used by insured depository institutions at their option as the official advertising statement.

(2) *Size and print.* The official advertising statement shall be of such size and print to be clearly legible. If the symbol of the Corporation is used as the official advertising statement, and the symbol must be reduced to such proportions that the two lines of smaller type above and below ''FDIC'' are indistinct and illegible, those lines of smaller type may be blocked out or dropped.

(c) *Use of official advertising statement in advertisements*—(1) *General requirement.* Except as provided in paragraph (d) of this section, each insured depository institution shall include the official advertising statement prescribed in paragraph (b) of this section in all advertisements that either promote deposit products and services or promote non-specific banking products and services offered by the institution. For purposes of this section, an advertisement promotes non-specific banking products and services if it includes the name of the insured depository institution but does not list or describe particular products or services offered by the institution. An example of such an advertisement would be, ''Anytown Bank, offering a full range of banking services.''

(2) *Foreign depository institutions.* When a foreign depository institution has both insured and noninsured U.S. branches, the depository institution must also identify which branches are insured and which branches are not insured in all of its advertisements requiring use of the official advertising statement.

(3) *Newly insured institutions.* A depository institution shall include the official advertising statement in its advertisements no later than its twenty-first day of operation as an insured depository institution.

(d) *Types of advertisements which do not require the official advertising statement.* The following types of advertisements do not require use of the official advertising statement:

(1) Statements of condition and reports of condition of an insured depository institution which are required to be published by State or Federal law;

(2) Insured depository institution supplies such as stationery (except when used for circular letters), envelopes, deposit slips, checks, drafts, signature cards, deposit passbooks, certificates of deposit, etc.;

(3) Signs or plates in the insured depository institution offices or attached to the building or buildings in which such offices are located;

(4) Listings in directories;

(5) Advertisements not setting forth the name of the insured depository institution;

(6) Entries in a depository institution directory, provided the name of the insured depository institution is listed on any page in the directory with a symbol or other descriptive matter indicating it is a member of the Federal Deposit Insurance Corporation;

(7) Joint or group advertisements of depository institution services where the names of insured depository institutions and noninsured institutions are listed and form a part of such advertisements;

(8) Advertisements by radio or television, other than display advertisements, which do not exceed thirty (30) seconds in time;

(9) Advertisements which are of the type or character that make it impractical to include the official advertising statement, including, but not limited to, promotional items such as calendars, matchbooks, pens, pencils, and key chains; and

(10) Advertisements which contain a statement to the effect that the depository institution is a member of the Federal Deposit Insurance Corporation, or that the depository institution is insured by the Federal Deposit Insurance Corporation, or that its deposits or depositors are insured by the Federal Deposit Insurance Corporation to at least the standard maximum deposit insurance amount (as defined in § 330.1(o)) for each depositor.

(e) *Restrictions on using the official advertising statement when advertising non-deposit products*—(1) *Non-deposit product advertisements.* Except as provided in paragraph (e)(3) of this section, an insured depository institution shall not include the official advertising statement, or any other statement or symbol which implies or suggests the existence of Federal deposit insurance, in any advertisement relating solely to non-deposit products.

(2) *Hybrid product advertisements.* Except as provided in paragraph (e)(3) of this section, an insured depository institution shall not include the official advertising statement, or any other statement or symbol which implies or suggests the existence of Federal deposit insurance, in any advertisement relating solely to hybrid products.

(3) *Mixed advertisements.* In advertisements containing information about both insured deposit products and non-deposit products or hybrid products, an insured depository institution shall clearly segregate the official advertising statement or any similar statement from that portion of the advertisement that relates to the non-deposit products.

(f) *Official advertising statement in non-English language.* The non-English equivalent of the official advertising statement may be used in any advertisement, provided that the translation has had the prior written approval of the Corporation.

§ 328.7 Prohibition against receiving deposits at same teller station or window as noninsured institution.

(a) *Prohibition.* An insured depository institution may not receive deposits at any teller station or window where any noninsured institution receives deposits or similar liabilities.

(b) *Exception.* This section does not apply to deposits received at an automated teller machine or other remote electronic facility that receives deposits for an insured depository institution, or to deposits facilitated through a digital deposit-taking channel.

§ 328.8 Policies and procedures.

(a) *Policies and Procedures.* An insured depository institution must establish and maintain written policies and procedures to achieve compliance with this part. Such policies and procedures must be commensurate with the nature, size, complexity, scope, and potential risk of the deposit-taking activities of the insured depository institution and must include, as appropriate, provisions related to monitoring and evaluating activities of persons that provide deposit-related services to the insured depository institution or offer the insured depository institution's deposit-related products or services to other parties.

(b) *Reservation of authority.* Nothing in this section shall be construed to limit the FDIC's authority to address violations of this part, the FDIC's authority to interpret the rules in this part, or any other authority the FDIC has pursuant to any other laws or regulations.

■ 3. Amend § 328.101 by adding the definition for ''Deposit'' in alphabetical order, and revising the definitions for ''FDIC-Associated Images'', ''Hybrid Product'', ''Non-Deposit Product'', and ''Uninsured Financial Product'' to read as follows:

§ 328.101 Definitions.

* * * * *

Deposit has the same meaning as set forth under section 3(l) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(l).

* * * * *

FDIC-Associated Images means the Seal of the FDIC, alone or within the letter C of the term FDIC; the Official Sign and Symbol of the FDIC, as set forth in § 328.2; the FDIC Official Digital Sign and Digital Symbol set forth in § 328.5; the Official Advertising Statement, as set forth in § 328.6; any similar images; and any other signs and symbols that may represent or imply that any deposit, liability, obligation certificate, or share is insured or guaranteed in whole or in part by the FDIC.

* * * * *

Hybrid Product has the same meaning as set forth under § 328.1.

* * * * *

Non-Deposit Product means any product that is not a ''deposit'', including, but not limited to: insurance products, annuities, mutual funds, securities, and crypto-assets. For purposes of this definition, credit products and safe deposit box services are not Non-Deposit Products.

* * * * *

Uninsured Financial Product means any Non-Deposit Product, Hybrid-Product, investment, security, obligation, certificate, share, crypto-asset or financial product other than an ''Insured Deposit'' as defined in this section.

■ 4. Amend § 328.102 by adding paragraph (a)(3)(viii) and (b)(1)(iv) and revising paragraphs (b)(3)(ii), (b)(5), and (b)(6)(ii) to read as follows:

§ 328.102 Prohibition.

(a) * * *

(3) * * *

(viii) Use of FDIC-Associated Terms or FDIC-Associated Images, in a manner that inaccurately states or implies that a person other than an insured depository institution is insured by the FDIC.

(b) * * *

(1) * * *

(iv) A person other than an insured depository institution is an FDIC-insured depository institution. This includes use of FDIC-Associated Terms or FDIC-Associated Images, in a manner that inaccurately states or implies that a person other than an insured depository institution is insured by the FDIC.

(3) * * *

(ii) The statement omits or fails to clearly and conspicuously disclose material information that would be necessary to prevent a reasonable consumer from being misled, regardless of whether any such consumer was actually misled.

(5) Without limitation, a statement regarding deposit insurance will be deemed to omit or fail to clearly and conspicuously disclose material information if the absence of such

information could lead a reasonable consumer to believe any of the material misrepresentations set forth in paragraph (b)(4) of this section or could otherwise result in a reasonable consumer being unable to understand the extent or manner of deposit insurance provided. Examples of such material information include, but are not limited to, the following:

(i) A statement made by a person other than an insured depository institution that represents or implies that an advertised product is insured by the FDIC that fails to clearly and conspicuously identify the insured depository institution(s) with which the representing party has a direct or indirect business relationship for the placement of deposits and into which the consumer's deposits may be placed;

(ii) A statement made by a person that is not an insured depository institution regarding deposit insurance that fails to clearly and conspicuously disclose that the person is not an FDIC-insured depository institution and that FDIC insurance only covers the failure of the FDIC-insured depository institution. A statement that a person is not an FDIC-insured bank and deposit insurance covers the failure of an insured bank would be considered a clear statement for purposes of this provision.

(iii) A statement made by a person regarding deposit insurance in a context where deposits and Non-Deposit products are both offered on a website in close proximity, that fails to clearly and conspicuously differentiate between insured deposits and Non-Deposit Products by disclosing that Non-Deposit Products: are not insured by the FDIC; are not deposits; and may lose value, except that:

(A) Services unrelated to financial products or investments and physical goods shall not be considered Non-Deposit Products for purposes of clause (b)(5)(iii) of this section; and

(B) In the case of a Non-Deposit Product that is a product that allows consumers to store, send, or receive fiat money and does not fluctuate in value, failure to disclose that the Non-Deposit Product may lose value will not be a material omission for purposes of clause (b)(5)(iii) of this section.

(iv) A statement made by a person regarding pass-through deposit insurance coverage that fails to clearly and conspicuously disclose that certain conditions must be satisfied for pass-through deposit insurance coverage to apply.

(6) * * *

(ii) Has been advised by the FDIC in an advisory letter, as provided in § 328.106(a), or has been advised by another governmental or regulatory authority, including, but not limited to, another Federal banking agency, the Federal Trade Commission, the Bureau of Consumer Financial Protection, the U.S. Department of Justice, or a state bank supervisor, that such representations are false or misleading; and

* * * * *

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on December 20, 2023.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2023–28629 Filed 1–17–24; 8:45 am]

BILLING CODE 6714–01–P

Reader Aids

Federal Register

Vol. 89, No. 12

Thursday, January 18, 2024

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6050**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.govinfo.gov.**

Federal Register information and research tools, including Public Inspection List and electronic text are located at: **www.federalregister.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html and select** *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, JANUARY

1–222 2
223–436 3
437–696 4
697–858 5
859–1024 8
1025–1438 9
1439–1786 10
1787–2110 11
2111–2480 12
2481–2874 16
2875–3298 17
3299–3532 18

CFR PARTS AFFECTED DURING JANUARY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

Proposed Rules:
Chapter XVI 714

3 CFR

Proclamations:
9705 (amended by Proc. 10691) 227
10689 1
10690 223
10691 227
10692 437
10693 443
10694 445
10695 447

Administrative Orders:
Presidential Determinations:
No. 2024–03 of December 27, 2023 3

5 CFR

2634 1439
2636 1439

7 CFR

1207 859

Proposed Rules:
989 2178
3560 892

8 CFR

212 3299
214 3299
233 3299

10 CFR

2 ..... 2111, 2112
13 2112
20 5
207 1025
218 1025
429 1025
430 3026
431 1025
490 1025
501 1025
601 1025
612 864
810 1025
820 1025
824 1025
851 1025
1013 1025
1017 1025
1050 1025

Proposed Rules:
50 895
52 895
430 2886

11 CFR

1 196
4 196
5 196
6 196
100 196
102 196
103 196
104 196
105 196
106 196
108 196
109 196
110 196
111 ..... 196, 697
112 196
113 5
114 196
116 196
200 196
201 196
300 196
9003 196
9004 196
9007 196
9032 196
9033 196
9034 196
9035 196
9036 196
9038 196
9039 196

12 CFR

19 872
109 872
263 2114
328 3504
622 2116
747 1441
1083 1787
1209 3331
1217 3331
1250 3331
1411 ..... 1445, 2481

14 CFR

21 2118
25 ..... 2126, 3333, 3335
39 ..... 14, 17, 21, 23, 233, 235, 237, 240, 242, 244, 246, 248, 251, 253, 256, 258, 1030, 3337, 3339, 3342
71 ..... 1789, 1790, 1792, 1793, 1795, 1797, 1799, 1800, 1801, 2481, 2482
73 ..... 2875, 2877, 2879
95 261
97 ..... 1803, 1804

Proposed Rules:
21 37
25 3364
39 ..... 1038, 1847, 1849, 2515,

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

Public Laws Electronic Notification Service (PENS)

PENS is a free email notification service of newly enacted public laws. To subscribe, go to *https://portalguard.gsa.gov/__*layouts/PG/register.aspx.

Note: This service is strictly for email notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.